

Newburyport Waterfront Trust
July 30, 2015
Police Station Conference Room
Minutes

1. Call to Order

Chair Scott Sutherland called a meeting of the Newburyport Waterfront Trust to order at 7:00 p.m.

2. Roll Call

In attendance were Trustees Scott Sutherland, Wilbur Shenk, George Ellison, Joe Brown and Steve Hines.

3. Minutes

Steve Hines moved to approve the minutes of the June 16, 2015 meeting. George Ellison seconded the motion. The motion was approved with Joe Brown abstaining.

4. Treasurer's Report

Income was received in the month of June in the amount of \$2,626 and expenses for the period totaled \$11,493. A payment of \$1,416 was made to the Firehouse for 20% of the rental income from the park between November 18 and June 13. Money is owed to the Trust from the NRA. The group has a new treasurer and the amount due has now been partially paid.

The account balance at the end of the fiscal year was \$192,396. FY2015 expenses were \$113,381 and the income was \$102,144. Joe Brown said that while expenses exceeded income, overall the spending plan was a good one. Ninety-two thousand dollars will be carried forward into FY2016 for the improvements to Riverside Park. The projected account balance for the end of FY2016 is \$100,471.

Joe Brown and George Ellison will work together to change the signatory on the Fidelity account.

5. Discussion on Certificates of Donation

The Trustees had previously voted to approve the crossing of Custom House Way by the Rail Trail. It was originally thought this would be handled as an easement but it was found that easements are not permitted under the Declaration of Public Trust. Geordie Vining requested the Trustees sign a Certificate of Donation of Dedication. Doug Bolick approved the document after some revisions were made.

Wilbur Shenk moved to sign the Certificate of Donation of Dedication. George Ellison seconded the motion. The motion was unanimously approved.

Geordie Vining requested that the installation of a sewer line under Custom House Way also be handled through a donation of a dedication. He asked the item be placed on the agenda for the August Trust meeting. Bill Harris had stated at a previous meeting that he is concerned that archaeological artifacts might be disturbed during the project. Mr. Vining responded that while the Newburyport Historical Commission will review the project, test trenches had previously been dug along the Custom House Way corridor and

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the associated study concluded that the area was too disturbed to warrant further examination. A dedication would also be needed for the installation of a culvert in Riverside Park.

Andy Port said the dedications would be replaced with easements once the Trust document has been revised to permit them. Joe Brown said that under Article V of the Declaration of Public Trust “no power or authority is granted to Trustees to sell, alleviate, transfer, mortgage, lease or otherwise dispose of, all or any part of the “public trust land” or public right or to grant easements with respect to the public trust land or public right.” He added that an easement is defined as the right afforded a person to make limited use of another’s real property. Mr. Vining said a dedication is not the same as an easement and would not convey any interest in property.

Scott Sutherland opened the meeting to comments from the public. Rob Germinara said the time should be given for the serious investigation of big decisions and Lower Custom House Way should be reclaimed. Elizabeth Harris said it would be preferable to locate the sewer line along Lower Custom House Way and the culvert needed to the west of the central waterfront should not be located on Trust land.

Mr. Port reviewed the new plans for the new culvert. He said due to budget constraints the project would be undertaken in two phases. He said the existing culvert under the Trust parking lot is in imminent danger of collapse and presents a public safety concern. He said the condition of the culvert poses a liability to the City and the Trust. The plans call for the new culvert to join the existing one near the end of the Ale House. The remainder of the culvert would be replaced at some point in the future. The Trustees were concerned about the parking lot being disrupted on two separate occasions. Mr. Port responded that in the best case scenario the entire culvert would be replaced at the one time, but the City does not have the financial resources to allow this. He added that the installation of the culvert under asphalt is preferable to it being located under structures for ease of maintenance. He said the dedication would be essentially the same as the one for the Rail Trail and he would work with Doug Bolick to finalize the language.

Steve Hines and Joe Brown said they would prefer the Declaration of Public Trust be amended to allow for the granting of easements before the work take place. George Ellison responded what while he is working with Scott Sutherland and Bill Harris to amend the Declaration, the task is not a simple one and would not be completed in time to permit the culvert project to move forward in a timely manner, which must be done to protect the public. They do not wish to amend just one portion of the Declaration at this time.

Mr. Port also said the City intends to help defray the cost of the Riverside Park improvements. Scott Sutherland said he would want the easements to be drafted at the present time so that they might be signed at the time the Trust documents are amended and future negotiations are avoided. He wishes to receive a guarantee that holds the City liable for its actions and any resulting environmental issues, along with a written commitment from the City to providing assistance with the parking lot project. He asked that the City provide the documents in time that they might be reviewed thoroughly before the next meeting.

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George Ellison moved to move forward with the donation of a dedication for the culvert provided the Trust receives a guarantor document, a draft easement and a commitment from the City to contribute to the parking lot improvements. Steve Hines seconded the motion.

Scott Sutherland opened the meeting to comments from the public. Sandy Small asked how future work on the culvert would impact the property if it were to be converted from a parking lot to a park. Andy Port responded that all materials would be replaced in kind. Leslie Eckholdt said the culvert work would best be done in October or November so that the impact to parking revenue would be lessened. Andy Port said the project would be delayed as long as possible. Rob Germinara said he is working to demonstrate a private building was constructed on City property. Elizabeth Harris said she would like the culvert to be replaced in its existing location.

The motion was unanimously approved.

6. Annual Report

The annual report of the Trust to the Mayor was circulated.

7. Parking Report

The parking revenue for the month of June was \$5,206, which is down from last year. The Mayor is interested in raising parking rates to fund a revenue bond to offset the deficit for the parking garage. She is also considering lengthening the hours. It is likely a decision would not be made until November, which would be after the expiration of the current contract extension. George Ellison suggested the new rates be built into the October 1 contract extension whether or not they are in effect at that time.

8. Meeting with Mayor Holaday

Scott Sutherland said Mayor Holaday expects it will be two to three years before the NRA is able to reduce the amount of parking on its land and expand the park. She said she thinks the ownership of the west lot and Somerby's Way should ultimately be transferred to the Trust, while the east lot should be transferred to the City. Bill Harris made a presentation at the meeting on sharing revenue with the Harbor Commission. Members of the Harbor Commission will be asked to attend the next meeting with the Trust and the Mayor.

9. Park Use Applications

Wilbur Shenk moved to approve the applications for three weddings and a veterans' concert. George Ellison seconded the motion. Payment has been received for the weddings and the fee would be waived for the veterans' concert. The motion was unanimously approved.

10. Parks Committee Report

Edith Heyck submitted a written report. Wilbur Shenk said many of the committee's goals have been accomplished.

11. Waterfront Committee

Joe Brown said the most recent vendor is being allowed to install small signs on the east and west corners of the boardwalk in order to resolve a conflict. Advertising space was to be limited to the ticket booth and historically has been shared equally, without regards to the size of the vessel. The section of the contract pertaining to signage will be rewritten for the next year.

12. Legal Council Action Request

Joe Brown said he would like Doug Bolick to provide an opinion on various issues, one of which is the Mayor's legal opinion on leasing rights. Another area of interest to him is the Ways to the Water. The status of Ferry Wharf Way and Commercial Way is in question. Steve Hines said the leasing rights are a part of the current discussions with the Mayor. Bill Harris has a plan for the waterfront as a whole and will be asked to discuss it at the next Trust meeting. Joe Brown moved to refer the issue of the Ways to the Water to Doug Bolick. George Ellison seconded the motion. The motion was unanimously approved.

13. Payment of Bills

Joe Brown moved to approve the payment of invoices from Riverfront Landscaping in the amount of \$3,120.50 for improvements to the irrigation system in Market Landing Park; the Handyman, Inc. in the amount of \$1,770 for work on the planks on the boardwalk, the repair of the clapper on the bell and the installation of plaques on benches; Seacoast Lock and Safe in the amount of \$417.92 for new locks; Rockingham Electric Company in the amount of \$23.91 for parts to repair the bases of light fixtures on the boardwalk; Edith Heyck in the amount of \$15 for mulch; International Bronze Company in the amount of \$209 for a plaque acknowledging the work of the Newburyport Horticultural Society and DPS in the amount of \$1,164 for electric service for the tour boats last season and \$90 for charges for reading the meter. In the future the meter reading charge will be pro rated and passed on to the tour boat operators. Scott Sutherland will review a bill from DCI in the amount of \$2,135 for services in May before payment will be approved. George Ellison seconded the motion. The motion was unanimously approved.

14. Public Comment

Peter Fitzsimmons said the Trust should ask what it is to gain from the Ale House. The private developer that is building the restaurant will have subsidized parking and a property that will be enhanced by Riverside Park. The City will receive additional property and meal taxes.

15. Adjournment

George Ellison moved to adjourn the meeting at 9:01 p.m. Joe Brown seconded the motion. The motion was unanimously approved. The next meeting of the Waterfront Trust will be held on Thursday, Aug 19 at 7:00 p.m.