

Newburyport Waterfront Trust

September 2, 2015
City Hall Auditorium
Minutes

1. Call to Order

Chair Scott Sutherland called a special meeting of the Newburyport Waterfront Trust to order at 7:05 p.m.

2. Roll Call

In attendance were Trustees Scott Sutherland, George Ellison and Steve Hines.

3. Dedication Document Regarding Waterfront Trust and City

This special meeting was called to deliberate the City's request for a dedication agreement for the reconstruction of a drainage culvert under Riverside Park. The existing culvert under the Trust parking lot is in imminent danger of collapse and presents a public safety concern. Due to budget constraints the project is to be undertaken in two phases. In the first phase a new culvert would join the existing one near the Ale House. The top of the existing culvert has begun to settle and could be jeopardized by any large vehicle that enters the lot. The remainder of the culvert, which is located under the Brown's Wharf building, is not in good condition but is not in imminent danger of collapse. Funding for the second phase of the project would be a part of the FY2017 capital campaign.

Because the City has decided to reduce the cost of the project by undertaking the work itself instead of sending it out to bid, the timetable for the work has been accelerated. The project would now begin on Tuesday, September 8 and should take three to four weeks to complete. This would allow the DPS to begin the flushing of the City's water system in October in preparation for winter.

The Merrimac Street entrance to the parking lot would be closed during the construction. Signage would direct vehicles through an alley to the parking lot. Existing signage for the park and the tour boats would be stored during the construction and replaced upon its completion. Andy Port will confirm the storage location with Tony Funari and the location for the reinstallation of the signs with Joe Leone.

The Trust documents do allow for the conveyance of an easement. Once these documents have been revised, a permanent easement for the culvert would be executed. The documents for both the dedication and the easement were reviewed by Attorney Doug Bolick and were revised in response to his concerns.

Steve Hines moved to approve the Dedication and the Grant of Permanent Easement and Agreement. George Ellison seconded the motion. Wilbur Shenk and Joe Brown provided written statements, as they were not able to attend the meeting. Wilbur Shenk wrote:

I have reviewed both the Dedication Document and the Letter from the Mayor. I have no appetite to spend time on the Easement Document; I will take Doug Bolick's lead on this item. I can understand the Mayor's position on detailing their

Newburyport Waterfront Trust
September 2, 2015

commitment to our Riverside Parking Project but I am disappointed that she did not even mention their willingness to help us in her attached letter. She did not have to have to put details in her letter, but not to even mention our request? Also to have her want to put together the "new parking contract" with the "aid to our parking lot project" sends me a strong message that she wants to pit one against another. Another disappointment.

In spite of these comments, I support signing the Dedication Document to get this project going. Let the record show that I vote in favor of approving this Dedication for Brown's Wharf Drain Line Relocation Phase I.

Joe Brown wrote:

...to proceed without a signed written contribution for the donation agreement is not only contrary to the voted motion, but in view of the City's past performance, is unconscionable for any Trustee of the Waterfront Trust to support.

Please cancel today's meeting. The Mayor's attempt to push this through in the timeline noted is a tactic that should not be condoned. It is only two weeks until our September meeting. And I must remind my fellow Trustees that a minimum of four Trustees is required to be present to vote on new matters. The validity of the special meeting with only three members present will most certainly be challenged, not to mention the fact that what is being presented as a vote is contrary to what we had previously agreed.

There should be no vote until a proper meeting of the Trust can be held and no vote taken until adequate compensation is provided to the Trust in an enforceable written signed format. Why is the compensation not included in the recorded Donation Document?

Keep in mind that the compensation piece was requested to be provided for our August meeting! If the Mayor and City Officials are too busy to provide them, then they should certainly be able to wait two weeks until our September meeting to vote on this matter.

In addition, has anyone considered:

- * Will the abandoned culvert on Trust property be removed? If not filled in!
- * The existing easement to AT&T that will be bisected twice by this "donation"
- * Removal/storage/reinstalling of both the WFT and Tour Boat signs along Merrimac Street
- * City to be liable for any lost income to the Tour Boats
- * With this proposed 1/2 solution to the total drainage problem

Newburyport Waterfront Trust
September 2, 2015

(and the City's statement that phase 2 will take place in a couple of years) -- at least the design phase should be completed for phase 2 (and inclusion in City Capital planning process) to determine if any of the Trust's proposed lower area improvements to Riverside Park are feasible at this time.

If the Mayor is unwilling or unable to justify the lack of compensation to the Trust until the Trust meeting in September then this matter should be deferred until that time!

To approve this matter in view of the issues raised above would certainly raise the question of whether the Trustees of the WFT are performing their fiduciary duties to protect, defend, and abide by the Trust Declaration as currently written.

If this matter comes to a vote before what is an illegally constituted meeting, then you can record my vote as a resounding NO for all of the above reasons.

Scott Sutherland opened the meeting to comments from the public. Jonathan van Kamp said he is concerned the project would have a negative impact on the tour boat businesses. Andy Port responded that fewer than 20% of the Trust's parking spaces would be unavailable during construction and the NRA lot would not be impacted. Bill Harris, 56 Lime Street, said the commitment to convert the dedication to an easement is important.

Steve Hines said the item is old business because it has been discussed at several meetings and the project must be done as soon as possible to provide for public safety. The motion was unanimously approved.

4. Adjournment

George Ellison moved to adjourn the meeting at 7:35 p.m. Steve Hines seconded the motion. The motion was unanimously approved. The next meeting of the Waterfront Trust will be held on Wednesday, September 16 at 7:00 p.m.