

STATE PROPERTIES COMMITTEE

Tuesday, April 12, 2005

The meeting of the State Properties Committee was called to order at 10:12 A.M. by Chairman Jerome F. Williams. Other members present were, Genevieve Allaire Johnson, Esquire, representing the Department of Attorney General, Mr. Robert Griffith, representing the Department of Administration, and Mr. Thomas Barry, Public Member. Also present were, Ms. Marlene McCarthy-Tuohy, and Peter Dennehy, Esquire, from the Department of Administration; Ms. Maureen McMahon and Messrs. Daniel Clarke, Paul Carcieri, and Mark Malkasian, from the Department of Transportation; Mr. Michael Butler, from FHWA; Mary Kay, Esquire, from the Department of Environmental Management; Ms. Joanne Lehrer, from the Department of Children, Youth and Families; Jacqueline Kelley, Esquire, from the Department of Human Services; Mr. Gary Wier, DHS -Services for the Blind; Bruce Leach, Esquire, attorney for the Rhode Island Convention Center Authority; Michael Voccola, for PRI XVIII, L.P., and Mr. James McCarvill, for the Rhode Island Convention Center Authority;

Minutes of the meeting held on March 29, 2005 were approved.

1. OLD BUSINESS

2. NEW BUSINESS – Miscellaneous - The next meeting of the State Properties Committee is scheduled to be held on Tuesday, April 26, 2005.

ITEM- C – DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES – A request was made by the Department for permission to go out for an

RFP to relocate the current Providence Office.

The Department was requesting permission to advertise for new quarters for the Department which is currently located at 101 Friendship Street, Providence. There are 50 parking spaces which are included with the building, and the Department also leases another 225 parking spaces to accommodate staff. The current lease expires November, 2005. The Department of Administration intends to communicate with the current owners about an extension. The Department currently occupies slightly less than 100,000 square feet of space and it is the Department's intention to relocate the Department in its entirety, not to separate between the Providence office and the administration section, but for everyone to go into the new location.

A Motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Department for permission to go out for an RFP to relocate the current Providence Office.

Passed Unanimously

ITEM A – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT –A request was made by the Department for approval and signatures on an Indenture of Lease with Lucille Parent for Lot 251, Port of Galilee.

Lucille Parent has leased Lot 251 in the Port of Galilee for two decades and has constructed and operated a souvenir, gift and salt water taffy shop, known as May's Gift Shop. Ms. Parent normally runs this shop through a sub-tenant. She would like to try and run the shop herself. If she does get a good sub-tenant, she may consider that and return to the Committee. The Department is asking

for a one (1) year Lease because it is the intention of Ms. Parent to try to sell the business and the Department would want to enter into a direct landlord tenant relationship with anyone she has sold the business to. The term of the Lease is April 1, 2005 through March 31, 2006 and the annual rent is \$3,300.00. The property is currently being appraised and the annual rent may be adjusted accordingly pursuant to the new appraisal.

A Motion was made by Mr. Griffith and seconded by Ms. Barry to approve the request of the Department for approval and signatures on an Indenture of Lease with Lucille Parent for Lot 251, Port of Galilee.

Passed Unanimously

ITEM B – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT –A request was made by the Department for approval and signatures on a Warranty Deed with Emil A. Vale for acquisition of land on East Killingly Road, Foster.

This is for the acquisition the Vale property, which is a key piece in a large linkage of preserved land. This property is in Foster and consists of 124 acres on East Killingly Road. The State Properties Committee granted approval of the Purchase and Sale Contract on October 26, 2004. This is the final link with the Ponagansett River Greenway Corridor which runs right into the Scituate Reservoir. There are several other land holdings that have been purchased by The Nature Conservancy, Audubon Society and the Department in 2000 and this will allow for 600 acres of permanently protected land in the linkage system which protects that watershed, which in turn

protects the Scituate Reservoir watershed. The property will be used for passive recreation. The purchase price for the Vale property is \$352,000.00. Funding is provided by the State's Open space bond program in the amount of \$404,0000.00, and \$150,000.00 was contributed by The Nature Conservancy, from the Champlin Foundations. The Department will manage the property. Mr. Griffith concurred with the uniqueness of the property and the fact that it protects the watershed, clearly warrants approval.

A Motion was made by Ms. Allaire Johnson and seconded by Mr. Griffith to approve the request of the Department for approval and signatures on a Warranty Deed with Emil A. Vale for acquisition of land on East Killingly Road, Foster.

Passed Unanimously

ITEM D – DEPARTMENT OF HUMAN SERVICES – A request was made by the Department for conceptual approval to negotiate lease for office space at 110 Enterprise Center, Middletown.

The Department would like to renew the Lease for office space located at 110 Enterprise Center, Middletown. The Department has been at this location for five (5) years and has an option to renew for five (5) years. The Department currently occupies 9,400 square feet of space at this location. Commencement date of the Lease was January 1, 2002 and will be terminating at the end of this year. The Department seeks permission to exercise the option to renew.

A motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Department for conceptual approval to

negotiate lease for office space at 110 Enterprise Center, Middletown.

Passed Unanimously

ITEM E – DEPARTMENT OF HUMAN SERVICES – A request was made by the Department for conceptual approval to negotiate lease for office space at 555 Valley Street, Providence.

This request is for an extension of the current lease for a storage area that the Services for Blind uses located at 555 Valley Street, Building Number 58. The property consists of approximately 900 square feet of storage space. Rent is \$4.00 per square foot. The Lease terminates June 30, 2005 and the Department seeks permission to enter into negotiations with the owners. This space is used as a back up for the storage of snack bars. There is no State space available.

A motion was made by Mr. Barry and seconded by Ms. Allaire Johnson to approve the request of the Department for conceptual approval to negotiate lease for office space at space 555 Valley Street, Providence.

Passed Unanimously

ITEM F – OFFICE OF THE CHILD ADVOCATE – A request was made for final approval and signatures on Lease for office space at 272 West Exchange Street, Providence

At the request of the Department this item was removed from the Agenda.

ITEM G – DEPARTMENT OF TRANSPORTATION – A request was made by the Department for approval and signatures on Quit-claim Deed conveying land on Grove and Front Streets, Lincoln to A & D

Realty, Incorporated (Arthur DiFilippo).

Mr. DiFilippo contacted the Department and requested to purchase this property which consists of 4,117 square feet of excess state land located on the corner of Front and Grove Streets in Lincoln. Mr. DiFilippo originally was going to use this land to expand parking spaces. Since his first request, he has taken ill and would like this property to square off his property. Conceptual approval was granted on November 4, 2003. The Department will receive \$12,351.00 for this conveyance. There is a restriction on the Deed. There is a wide water line located within this parcel.

A Motion was made by Mr. Barry and seconded by Ms. Allaire Johnson to approve the request of the Department for approval and signatures on Quit-claim Deed conveying land on Grove and Front Streets, Lincoln to A & D Realty, Incorporated.

Passed Unanimously

ITEM I – ADMINISTRATION/DEPARTMENT OF TRANSPORTATION –A request was made for conceptual approval on Consent to Assignment of Perpetual Easements, and/or Lease Amendments, State of Rhode Island, RIDOT, The Rhode Island Convention Center Authority and PRI XVIII, L.P.

The documents presented by the Department of Administration are the Second Amendment to Lease and Agreement and Second Amendment to Sublease Agreement. These are still considered draft documents and require some further modification. The Department made a presentation for an initial review and explain what the

documents represented and why it was before the State Properties Committee.

Attorney Dennehy gave an overview and asked the members of the Committee to reference the Second Amendment to Lease and Agreement. Under the terms of this Agreement, is a Lease between the Rhode Island Convention Center Authority, as Lessor, and the State as Lessee. The document indicates that pursuant to The Convention Center Authority Act, constituting Chapter 99 of Title 42 of the General Laws of Rhode Island, as amended, the Authority is authorized to acquire land and construct, equip and operate a “convention center” thereon, as defined in the Act, and is further authorized to lease such facilities to the State. The Convention Center Authority has constructed a convention center, garages and hotel in Providence. After these buildings were constructed, the Convention Center Authority leased the project to the State. To pay for this project, approximately \$260,000,000.00 in bonds were issued by the Convention Center Authority. The Lease and Agreement entered into in November of 1991, was executed by then Governor, Bruce Sundlun and was not brought before the State Properties Committee. The Department has not determined why it was not brought before the Committee. At that time, the Office of the Attorney General did render an opinion letter that the document met all necessary legal requirements. That Lease and Agreement led to a Sublease and Agreement by which the State then leased the center back to the Authority. In 1993 there was an Amendment to the Lease. Again, this was not brought before the State Properties Committee.

Another letter was received from the Office of the Attorney General attesting to the validity.

The Rhode Island Convention Center Authority has proposed to selling a part of the Convention Center property, namely the Westin Hotel and its fixtures and some other vacant land. The Convention Center Authority has approved that. The Convention Center Authority has requested that the Lease and Agreement between the State and the Authority be amended in order to effectuate such sale. They are requesting this, because under the terms of the Lease and Agreement, the State has an interest in the entire Convention Center property, including the hotel. If the sale goes through, the property will be reduced and the hotel will no longer be included. This is significant because when the Bonds are all paid off, estimated in 2027, then the State will be able to purchase the project for a nominal fee. At that point, when it purchased the project it would have the existing project. For that reason, it would appear that the State is in fact, by agreeing to this, disposing of an interest in land. In an abundance of caution, the Convention Center Authority, together with the title attorneys, indicated that this is a matter that should properly come before the State Properties Committee. The documents have been prepared so that the State, through the Department of Administration would be executing the documents and the Director of Administration would be signing the document. The document, as proposed, will not be executed by the Governor, but certainly with the approval of the State Properties Committee. The closing for this project is scheduled to be held on April 27, 2005. The Department

and the Rhode Island Convention Center Authority was asking that the Committee begin to entertain this proposal.

Ms Allaire Johnson stated she has had a number of conversations with Attorneys Dennehy and Leach about this matter. She went on to say that she received the documents late on late on Thursday and has not been able to review the documents for final approval. She indicated that regarding the Lease and Sublease, she has not reviewed them as to form and needs to review them. Discussions she has had with Attorneys Dennehy and Leach have evolved around the initial Leases and the fact that she confirmed the matter should properly be before the State Properties Committee.

The Chair, Mr. Williams stated that when he knew these were documents that were not in final form, he informed Mr. Dennehy that he would put the matter on the Agenda for information purposes today, and knowing there will be a closing at the end of the month, a Special Meeting would most likely to be necessary, but no approval could be given at this meeting.

Ms. Allaire Johnson stated that she is not making a recommendation but she echoes that the matter should be before the State Properties Committee, in her opinion.

Mr. Barry asked if the Amendment covers the land that the hotel is sitting on. Mr. Leach explained that the hotel property, where the property is sitting on, is Parcel One of the Description in the Second Amendment to Lease and Agreement, and the land that is adjacent to it, the vacant parcel where it is anticipated a new addition will be built, is Parcel Two in the description. When the project was originally

done in 1991, the State took a Lease of the entire project. This was done as a financing vehicle, because under the Lease, the rental payments that the Convention Center gets are the same amount of money that is needed to pay the Bond indebtedness to the Bond holders and it was done so that the State would not be legally obligated on these Bonds. The Convention Center would and it could run it. The purpose of the Sub-lease is, so that the Convention Center would have the control over the property, then Lease the property back for \$1.00. It was always contemplated that this property, or a portion of the property, prior to the expiration of the payment of all the Bonds could be sold, because in the original Lease there is a Section 6.9, which says that if the Authority meets the standards required by its Bond Counsel and its Bond documents to redeem its Bonds, then it can come back to the State and request a release of its property that is being sold. The Attorney General's Office says that the place to come back to is the State Properties Committee. Discussion ensued.

Mr. McCarvill, from the Rhode Island Convention Center Authority addressed the Committee. He stated that at this point, the hotel is owned and operated by the Rhode Island Convention Center and the only things that the Convention Center Authority is preserving in the ongoing relationship with the new owner/operator, would be the booking arrangement.

The Chair, Mr. Williams questioned when the Rhode Island Convention Center Authority sells the Westin, if it was going to pay down the Bonds that are outstanding. A discussion took place. The

Chair asked that language be put into the document explaining the pay down.

The Chair commented that the EDC had space in the hotel and asked if there was any change based on the sale of the Westin. The Leases will be assigned to the new owner, PRI XVIII.

The Department of Transportation presented a Consent to Assignment of Perpetual Easements. In 1991 the Department granted to the Rhode Island Convention Center Authority two perpetual easements. A map was displayed depicting the area. The property comprised about 6600 square feet of Department owned and controlled land just to the rear of the Westin Hotel and Convention Center. The two easements allowed for the installation of utility service and a service road for the vendors of both of the buildings. The Department received compensation from the Rhode Island Convention Center Authority in 1991 and the easements were executed by the State Properties Committee and recorded. In January of 2005, correspondence was received from the Rhode Island Convention Center Authority requesting the assignment of the easements to RPI XVIII, L.P., a Delaware partnership, as well as the Convention Center Authority's retention of its interest in the easement. The Department has crafted a consent of assignation, whereby the Department has approved the assignment of the easements to this third party, PRI XVIII and the Rhode Island Convention Center Authority retention of its interest in the same property. The Department requested having the Committee approve and sign the documents and holding them in escrow until the actual

closing. The Chair, Mr. Williams stated his preference would be to have a Special Meeting set up for the entire package and not to approve anything at this meeting.

Ms. Allaire Johnson wanted to bring to the Committee's attention is there is also a License Agreement to the City of Providence that relates to the project as well.

One of the things that presently exists, when the Convention Center was built, there were a number of Licenses that were granted by the City of Providence to construct the Convention Center. One was an easement to build over West Exchange Street a connector bridge and one was a License to put pile caps in the sidewalk on the North side of West Exchange Street, another License to put pile caps on the South side of West Exchange Street and a License to some support structure for a ramp in the back of the Convention Center Authority. When the hotel is sold, the pile caps on the Northern side of West Exchange Street are going to be on hotel property and the buyers have requested since it is covered by the Lease that they have permission to use that easement, or that License. The Amendment gives them that permission to use that License as well as the Convention Center. In the future they will be requesting the City to convert that License into an easement permanently, because now it is only for a term of years. In addition, the Convention Center will be coming back to the State Properties Committee when this is all closed to ask the assistance of the Committee as to how best to convert with the City the current licenses that the Convention Center Authority has that are only for another twenty-five (25) years to make

them permanent at the same time.

Attorney Leach pointed out that in the Second Amendment to Lease and Agreement, there was a WHEREAS, which stated such sale is permitted by the Bond Resolution and a substantial portion of the net proceeds of the sale will be used to pay down the Authority's outstanding revenue bonds. The Committee asked to expand on that Clause and make reference to the mortgage.

The Chair, Mr. Williams advised that a Special Meeting would be set up and the Executive Secretary will notify everyone of the date and time.

ITEM H – DEPARTMENT OF TRANSPORTATION – A request was made by the Department for approval and signatures on Deeds and License Agreement with Ronald N. Cataldi in conjunction with land located on the Washington Secondary Track Right of Way and Oaklawn Avenue, in Cranston.

The Department was asking for approval and signatures on Quit-claim Deed, Deed of Easement and Lease Agreement. These documents would cure the mutual encroachment of property on Oaklawn Avenue in Cranston. This property is along the bike path. The Quit-claim Deed will transfer 4,458 square feet of State-owned property to Mr. Cataldi. The Deed of Easement is a permanent easement of 605 square feet for public access to the bike path from Mr. Cataldi to the Department. The Lease Agreement is between the Department and Mr. Cataldi. This Lease Agreement grants Mr. Cataldi the use of 2,637 square feet of State land. The Lease Agreement is for a term of ten (10) years with two (2) five (5) year options. Rent for

the first ten years has been established at \$824.00 per year. Rent for the two option terms will be established by an appraisal of market rent. Upon execution, the documents will be held until there is a Warranty Deed transferring 15,000 square feet of land abutting the bike path from Mr. Cataldi to the Department.

Mr. Barry stated the Committee has gone over this in great detail and all agree that it is something that should be cleaned up.

A Motion was made by Mr. Barry and seconded by Mr. Griffith to approve the request of the Department for approval and signatures on Deeds and License Agreement with Ronald N. Cataldi in conjunction with land located on the Washington Secondary Track Right of Way and Oaklawn Avenue, in Cranston.

Passed Unanimously

ITEM L – DEPARTMENT OF TRANSPORTATION – Discussion relative to Lease of property at Quonset Point to the Rhode Island Air National Guard.

In 2004, the Department came before the Committee at the request of the Rhode Island Air National Guard seeking an extension of their existing Lease for an additional nineteen (19) years. The original Lease was for fifty (50) years starting in 1981. Since that time, there have been discussions with the Office of the Attorney General and Department of Administration regarding the ability of the State Properties Committee to approve such an agreement. The Department of Transportation was asking for something in writing from the Committee so that it could report to the Rhode Island Air National Guard that it could not get the approval of the extension

under the existing State Statute, and that it would be the Department's recommendation to seek special Legislation to extend the Lease.

The Chair, Mr. Williams stated he did not believe that the Committee had the authority, based on the Department of Administration's legal review and the review of the Attorney General. Ms. Allaire Johnson stated she looked at this matter and spoke with Ms. Lynch, Attorney for the Department of Administration to see if she concurred with her opinion. As the State Properties Committee's Statutes currently read, the Committee does not have the authority to enter into anything longer than a twenty (20) year Lease, with the exception of certain specific provisions, i.e., the Leases at the Port of Galilee, which can be for forty (40) years. After reviewing some of the historical documents associated with the original Lease, she still was not able to find anything within the Deed carving out a special exception. She went on to say, short of getting a Legislative change, an exception, she does not see that the Committee has the authority to enter into something other than a twenty (20) year Lease for that area.

The Department of Transportation indicated it needed the official opinion and would return to the Rhode Island National Guard and inform them of that.

Ms. Allaire Johnson stated she had contacted a representative from the United States Navy. He was familiar with the project and gave her additional information and still was not able to provide her with any basis for changing her opinion.

A Motion was made by Mr. Griffith and seconded by Ms. Allaire

Johnson, that the Department's request for approval and signatures on Supplemental Agreement No. 1, United States Government and State of Rhode Island for an extension of the Lease for land at Quonset Point with the Rhode Island Air National Guard was reiterated, and the Committee does not have the authority to move beyond the twenty (20) year statutory limitation the Property Committee has on any property, including this one and is declining the Department's request.

Passed Unanimously

ITEM J – DEPARTMENT OF TRANSPORTATION – A request was made for final approval and signatures on Temporary Easement Agreements in conjunction with the Streetscape Enhancements/Rehabilitation of Granite Mill Bridge No. 308, Burrillville.

On March 8, 2005, the Department received approval to negotiate for two (2) Easements in conjunction with the Granite Mill Bridge. The Department presented two Temporary Easement Agreements as follows.

Ralph A. Hopkins, Jr., 96 square feet \$100.00

Beam Truck and Body, Inc. 187 square feet ` \$100.00

These easements are for a two year period.

A Motion was made by Mr. Griffith and seconded by Ms. Allaire

Johnson to approve the request of the Department for approval and signatures on Temporary Easement Agreements in conjunction with the Streetscape Enhancements/Rehabilitation of Granite Mill Bridge No. 308, Burrillville.

Passed Unanimously

ITEM K – DEPARTMENT OF TRANSPORTATION – A request was made by the Department for approval and signatures on Grant of Easement from the United States of America, Department of the Navy in conjunction with improvements to the West Main Road/Coddington Highway Intersection, Middletown.

This easement is necessary for the Department to construct a right turn lane at the West Main Road and Coddington Highway Intersection in Middletown. The parcel is identified at Plat 2651 and consists of 4,068 square feet of land. The Department has established the sum of \$3,055 as just compensation for the property; however, the Navy has offered to waive any right to compensation and any fees they normally charge to draft and process conveyance documents.

A Motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Department for approval and signatures on Grant of Easement from the United States of America, Department of the Navy in conjunction with improvements to the West Main Road/Coddington Highway Intersection, Middletown.

Passed Unanimously

The Committee moves to go into Executive Session, pursuant to Rhode Island General Law 42-46-4 (a)(5) for the specific purpose of

discussion or consideration related to the acquisition or lease of real property for public purposes, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public.

A Motion was made to go into Executive Session by Mr. Griffith and seconded by Mr. Allaire Johnson. A roll call vote was made. Ms. Allaire Johnson voted “Aye”, Mr. Griffith voted “Aye”, Mr. Barry voted “Aye”, and the Chair voted “Aye”.

A Motion was made by Mr. Griffith and seconded by Mr. Barry to close the Executive Session and return to the regular meeting. The Motion was approved unanimously.

The regular session of the State Properties Committee re-opened with the following request.

ITEM M – DEPARTMENT OF TRANSPORTATION – A request was made by the Department for approval of Condemnation Plat 2662, East Providence, in conjunction with the construction of the Warren Avenue Connector (Waterfront Drive).

The Department is preparing to construct the Warren Avenue Connector in the City of East Providence. This will provide vehicular access from Warren Avenue to the East Providence waterfront commercial area.

Seven (7) parcels are affected by this project. One (1) parcel is affected by a partial acquisition totaling 7,037 square feet, and four (4) parcels are affected by a temporary easement totaling 33,310 square feet. All of the remaining parcels are owned by the Department. The total estimated cost of the acquisitions is \$21,966.00, of which 80% is

Federally Funded.

A Motion was made by Mr. Barry and seconded by Mr. Griffith for approval of the request of the Department for Condemnation Plat 2662, East Providence, in conjunction with the construction of the Warren Avenue Connector (Waterfront Drive).

Passed Unanimously

All matters presented to the Committee were approved by all present. There being no further business to come before the Committee, the meeting adjourned at 11:22 A.M.

Anne L. Lanni, Executive Secretary