

STATE PROPERTIES COMMITTEE

Tuesday, April 26, 2005

The meeting of the State Properties Committee was called to order at 10:05 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, Peter Dennehy, Esquire and Mr. Arn Lisnoff, from the Department of Administration; Messrs. Paul Carcieri, Rick Kalunian and Anthony DeQuattro, from the Department of Transportation; Mr. Michael Butler, from FHWA; Messrs. John Faltus and Joseph Dias, from the Department of Environmental Management; Ms. Virginia Faria and Mr. Robert Christie, from the Department of Labor and Training; Bruce Leach, Esquire, attorney for the Rhode Island Convention Center Authority; John Bolton, Esquire, attorney for PRI XVIII, L.P.; Mr. Seth Myer from Chicago Title; and Mr. Thomas Hodge, from the Office of the Auditor General.

Minutes of the meeting held on April 12, 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, May 10, 2005.

ITEM A – DEPARTMENT OF ADMINISTRATION/DEPARTMENT OF TRANSPORTATION – Requests approval and signatures 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.

Mr. Bruce Leach addressed the Committee. He stated that at Special Meeting of the State Properties Committee held on April 19, 2005, the Committee gave authority to the Department of Transportation to allow the Rhode Island Convention Center Authority to assign two easements to the rear of its property, to the Authority and to the purchaser of the hotel, which is PRI XVIII, L.P. After returning to their offices, the lenders of PRI XVIII, L.P. thought that it should have its name on the Assignment so that if in fact there was a foreclosure on the property, at least there would be a right to use that until a buyer for the property was found. When this was discovered, notification was given to Peter Dennehy, Esquire and the Office of the Attorney General. Mr. Leach stated the buyer and the Office of the Attorney General have had a number of conversations as to whether or not it was appropriate to allow the consent to the bank or any mortgagee who takes title. He believes that the documents he was presenting today is to amend the previous consent to have the Department of Transportation allow the easements in the back of the property to be used both by the Rhode Island Convention Center Authority, PRI XVIII, L.P. and any mortgagee of PRI XVIII, L.P. Mr. Leach asked Attorney Genevieve Allaire Johnson to confirm what he said was correct. Ms. Allaire Johnson stated the most recent consent indicates it is for the Assignee, together with the mortgagee of the Assignee. Mr. Leach stated it would permit any mortgagee of PRI XVIII, to step into PRI's shoes and not have to come before the Committee to get permission to use that easement. He stated that is

the request of the lender.

Mr. Paul Carcieri, from the Department of Transportation, stated the Department is not opposed to any assignation of the easements involved. Its concern is if and when another mortgagee replaces the current lender to the Procaccianti Group (PRI XVIII, L.P.), that be done only with a pre-approval of this Committee and the Department. Mr. Carcieri went on to say, if that interest and concern is safeguarded in this wording, the Department has no objection to what is being presented at the meeting today. Mr. Carcieri stated in the course of discussions last week, at first there was a plan to name a specific mortgagee explicitly. That has since been replaced by a more blanket provision, the mortgagee of the assignee. Mr. Carcieri stated the Department's interest is sole, that if and when there is an assignation to a different mortgagee, that come before the State Properties Committee for pre-approval and at some point, the Department get a disclosure statement of the mortgagee involved now. Mr. Carcieri said that is the Department's sole observation and concern and is predicated on a similar case several months ago where the Department was confronted with the same situation. The Chair, Mr. Williams stated, although he had not seen the language, he would assume that if it said "any mortgagee", then it would not have to come before the Committee. Ms. Allaire Johnson stated it would not. She went on to say, the way the document is drafted currently, if the present mortgagee were to be transferred to another financial institution, then that financial institution would step into the shoes of the original. Mr. Carcieri stated, based upon the precedent the

Department has made in a similar case, the Department had some concern about that several months ago, and certainly, the Department does not want to act as an impediment to this transaction, but the Department is intimidated by the prospect of not knowing who might step into this financial picture in the future. He went on to say, certainly if the Department can rely on the easement itself, which is an exhibit to the consent, as a safeguard that that pre-approval was inherent in that document, this is OK, but the Department wants to hear that. The Committee discussed adding language to the documents, “where the mortgagee in the future would be subject to approval of the State Properties Committee.”

Ms. Allaire-Johnson stated as of yesterday, the actual named lender was named in the document and there was a request to change it. The Chair stated that was his request because his concern was if it is a specific institution and something changes (refinancing, etc.) then there is an institution listed that no longer has an interest in the property.

Discussion took place regarding the language. Mr. Carcieri stated, if the easement document exhibited to the Consent dictates that all parties involved come before the Department for its pre-approval, he thinks it is fine. He stated, again, the easement is exhibited and the easement is definitive and that any assignation of that interest comes before the Department.

Ms. Allaire-Johnson made a recommendation that at this point the matter be tabled or deferred until the next meeting so this could be worked out. A closing on the Westin transaction begins today. The

Chair, Mr. Williams stated that so far, he has not heard anyone with the objection that if there was a change in the mortgagee, that they would have to come back to the Committee, and couldn't language be added that if there is any further change in the mortgagee, they would have to come back. The Committee advised that this language is already in the document and the Chair commented that if that is already in the document, he wants it to be clear. The Committee was advised that the change was discussed with Ms. Allaire Johnson yesterday and it was discussed with Attorney Mitchell this morning. Discussion took place. Ms. Allaire Johnson stated, that there is a State Properties Committee rule that these matters are supposed to be done and documents received by the Office of the Attorney General ten (10) days prior to the meeting and that she has tried to accommodate changes, and if there is a request by the Chairperson that we make a change to the document based on the Committee's comments, then she suggests that be done. The Chair stated he knows that the Department of Transportation wants to be sure that any change in mortgagee, they would have to come back to the Properties Committee. The Chair was asking that the language state the current mortgagee, but he does not want to name the bank listed in the assignment. He would prefer to say that the current mortgagee, and if there is any change in the mortgagee at a future point, the parties should come back to the Department and the State Properties Committee. Mr. Bolton suggested that they put in "together with the current mortgagee" in the easement document itself, which states that anybody other than the current mortgagee

should have to come back, so only one word would have to be added.

Discussion took place. Mr. Leach stated, since we are using the words “current mortgagee”, he just wants to put on the record, that the Convention Center understands the current mortgagee to be Anglo Irish Bank Corporation, PLC, so that when it does its assignment based on this Consent, it is going to add to its Consignment the current mortgagee who it understands to be Anglo Irish Bank Corporation, PLC. Mr. Carcieri stated the Department requires a Corporate Disclosure for that party and is presuming that the Committee will pass this subject to a Corporate Disclosure of the current mortgagee.

The Chair Mr. Williams suggested that the parties involved in this matter leave the meeting and discuss the language needed.

Mr. Leach brought up another issue. At the last Special Meeting, Mr. Barry specifically asked if they had reviewed all documents and were comfortable with the transaction and the easements because releases that were signed and the sub-lease refer to a Easement Agreement that the Attorney General’s office, Mr. Dennehy and the Chairman had an opportunity to look at. It was not completely finalized. Since that time PRI’s surveyor has double checked and he noticed that there was an additional encroachment of the hotel over the garage. It appears that a line that everybody surveyed at the street level does not continue all the way up—there is a little jog in the building. Mr. Leach displayed a diagram and said they are putting the Committee on notice, to be completely forthright to the Committee. When the Committee approved the Sub-lease and the Lease Amendment, it

made reference to a reciprocal easement; the reciprocal easement has been modified to take in to account that the Authority will be giving an easement to the buyer for this little jog, as well as it was modified to make clear that certain easements that had been released by the State were also being somehow being adopted into the easements, so that everybody was covered and there would be no change, because it had made that representation. The Chair stated the Committee had approved the Amendment to the Lease and Sub-lease which references that document, but did not approve that document. Some discussion took place. Mr. Dennehy stated he has discussed this with Mr. Leach and given his review, he recommended that the reciprocal easements be amended to reflect the encroachment, in that the Committee had already approved the two other documents, including the reciprocal easements. The Chair, Mr. Williams stated he appreciated the disclosure.

This matter was tabled while the parties discussed the language changes to be made.

ITEM A – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT – A request was made by the Department for approval and signatures on Annual License Agreements with authorization to serve alcoholic beverages by Sail Newport, Museum of Yachting, Fort Adams Trust and Newport Rugby Club.

The License Agreements are for the various events and activities held by these organizations at Fort Adams State Park, with authorization to serve alcoholic beverages. The Newport Rugby Club has submitted a new Certificate of Insurance. Although the insurance

for Fort Adams Foundation and Trust, Sail Newport and the Museum of Yachting is current, it is due to expire. The Department requested approval subject to receipt of new Certificates of Insurance.

A Motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Department for approval and signatures on Annual License Agreements with authorization to serve alcoholic beverages by Sail Newport, Museum of Yachting, Fort Adams Trust and Newport Rugby Club. Approval was granted subject to receipt of new Certificates of Insurance for Fort Adams Foundation and Trust, Sail Newport and the Museum of Yachting.

Passed Unanimously

ITEM B – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT – A request was made by the Department for approval and signatures on Conservation Easement with the Cumberland Land Trust over land located on Nate Whipple Highway, Cumberland.

This Conservation Easement is over 22 acres of land in Cumberland. The Cumberland Land Trust has reached an agreement with the owners, Sheila Koback and Barbara Bland, to purchase the property for \$130,000.00. The property was appraised at \$145,000.00. The Trust will hold the land in fee title in exchange for \$70,000.00 of Open Space Grant Funds. The State will hold a Conservation Easement on the property. This property abuts two other large parcels of protected land along Nate Whipple Highway, Cumberland, which protects the Sneece Pond - Diamond Reservoir areas.

A Motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Department for approval and signatures on Conservation Easement with the Cumberland Land Trust over land located on Nate Whipple Highway, Cumberland.

Passed Unanimously

ITEM C – DEPARTMENT OF LABOR AND TRAINING – A request was made by the Department for permission to negotiate option to renew with the Pawtucket Redevelopment Agency for Office space at 175 Main Street, Pawtucket.

The Department was seeking permission to open negotiations with the Pawtucket Redevelopment Agency for a renewal of a lease for 19,000 square feet of office space at 175 Main Street, Pawtucket. The Department is currently under a five (5) year lease that contains a renewal option that must be exercised not less than 180 days prior to the expiration of the existing Lease, which is January 31, 2006. The Department has maintained an office in downtown Pawtucket for many years. The Chair, Mr. Williams suggested that the Department look at the market value of property in the area.

A Motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Department for permission to negotiate option to renew with the Pawtucket Redevelopment Agency for Office space at 175 Main Street, Pawtucket.

Passed Unanimously

ITEM D – DEPARTMENT OF TRANSPORTATION – A request was made by the Department for approval and signatures on Temporary Easement Agreement with Rhode Island Hospital over property at

Point and Hoppin Streets in conjunction with the I-195 Relocation Project.

This Temporary Easement Agreement is with the Rhode Island Hospital for work that needs to be done at Point and Hoppin Streets (the former Coro Building). The Department received conceptual approval in January. At that time, the Department had requested 7548 square feet of temporary use area, which is being increased to 8051 to accommodate additional work asked for at the Hospital and the temporary easement area the Department needed to accommodate its work was originally 5500 square feet and that has been changed to 5835. There has been no change in the amount of compensation that was originally approved in the amount of \$24,300.00.

A Motion was made by Mr. Barry and seconded by Mr. Griffith to approve the request of the Department for approval and signatures on Temporary Easement Agreement with Rhode Island Hospital over property at Point and Hoppin Streets in conjunction with the I-195 Relocation Project.

Passed Unanimously

ITEM E – DEPARTMENT OF TRANSPORTATION – A request was made by the Department for conceptual approval to convey property at Oaklawn Avenue and Cottrell Streets, Cranston.

The Department requested conceptual approval to convey 20,400 square feet of land in Cranston. This was previously approved by the Committee and the transaction fell through. There is now a new

abutting owner who wishes to purchase it. It is being purchased for the purpose of a Walgreens being built. There are drainage easements there and also some above ground easements for power lines that the Department will obtain and the Department is also asking for a six (6) foot set back. There is no access from Route 5. The Department previously contacted the former owner, but will contact the owner again to recheck.

A Motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Department for conceptual approval to convey property at Oaklawn Avenue and Cottrell Streets, Cranston.

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. A roll call vote was made. Ms. Allaire Johnson voted "Aye", Mr. Barry voted "Aye", Mr. Griffith voted "Aye" and the Chair voted "Aye".

A Motion was made by Ms. Allaire Johnson and seconded by Mr. Griffith 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 F - DEPARTMENT OF ADMINISTRATION –DEPARTMENT OF

CHILDREN, YOUTH AND FAMILIES - A request was made by the Department for conceptual approval to enter into a Purchase and Sales Agreement for acquisition of property at 85 Slater Street, Pawtucket, for the Rhode Island Training School for Youth program.

The Department is acting on behalf of the Department of Children, Youth and Families in this regard.

A Motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Department for conceptual approval to enter into a Purchase and Sales Agreement for acquisition of property at 85 Slater Street, Pawtucket, for the Rhode Island Training School for Youth program.

Passed Unanimously

ITEM G - DEPARTMENT OF TRANSPORTATION – A request was made by the Department for approval of Condemnation Plat 2620/Intersection Improvements, Post Road Project, Westerly & Charlestown.

The Department is seeking approval to condemn highway Plat 2620. Six (6) parcels are affected by this project. One parcel is affected by partial acquisition totaling 16,064 square feet. Six (6) parcels are affected by temporary easement totaling 17,026 square feet.

A Motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Department for approval of Condemnation Plat 2620/Intersection Improvements, Post Road Project, Westerly & Charlestown.

Passed Unanimously

ITEM H – DEPARTMENT OF TRANSPORTATION – A request was

made by the Department for conceptual approval to negotiate a Temporary Easement Agreement with Sovran Acquisition Limited Partnership over Frenchtown Road, East Greenwich, in conjunction with the Relocated Route 403/Route 4 project.

The Temporary Easement Agreement with Sovran Acquisition Limited Partnership is over property on Frenchtown Road, East Greenwich, in conjunction with the Relocated Route 403/Route 4 project. A total of one (1) parcel will be affected by a temporary easement for three (3) years totaling 646 square feet.

A Motion was made by Mr. Griffith and seconded by Ms. Allaire Johnson to approve the request of the Department for conceptual approval to negotiate a Temporary Easement Agreement with Sovran Acquisition Limited Partnership over Frenchtown Road, East Greenwich, in conjunction with the Relocated Route 403/Route 4 project.

Passed Unanimously

ITEM I – DEPARTMENT OF TRANSPORTATION – A request was made by the Department for approval of Condemnation Plat 1365B/Parcels 1G, 2B, North Kingstown and East Greenwich for the Relocated Route 403-Bridge 1010 Contract.

The Department is preparing to construct Bridge 1010 as part of the relocation of Route 403. Plat 1365B contains two (2) parcels. Parcel 1G is affected by a permanent guy easement of 100 square feet, and Parcel 2B is affected by a temporary guy easement for a period of three (3) years totaling 90 square feet.

A Motion was made by Ms. Allaire Johnson and seconded by Mr. Barry to approve the request of the Department for approval of Condemnation Plat 1365B/Parcels 1G, 2B, North Kingstown and East Greenwich for the Relocated Route 403-Bridge 1010 Contract.

Passed Unanimously

ITEM J – DEPARTMENT OF TRANSPORTATION – A request was made by the Department for conceptual approval to negotiate for acquisition of two temporary easements in conjunction with ADA Improvements to Park Avenue, Portsmouth.

A total of two parcels will be affected by a temporary easement for two (2) years totaling 410 square feet.

A Motion was made by Ms. Allaire Johnson and seconded by Ms. Griffith to approve the request of the Department for conceptual approval to negotiate for acquisition of two temporary easements in conjunction with ADA Improvements to Park Avenue, Portsmouth.

Passed Unanimously

The parties involved in Item A-1 returned to the meeting to complete their presentation and request for approval and signatures on the revised Consent to Assignment of Perpetual Easements.

Mr. Paul Carcieri from the Department of Transportation advised that the subject documents have been amended to reveal another assignee, that is the anticipated mortgagor, Anglo Irish Bank Corporation, PLC. There is an addition to the fourth Whereas clause wherein that party and that party alone has been included in the document as an assignee. He said that is more than satisfactory to

the Department of Transportation and the other parties involved. The Chair Mr. Williams questioned, if there is a change in the mortgagee, would they have to come back? He was informed they would.

A request was made for approval and signatures on the revised Consent to Assignment of Perpetual Easements.

A Motion was made by Ms. Allaire Johnson and seconded by Mr. Griffith to approve the request of the Department of Administration and Department of Transportation for approval and signatures on the revised Consent to Assignment of Perpetual Easements.

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 11:29 A.M.

Anne L. Lanni, Executive Secretary