

STATE PROPERTIES COMMITTEE MEETING

TUESDAY, FEBRUARY 20, 2007

The meeting of the State Properties Committee was call to order at 10:11a.m. by Chairman Kevin M. Flynn. Other members present were Mr. Robert Griffith representing the Rhode Island Department of Administration; and Richard B. Woolley representing the Rhode Island Department of Attorney General; Robert Jackson, James O'Connor, Daniel Clarke and Tim Harris from the Rhode Island Department of Transportation; John Faltus, Lisa Primiano, Joseph Dias and Robert Sutton from the Rhode Island Department of Environmental Management; William Ferguson from the Rhode Island Department of Administration; Anthony Paolantonio from the Rhode Island House of Representatives; and Robert C. Bromley from the Rhode Island Senate Fiscal Office.

Chairman Flynn noted for the record that the State Properties Committee did have a quorum present.

ITEM A – Department of Administration – This item was deferred to a future meeting of the State Properties Committee at the request of the Department of Administration.

ITEM B – Department of Transportation – A request was made for approval to convey approximately fifty-five (55) acres of land in the Town of Johnston. Chairman Flynn indicated that at a previous State Properties Committee meeting the Committee recommended that the Department of Transportation ascertain the status of the proposed

subdivision plan to be located on property, which abuts the subject property. Mr. O'Connor indicated that the proposed plan has not yet been approved. The plan is at the master plan review stage and is identified as being in the concept stages. Mr. O'Connor illustrated the location of the proposed subdivision on a site map. Mr. O'Connor indicated that there is a four (4) acre parcel of land located on Plat 51, which is owned by the Audubon Society. Mr. Griffith clarified that the Committee previously recommended that the Department of Transportation ascertain to what extent the subdivision plan, which has been filed with the Town of Johnston, will affect the value of the State-owned property, which the abutter, DAC Properties, wishes to purchase and whether any such effect is reflected in the appraisal of the subject property. Chairman Flynn stated that the Committee also inquired whether local zoning requires the abutter to provide access to the landlocked fifty-five (55) acre parcel of State-owned land as a condition of approval of the subdivision plan. If access is required by the Town of Johnston, then the State-owned land will no longer be landlocked, which will significantly increase the value of the State-owned land. Mr. O'Connor indicated that it is difficult to determine whether the abutter will be required to provide access to the subject property as a condition of the subdivision approval as the Town of Johnston does not currently have a Town Planner. Mr. O'Connor indicated that he has found no evidence to suggest that a municipality must require a developer to provide access to an abutting landlocked property. Mr. Griffith expressed concern that as soon as the developer constructs an access road to the State-owned

property, its value will substantially increase. Chairman Flynn stated that under the current proposed plan, the developer appears to not be providing access to the State-owned property. Although it would appear that such access is feasible. Chairman Flynn noted that the current plan shows that the potential point of access to the subject property is hindered by wetlands. Chairman Flynn indicated that as DAC Properties is not required to act on the proposed subdivision, it can control the timing of providing access to the fifty-five (55) acre parcel of State-owned land. However, Chairman Flynn indicated that the State of Rhode Island should be allowed to weigh in on the design of the subdivision to ensure that it has access to the subject property through the subdivision if at all possible. Chairman Flynn is unsure as to whether the developer will be able to obtain a major wetlands crossing, although, this might not be necessary. However, Chairman Flynn noted that as DAC Properties is considering purchasing the subject property, it must have some expectation of obtaining access to said land. Mr. Griffith concurred with Chairman Flynn's statement. Mr. Woolley asked whether, as an abutter, the State of Rhode Island is entitled to be notified of proceedings regarding the proposed subdivision. It is Chairman Flynn's understanding that the State of Rhode Island may not have to be notified of proceedings regarding the proposed subdivision at the master plan stage. Chairman Flynn indicated that generally the formal abutter notification process takes place at a later time. Mr. O'Connor indicated that the subject property was appraised as an assemblage and a value of \$8,500 per acre of land was established. At the time of purchase, DAC Properties'

abutting land was valued at \$5,000± per acre of land. Mr. Connor indicated that the value associated with the fifty-five (55) acre parcel of land is fair and reasonable based upon recent market transactions.

Chairman Flynn suggested that the State Properties Committee consider voting to grant the Department of Transportation's request for conceptual approval. However, the Committee will require that satisfactory answers to all of the Committee's outstanding questions regarding this property be answered before final approval is granted. Mr. Woolley asked if the abutting property owners have been approached relative to the conveyance of the subject property. Mr. Jackson indicated that the Department of Transportation has not approached any of the abutting property owners. However, Mr. Jackson indicated that he is unsure whether the Department of Administration approached any of the landowners at the time it was interested in utilizing the subject property. A motion was made to grant conceptual approval to proceed with the development of the Request for Proposals relative to the subject property and acknowledging that additional questions have arisen by the Committee during this meeting, which shall be satisfactorily answered prior to the actual issuance of said Request for Proposals by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

ITEM C – Department of Transportation – A request was made for approval of and signatures on a Quit Claim Deed by and between the Rhode Island Department of Transportation and the Rhode Island Economic Development Corporation. Mr. Jackson indicated that on

September 12, 2006, the State Properties Committee granted conceptual approval for the Department of Transportation to convey 68,837 square feet of State owned property located at the Quonset Business Park on Gate Road between Post Road and Davisville Road in the Town of North Kingstown to the Rhode Island Economic Development Corporation. The purpose of the conveyance is to modify portions of the Gate Road right-of-way to a standard width to accommodate the Quonset “Gateway” project. The subject property was acquired by the State of Rhode Island at no cost to create a new alignment of Gate Road between Post Road and Davisville Road. Mr. Jackson indicated that the subject property is excess of the Department of Transportation’s highway needs. Mr. Jackson illustrated the exact location of the property being transferred using an aerial photograph. Chairman Flynn clarified that there is no financial transaction associated with this conveyance. Mr. Jackson stated that there is no financial transaction associated with this conveyance. A motion to approve was made by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

ITEM D – Department of Transportation – A request was made for approval of and signatures on a Quit Claim Deed by and between the Rhode Island Department of Transportation and East Providence Auto Sales. Mr. Clark explained that this is a request by the Department of Transportation to convey 4,568 square feet of land located at 2289 Pawtucket Avenue in the City of East Providence to East Providence Auto Sales, Inc. for a total purchase price of \$30,000.

A motion was made to approve by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

ITEM E – Department of Transportation – A request was made for conceptual approval to convey 2,637 square feet of land located along the Washington Secondary Railroad Track in the City of Cranston. Mr. Harris indicated that the Department of Transportation is requesting permission to enter into property agreements to facilitate the realignment of the Washington Secondary Track for utilization of the bike path. Mr. Harris indicated that on June 27, 2005, the State of Rhode Island sold 4,457 square feet of land to Mr. Ronald N. Cataldi. Concurrent with this sale, the State entered into a ten (10) year lease with Mr. Cataldi for an adjacent parcel of land containing an additional 2,637 square feet of land. Mr. Cataldi wishes to purchase said 2,637 square feet of land which is excess to the Department of Transportation’s needs. Mr. Harris indicated that the property agreements will be prepared and the Department of Transportation will return to the State Properties Committee for final approval and execution of said agreements. A motion was made to approve by Mr. Woolley and seconded by Mr. Griffith.

Passed Unanimously

ITEM F – Department of Transportation – A request was made for approval of and signatures on five (5) License Agreements for the installation of stream flow gauging stations on State owned bridges across the State of Rhode Island. Mr. Harris explained that the United States Geological Survey has been conducting some stream flow

studies for a number of years. In the past, the Department of Transportation has granted it access to State owned bridges to conduct said studies. Mr. Harris indicated that the agreements are short term License Agreements for a period of sixty (60) days. The designated locations are as follows: (1) Route 3 over the Big River in West Greenwich; (2) Route 3 over the Nooseneck River in West Greenwich; (3) Route 2 over the Pawcatuck River in the Towns of Charlestown and Richmond; (4) Route 403 over the Hunt River in East Greenwich; and (5) Route 118 over the Big River in Coventry. Mr. Griffith indicated that he highly endorsed this request due to the necessity of the stream flow studies. A motion to approve was made by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

ITEM G – Department of Environmental Management – A request was made for approval of and signatures on an Agreement and Assignment of a Conservation Easement for fifty-three (53) acres of land located in the Town of Smithfield. Mr. Dias indicated that the Director of the Department of Environmental Management has not yet executed the documents. Mr. Dias explained that the subject property comprises fifty-three (53) acres of land designated as Assessor’s Plat 47, Lot 29 located on the corner of Mann School Road and Burlingame Road in the Town of Smithfield. Mr. Dias indicated that the subject property is located in a protected area and abuts two other protected properties. Mr. Dias indicted that the property includes a Christmas tree farm on one side and open space farm on the other side. Mr. Dias presented a site map for the Committee’s

review. Mr. Woolley indicated that Item G of the agenda states that the Agreement & Assignment of Conservation Easement is for fifty-three (53) acres of land located in Smithfield and the Agreement & Assignment, which was provided to the Department of Attorney General, indicates that it is for ninety-five (95) acres of land.

Mr. Dias indicated that the easement is over fifty-three (53) acres of land. Mr. Dias indicated that Exhibit A of the Agreement & Assignment indicates the correct acreage of fifty-three (53) acres. Mr. Woolley indicated that the Agreement & Assignment needs to be corrected to reflect the accurate acreage. Mr. Griffith suggested that the State Properties Committee could approve and execute the Agreement & Assignment subject to the correction of the acreage. Chairman Flynn asked what financial issues were associated with the Agreement & Assignment. Mr. Dias explained that an appraisal conducted by the Newport Appraisal Group valued the subject property at \$395,000. The Rhode Island Open Space Grant award is fifty (50%) percent of the \$395,000. The State of Rhode Island and the Smithfield Land Trust are contributing the remaining balance. Mr. Griffith clarified that the Deed will be recorded in the name of The Smithfield Land Trust. Mr. Dias stated that the Deed will be recorded in the name of The Smithfield Land Trust. Mr. Griffith asked if the State of Rhode Island will also be named on the Deed. Mr. Dias explained that if The Smithfield Land Trust should cease to exist, the easement will be transferred to the State of Rhode Island. Mr. Griffith noted that the map, which was provided to the State Properties Committee, indicates the property consists of sixty-five (65) acres of

land, the Agreement & Assignment indicates the property consists of ninety-five (95) acres of land and Exhibit A indicates that one parcel of land consists of 31.156 acres of land and the other parcel consists of approximately twenty-eight (28) acres of land for a total of nearly sixty (60) acres of land. A motion to approve subject to the Agreement & Assignment being corrected to reflect the accurate acreage by Mr. Woolley and seconded by Mr. Griffith.

Passed Unanimously

ITEM H – Department of Environmental Management – A request was made for approval of and signatures on a new five (5) year License Agreement between the Rhode Island Department of Environmental Management and The Festival Network, LLC. Mr. Faltus explained that for a number of years the Department of Environmental Management has been dealing with Mr. George Wein from Festival Productions for the presentation of the Newport Jazz and Folk Festivals at Fort Adams State Park. Mr. Faltus indicated that 2006 was the last year of that five (5) year License Agreement and Mr. Wein approached the Department of Environmental Management about entering into a new five (5) year license agreement. Mr. Faltus informed the Committee that Mr. Wein is eighty one (81) years of age and his wife, Joyce Wein, an important business partner, passed away two years ago. Therefore, Mr. Wein spoke to the Department of Environmental Management about selling his company to The Festival Network, LLC, which is owned and operated by Mr. Chris Shields. Mr. Faltus explained that Festival Productions remains a division of The Festival Network, LLC, which has been disclosed on

the Certificate of Disclosure. Mr. Wein is still the Chairman of Festival Productions and will continue to have an active roll in the presentation of the Newport Jazz and Folk Festivals. Mr. Faltus indicated that the Rhode Island Department of Environmental Management has had an outstanding relationship with Mr. Wein. However, Mr. Wein decided that in light of his age, he had to make arrangements to protect Festival Production's legacy as well as the legacy of the Newport Jazz and Folk Festivals and therefore, sold his company to The Festival Network, LLC. Mr. Faltus indicated that the Department of Environmental Management believes it should proceed with this License Agreement for an additional five (5) years. Chairman Flynn asked if the Department of Environmental Management has had any relationship with Mr. Shields. Mr. Faltus indicated that he has had no contact with Mr. Shields. The Department of Environmental Management continues to deal with Mr. Wein. Chairman Flynn asked if the Department of Environmental Management has any concerns regarding the new ownership in the event that Mr. Wein should pass away during the tenure of the new five (5) year License Agreement. Mr. Faltus explained that because of the outstanding relationship between the Department of Environmental Management and Mr. Wein, the Department is fully confident in his decision to sell Festival Productions to Mr. Shields' company. Chairman Flynn asked Mr. Faltus to explain the rental agreement. Mr. Faltus explained that over the years, the Department of Environmental Management has increased the rental fee. Mr. Faltus explained that under the previous License Agreement the State

of Rhode Island is entitled to eleven (11%) percent of the festivals' gross receipts. Mr. Faltus explained that as the Fort Adams Trust and the Newport Museum of Yachting are affected by these festivals, Fort Adams Trust has established other state law and is charged with generating revenue for the restoration of the fort. The Department of Environmental Management has also amended the Fort Adams Agreement. Mr. Faltus explained that Festival Productions contributes up to fifty thousand (\$50,000.00) dollars per year to the Fort Adams Trust. Twenty thousand (\$20,000.00) dollars is utilized as a security deposit and the remaining thirty thousand (\$30,000.00) dollars is paid upon the completion of the festivals. Under the fee agreement, the Department of Environmental Management considers the highest and lowest grossing festivals. The fee continues to be based upon eleven (11%) percent of the gross receipts. However, pursuant to the new five (5) year License Agreement, the monies paid to Sail Newport are applied to a dock maintenance fund. The payment to the Museum of Yachting is being increase from five thousand (\$5,000.00) dollars to ten thousand (\$10,000.00) dollars. Mr. Faltus explained the terms and conditions of the rental agreement relative to payments made to the State of Rhode Island. The State of Rhode Island has realized revenue in excess of two hundred thirteen thousand (\$213,000.00) dollars over the past five years. The formula for the new License Agreement has essentially remained the same with the exception of the increase in monies paid to Sail Newport. Mr. Woolley commented that the festivals certainly have a positive impact on the revenue realized by the City of Newport as well. Mr. Faltus

indicated that the Department of Environmental Management has not received the Certificate of Insurance. The Certificate of Insurance is generally provided to the Department of Environmental Management thirty (30) days prior to the first festival. Mr. Shields has provided the Department of Environmental Management with a letter, which states that he will continue to provide insurance as required. A motion was made to approve subject to the Certificate of Insurance being provided at the appropriate time by

Mr. Woolley and seconded by Mr. Griffith.

Chairman Flynn asked if the License Agreement contains a termination clause whereby the State of Rhode Island can terminate the Agreement in the event Mr. Wein should pass away prior to the tenure of the Agreement and the State of Rhode Island is not satisfied with Mr. Shields in terms of management. Mr. Woolley indicated that Paragraph 29 of the License Agreement includes a provision, which stipulates that the Director of the Department of Environmental Management has the right to prevent the appearance of any entertainer, which he deems inappropriate for the location. Pursuant to Paragraph 34, "The Director shall, within ten (10) business days, review this preliminary list and advise the Licensee by written notice which, if any, of the performers listed will not be allowed to perform during the concert period. The determination of the Director shall be final and is hereby deemed to be made for the protection of public health and safety." Chairman Flynn agreed that said provisions are sufficient to protect the best interest of the State of Rhode Island.

Passed Unanimously

Mr. Faltus requested that the State Properties Committee furnish the Department of Environmental Management with one original executed License Agreement at this time. Chairman Flynn indicated that the Committee will sign the documents at the conclusion of the meeting.

ITEM I – Department of Environmental Management – A request was made for approval of and signatures on an Amended Lease with Park Management I 295 Inc. relative to the maintenance and operation of the Blackstone River State Park Visitor’s Center on Interstate 295 north. Mr. Sutton indicated that both the Department of Environmental Management and the Department of Transportation are involved in this matter because of the ongoing interest of the Federal Highway Administration in providing a safe area for trucks to park overnight. Mr. Sutton explained that previously a truck-stop/tourist area was in operation at this location, but was closed in 1989. Said truck-stop/tourist area was closed by the Department of Environmental Management and the Department of Transportation because they could not man the facility. Several times after the facility was closed, the Federal Highway Administration recommended that the facility be reopened. The Department of Environmental Management refused to reopen the facility due to the lack of personnel and funds to provide the necessary manpower to operate a twenty-four (24) hour facility. In 1996, the Department of Environmental Management began discussions with both the Department of Transportation and the Federal Highway Administration regarding the reopening of a visitor’s center and truck-stop area. Mr. Sutton indicated that the bikeway was being built

along the subject area and provided an excellent opportunity to involve the Department of Environmental Management in order to provide a multi-use facility. The current facility provides the necessary truck parking, visitor information and restroom facilities to both the local and interstate travelers. The facility provides the public with an excellent bikeway connection where people can transport bicycles by automobile, park in the parking lot and immediately hook into the bikeway. This portion of the bikeway will connect Central Falls to Woonsocket by the end of this year. At that point, there will be approximately thirteen (13) miles of bikeway completed. All of the thirteen miles are off-road and connected directly to the Interstate 295 visitor's center. The Department of Environmental Management also operates a farmers' market at the facility. After the issuance of a Request for Proposals in 2003, the Department of Environmental Management began negotiating with Park Management - 295 Inc. to operate a Dunkin Donuts franchise at the facility. Mr. Sutton indicated that initially business was slow because the between January and July of 2006, the facility had not been completed in terms of the parking area, the bikeway and landscaping. By July of 2006, business had yet to materialize. To date, the signage on Interstate 295 is inadequate to the facility's needs. The Department of Environmental Management plans to work with the Federal Highway Administration to create better signage. Chairman Flynn clarified that pursuant to the contract, under which the Dunkin Donuts franchise is currently operating, the vendor is responsible to pay six (6%) percent of its total receipts in order to meet its target of \$1,000,000. in annual

sales. Chairman Flynn indicated that there was most likely a flaw in the thinking that the day the store opened; it would generate the projected sales. The Committee was provided with a ledger sheet which illustrated the financial agreement for the months from August to December of 2005. Chairman Flynn clarified that as the rental payments are disproportionate to the business generated during that period of time, the vendor is experiencing a hardship. Mr. Sutton concurred and indicated that although the vendor was not making a profit, the facility was being operated on a twenty-four (24) hour basis. Mr. Sutton clarified that the Department of Environmental Management does not have any personnel at that facility maintaining the public restrooms, sidewalks or parking lot. The vendor, as part of the Lease Agreement, has agreed to essentially maintain the entire public facility on a twenty-four (24) hour basis and has done so since opening day. The vendor incurred significant costs relative to the maintenance of the facility, despite the fact that it was realizing minimal revenue. Although the revenue estimate was provided by the vendor, its estimate of \$1,000,000 dollars per year in annual sales was based upon traffic counts provided by the Department of Environmental Management. There was no way of knowing how much of that traffic would actually find its way into the Dunkin Donuts franchise or how long it would take. The Department of Environmental Management's confidence in the estimate of one million (\$1,000,000.00) dollars per year derived from the fact that all three bidders that responded to the Request for Proposals estimated gross revenue in the amount of one million (\$1,000,000.00) dollars per

year. Additionally, prior to this Request for Proposals, the Department of Environmental Management issued an initial Request for Proposals, to which Burger King responded. Burger King also estimated first year gross sales in the amount of one million (\$1,000,000.00) dollars. Mr. Sutton indicated that he spoke to the current vendor yesterday and he feels quite confident that business was turning around. Chairman Flynn asked if signage is currently in place. Mr. Sutton indicated that there are signs in place; however, one of the agreements, which was renegotiated in this Lease Amendment, is that the vendor, the Department of Transportation, the Department of Environmental Management and, if necessary, the Federal Highway Administration will sit down and devise a more appropriate signage program. Chairman Flynn asked if the signage in place is better than it was, but it is still inadequate to the facilities needs. Mr. Sutton stated that is correct. Mr. Sutton indicated that the signs are erected immediately before the facility's entrance, but signs need to be erected at least two (2) miles before the facility. Mr. Sutton explained the other amendments to the Lease Agreement include of the provision that a payment of \$14,400 per year will be allocated to Blackstone Valley Tourism Council to provide all of the tourist information both electronically and written and also to staff the facility for a minimum of 56 hours per week, which is eight hours per day, seven days per week. A motion to approve was made by Mr. Woolley and seconded by Mr. Griffith.

Passed Unanimously

There being no further business to come before the State Properties

Committee, the meeting was adjourned at 11:05 a.m. Mr. Griffith made a motion to adjourn, which was seconded by Mr. Woolley.

Passed Unanimously

Holly H. Rhodes, Executive Secretary