

STATE PROPERTIES COMMITTEE MEETING

TUESDAY, JANUARY 6, 2009

The meeting of the State Properties Committee was called to order at 10:00 a.m. by Chairman Kevin M. Flynn. Other members present were Richard Woolley representing the Rhode Island Department of Attorney General; Robert Griffith representing the Rhode Island Department of Administration; John A. Pagliarini, Jr., and Robert W. Kay, Public Members and Xaykham Khamsyvoravong representing the Rhode Island Office of the General Treasurer, Ex-officio Member. Others in attendance were Anthony Paolantonio from the Rhode Island House of Representatives; Yue Wang from the Rhode Island Office of the General Treasurer; Lisa Primiano and Terri Bisson from the Rhode Island Department of Environmental Management; Daniel Clarke, Marc Malkasian, David Coppotelli from the Rhode Island Department of Transportation; Michael D. Mitchell and John Ryan from the Rhode Island Department of Administration; Senator Rhoda E. Perry and Representative David Segal from the Rhode Island House of Representatives; Seth Yurdin, Councilman, from the City of Providence; members of Friends of India Point Park; members of the College Hill Neighbors Association; members of the Fox Point Neighborhood Association; members of the Blackstone Parks Conservancy; members of the Providence Preservation Society; members of the Summit Neighborhood Association.

ITEM A – Department of Environmental Management – A request was

made for approval to utilize the most recent federal Housing and Urban Development (HUD) data to determine fair market rent for the residential/caretaker properties leased by the State of Rhode Island. Ms. Primiano stated that the Department of Environmental Management currently manages thirteen residential leases. Ms. Primiano indicated that the Department of Environmental Management hires professional appraisers to conduct appraisals to determine the rental value of each of the residential properties as they become vacant. Ms. Primiano stated that the Department of Environmental Management has previously utilized the HUD fair market rents values as a base and then would make adjustments to said amount after considering the duties and responsibilities of the tenants residing in said domiciles. Ms. Primiano indicated that most of these houses are within the boundaries of State management areas or State parks. Each appraisal costs between \$300.00 and \$500.00 depending on whether it is a new appraisal or an update of an existing appraisal. Said fees are paid from the Department of Environmental Management's operating budget; however, the rental fee payments are allocated to the General Fund. Ms. Primiano noted that these appraisals cost the Department of Environmental Management approximately \$2,000.00 per year. Ms. Primiano indicated that the Department of Environmental Management is presently in the process of stream lining its lease process. Ms. Primiano indicated that Ms. Bisson has taken over the administration of all of the Department's leases including the properties located at the Port of Galilee as well as parks and management areas. Ms.

Primiano indicted that Ms. Bisson has set up a data base and asked Ms. Bisson to provide the Committee with a brief summary regarding the Department's lease process. Ms. Bisson explained that the Department's goal is to make the lease process more efficient. Ms. Bisson reiterated that she has developed a new data base, which allows the Department to automatically track leases and the expiration dates of insurance certificates. Ms. Primiano stated that the Department of Environmental Management wishes to reduce its appraisal costs and minimize the amount of time expended by staff hiring these external appraisers, reviewing the appraisals and preparing lease documents. Ms. Primiano indicated that she and Ms. Bisson have researched the HUD's process for determining rental values and consulted with local appraisers who indicate that the HUD process does in fact accurately reflect fair market rental values. Ms. Primiano indicated that the purpose of setting the rental values is to encourage property owners to rent to people of low to moderate income. Ms. Primiano indicated that HUD researches census data and engages the services of some of the same appraisers utilized by the Department of Environmental Management to determine its rental values. Therefore, in view of the recent reduction in staff as well as in funding, the Department of Environmental Management wishes to once again utilize the HUD data in an effort to expedite the appraisal process and minimize the amount of time expended by staff relative to the leasing of these residential properties. Chairman Flynn indicated that it is his understanding that the Department of Environmental Management initially stopped its use of the HUD data

because the State Properties Committee believed that said data did not accurately reflect fair market rental values. However, Chairman Flynn noted that the material provided in the Department's submission package demonstrates that the rental values established using the HUD data are in fact very consistent with the values determined by fee appraisers. Ms. Primiano indicated that the Committee did not necessarily deem the HUD data inaccurate; but questioned how State could be certain that said data did accurately reflect fair market rental values. Ms. Primiano explained that as a result of the Department's professional appraisal process, it was able to confirm that the values determined utilizing the HUD data were consistent with the values established via the fee appraisals. Ms. Primiano indicated that said appraisals are conducted on an annual basis by HUD. Ms. Primiano provided the Committee with a copy of the introduction from the Federal Registry, which explains the HUD process and indicated that after reviewing said information, the Department concluded that it is an accurate assessment of fair market rental rates. Therefore, the Department of Environmental Management is seeking approval to once again utilize the HUD process to determine rental values for said residential properties. Mr. Griffith indicated that in addition to questioning the accuracy of the HUD process, the Committee also suggested that some of the downward adjustment made by the Department in consideration of the duties and responsibilities of the caretakers may have been too generous. Ms. Primiano indicated that Department of Environmental Management staff met with Jerome Williams and other members of

the Administration staff and eliminated many of those deductions due to workers' compensation and employment and labor issues. Chairman Flynn asked how often the HUD rental data is updated and what the average term of the Department's leases is. Ms. Primiano indicated that the HUD rental values are updated on an annual basis and the average term of the Department's leases is three (3) years. Mr. Pagliarini asked if the HUD rental fees are based on the income qualifications of the tenant. Ms. Primiano stated that the HUD rental fee is not based on the income of the tenant. Ms. Primiano indicated that rental values are based upon a market analysis conducted by the federal government. A motion was to approve by Mr. Pagliarini and seconded by Mr. Kay.

Passed Unanimously

ITEM B – Department of Transportation – A request was made for approval of and signatures on a Consent to Assignment of License Agreement to allow the existing License by and between the Department of Transportation and Commodore Properties, LLC to Omni Combined W.E., LLC. Mr. Pagliarini recused himself from voting relative to this item as the applicant is his law firm's landlord. Mr. Malkasian explained that the current License Agreement is between Commodore Properties, LLC and the Department of Transportation. The Department is before the Committee seeking approval to assign said License Agreement to Omni Combined W.E., LLC. Mr. Malkasian indicated that the License Agreement is for use

of 6,000 square feet of land located on West Exchange Street in the City of Providence. Mr. Coppotelli provided an aerial photograph of the subject property for the Committee's review. Mr. Malkasian indicated that the rental fee for said property \$1,350.00 per month and that said fee will remain the same as it was recently increased in September of 2007. The fee will be re-evaluated by the Department in 2010. Mr. Malkasian explained that the License Agreement contains a provision, which allows the Licensee to trigger a five (5) year extension of the License Agreement on April 1, 2009. Mr. Malkasian stated that Omni Combined W.E., LLC's legal counsel has indicated that Omni will in fact exercise said provision. Mr. Malkasian noted that Omni Combined W.E., LLC has provided an insurance certificate, a certification of authority and a certification of disclosure to the State Properties Committee. A motion was made to approve by Mr. Woolley and seconded by Mr. Griffith. The motion passed with four (4) votes "Aye" and one recusal.

Four (4) Votes "Aye"

Mr. Woolley

Mr. Kay

Mr. Griffith

Chairman Flynn

One (1) Recusal

Mr. Pagliarini

ITEM C – Department of Transportation – A request was made for approval to dispose of approximately 73,346 square feet of land and improvements located at 25 India Street in the City of Providence via a public solicitation. Mr. Clarke noted that the subject property is the former “BootLegger’s” property. Mr. Clarke provided the Committee with a brief history of said property and provided a site map of the subject property for the Committee’s review. Mr. Clarke noted that in 2000, the Department of Transportation purchased property consisting of 130,094, square feet of land for a purchase price of \$4.7 million dollars for use in the I-195 Project. Mr. Clarke noted that the Department has constructed roads on 55,000 square feet of said property; leaving 73,346 square feet available for sale. Mr. Clarke explained that in April of 2008, the Department of Transportation commissioned two independent fee appraisals of the subject property, which were reconciled with the Department of Transportation review staff. Mr. Clarke indicated that the Department is seeking conceptual approval to issue an invitation of bids for a public auction to dispose of the subject property. Mr. Clarke stated that a minimum bid in the amount of 3.5 million dollars has been established. Mr. Clarke indicated that the subject property is zoned a W-2 District. In accordance with the CRMC permits granted in 1990, three (3) easements for public access to the property remain in full force and effect. Mr. Clarke indicated that the Department of Transportation originally appeared before the State Properties Committee in March 2008, and agreed to delay any sale activity on

this parcel until the City of Providence had conducted a charrette on future land uses within the area. Mr. Clarke stated that the Department of Transportation has also honored the building moratorium in the area. Mr. Clarke indicated the subject property has been deemed surplus to the needs of the Department of Transportation, it does not require any type of remediation or require the building of any roads prior to being placed on the market for sale. Mr. Clarke stated that the property was purchased with federal funds under the condition that it be utilized for construction and staging purposes in connection with the I-195 Project. Mr. Clarke explained the contract between the Federal Highway Administration and the Department also obligated the Department to place any remaining property on the market for sale once the property was no longer needed. Mr. Clarke indicated that the revenue realized from the sale of the property would be returned to the Federal Highway Administration for the completion of the I-195 Project. Chairman Flynn asked Mr. Mitchell to explain the State of Rhode Island's obligation to the Federal Highway Administration relative to property acquired for highway purposes, but is no longer needed for highway purposes. Mr. Mitchell indicated that the Department did not require all of the property purchased for highway use; however, because the severance damages associated with the property were so great, the Department felt compelled to purchase the property in its entirety. Mr. Mitchell indicated that there is a specific agreement between the Department of Transportation and the Federal Highway Administration which stipulates that when the subject property is no

longer needed for highway purposes, it shall be sold at fair market value and the proceeds from said sale would be applied to the I-195 Project. Therefore, the Department of Transportation is under a binding obligation to sell the remaining property as soon as possible.

Chairman Flynn indicated that in March 2008, the Planning Director of the City of Providence forwarded a letter to the State Properties Committee requesting that the Committee delay action relative to the subject property until the charrette process was completed. It is Chairman Flynn's understanding that the charette process has been completed; however, he does not believe that any zoning recommendations have been contemplated. Mr. Clarke indicated that he, Mr. Mitchell and Mr. Ryan met with the Director of Planning for the City of Providence on several occasions, most recently on December 2, 2008. Mr. Clarke indicated that during the meeting, the City of Providence indicated it was anxious to have this property placed back on the tax roll and was happy that the property would be sold as it has become somewhat of an eyesore. Chairman Flynn indicated that he has also notified the City of Providence on several occasions over the past couple of weeks that this matter would be placed on the State Properties Committee agenda in the near future. Mr. Mitchell indicated that the subject property would be sold via a public auction. Chairman Flynn asked Mr. Mitchell to explain exactly what a public auction is for the benefits of those present who may not know. Mr. Mitchell explained that the Department of Transportation will advertise that it intends to place the subject property on the market for sale and will attempt to generate public interest in the property.

Mr. Mitchell explained that the former owner of the property has a statutory right to purchase the property at the highest bid amount. If the former owner does not choose to exercise this right, the City also has a statutory right to purchase the property at the highest bid amount. Chairman Flynn asked if the subject property has been offered to the various State agencies at this point in time. Mr. Clarke indicated that the surplus package was circulated to the other State agencies and that no comments or objections were received. Mr. Pagliarini noted that when the Department appeared before the Committee in March 2008, the Committee indicated that it would not grant the Department's request for approval to sell any of the property involved with the I-195 Project until such time as a comprehensive plan was submitted to the State Properties Committee, which illustrated the State's intent relative to said land. Mr. Pagliarini asked whether said master plan has been completed. Mr. Clarke indicated that the plan is in its final stages; however, it has not been completed at this time. Mr. Clarke explained that the Department's marketing plan will identify how all the small bits and pieces of the former I-195 will be assembled into a logical format; however, the Departments of Transportation considers the subject property a "stand alone" parcel as it does not require the building of any new roads, the installation of utilities or assemblage to any other parcel of land to be placed on the market. Mr. Pagliarini noted that the subject parcel's value may be increased depending on the zoning designation of the remaining acreage. Mr. Mitchell stated that Mr. Pagliarini's comment may not be entirely accurate as the property

was acquired specifically for staging for highway construction; it was never part of the original I-195. Unlike the other remaining parcels, the subject parcel is a stand alone parcel of land. Mr. Pagliarini explained that if a desirable plan is implemented relative to the uses of other remaining parcels; the subject property may become even more valuable based upon the other uses. Mr. Mitchell indicated that the money necessary to pay for the demolition of the old highway infrastructure, for the marketing study and for everything else that needs to be done to complete the project has to come from somewhere. Mr. Mitchell stated that the subject property has been deemed surplus to the Department's needs and the sooner it can begin marketing this properties as well as other like it, the sooner the Department can obtain the federal matching funds and keep the I-195 Project moving forward. Chairman Flynn asked what the status of the marketing study is. Mr. Clarke indicated that he believes the marketing study will be completed in January 2009. Chairman Flynn asked Mr. Clarke how the process will proceed if the Committee were to grant the Department's request for conceptual approval to sell the subject property. Mr. Clarke explained that the Department would develop an invitation to bid and upon its completion, said invitation to bid would be advertised in an attempt to reach out to as many potentially interested parties as possible. The advertisement will run for approximately one (1) month and then a pre-bid conference will be scheduled to allow interested parties to view the site and for the Department to answer any questions they may have. Once that is done, the Department of Transportation will accept bids in an open

forum and subsequently return to the State Properties Committee with the results of the request for proposals. At that time, the Committee will make its recommendation regarding the sale of the property. Following that process, the Department will notify the former owner of its intent to sell the property. The former owner has thirty days to notify the Department if it intends to exercise its statutory right of first refusal to purchase the land. If the former owner does not wish to purchase the property, the Department will offer it to the City of Providence. If the City of Providence chooses not to exercise its right to purchase the property, the Department will prepare the final documents and return to the Committee for final approval of the same. Chairman Flynn asked if the Committee will be allowed to review the request for proposals prior to its being advertised. Mr. Clarke indicated that the Department would be more than happy to provide Committee with the request for proposals for its review. Mr. Pagliarini noted that the current zoning of the subject property is W-2; however, the City has not come to a final decision regarding whether said zoning will be changed. Mr. Clarke stated that Mr. Deller indicated that the City does not intend to change the zoning. Mr. Pagliarini recommended that the Department have Mr. Deller put that in writing to protect the Department in the event the City changes the zoning subsequent to the sale of the property. Mr. Pagliarini asked what the water rights are and whether the docks can be expanded. Mr. Clarke indicated that it is his understanding the dock cannot be expanded because in 1990, the CRMC granted permits, which stipulated the allowable square footage of the docks.

Mr. Mitchell added that when the Department of Transportation began the process of acquiring this property for highway purposes, the Army Corp. of Engineers had the Department remove some docks because they extended out into the channel too far and it is his understanding that the docks cannot be extended any further. Mr. Woolley asked if the Department of Transportation has taken the advisory report of Kevin Nelson of the Statewide Planning Program into consideration relative to this property including the possibility of a marine terminal at the site. Mr. Clarke indicated that the Department did review Mr. Nelson's comments; however, it is the Department of Transportation's obligation to sell the property to continue to finance the I-195 Project. Mr. Woolley asked if the Department has had any discussions with the Federal Highway Administration regarding the possibility of the property having an alternate use. Mr. Mitchell indicated that Michael Butler of the Federal Highway Administration is adamant that the Department sell the subject property and the proceeds from said sale be used to reimburse the federal government. Mr. Woolley asked if there is anything in writing concerning the Federal Highways Administration's position relative to the subject property. Mr. Mitchell indicated that Mr. Butler has attended several City Council meetings regarding the rezoning of the subject property and stated adamantly that the property should be sold. Mr. Griffith asked what the current use of the property is. Mr. Mitchell indicated that the property is currently vacant. Mr. Mitchell indicated that it is certainly not in the best interest of the State of Rhode Island to own a vacant derelict building as such properties

create a serious liability for the State. Therefore, the sooner the State sells the property the better. Mr. Khamsyvovavong asked if the original financing plan for the project mentioned the State's obligation to sell the property to repay federal funds in the bond disclosure documents. Mr. Clarke indicated he was unsure whether the State's obligation to sell the property was specifically mentioned in the bond disclosure documents. Mr. Griffith noted that Mr. Nelson's advisory report recommends that an area of 25 feet shall be allocated for public access and that said area should be substantially landscaped. Mr. Griffith asked whether the request for proposals will include this condition. Mr. Clarke stated that there is a public access agreement with the City of Providence in place together with two (2) CRMC permits in place for a pedestrian walkway along the shoreline and public access from India Street to the marina area. Mr. Clarke indicated that said agreements will be referenced in the request for proposals. Mr. Clarke indicated that in accordance with the Department's most recent discussions with CRMC, the rights and obligation of those permits are still in full force and effect. Given the current market conditions, Mr. Woolley questioned the Department's rush to sell the subject property. Mr. Clarke stated that the Department has no way of knowing if or when the current market conditions will improve and as the Department does not have the funds necessary to maintain a derelict structure, it believes this is as good a time as any to sell the subject property. Mr. Pagliarini asked if the Department has considered demolishing the building. Mr. Clarke indicated that the Department has considered demolishing the

building. However, as the cost to demolish the building is approximately \$50,000, and as the Department was unsure whether demolition of the building would increase or decrease the value to the property, the Department chose to sell the property “as is.” Mr. Mitchell explained that marina property is extremely difficult to secure and control as the property can be accessed from the land and/or water. The Department does not have the resources to monitor the property 24 hours per day; therefore, the potential for liability certainly exists. Chairman Flynn expressed his concerns regarding individuals seeking shelter inside the building. Chairman Flynn stated not that long ago six (6) firefighters lost their lives while trying to save the lives of some homeless individuals who had unintentionally set a vacant building on fire. Mr. Griffith asked if the State has any indication from the Providence Police regarding response calls to that building or area. Mr. Clarke indicated that the property is currently occupied by construction crews and trailers; however, they will be removed in the very near future. Mr. Pagliarini asked if there is any indication of illegal entry or vandalism. Mr. Clarke indicated that the building has deteriorated quite a bit since its purchase in 2000, and is also covered in graffiti. Chairman Flynn noted that many individuals present wish address the Committee regarding the subject property. Chairman Flynn suggested that Mr. Clarke and Mr. Mitchell stay to help address any concerns and/or questions. Senator Rhoda Perry thanked Chairman Flynn for the opportunity to speak, for his cooperation in returning telephones calls and for readily answering her questions regarding the subject

property. Senator Perry stated that the subject property provides the most beautiful, unobstructed view of the Narragansett Bay that the State has left. Senator Perry indicated that she feels strongly that the subject property should remain in the public domain. Senator Perry stated that many neighborhood organizations are here today and wish express their concerns and their positions regarding the future of the subject property. Senator Perry indicated that she was glad to hear during today's discussion that there may be an alternative to placing this property on the market for sale. Senator Perry stated that there are ways to raise the funds needed to purchase the property within the community itself. Senator Perry stated that she and many of the members of the various neighborhood organizations present believe that this is a "now or never" situation. Senator Perry indicated that now is the time to preserve the head of the Narragansett Bay and to allow the public to enjoy an unobstructed view of its beauty. Senator Perry commended the Department of Transportation for providing an informative overview regarding the subject property, and encouraged the Department to be open to suggested alternatives regarding the subject property. Senator Perry stated that it is her understanding that the role of the State Properties Committee is to consider the requests that come before it from the view point of the entire state and all of the people of the State of Rhode Island rather than from a narrow perspective considering only the needs of a State agency. Senator Perry recommended that the State Properties Committee refrain from approving the Department of Transportations request until such time as it receives more

information from the Department and the City of Providence. Senator Perry thanked the Committee for its willingness to hear her point of view. Chairman Flynn stated that it is his understanding that when the Federal Highway Administration purchases property to assist states in highway projects, it does not do so with the intent to provide open space. The Federal Highway Administration supports the construction of transportation projects with the clear understanding that the some or all of the funds expended will be reimbursed. Chairman Flynn asked Senator Perry how the State would raise the necessary funds to reimburse the Federal Highway Administration if it is not generated by a sale of the subject property. Senator Perry indicated that there is a plethora of ways to raise money and she urged the Committee to allow the members of the various organizations present today to speak and to share specific data relative to the names of foundations and the methods they utilized to raise funds. Senator Perry clarified that she is not suggesting State resources be utilized to reimburse the federal funds. Mr. Pagliarini commented that the matter before the Committee is a request for conceptual approval to solicit bids; it is not a request to approve a certain use. Mr. Pagliarini explained that anyone of the foundations represented here today could bid on the property during the invitation to bid process. Representative Segal echoed the comments of Senator Perry relative to the importance preserving the subject property for public use. Representative Segal noted that the subject property is a rare point of urban access to the waterfront. Representative Segal expressed his concern regarding the timing of

the sale. Representative Segal noted that the Department is relying on an appraisal conducted in early 2008, and expects that the value of the property has decreased by 10 or 20 percent. Representative Segal also indicated that the State of Rhode Island is on the verge of receiving a grand economic stimulus package from the federal government for the funding of highway construction and maintenance. Therefore, Representative Segal suggested that it would be sensible for the State to refrain from selling the subject property and removing it from the public domain for generations to come until such time as the intentions of the new President and Congress become clear. Chairman Flynn asked if Representative Segal believes that the federal stimulus package may provide funds that would somehow negate the Federal Highway Administration's expressed desire to have the subject property sold. Representative Segal clarified that although he does not have inside information as to what is contained in the federal stimulus package proposals; it is expected that one of the primary facets of the package will be a large sum of funding for highway construction and maintenance. Therefore, it would behoove the State to hold off on the disposing of this asset until further information is received. Mr. Khamsyvoravong asked Councilman Yurdin if the City of Providence has submitted a list of priorities to the federal government for federal funds in the event they are released in the economic stimulus and, if so, was the subject property included as part of said list. Councilman Yurdin indicated that the Mayor's office did submit a list of priorities; however, he does not believe this property is included in that list.

Councilman Yurdin stated that he understands that at least part of the urgency to dispose of the this property is to generate revenue to reimburse federal funds; however, if there is an influx of new money that could be utilized to offset that obligation, the 2 or 3 million dollars generated from the sale of this property may seem much less significant. Chairman Flynn indicated that he felt it is relatively safe in assuming that many of the people present do not want to see this property developed at all. However, the appraised value of the property is based upon the location and zoning of the property; therefore, the value of the property as a developable site is part of what it makes it worth \$3.5 million dollars according to the appraisal. Chairman Flynn indicated that the property could be developed for mixed-use as the State has done in many other cases. Representative Segal indicated that he believes the majority of the people present today would like to see the site developed for a variety of uses that maintain the public access. Representative Segal indicated that these organizations do not want to plant grass, trees and put benches on the subject property. They would like the property to be developed as a robust public use that would require some structures. Councilman Yurdin indicated that the subject property is immediately adjacent to India Point Park, which is a multi-acre park that wraps around the head of the Narragansett Bay. The I-195-Project has improved the park in terms of public access and available parking. Councilman Yurdin indicated that public access to the water and adequate protection for the adjacent park are among the main concerns of the public. Access to the water is very

important to the public as it is very limited in the City and it certainly increases the quality of life and allows the public to interact with nature. Mr. Pagliarini explained that the State Properties Committee is charged with either giving or denying permission for the Department of Transportation to solicit bids for the sale of the property. Mr. Pagliarini indicated that he very much believes that the fewer stipulations and restrictions included in a request for proposals, the better, as restrictions tend to diminish the value of the property. Mr. Pagliarini explained that when an agency issues a request for proposals, it can strongly recommend the wishes of the public, but to make them concrete requirements, only diminishes the value of the property. Mr. Pagliarini indicated that all of the comments and concerns raised here today regarding use of the property are valid, but he feels the correct venue for them is the Providence Planning Board. Mr. Pagliarini stated that he feels his function as a public member of the State Properties Committee is to raise as much revenue possible for the State of Rhode Island, while balancing the public's interest. Chairman Flynn asked if there were any other comments from elected officials, before he invited members of the public to address the State Properties Committee relative to this issue. Sarah Gleason, introduced herself as a member of Friends of India Point Park and a longtime resident of Fox Point. It is Ms. Gleason's understanding that the issue of zoning regarding the subject property has not yet been decided. Ms. Gleason believes that proceeding with the zoning process at this time creates the appearance of irregularity. Chairman Flynn stated that he does not

agree that there is an appearance of irregularity; however, he does believe that it would behoove the Department of Transportation to obtain some definitive language from the City of Providence as to its intentions regard the zoning designation of the subject property. Ms. Gleason indicated that there have been many public meetings at which the wishes of the public have been nearly universal in favor of changing the zoning of the subject property. Chairman Flynn indicated that as stated by Mr. Pagliarini, the rezoning of the property is an issue for the City of Providence Planning Board, not the State Properties Committee. Ms. Gleason indicated that she understood that fact; however, she stated that it appears that the Department of Transportation is being somewhat abrupt in attempting to avoid said process. Chairman Flynn stated that in all fairness to the Department of Transportation, he does not believe that is the case. Chairman Flynn explained that this matter was originally before the State Properties Committee in March of 2008, and at the request of the City of Providence, both the State Properties Committee and the Department of Transportation agreed to delay taking any action relative to the subject property until the charrette process was completed. Chairman Flynn further explained that both the State Properties Committee and the Department of Transportation have been in contact with the City of Providence. The City was informed of the Department's intention to bring this matter before the State Properties Committee in early December 2008. Chairman Flynn stated that if the City needed more time for any reason, he is sure the Department of Transportation would have readily agreed to give the

City additional time. Having said that, Chairman Flynn indicated that he certainly believes that it would be appropriate to obtain some definitive language from the City of Providence regarding its intentions relative to the zoning of the subject property. However, Chairman Flynn reiterated that he does not agree that there is an appearance of irregularity. Ms. Bilodeau introduced herself as the Co-Chairman of the Head of the Bay Gateway Committee, which is a group of citizens concerned about the future of this site. Ms. Bilodeau indicated that the apparent urgency to dispose of the subject property as quickly as possible concerns her. Ms. Bilodeau indicated that after listening to the discussion this morning, she questions whether there is a definitive deadline for the repayment of funds to the federal government. Mr. Clarke indicated that the obligation to repay the funds is part of the financing plan to fund the ongoing demolition of the old highway structure and the complete the remediation of the property. Mr. Clarke noted that although he cannot say there is an absolute deadline, the Department is clearly under an obligation to reimburse the federal government from the proceeds of the sale of the property. Ms. Bilodeau asked Mr. Clarke to clarify whether the reimbursed funds are earmarked specifically for the I-195 Project. Mr. Clarke stated that the funds to be reimbursed to the federal government are specifically earmarked for the I-195 Project. Ms. Bilodeau commented that it seems unusual to her that the funding for the I-195 Project would not already be in place without the \$2 or \$3 million dollars generated from a sale of the subject property. Mr. Clarke explained that when the financing plan was prepared, the

proceeds from the sale of the subject property were included in said plan in anticipation of its sale. Ms. Bilodeau stated that the purchase price of the subject property would have been a totally unknown quantity, especially in view of the current economy. Mr. Clarke indicated that the proceeds from the sale of the property were based upon the minimum required bid of \$3.5 million dollars. Ms. Bilodeau noted that said minimum bid was determined back in April of 2008, during a completely different economic climate. Ms. Bilodeau explained that she believes there is a responsibility on the part of public officials to consider a more long-range value relative to the subject property. As the property is situated at the head of the Narragansett Bay, it would be remiss to disregard the property's potential as a public attraction and miss the opportunity to capitalize on the location of the property and create an attraction that would draw the public to this site. Ms. Bilodeau indicated that a mere dollar value does not take into consideration the long-term value to both the City of Providence and the State of Rhode Island. Ms. Bilodeau noted that she is especially dismayed to hear that the City of Providence's primary consideration concerning the future of this site is to realize taxable development. Ms. Bilodeau stated that such an attitude is not reflective of the public's wishes, which were clearly expressed during the charrette process. Ms. Bilodeau asked what the course of action is if the \$3.5 million dollar minimum bid is not met. Chairman Flynn explained that if the minimum bid is not met, the Department of Transportation is not required to sell the subject property. Ms. Biledeau asked if the property could in fact be sold for an amount

less than the minimum bid amount. Chairman Flynn indicated that such a decision would be made at the discretion of the State Properties Committee. Chairman Flynn noted that in light of his discussions with Ms. Painter of the City of Providence Planning Department, he believes it is unfair to say that the City of Providence's only interest is the taxable development of the subject property. Ms. Bilodeau strongly recommended that the State Properties Committee consider placing some restrictions on the use of the property to require more public use of the site than would ordinarily be incorporated in a request for proposals. Chairman Flynn assured Ms. Bilodeau that that is something both the Committee and the Department could consider in the context of the request for proposals. Mr. Kamsyvovong asked if there is a representative from the City of Providence that could address the State Properties Committee relative to its position. Chairman Flynn indicated that the City of Providence did not send a representative to the meeting although the City was aware of the inclusion of this item on today's agenda. William Touret introduced himself as a resident of Olive Street in the City of Providence and as President of the College Hill Neighborhood Association. Mr. Touret stated that his organization also supports a delay of a decision by this body in order to provide the organizations present today to gather further information for the Committee's consideration. Mr. Touret indicated that he understands that the driving force behind the Department of Transportation's desire to sell the subject property is the stated obligation to repay the federal government for monies used in

connection with the I-195 Project; however, Mr. Touret noted that the one question that was not asked this morning is what the State's position would be with respect to the disposition of the subject property if the federal government were willing to relieve the Department of Transportation the obligation to repay said funds. Mr. Clarke indicated that the idea that the proceeds from the sale of the subject property will be applied toward the repayment of bonds is incorrect. Mr. Clarke explained that said proceeds are allocated for the direct reimbursement of funds for the actual payment of contractors who are presently building roads, demolishing structures, resurfacing roads, installing utilities and things of that nature for the construction of the I-195 Project. Mr. Touret stated that he appreciated Mr. Clarke's response; however, as previously stated, there is a reasonable expectation that there will be very substantial infrastructure funds coming from the federal government in a matter of months, if not weeks. Mr. Touret stated that he is also troubled by the fact that the decision to impose this, so called, obligation to repay funds is being made by a Federal Highway Administrator, who Mr. Touret assumes will be replaced once the new administration comes into office. Chairman Flynn indicated that the State of Rhode Island has no way of knowing who will be replaced once the new administration takes office. Mr. Touret indicated that the aforementioned factors, coupled with the extraordinary nature this site and its long term value, make this an extremely inappropriate time for the Committee to grant the Department of Transportation's request for conceptual approval to dispose of the subject property.

Mr. Touret requested that the State Properties Committee refrain from taking any action relative to the subject property at this time. Mr. Griffith commented that he has not seen any indication that the developing stimulus package will result in any forgiveness of state matching requirements, nor does he anticipate a release of states from their obligation to repay or appropriately reuse the 80% federally funded matches for alternative purposes. Jonathan Howard introduced himself as an officer of the Summit Neighborhood Association and a business owner in the City of Providence. Mr. Howard stated that he cannot speak for the members of the Summit Neighborhood Association as they did not have time to specifically consider this issue; however, the Association has supported, in general, the proposals of the Friends of India Point Park's proposal to make the head of the Narragansett Bay "Gateway" from the former Shooter's property and adjacent properties. Mr. Howard stated that as a taxpayer, he is eager to see monies generated and properties put back on the tax roll; however, he believes that needs to be accomplished in the context of a larger plan. If the State sells an isolated property at a depressed point in the market for a small return, the State may very well be shortchanging itself and the public.

Mr. Howard explained that he just recently returned from Chicago where he was extremely impressed with what has been done to Lakeshore Drive and the Grant Park areas of Chicago. Mr. Howard noted that 100 years ago people had the vision to take private property on the waterfront and make it broadly available with a mix of commercial but generally public purposes, a key transit route and it

increased the density and value of development behind that public use enormously. Mr. Howard stated that the same thing exists in Los Angeles where the “Strand” extends for 30 miles through approximately one dozen sub-communities of Los Angeles County and unleashed enormous private value in the adjacent properties. Therefore, Mr. Howard stated that he understands from today’s discussion, that there is a master plan close to completion and he is unsure whether the Committee needs to delay issuance of the request for proposals; however, he believes the Committee should be very cautious about unleashing a process that can not be stopped or rolled back in the event that the master plan reveals an untapped or potential value during the master planning process. Mr. Howard urged the State Properties Committee to delay action, if possible, as he believes this is clearly a bad time in terms of the market and further believes the potential of unleashing more value in other properties through the master plan process is enormously evident.

Bob Schacht introduced himself as a resident of Sheldon Street and a former state official. Mr. Schacht explained to the members of the State Properties Committee that their predecessors had the vision and concern for the State’s welfare to play a critical role in the creation of India Point Park. They so believed in the importance of creating this public space at the head of the Narragansett Bay that they contributed the then State Pier to the park. In addition to the donating the State Pier, they also donated a 2.7 acre parcel of land to the City of Providence for the park. Mr. Schacht indicated that the Department of Transportation provided the first pedestrian bridge.

Mr. Schacht noted that the new pedestrian bridge is a huge enhancement, which will continue to increase the public's interest in the area. Mr. Schacht explained that the federal government also played a significant role in the creation of the park as the Bureau of Outdoor Recreation matched the local funds two to one, which enabled the State to purchase the remainder of the park from Penn Central Railroad. Mr. Schacht explained that a lot of things and people came together to serve the public's interest in the creation of India Point Park. Mr. Schacht indicated that the present circumstances represent a unique opportunity to further enhance this wonderful development. Mr. Schacht noted that the Committee's predecessors fully appreciated the immediate and future benefits that would be realized by the State and its people as a result of their efforts. In closing, Mr. Schacht urged the present Committee members to follow their predecessor's example. David Riley introduced himself as the Co-Chair of the Head of the Bay Gateway and Friends of India Point Park. Mr. Riley explained CRMC's public easement actually goes right down the middle of the subject property, which also happens to be the continuation of Benefit Street, which is one of the most historic streets in the City of Providence. Mr. Riley noted that pursuant to his interpretation of the 2005 Rhode Island Supreme Court Decision in the matter of Newport Realty vs. State of Rhode Island, which states that if a public way runs straight to the water, it must continue to be a public. Mr. Riley stated that there is a lot of emphasis on public use but also by the organization represented today, but by CRMC and the Rhode Island Supreme

Court. Mr. Riley urged the Committee to continue to delay taking any action relative to this matter until such time as more information can be gathered and submitted for review. Mr. Riley stated that he spoke to Peter Osborne yesterday, who is the Administrative Director for the Federal Highway Administration in this region. Mr. Riley explained that it is not accurate to say that the Federal Highway Administration is adamant that the property be sold. It is Mr. Riley's understanding, that if the property is not sold then the Department of Transportation will have to make some sort of reimbursement; however, Mr. Riley believes that it is misleading to say that the Federal Highway Administration is adamant that the subject property be sold. Chairman Flynn noted that he had previously stated that if the property is not sold through the request for proposals process, the federal government through some source needs to be paid the value. Mr. Riley indicated that there are sources from which this obligation could be satisfied. Additionally, the federal government is talking about 30 billion dollars nationwide in highway infrastructures stimulus funds, which could mean another \$200 or \$300 million dollars for the State of Rhode Island. Mr. Riley stated that the Blue Ribbon Panel Report, which if the tolls and fees are implemented, would raise another \$200 or \$300 million dollars. Mr. Riley stated that when you examine those amounts, it certainly dwarfs the 3.5 million dollar figure being discussed today. Mr. Riley stated that the Army Corp. of Engineers is slated to receive \$7 billion dollars and they also have an interest in flood plain management. Mr. Riley noted that the subject property is located in the velocity zone of the flood plain and

is also located at the bull's eye of where hurricanes hit hardest in the City of Providence. Mr. Riley stated that the docks are presently being used by the tugboat company and there is no sign of major vandalism to the docks. Mr. Riley also noted that the Department of Transportation under federal regulations has the authority to gift land for less than fair market value if it is used for parks and recreation and in fact has done so. Mr. Riley stated that fairly recently the Department of Transportation donated the 4 to 5 acres of land to the Meeting Street School for athletics and gave waterfront property to the Town of Jamestown for a ball field. Mr. Riley indicated that he understands that because the subject property is part of the I-195 Project, the federal agency has to be reimbursed; however, Mr. Riley noted that on several occasions, the Department has donated land to municipalities for parks and recreational use. Mr. Riley indicated that the State of Rhode Island has expended a billion dollars worth of public works into the subject property, which includes the new highway, the CSO Project and burying of power lines. Therefore, Mr. Riley believes that to create a vibrant public destination on the site would be totally appropriate in view of all of the public funds that have gone into improving this area. Mr. Riley noted that there is a critical difference between public access and public destination and stated that the organization represented today are interested in a public destination not merely public access. Mr. Riley provided the copies of proposals for developing the site for public use for the Committee's review. Chairman Flynn stated that although he appreciates Mr. Riley's concerns, he reiterated that issues regarding

the use of the property should be brought before the Providence Planning Board not the State Properties Committee. A member of the press asked what the State's plan of action would be if the City of Providence attempted to significantly restrict the use of the property from the current W- 2 zoning. Hypothetically speaking, Mr. Mitchell indicated that he believes the State would have legal recourse against the City for inverse condemnation; however, he stated that no one wishes to purchase a lawsuit. The same member of the press stated that it is inaccurate to say that the State of Rhode Island does not have a role in what is happening regarding the use of the subject property, because if the City were to take certain actions unfavorable to the State, it is the State's discretion as to whether or not it brings a lawsuit and/or challenge the zoning change. Chairman Flynn clarified that any challenge would be based upon value of the property and any potential loss to the State only; it would not be based on the City's right to zone or rezone its property. Mr. Mitchell agreed and noted that said loss would include the loss of federal matching funds.

In response to Mr. Pagliarini's comment that his role as a Committee member is to obtain the highest and best value for the State of Rhode Island while weighing the interest of the public; Mr. Riley noted that the R.I.G.L. state that the State Properties Committee has an obligation for the protection and improvement of health, welfare and safety of the inhabitants of the State of Rhode Island. Mr. Riley noted that there is also a broader issue which is triggered by his concern about the location in relation to the flooding. Lastly, Mr. Riley indicated that Alex Krieger, a well known designer warned against

what he called “thin line development” on the waterfront. Mr. Riley explained that what this means is if you place large buildings right on the shoreline, you not only cause property values to decrease, but you obstruct views and make any city much less attractive. George Born, Executive Director of the Providence Preservation Society, indicated that the Society is concerned about improving the quality of life in Providence through enhancing to whole environment of Providence including building and sites. Mr. Born stated that there is a sense in the room that this is unique moment in history for the City Providence as the public are extremely interested in the subject property and at this moment in time, the property is publicly owned. Mr. Born noted that the fact that the State owns the property makes it the perfect time for the various organizations here today to weigh in on this matter. Mr. Born indicated that there are some compelling reasons to delay action relative to this matter many of which have been raised today as well as others. Mr. Born noted that the Intermodal Surface Transportation Act of a decade and a half ago, made monies available for the enhancements to transportation projects and not just for the building of roads. It included historic preservation, parks, planning as well as many other uses. Mr. Born agreed that the subject property can not be handed to the public; however, perhaps it is a good local opportunity to ask whether our values can be taken into consideration during this political moment. Mr. Born reiterated that it is a terrible time for the real estate market and this requests strikes him as penny wise and pound foolish. Mr. Born indicated that the fact that the State needs the money now may

not justify waiting; however, the subject property strikes him as a property that is worth land banking and holding on to for a more auspicious occasion. Mr. Born thanked the Committee for its time. Mr. Woolley indicated that one of the many appropriate comments that were made by the Statewide Planning Program was that future use of the site as a marine terminal should be considered prior to disposing of the property as surplus. Mr. Woolley asked what, if any, role the Department of Transportation has with respect to water transportation as it relates to the close proximity of the subject property and Downtown Providence. Mr. Clarke stated that he is not at all familiar with what role, if any, the Department of Transportation has relative to water transportation. Mr. Woolley asked if the Department of Transportation was involved in the Newport to Providence ferry. Mr. Clarke indicated he is not sure who is responsible for water transportation. Mr. Woolley noted that the subject property may be considered for a marine terminal. Mr. Woolley indicated that the State could have waterborne transportation connecting the head of the Bay to the Intermodal Station in Warwick. Mr. Mitchell stated that the Intermodal Station does not lend itself to that type of use; it is currently licensed as a marina for very small boats not commercial watercraft. Chairman Flynn indicated that there is a waterborne transportation plan which is part of the State's guide plan and Mr. Nelson's comments are following up said plan which indicates that when properties such as the subject property become available they should be considered for their appropriateness to meet the goals of the waterborne

transportation plan. At some point in time, the Department of Transportation will need to address that comment and review the site and either agree that it would be an appropriate site, but the State would still be faced with raising the money to repay the federal government, or, if not, the Department of Transportation will have to indicate that the site is not appropriate for future waterborne transportation. Mr. Woolley noted that as the marine terminal would certainly be considered a new project, which may generate the resources to purchase the property for a marine terminal. Mr. Clarke indicated that the obligation to reimburse the federal government was executed in 2000. It is not a political event, it is a contract. The economic stimulus package is geared toward new projects to put people to work on projects that can be taken off the shelf and put on the street within a period of six months.

Mr. Mitchell responded to some of the comments made by the representatives of the various organizations present today. Mr. Mitchell indicated that the Department of Transportation is not in the business of land speculation. The Department purchased the subject property for a specific limited purpose with the understanding that it would be disposed of when it was no longer needed. Mr. Mitchell stated that the Department of Transportation does not have the authority to hold on to the property because the real estate market may some day improve. Mr. Mitchell clarified the fact that the Department of Transportation's proposal is to market the property for sale. The Department is seeking to develop the property. The market will determine its highest and best use. Mr. Mitchell indicated that the

public gathered here today has the option to raise funds and purchase the subject property on the market. They have the ability to petition the City of Providence as to the future use of the property. It is Mr. Mitchell's opinion and experience that if the Committee refrains from taking any action relative to the Department's request to place the subject property on the market for sale for two or three months, he is fairly certain that at the expiration of that 2 or 3 month period, the public will once again request that the sale be delayed with the hope that the market will improve or the position of the federal government will change; meanwhile the Department of Transportation will experience a serious cash flow problem. Mr. Mitchell indicated that the subject property is part of the cash flow problem. The property needs to be placed on the market for sale to generate funds to be matched by the federal government in order to finance the continuation of the I-195 Project and to remove the old highway infrastructure, which will create more surplus property to be sold on the open market. Mr. Woolley indicated that the Attorney General wanted it known that he is opposed to the current proposal. The Attorney General believes that the proposal is premature and that alternate public uses relative to this property have not adequately examined. A motion was made to deny the Department of Transportation's request for conceptual approval to dispose of the subject property by Mr. Pagliarini and seconded by Mr. Woolley. Mr. Pagliarini explained that in March of 2008, the Committee requested that the Department of Transportation submit a master plan to the State Properties Committee for its consideration prior to its return to

the Committee for approval to dispose of the subject property. Mr. Pagliarini indicated that until said master plan is submitted for the Committee's review and consideration, he will not vote to approve any request to sell any portion of the I-195 Project. Mr. Kamsyvovong stated that if the Committee intends to discuss intended uses of the subject property, he believes it would be beneficial to the Committee to request that a representative of for the City of Providence be present to address any questions and concerns. Mr. Kamsyvovong indicated that although the City of Providence was invited to attend today's meeting, he is extremely disappointed that it did not see fit to attend. Therefore, Mr. Kamsyvovong

requested that in the future, the City of Providence be present. Mr. Griffith stated that the discussing of the future use of property it is not the State Properties Committee's prerogative. Mr. Pagliarini indicated that he does not believe it is in the Committee's best interest to market any specific property without knowing what the zoning designation. Mr. Pagliarini stated that he wants to know what the zoning designations are on each of the parcel prior to executing a deed. Mr. Pagliarini indicated that he will not sign a deed for a building that is currently 75 feet tall only to learn later that the zoning has been changed to allow a of building of 200 feet and know that the State only received a fraction of the property's total value. Mr. Pagliarini stated that as the subject property is the crown jewel of the 44 acres of land, he will not approve a request to dispose of it until he knows what the intentions of the City of Providence. Mr. Pagliarini

agreed that it is imperative that a representative of the City of Providence be available to address any questions or concerns of the State Properties Committee relative to the subject property and its future use. Chairman Flynn noted that in fairness to the Department of Transportation, they did meet with the City of Providence and notify the City of their intention to move forward. The City has made to objection. Chairman Flynn indicated that obtaining some definitive language from the City of Providence regarding the zoning designation of the subject property would be beneficial. Chairman Flynn noted that said information should be obtained during the development of the request for proposals in the event the Committee chose to grant the Department's request for conceptual approval to dispose of the subject property. Chairman Flynn indicated that in addition to obtaining said information from the City of Providence, the Department of Transportation should to examine the property relative to its suitability for use as a marine terminal, obtain a letter from the Federal Highway Administration regarding its policy relative to the reimbursement of funds for the subject property, develop the request for proposals and submit the same to the Committee for its review if requested and perhaps submit the completed the marketing plan to the Committee for its review and consideration before any definitive action is taken by the State Properties Committee. Chairman Flynn indicated that it would be his recommendation to grant the Department's request for conceptual of approval subject to the aforementioned conditions. However, as a motion was made to deny the Department's request for conceptual approval, Chairman

Flynn asked if there was any further discussion. The motion failed two (2) votes “Aye” to three (3) votes “Nay.”

Two (2) Votes “Aye”

Mr. Pagliarini

Mr. Woolley

Three (3) Votes “Nay”

Mr. Kay

Mr. Griffith

Chairman Flynn

A motion was made to grant the Department request for conceptual approval to dispose of the subject property subject to the Department of Transportation (1) obtaining the definitive language from the City of Providence relative to its intentions regarding the zoning designation of the subject property; (2) submitting the request for proposals to the State Properties Committee for its review. (3) submitting the completed Krieger Report to the State Properties Committee for its review and consideration; (4) submitting a letter indicated that it has examined the subject property regarding its suitability for use as a marine terminal; (5) obtaining a letter from the Federal Highway Administration stating its policy regarding the reimbursement of funds, which were contributed for the purchase of subject property in connection with the I-195 Project by Mr. Griffith

and seconded by Mr. Kay. The motion passed three (3) votes “Aye” to two (2) votes “Nay.”

Three(3) Votes “Aye”

Mr. Griffith

Mr. Kay

Chairman Flynn

Two (2) Votes “Nay”

Mr. Pagliarini

Mr. Woolley

ITEM D – Department of Business Regulations – A request was made for approval of and signatures on a Second Lease Amendment by and between Brown University and the State of Rhode Island, though the Department of Business Regulations relative to the premises located at 233 Richmond Street in the City of Providence. Mr. Mitchell indicated that the Department of Business was a party to a Lease Agreement with Brown University for the premises located at 233 Richmond Street in the City of Providence. Mr. Mitchell explained that said Lease Agreement was extended by agreement for a period of three (3) years until 2010. However, due to budgetary issues it became necessary for the Department of Business Regulations to relocate to an alternative site at the Pastore Center. The Lease

Agreement required that the Department of Business Regulations provide the Landlord one (1) year advance notice in the event it intended to terminate said Agreement. Mr. Mitchell indicated that due to extenuating circumstances, the Department' provided only six (6) month prior notice of its intent to terminate the Lease Agreement. Brown University claimed that the State had breached the Lease Agreement and demanded payment of six (6) months of unpaid rent. Due to certain physical issues with the premises, the Department of Business Regulations believed that it had some offsets to the Landlord's claim for six (6) month of unpaid rent. The Governor's Office negotiated a full and final settlement of any claims upon the Department of Business Regulations' payment of \$156,000 to Brown University. Said negotiated settlement became an Amendment to the Lease Agreement. There for Mr. Mitchell stated that the Department of Business Regulations is seeking the Committee's approval of and signatures the Second Lease Agreement to terminate the Lease Agreement upon payment of \$156,000 to Brown University in full and final settlement of the its claim for unpaid rent. Chairman Flynn clarified that had the Lease Agreement gone to its full term, the State of Rhode Island would have paid \$1,240,000; however, as a result of the negotiated settlement, the State of Rhode Island is required to pay the sum \$156,000 in full and final settlement of the claim for six (6) months of unpaid rent. Mr. Mitchell stated that is correct and provided an accounting of the settlement for the Committee's review and consideration. A motion to approve was made by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

There being no further business to come before the State Properties Committee, the meeting was adjourned at 12:00 a.m. A motion was made to adjourn by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

Holly H. Rhodes, Executive Secretary