

STATE PROPERTIES COMMITTEE MEETING

TUESDAY, MARCH 31, 2009

The meeting of the State Properties Committee was called to order at 10:05 a.m. by Chairman Kevin M. Flynn. Other members present were Robert Griffith representing the Rhode Island Department of Administration; Richard Woolley representing the Rhode Island Department of Attorney General; John A. Pagliarini, Jr., Public Member; and Xaykham Khamsyvovong 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; John Faltus and Michelle Sheehan from the Rhode Island Department of Environmental Management; John Ryan from the Rhode Island Department of Administration, Robert B. Jackson, Eva Bernardo and Colleen Kerr from the Rhode Island Department of Transportation; and Rick Massimo from the Providence Journal.

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

Approval of the meeting minutes from the State Properties Committee meeting held on March 17, 2009, is deferred to the April 14, 2009 meeting.

ITEM A – Board of Governors for Higher Education/The University of Rhode Island – A request for approval of and signatures on Sublease Agreement by and between The University of Rhode Island and the

Population Reference Bureau for office space located at 1875 Connecticut Avenue, N.W., Suite 500, Washington, DC. This request is deferred to the State Properties Committee meeting scheduled on April 14, 2009, at the request of the Board of Governors for Higher Education and The University of Rhode Island.

ITEM B – Board of Governors for Higher Education/The University of Rhode Island – A request for approval to remove a select group of buildings currently located on the Kingston and Narragansett Bay Campuses. This item is deferred indefinitely at the request of the Board of Governors for Higher Education and The University of Rhode Island.

ITEM C – Department of Environmental Management - A request was made for approval of and signatures on a License Agreement by and between the Department and Mr. George Wein together with his new company, New Festival Productions, LLC, for the presentation of the Folk and Jazz Festivals at Fort Adams State Park over the weekends of July 31st to August 2nd and August 7th, to August 9th in 2009. Mr. Faltus

indicated that the Department appeared before the State Properties Committee on March 3, 2008, seeking approval to negotiate the terms and condition of a new license agreement with Mr. Wein, who is reorganizing for the presentation of the 2009 Folk and Jazz Festivals at Fort Adams State Park. Mr. Faltus explained that the License Agreement before the Committee today is for a term of one (1) year only. Mr. Faltus indicated that 2009, is the 50th Anniversary of the Folk Festival and the 55th Anniversary of the Jazz Festival. In

accordance with this new License Agreement, Mr. Wein is responsible to submit a Fifty Thousand and 00/100 (\$50,000.00) Dollar deposit in advance of the presentation of the Festivals. The Fort Adams Trust will receive Twenty Thousand and 00/100 (\$20,000.00) Dollars of said deposit and the Department of Environmental Management will receive Thirty Thousand and 00/100 (\$30,000.00) Dollars of said deposit to be applied to any upfront personnel expenses. Mr. Faltus indicated that any amount above and beyond said expenses will be applied toward any payment required under the License Agreement. In addition, Mr. Wein will be required to provide the necessary bond for the 2009 Festivals. Chairman Flynn asked what the total amount of the bond is. Mr. Faltus explained that the License Agreement contains a formula based upon the ticket sales; however, the Department requires a minimum bond of Two Hundred Thousand and 00/100 (\$200,000.00) Dollars. Mr. Woolley state the Department of Attorney General is satisfied with the terms and conditions of the License Agreement. Mr. Faltus indicated that the Exhibit 4 of the License Agreement delineates the specific nature and form of the bond. Mr. Faltus indicated that under the License Agreement both the bond and the insurance certificate are required to be submitted to the Department of Environmental Management thirty (30) days in advance of the first festival. Mr. Woolley advised that Committee that The Festival Network, LLC, which previously organized and presented the Folk and Jazz Festivals has voiced its disapproval concerning the State's decision to terminate its five (5) year License Agreement after just one (1) year. However, Mr. Woolley

stated that both the Department of Attorney General and the Department of Environmental Management are satisfied that due to The Festival Network, LLC's refusal to fulfill its obligations under the License Agreement in a timely manner there is just cause for the State of Rhode Island to terminate said Agreement. A motion was made to approve by Mr. Pagliarini and seconded by Mr. Griffith.

Passed Unanimously

ITEM D – Department of Environmental Management – A request was made for approval of and signatures on an Executrix's Deed for the acquisition of 124 acres of land located on Bay Avenue, Prudence Island in the Town of Portsmouth; known as the Ballard Property. Ms. Sheehan indicated that the Purchase and Sale Contract was approved and executed by the State Properties Committee in September of 2008. Ms. Sheehan stated that the subject property abuts the Narragansett Bay National Estuarine Research Reserve. Ms. Sheehan indicated that the subject property will be incorporated into and managed by as part of the Reserve. The property includes a series of pine barren forest and freshwater wetlands. The management plan for the property allows public access, education programs and research to take place. Ms. Sheehan explained that the majority of the funding comes from a NOAA grant in the amount \$1,375,000.00. The Prudence Conservancy will contribute \$100,000.00 toward the purchase of the property and \$200,000.00 from the Department's Open Space Bond.

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

Passed Unanimously

ITEM E– Department of Environmental Management – A request was made

for approval of and signatures on a Conservation Easement over 124 acres of land located on Bay Avenue, Prudence Island in the Town of Portsmouth; known as the Ballard Property. Ms. Sheehan explained that the Department of Environmental Management is granting the Conservation Easement to The Prudence Conservancy in exchange for its contribution toward the purchase price of the subject property. Ms. Sheehan indicated that The Prudence Conservancy will also be developing a series of walking trails and assisting in the management of the property. Mr. Pagliarini noted that all of Prudence Island is in a high wind area and asked if the Department will reserve the right to erect a wind turbine on the property in the future. Ms. Sheehan indicated that it is her understanding that the Conservation Easement contains a restriction regarding commercial structures; therefore, the State would not be allowed to erect a wind turbine for the sale of electricity. Ms. Sheehan stated that conservation easements tend to restrict towers, but indicated that she will look into whether wind turbines would be allowed under the terms and conditions of the subject Conservation Easement. A motion was made to table this item to the April 14, 2009, meeting of the State Properties Committee to afford the Department of Environmental Management sufficient amount of time to investigate any restrictions, which would prohibit or inhibit the State's ability to erect wind turbine(s) on the subject property regarding wind turbines under Conservation Easement will

prohibit or inhibit the State of Rhode Island from placing wind turbine(s) on the subject property in the future by Mr. Pagliarini and seconded by Mr. Griffith. The motion passed three (3) votes “Aye” to one (1) vote “Nay”

Three (3) Votes “Aye”

Mr. Pagliarini

Mr. Griffith

Chairman Flynn

One (1) Vote “Nay”

Mr. Woolley

ITEM F – Department of Transportation – A request was made for approval of and signatures on an Agreement to Purchase and a Quit Claim Deed conveying 8,000± square feet of property located on Route 116 (George Washington Highway) in the Town of Smithfield to SAG Investments, LLC. Ms. Bernardo explained that on June 12, 2007, the State Properties Committee granted conceptual approval to sell the subject property. Ms. Bernardo stated that the Department is now seeking approval of the Agreement to Purchase and the Quit Claim Deed conveying the subject property to SAG Investments, LLC.

Ms. Bernardo presented a site map, which illustrated the exact location of the property. Chairman Flynn asked if the property is presently being encroached upon by the applicant. Ms. Bernardo

stated that the property is not being encroached upon. Mr. Woolley asked if the Department has notified the former and the Town of Smithfield with regard to the sale of the subject property. Ms. Bernardo indicated that both the former owner and the Town of Smithfield have been notified of the Department's intention to sell the subject property and neither party expressed any interest in purchasing the same. A motion was made to approve by Mr. Pagliarini and seconded by Mr. Woolley.

Passed Unanimously

ITEM G– Department of Transportation – A request was made for conceptual approval to dispose of 24,807 square feet of land located on the westerly side of Route 114 (Pawtucket Avenue) in the City of East Providence. Using an aerial photograph, Mr. Jackson illustrated that exact location of the subject property. Mr. Jackson explained that the Applicant wishes to utilize the property as a drainage area for the abutting “Wampanoag Plaza.” Mr. Jackson stated that the applicant will be required to grant the Department a drainage easement to allow the State to protect an existing culvert and drainage facility. A motion was made to approve by Mr. Pagliarini and seconded by Mr. Griffith.

Passed Unanimously

ITEM H – Department of Transportation – A request was made for approval of and signatures on a Grant of Easement by and between the Department of Transportation and Narragansett Electric Company together with Verizon New England, Inc. to provide electrical and telephone service to Site 4PR-0370-F located on Route 1 (Tower Hill

Road) at Route 138 in the Town of North Kingstown. Mr. Jackson explained that the easement will allow Narragansett Electric Company and Verizon New England, Inc. to provide electrical service and telephone service respectively to the aforementioned site. Mr. Jackson presented a site map of the subject property, which illustrated the exact location of the easement. Mr. Pagliarini reminded Mr. Jackson that one of the original conditions of the State Properties Committee's approval for the tower to be erected was that that the Omnipoint Communications, Inc. would be required to meet the local regulations. Mr. Jackson stated that Omnipoint Communications has complied with all local regulations and Town of North Kingstown Planning Department has provided the Department with a letter evidencing said compliance. Mr. Woolley noted that another condition of the Committee's approval was Narragansett Electric Company's submission of a letter regarding insurance coverage for the site. Mr. Jackson indicated that Narragansett Electric Company has been apprised of the Committee's request with regard to the submission of a letter regarding insurance coverage for the site; however, the Department has not yet received the same. Mr. Jackson assured the Committee that the Department will retain the original executed Grant of Easement Agreements until such time as the appropriate insurance coverage letter is received from Narragansett Electric Company. A motion was made to approve the Grant of Easement subject to Narragansett Electric Company's submission of a letter regarding insurance coverage for the site by Mr. Woolley and seconded by Mr. Pagliarini.

Passed Unanimously

ITEM I – Department of Transportation – A request was made for approval of and signatures on a First Amendment of Access Agreement by and between the Department of Transportation and T-Mobile USA, Inc. d/b/a Omnipoint Communications, Inc. Mr. Jackson explained that at the time the Lease Agreement by and between the Department of Transportation and T-Mobile USA, Inc. d/b/a Omnipoint Communications, Inc. was approved, the Committee also granted approval for an easement for access to the site. Mr. Jackson explained that as a result of certain obstructions, it is necessary to realign the original access. Therefore, the Department is seeking approval of the First Amendment to the Access Agreement as a result of this realignment. A motion to approve was made by Mr. Pagliarini and seconded by Mr. Woolley.

Passed Unanimously

ITEM J – Department of Transportation – A request for approval of and signatures on a License Agreement by and between the Department of Transportation and the Town of Burrillville for use of 400 square feet of State-owned land for purposes of maintaining an existing business sign. This item was deferred to the April 14, 2009, meeting of the State Properties Committee at the request of the Department of Transportation.

ITEM K – Department of Transportation – A request was made for approval of and signatures on Permanent Loop Detector Easement Agreement by and between Westerly Ventures, LLC and the Department of Transportation to allow the Department of

Transportation to maintain traffic signal equipment located at Westerly Crossing Development – Airport Road and US Route 1 in the Town of Westerly. Ms. Kerr explained that the applicant will install the traffic signal equipment and the Permanent Loop Detector Easement Agreement before the Committee will allow the Department of Transportation to maintain said equipment. A motion to approve was made by Mr. Pagliarini and seconded by Mr. Woolley.

Passed Unanimously

ITEM L – Department of Transportation – A request was made for approval of and signatures on two (2) Permanent Drainage Easements by and between the Town of East Greenwich and the Department of Transportation and by and between the Housing Authority of the Town of East Greenwich and the Department of Transportation. Ms. Kerr explained that the Department of Transportation has secured a Permanent Drainage Easement with the Town of East Greenwich to be recorded. Ms. Kerr indicated that the site, which was formally a postal facility, is now the site of the new Town of East Greenwich Police Station. Ms. Kerr explained that that the drainage easement is actually already in place; however, the Permanent Drainage Easement documents before the Committee are a necessary formality in connection with the Physical Alteration Permit, which will be recorded at the East Greenwich Town Hall. A motion to approve was made by Mr. Pagliarini and seconded by Mr. Griffith.

Passed Unanimously

ITEM M – Department of Transportation – A request was made for

approval of and signatures on Certificate of Transfer of Land (Permanent Drainage Easement) by and between the Department of Administration and the Department of Transportation for Highway Improvements to U.S. Route 44 (Putnam Pike) in the Town of Glocester. Mr. Ryan explained that Department of Administration originally planned to utilize a certificate of transfer of land to facilitate the transfer of a Permanent Drainage Easement comprising of approximately 14,850 square feet for highway purposes from the Department of Administration to the Department of Transportation. However, due to local concerns raised by Raymond Goff, Director of Planning for the Town of Glocester regarding subdivision regulations and zoning requirements, the Department of Transportation, with the approval of the Director Goff, elected to file a condemnation plat with the Town of Glocester for the drainage easement. However, Mr. Ryan explained that for the State of Rhode Island's interest and records, the Department of Administration will convey the subject property in the form of a Permanent Drainage Easement to the Department Transportation. A motion was made to grant approval of the Certificate of Transfer of Land by Mr. Woolley and seconded by Mr. Pagliarini.

Passed Unanimously

The Committee moves to go into Executive Session, pursuant to Rhode Island General Law 42-46-5(a)(5) for the specific purpose of discussion or consideration related to the acquisition or lease of real property for public purpose, or of the disposition of publicly held property wherein advanced public information would be detrimental

to the interest of the public.

A motion was made to enter into Executive Session by Mr. Griffith and seconded by Mr. Woolley. A roll call vote was taken and the votes were as follows: Mr. Griffith voted “Aye”, Mr. Pagliarini voted “Aye”, Mr. Woolley voted “Aye” and Chairman Flynn voted “Aye”.

The State Properties Committee closed the Executive Session and returned to

the open session of the meeting at 10:29 a.m.

ITEM E1 – Department of Transportation – A request was made for approval of and signatures on two (2) Temporary Easement Agreements by and between the Department of Transportation and RAB Properties, LLC and by and between the Department of Transportation and Elaine S. Weiss Trust in connection with the Rehabilitation of the Industrial Bridge No. 882 in the City of Providence. After discussion in Executive Session, 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 10:30 a.m. A motion was made to adjourn by Mr. Woolley and seconded by Mr. Pagliarini

Passed Unanimously

Holly H. Rhodes, Executive Secretary