

## **STATE PROPERTIES COMMITTEE MEETING**

**TUESDAY, APRIL 13, 2010**

**The meeting of the State Properties Committee was called to order at 10:08 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; Robert W. Kay and John A. Pagliarini, Jr., 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; Meredith Pickering from the Rhode Island Senate Fiscal Office; Rachel Goldstein from the Rhode Island Office of the General Treasurer; John Faltus and Michelle Sheehan from the Rhode Island Department of Environmental Management; Director Michael P. Lewis, Paul Carcieri, William McCarthy and Steven Devine from the Rhode Island Department of Transportation; Michael D. Mitchell, Jared Rhodes, Kevin Nelson and Karen Scott from the Rhode Island Department of Administration; and Edward Butler from the Federal Highway Administration; Philip Marcelo from the Providence Journal; David Riley and numerous representatives from various community organizations.**

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

**ITEM A – Department of Environmental Management – A request was**

made for approval of and signature on the annual License Agreements by and between the Department of Environmental Management and Sail Newport, Inc.; The Fort Adams Foundation/Trust and The Museum of Yachting for various events and activities held by these organizations in 2010, at Fort Adams State Park with Authorization to Serve Alcoholic Beverages. Mr. Faltus explained that these are annual requests received by the Department from the aforementioned organizations to operate out of Fort Adams State Park in the City of Newport for the various regattas and events, which they wish to hold during the 2010 season, with Authorization to Serve Alcoholic Beverages. Mr. Faltus stated that each of the organizations have annual insurance policies, which includes host liquor liability coverage. Mr. Faltus indicated that the Fort Adams Foundation/Trust's insurance was just renewed in January 2010; Sail Newport, Inc.'s insurance is due to be renewed on May 7, 2010; and The Museum of Yachting's insurance is due to be renewed on June 19, 2010. Mr. Faltus requested that the License Agreements be approved subject to the renewal of the necessary insurance policies and providing the Department with a Certificate of Insurance for the upcoming season. A motion was made to approve subject to the renewal of the necessary insurance policies and the organizations providing the Department with an appropriate Certificate of Insurance by Mr. Griffith and seconded by Mr. Woolley.

**Passed Unanimously**

**ITEM B – Department of Environmental Management – A request was made for approval of and signatures on a Recreation Easement by**

and between the Town of South Kingstown and the Department of Environmental Management over approximately 4.14 acres of land located along St. Dominic Road in the Town of South Kingstown; known as the Dominic Savio Property. Ms. Sheehan provided a map of the subject property for the Committee's review. Ms. Sheehan explained that said property is the final piece of the Greenway. The bike path will be extended throughout the Greenway and end at this recreational facility. The Town of South Kingstown plans to place a soccer field on the easement and construct some indoor recreational facilities adjacent to the easement area in the future. Ms. Sheehan explained that the Department will contribute \$250,000 through a local recreation grant in exchange for said Recreation Easement. Chairman Flynn asked if Ms. Sheehan had any insight as to why the purchase price of a relatively small parcel of land was so high. Ms. Sheehan stated that the Town of South Kingstown purchased a total of 13.5 acres of land for \$700,000, however, the Department's contribution of \$250,000 in exchange for the Recreation Easement represents less than fifty (50%) percent of the appraised value. A motion to approve was made by Mr. Woolley and seconded by Mr. Griffith.

**Passed Unanimously**

**ITEM C – Department of Environmental Management – A request was made for conceptual approval to appraise, survey, title search and negotiate the purchase of one hundred eighty (180) acres of land located along Buck Hill Road in the Town of Burrillville; known as the Boy Scouts Property. Ms. Sheehan presented a map, which**

illustrated the location of the subject property. Ms. Sheehan stated that the property is located on the Connecticut border in the Town of Burrillville; just south of the Buck Hill Management Area. The subject property has been on the Department's radar for many years as being an extremely important habitat. Ms. Sheehan explained that the Department is currently working with the Boy Scouts to acquire the property. The Department is also pursuing federal funding from the State of Rhode Island Wildlife Incentive Grant through the United States Fish and Wildlife Service. Mr. Pagliarini asked if the Boy Scouts have any interest in the property in terms of retaining a camp there. Ms. Sheehan indicated that there are no existing camp facilities on the property; the land is vacant. The Boy Scouts only use said property for occasional daytrips from their camp facility, which located to the south of the subject property. Mr. Kay asked if the property will be appraised as a residential property. Ms. Sheehan indicated that land will be appraised as residential property. A motion to by Mr. Pagliarini and seconded by Mr. Woolley.

**Passed Unanimously**

**ITEM D – Department of Environmental Management – A request was made for conceptual approval to appraise, survey, title search and negotiate the purchase of agricultural development rights over thirty (30) acres of land located along Plainfield Pike in the Town of Johnston; known as the Pezza Property. Ms. Sheehan provided a map illustrating the location of the subject property. Ms. Sheehan explained that the property is located within an agricultural zone adjacent to Salisbury Farms. The subject property is also located**

adjacent to Ring Rose Farm, which is being utilized by Southside Community Land Trust and has been renamed the Urban Edge Farm. The farm consisting of thirty (30) acres of land is actively in production and produces vegetables and flowers for market, as well as silage, Herefords and chickens. Ms. Sheehan indicated that the farm is also a successful agricultural tourism site, which includes a petting zoo and hay-rides. The Department has applied to the U.S.D.A.'s Farm and Ranchland Protection Program for federal funding and The Nature Conservancy will also be partnering with the Department relative to this acquisition. Mr. Pagliarini noted that the Department acquired Development Rights over the Salisbury Property for a purchase price of \$1,000,000 last year and asked if the Department anticipates the subject property's value will be approximately the same. Ms. Sheehan explained that because Salisbury Farm is located on a corner lot and includes a lovely old farm house, the Department senses that the appraised value of the Pezza Farm, which is located directly on Plainfield Pike and does not include any such improvements will be significantly less than the Salisbury Property. Chairman Flynn asked what the sources of funding are for said acquisition. Ms. Sheehan indicated funding would come from a combination of sources including the U.S.D.A.'s Farm and Ranchland Protection Program, The Nature Conservancy, through the Champlin Foundation and the Agricultural Land and Preservation Commission. Mr. Kay asked how much of the funding will come from the federal grant. Ms. Sheehan explained that the Department has applied for \$425,000, based upon a preliminary

**assessment of the value of the property. A motion was made for approval by Mr. Griffith and seconded by Mr. Kay. Motion passed four (4) votes “Aye” to one (1) vote “Nay.” Four (4) Votes “Aye”**

**Mr. Woolley**

**Mr. Griffith**

**Mr. Kay**

**Chairman Flynn**

**One (1) Vote “Nay”**

**Mr. Pagliarini**

**ITEM E – Department of Environmental Management – A request for approval of and signatures on a Settlement Agreement and First Amendment of Lease for Lot 230A in the Port of Galilee by and between Department of Environmental Management and Deep Sea Holdings, Inc. This item is deferred to a future meeting of the State Properties Committee at the request of the Department of Administration.**

**ITEM F – Department of Transportation – A request was made for approval to dispose of 73,436 square feet of excess State-owned property located at 25 India Street in the City of Providence. Director Lewis indicated that he would provide a brief summary of the request before the State Properties Committee (the “Committee”). Director Lewis stated that the subject property .is the remnant of a parcel of**

land, which was purchased by the Department of Transportation (the “Department”) using federal funds back in 1998, as it was integral to the construction of the Iway Project. The parcel was needed for the new alignment of the Iway on the east side of the river. The portion of said parcel, which was not permanently needed for the Iway, was utilized for construction lay down. Director Lewis explained that the Agreement with the Federal Highway Administration (“Federal Highway”) to purchase the property was contingent upon the condition that the excess land would be sold at fair market value when it was no longer needed for highway purposes. Director Lewis stated that this has been the Department’s plan since the inception of the Iway Project and certainly the plan since his appointment as Director two years ago. Director Lewis stated that the Department recognizes that there is a great deal of interest within the community relative to this parcel and the Department respects that interest and has been working with and consulting representatives of the community and the City regarding their plans and desires for the subject property. Director Lewis stated that the Department continues to be very mindful of those interests; however, the Department also has an obligation to the federal government to dispose of the property. Director Lewis explained that one of the reasons for the disposal of the property is that the financing of the Iway Project included revenues from the sale of land for the actual financing of the project. The requirement to reimburse the federal government is in the finance plan, which is submitted annually from the Department to the federal government. Therefore, the Department

is required to fulfill said obligation to Federal Highway. Director Lewis explained that the request before the Committee is a step in the process to fulfill the Department's obligations. The Department's request is to allow it to proceed with a Request for Proposals ("RFP") to assess how much actual interest exists relative to this parcel. Director Lewis stated that the RFP will not be limited to private bidders; it can include public interest and public/private partnerships.

The Department will be explicit in the final version of the RFP and that the Department is amenable to many types of bid proposals. Based upon its commitment to Federal Highway, the Department is required to obtain fair market value for the property. Additionally, some issues have been raised with regard to the role of the Rhode Island Historical Preservation and Heritage Commission (the "Historical Commission".) Director Lewis noted that as the Committee may be aware, there is a Memorandum of Agreement ("MOA") between the Department, Federal Highway, the City of Providence, the Historical Commission and the Blackstone Valley Corridor Commission, which states that the disposal of land on 195 must be performed in a manner consistent with said MOA. Director Lewis assured the Committee that any final RFP will be consistent with the provisions of that MOA. Director Lewis stated that the Department needs to proceed with the RFP process in order to obtain the proceeds from the sale of the land at this time in accordance with the finance plan for the Iway Project; however, said RFP does not preclude the expressed interests relative to this parcel from being realized through the said process. With the understanding that the

**State has an obligation to the Federal Government and Federal Highway wants said obligation to be fulfilled in terms of the repayment of funds relative to this site, Chairman Flynn asked, hypothetically, in the event the property was not sold, how would that impact the existing or potential financial resources of the Department.**

**Director Lewis stated that the State of Rhode Island is a very limited funding model for transportation; there are essentially three (3) sources of funding. Director Lewis stated that by and large, Rhode Island is a federally funded state; all of the Department's capital projects are dependant upon Federal Highway and that which is apportioned to the State, representing the Department's share of the federal gas tax. However, Director Lewis stated that said funds come with strings attached and the most significant being the eighty/twenty 80%/20% percent match with the State required to contribute the twenty (20%) percent portion. The State has historically utilized general obligation bonds to pay the required twenty (20%) percent and in turn utilizes the gas tax to pay the debt on the general obligation bonds. Director Lewis explained that relative to Iway Project, the debt was issued based upon the anticipated receipt of future federal revenue to satisfy said debt. Therefore, if the Department does not obtain revenue through the sale of the land as identified in the finance plan, the sole source of revenue is the remainder of the Department's capital pool, which would otherwise be utilized for other necessary projects throughout the State. Chairman Flynn asked if the reason this particular property is being disposed of first in a string of properties which will eventually be disposed of is**

because it is no longer needed for the Iway Project. Mr. Carcieri indicated that is correct and noted that it also has to do with the peculiar taking of the subject property. Mr. Carcieri indicated that the amount of property acquired was more than the amount presently being proposed for sale. Throughout the project, the Shooter's building and the parcel upon which it sits was not affected by the construction of the Iway. The actual construction of that portion of the Iway took place on other Shooter's associated property. Mr. Carcieri stated that this property was also the first property to be freed from a project obligation. Some areas of the former Shooter's land were used as staging areas and temporary construction headquarters. Mr. Carcieri stated that as the property is no longer needed, it has been freed very early on in the list of properties to be disposed. Director Lewis indicated that he attended a meeting at the Mayor's office last week along with many of the representatives from the India Point Community. The condition of the site was discussed and obviously the longer it remains vacant the more it deteriorates. Another factor in moving forward with the disposition of the Shooter's property is the fact that it is an "attractive nuisance," which the State is responsible for as well as being responsible for any associated liability. Mr. Pagliarini stated that at a previous meeting, the Department indicated that it would cost approximately \$50,000 to demolish the structure and asked if the demolition of the structure is an option being considered in order to alleviate the State of this eyesore and the associated liability. Director Lewis explained that the value of the site is enhanced by the existence of the building due to

permitting issues. Mr. Mitchell stated that the Department now has a legal use on the property with the structure in place; however, if the building is removed the presumption is that the legal non-conforming use will be lost. Mr. Pagliarini stated that he takes issue with the Department's claim that it has a legal non-conforming use, because as the property has been vacant for more than a year and one day, he assumes said use has been abandoned. The Department may have rights with the CRMC with the structure due to its location and proximity to the waterfront; however, in his opinion, legal use on the property has already been lost. Chairman Flynn asked Mr. Butler if he can offer any insight as to Federal Highway's desire to have this property disposed of sooner rather than later. Mr. Butler stated that initially Federal Highway was advised by its Washington office not to allow the acquisition of this property as it is outside the highway corridor and its purchase was not necessary for the construction of the Iway. However, the local office believed that the benefits of acquiring the entire property, constructing the Iway and then selling the remnant property and putting the proceeds back into the project outweighed the opinion of the Washington office; therefore, Federal Highway allowed the State to acquire the property in its entirety. Mr. Butler stated that he does not agree that the sale of this property is subject to the MOA or anything else; this is a special property that Federal Highway allowed in the financing plan because the Iway is a fiscally restrained project and Federal Highway has been waiting since the beginning of 2008, for this property to be sold. Mr. Woolley asked whether anyone has ever formally asked Federal Highway that

**this specific property be diverted for an alternate public use. Mr. Butler indicated that he has received telephone calls from some of the neighborhood groups about an alternate public use. However, this was a special acquisition not favored by the Washington office and in the future the State of Rhode Island will not be allowed to acquire so much as one square inch of property beyond what is absolutely necessary due to the issues associated with the subject property. Mr. Butler stated that the covenant between the State of Rhode Island and the federal government is that the State was to sell the subject property as soon as it was deemed excess to transportation needs and to reinvest the proceeds from the sale back into the project; this project is fiscally restrained and the revenue is sorely needed. Mr. Butler stated that there are 7.5 acres of transportation property within the corridor that is being donated for public use. The Federal Highway's position is that the State has an adequate amount of public property around the waterfront. Mr. Woolley stated that he will assume the answer to his question is "no" then. Mr. Carcieri clarified that the Department has made no formal request to Federal Highway that the subject property be diverted for an alternate public use. Mr. Carcieri noted that the RFP before the Committee today is in draft form and during discussions prior to appearing before the Committee today, the Department established that it is amenable to opening up the dimension of a public/private possibility to the property's development and weighing the same into the bid award factors. The draft RFP before the Committee is strictly a money bid; however, the Department is sensitive to the many**

comments that have been made to the Department regarding the highest and best use of this property and a use of the property that is more conducive to a public benefit. That being said, Mr. Carcieri stated that the Department is willing to revise the RFP to encourage, through weighted valuation criteria, the possibility of an alternate public use. However, in the final assessment of the bids, the evaluation will be predominantly a money bid if that concession is made, but the Department would also factor in a public/private concept. Mr. Kay asked if the property is described as vacant. Mr. Carcieri indicated that the property is described as an improved property with the structure on site, a 1½ acre parcel which includes dockage. Mr. Carcieri indicated that during the course of the pre-bid conferences, perspective bidders will be given a walkthrough and shown the entire property to assure they realize exactly what they will be bidding on. Mr. Woolley asked what percentage of the overall Iway Project the sale of this particular site represents in terms of revenue. Director Lewis stated that the Iway Project cost approximately \$600,000,020 and according to a previous finance plan the assumed value of the subject property is \$7.5 million dollars; however, the Department believes said valuation is an inflated estimate. Director Lewis indicated that the finance plan currently pending before Federal Highway requires the Department to contribute \$40 million dollars in revenue through the sale of remnant real estate to finance the remainder of the Iway. Therefore, the subject property is a component of the required \$40 million dollar contribution. Director Lewis noted that said figure includes the pending demolition of the

existing I-195, which the Department is not able to authorize until the finance plan has been accepted by Federal Highway. Director Lewis indicated that the final street restoration and final park construction are also dependant upon the resolution of this funding component. Mr. Carcieri stated that the Department has not yet appraised the 36 acres of remnant property, which will become available at the completion of the Iway Project. Mr. Carcieri indicated that a preliminary in-house valuation established a dollar amount of between \$60,000,000 and \$80,000,000 relative to said property of which the former Shooter's property will be a part. Mr. Griffith noted that in Mr. Butler's letter dated February 6, 2008, there is a reference to the fact that there was 90% federal funding toward the acquisition price of \$4.8 million dollars; Mr. Griffith asked what the amount of revenue the Department is expected to contribute toward the project in lieu of said sale. Director Lewis stated that although he can not speak for Federal Highway, it is his understanding that the required contribution is the equivalent of the subject property's fair market value. Mr. Griffith assumed that the Department is not expected to make up the difference between the purchase price and the sale price in the event the sale price is less. Director Lewis reiterated that it is his understanding that the required contribution is the fair market value of the remnant property; that which is not needed for transportation purposes. Mr. Griffith asked if the Department will be required to contribute ninety (90%) percent of the property's fair market value in order to make up for Federal Highways increased funding. Director Lewis indicated that is correct. Mr. Griffith clarified

that the additional review will come from monies which are already earmarked for other projects throughout the State. Director Lewis clarified that State bond funds are leveraging funds; therefore, \$1 million dollars in State bonds leverages \$40 million in federal funds and that is what the Department will lose if it does not comply with the requirements of the finance agreement; its ability to leverage federal funds. Mr. Pagliarini noted that Mr. Butler from Federal Highway stated that 7.5 acres of land has been donated from the I-195 property upon which the City of Providence will construct a park. Mr. Pagliarini asked whether as part of the bid process the City of Providence, if it was to answer the RFP, could propose trading the 7.5 acres of land and acknowledge the waterfront parcel as payment or partial payment. Mr. Carcieri explained that the interest to the State in this transaction is certainly revenue to which the Director has eluded; revenue in order to pay the remaining balance of the project so as not to be siphon funds intended for other projects. Mr. Carcieri indicated that although he cannot speak for Federal Highway, he believes that in the absence of a monetary return to the State, the Department would be disinclined to agree to such an arrangement. Mr. Pagliarini suggested that the Department could sell that 7.5 acre parcel of land if the City's valuation was the same as the Department's valuation. Mr. Pagliarini stated that 1.5 acres on the water verses 7.5 acres in Down City seems to him to be a prudent and equitable exchange. Director Lewis indicated that the only caution associated with that arrangement would be that the environmental review and the record of decision issued by Federal Highway assumed certain restoration;

therefore, the permitting and the environmental approvals for the entire project took everything into consideration including mitigation and the park's construction in that location is part of the package. Director Lewis stated that such an arrangement could potentially necessitate the reopening of the environmental review process. Mr. Pagliarini indicated that his main objective for asking that particular question is simply to have it included in the record. Additionally, Mr. Pagliarini indicated he has concerns regarding the City of Providence taking title to this property, because as Narragansett owns its own beach, as a resident of East Greenwich, I am prohibited from obtaining a seasonal parking pass or enjoying unrestricted use of the beach. Mr. Pagliarini believes that if the City of Providence were to take title to said property, it may not be open and accessible to individuals who reside beyond the Providence City limits. Director Lewis stated that he is unable to speak to Mr. Pagliarini's concern. Mr. Pagliarini stated that the subject property seems to warrant a State bond referendum, if it is going to be something open to the public and not a City purchase. Mr. Pagliarini stated that in his opinion, the property may benefit the City of Providence; however, thirty-eight other communities will be paying for the property and yet may not be able to freely enjoy the benefit of it. Mr. Pagliarini asked if the title examination has been completed. Mr. Carcieri indicated that the title examination was conducted for the original acquisition of the property. Subsequent to said examination, a cloud on the title was discovered post closing. Said cloud has been remedied and in fact came before the Committee several months ago; whereby the

Department granted a license to a claimant for parking beneath the, so called, 195 garage. Mr. Pagliarini asked if the Department is aware of any other leases agreements relative to the dockage on the marina.

Mr. Carcieri indicated that the Department is not aware of any such lease; none have been revealed in the title. Mr. Carcieri also stated that the property will be conveyed by a Quit-Interest Deed; the State will not issue a warranty deed under any circumstances, which is a standard operating procedure. Mr. Pagliarini asked for an update on the City of Providence's attempt to rezone the property. Mr. Carcieri indicated that the Department had invited representatives of the City to attend today's meeting. Mr. Carcieri stated that he received information that many of the key people would be on vacation and would be unable to attend. Mr. Carcieri explained that the Department has received no further information other than Mr. Deller's letter, which was submitted to the Committee last year wherein he intimated that there will be no change in the current W-2 or General Use Zoning and the Department has received no further indication that said zoning will be changed. Mr. Pagliarini stated that although he did not have a copy with him today, he recalls reading an article in the Providence Journal approximately a month or two ago that stated that the City was moving to rezone the subject property. Chairman Flynn stated that his interpretation of said article was that the Planning Commission had voted to recommend the removal of residential uses from the list of allowed uses. Chairman Flynn indicated that to his knowledge said recommendation has not gone before the City Council and that will be the final stage relative to whether said

change would be made. However, in fairness to the Department, relative to its need to sell this parcel and derive the revenue from the sale, Chairman Flynn stated that the zoning issue could remain unresolved for years and in essence tie the Department's hands in perpetuity. Chairman Flynn stated that he is not suggesting that there is any intention on the part of the City to delay the State's ability to move forward with the sale of the property, but a recommendation by the Planning Commission may very well not survive scrutiny of the City Council. Chairman Flynn further stated that whether this affects the value of the property is another hypothetical question. Mr. Carcieri agreed that is precisely the Department's predicament and stated that the official notice from the municipality states that it is not inclined to change the zoning of the property; however, there are movements as cited by Chairman Flynn, but whether they will come to fruition is unknown to the Department and time is of the essence as pressure from Federal Highway to dispose of the subject property is escalating. Mr. Khamsyvoravong stated that he would like to take a few minutes to address his concerns relative to the subject property. Mr. Khamsyvoravong indicated that he has been a long time community member of the Fox Point/Eastside neighborhood and his experience as such includes working with and participating in community voting giving him rather extensive knowledge with regard to the area. Addressing Director Lewis, Mr. Khamsyvoravong stated that from a resident's perspective, despite the Director's demanding schedule, his response to the concerns of the community has been phenomenal and thanked him for his efforts in that regard. Further,

**Mr. Khamsyvovong stated that during his three (3) year tenure as a non-voting member of the State Properties Committee, this issue has come before the Committee numerous times and indicated that at each and every one of those meetings Mr. Khamsyvovong has asked how much money is owed to the federal government by the State relative to the subject property. Is there a specific dollar figure, a price tag you can put on this property to allow the many community groups represented here today to work toward if they wish to have a fair chance of fulfilling the Department's obligation to the federal government rather than having to compete**

**in the open market in an area that may not be in the public's best interest. Mr. Khamsyvovong stated that he has never been able to get a response to this question, which he has asked myriad times. Mr. Khamsyvovong indicated that he has also examined the bond documents and was unable to locate a specific reference to a dollar figure or even to the obligation, which is spoken of time and time again and for which a representative of Federal Highway informs us exists, but yet Mr. Khamsyvovong stated he has still not been provided with documentation evidencing the same, which he finds extraordinarily frustrating. Mr. Khamsyvovong further indicated that the Committee has set forth a very specific list of requirements and or requests, which need to be addressed in order for the Committee to proceed with any approval of the RFP process; one of which is that the City of Providence Planning Department specifically state its intent with regard the zoning of the subject property. In Mr. Khamsyvovong's opinion, it is an absolute embarrassment that no**

one from the City's Planning Department is here today to tell the Committee what its clear intent is. Mr. Khamsyvoravong further noted that the City's Planning Department has failed send a representative to any one of the previous meetings wherein the disposition of this vital parcel of land, which has captured the attention of countless residents and community groups, has been discussed. Mr. Khamsyvoravong reiterated that it is an embarrassment that a representative of the City's Planning Department is not present right now to make clear its intention relative to this property. Mr. Khamsyvoravong stated that well over a year ago, the Committee requested that it be provided with a viability memorandum concerning utilizing the subject property as a water terminal whether for public transportation or otherwise. The only information that has been provided to the Committee is a letter from RIPTA. Mr. Khamsyvoravong does not want to believe that the Department of Transportation would rely on what is essentially a bus operation to make a determination as to whether this is a suitable site to be utilized as a water terminal. Mr. Khamsyvoravong stated that RIPTA is the same entity that decided to put the ferry terminal inside a hurricane barrier with marginal clearance on either side and excessive tides and has now chosen to locate what could be a major tourism generating vehicle for the State of Rhode Island on a site that was previously a brownsfield site located directly across from an adult entertainment facility. Mr. Khamsyvoravong stated this is no way to treat any sort of economic development/tourism attraction that the State is trying to bring to fruition. Mr. Khamsyvoravong indicated

that the single correspondence concerning the use of the subject property as a water terminal only addresses the concerns of a facility that operates buses and is written from the perspective of whether a bus can access the site and not from the perspective of how a water terminal at this site may generate economic activity for the State. Not to mention the fact that it illustrates absolutely no level of expertise relative to water transportation issues. The information provided to the Committee regarding the feasibility of the subject property as a water terminal is a great disappointment and embarrassment. Therefore, Mr. Khamsyvoravong can think of no reason why this Committee should move forward when two of the five standards that it set forth over a year ago have not been adequately addressed. Speaking as member of the Treasury, Mr. Khamsyvoravong stated that the Department has yet to make available the specific dollar amount owed by the State to the federal government and not simply the Department's assertion relative to the property's fair market value. Therefore, in the event the residents wish to step forward to preserve the subject property for public use, they will be fully informed of specific amount of money, which needs to be raised in order to satisfy the Department's obligation to the federal government. Director Lewis stated that he would attempt to address to all of Mr. Khamsyvoravong's concerns and will begin with the issue regarding the City of Providence Planning Department's failure to provide further updated information regarding its intent relative to the rezoning of the subject property. Director Lewis indicated that from his perspective, Chairman Flynn best expressed the Department's

position, which is that the last official document made available to the Department from the municipality states that it does not intend to rezone the present use of the subject property. Director Lewis stated that the Department may be able to speculate as to future intentions, but what we have in front of us is what we have in front of us. Therefore, the Department has two options; it can hold out that said zoning change will enhance the State's position or indicate that any potential zoning change could undermine the State's position. However, Director Lewis stated that with all due respect to the City, he does not believe that the State should be held hostage by a municipality's indecision. Director Lewis indicated that the State must take a definitive position on the subject, which it through its request for authorization to proceed with the RFP process. In terms of value, there is another matter that has come before the Committee, which is subject of much controversy, having to do with the State's acquiring of land and disposing of land and the position Federal Highway has taken, which involves the sale of the former Farmers' Market property. The Federal Highway's position is that the State failed to receive fair market value for the property, which resulted in Federal Highway's decision to withhold funding. The withholding of federal funds has a huge impact on the State of Rhode Island. The State respectfully disagrees with Federal Highway's decision and is working with Federal Highway on a review of said decision. However, the fact remains that Federal Highway has the right, authority and ability to withhold federal funds from a state and the ability to prevent the authorization of future funds. The most extreme example of this

**involves either the State of Arizona or New Mexico where Federal Highway made the decision to withhold authorization of any additional federal funds evidencing that Federal Highway does in fact have this ability. Director Lewis stated that the State of Rhode Island enjoys a great working relationship with Federal Highway and is in agreement with them 99% of the time and only occasionally finds itself in a professional disagreement, which is typically amicably resolved within a short period of time. Director Lewis stated that he would venture to say that if the State of Rhode Island does not act with regard to the subject property in a way that Federal Highway deems just and appropriate, not only would the State not receive the revenue from the sale of the property, but it is certainly a possibility that Federal Highway could take back the federal funds that went into the purchase price of the property. Director Lewis indicated that he is willing to share the perceived value of the property with the Committee; however, he will have to defer to the Committee regarding whether such information can be discussed in open session or must be presented in executive session. Chairman Flynn noted that this item initially came to the Committee as an item to be heard in executive session in order to discuss the property's value; however, he decided in his capacity as Chair of the Committee that to discuss the matter behind close doors may create the appearance that the State is being secretive about its intentions regarding the subject property, which would outweigh the benefit of the Committee being informed of and discussing the property's assessed value. Chairman Flynn noted that the value is a seven figure number in excess of \$1**

million dollars, but less than \$10 million dollars. Director Lewis explained that there is a very explicitly prescribed process that all states must follow in determining the value of property and that they must strictly adhere to said process in order for the established value to be accepted by Federal Highway. Mr. Khamsyvoravong recalled that previously a representation was made by the Department that this particular property falls outside the normal parameters of Federal Highway's standard procedures regarding the acquisition of property for a project. Director Lewis explained that the subject property was acquired outside of the norm, but the determination of its value and the disposal of the property must remain within the normal parameters. As the acquisition of the property was 90% federally funded, if the State wishes to retain that percent of the funds then the State has to follow Federal Highway's standard procedure relative to the disposal of the property. Mr. Khamsyvoravong asked whether the revenue needed to satisfy the Department's obligation must come from the sale of this specific property. It appears that the State needs \$40 million dollars in total and we are counting on an amount less than \$3.7 million dollars being realized from the sale of the subject property to chip away at the \$40 million dollar obligation. Director Lewis noted that there are a couple of different issues involved. Director Lewis explained the first is the amount of money necessary to fund the Iway Project, because whatever money is not allocated for the funding of the Iway Project is utilized for one of the innumerable necessary transportation projects throughout the State. However, the disposition of land that was purchased with federal funds must be

disposed of in a manner consistent with Federal Highway requirements. Even if the State were to satisfy its obligation to the federal government via a private donation or grant, the State would still be required to dispose of the subject property in way consistent with Federal Highway requirements. Lastly, Director Lewis addressed the issue of the suitability of the subject property as a water terminal site. Director Lewis that as the Director of the Department of Transportation, he also sits on RIPTA's board, which has given him the opportunity to be very involved in RIPTA planning and budget issues. Director Lewis indicated that the State of Rhode Island is entering an era during which RIPTA will not only be an agency charged with the operation of buses. Rhode Island is entering an era of true public transit and the most telling example is the expansion of the commuter railway south of Providence to the Warwick Intermodal Station and on to the Wickford Junction. As many you may know, the State is also in the throws of a Phase II Planning Study to examine commuter rail operation south of Wickford Junction as well as investigating potential improved transit connections to the City of Woonsocket. Director Lewis indicated that many parties are interested in examining the potential for true water transit opportunities throughout the State. Director Lewis believes that there is a role for Statewide Planning, the Department of Transportation and for RIPTA regarding the expansion and implementation of transit opportunities within the State of Rhode Island. Director Lewis indicated that Rhode Island is one of ten states in the country that has been provided with an opportunity to host a workshop on global

environmental issues as it relates to transportation. The Department will look at exactly this issue; what the Departments of Transportations can do to address the environmental issues which are facing this country. It is quickly becoming a requirement that we look at enhanced transit opportunities in the State. Director Lewis stated that speaking from the prospective of RIPTA, what drives RIPTA is not buses; it is budget. RIPTA is presently examining the services that it currently provides and finding ways to reduce these services in order to work within the limits of its 2011 fiscal year budget. RIPTA's primary source of funding is the federal gas tax and as the yields decrease and gas prices increase RIPTA finds itself in the same position as the Department of Transportation. RIPTA is constantly fighting a losing battle and is forced to reduce existing service as it does not have adequate revenue to pay for the existing service. Therefore, from that prospective, water transportation is not a suitable option at this time as the revenue to implement and operate such a facility simply does not exist. Director Lewis indicated that on a broader state economic development side the Department needs to be working with statewide planning. The State needs to determine what transportation service does it want to provide and then where is the revenue going to come from in order accommodate said service. Director Lewis stated that he personally believes that a sale or transfer of the subject property is not incompatible with future water transit use at the site. Director Lewis stated that he agrees that there is certainly potential for future water transit use and wants to make it known that what the Department is requesting from the Committee

today does not preclude that option from being realized and in fact it may enhance the opportunity to once again provide ferry service. Chairman Flynn asked if the Department would want the RFP to specifically address future water transit at the site whether its operation be public or private. Director Lewis stated that said issue could certainly be incorporated into the RFP. Director Lewis believes that the Department should be somewhat cautious relative to incorporating water transit issues as part of the RFP, but thinks it is certainly a good opportunity to get ideas to the table. However, Director Lewis' fiduciary obligation is to receive the value from the property that the federal government invested in it. The Director's only caution is that the RFP not diminish the property's value. Mr. Khamsyvoravong thanked Director Lewis for his response and noted that there is no doubt in anyone's mind that Director Lewis is an immense human asset to both the Department and the State. However, coming back to the Committee's original requests, Mr. Khamsyvoravong stated that two of the five requirements set forth by the Committee have still not been adequately addressed. The first being the assessment of the site as a viable marine terminal and Mr. Khamsyvoravong finds it discouraging to hear us talk about potential economic development tools strictly from a public transit perspective, which as the Director mentioned, has extreme budgetary constraints and will continue to until the State restructures how it funds public transit. The other is the planning issue. Should the City suddenly decide to rezone the subject property in a way that would adversely impact the overall value of the site, then said change would

clearly impact the amount of aid that the State would receive from the federal government or from Federal Highway. Mr. Khamsyvoravong noted that there are two major issues on the docket that the Committee requested be addressed over a year ago and yet the Department continues to fail to adequately address the same to the satisfaction of the Committee. Therefore, before the Department is allowed to move forward with an RFP, Mr. Khamsyvoravong believes those issues need to be adequately addressed. Mr. Khamsyvoravong stated that he did not know if there is anyway to ensure that the Committee hears from Mr. Deller of City of Providence Planning Department. There is simply no excuse for the City Planning Department not to be represented at this meeting today when so much lies in the balance for Providence's waterfront. Chairman Flynn stated that he happens to know that Mr. Deller is out of the State attending a national conference. Mr. Khamsyvoravong doubts very much the City's Planning Department consists of just one individual despite the fact that it has failed to attend any one of the meetings at which this property has been discussed; he finds this totally unacceptable. Chairman Flynn noted that the State cannot continue allow its hands to be tied in terms of the required sale of the subject property due to either the City's failure to respond to the Department of Transportation's request for its attendance at these meetings or its inability to provide the Department and/or Committee with updated correspondence stating what its intentions are relative to the rezoning of the subject property. Mr. Khamsyvoravong asked if the City decided to change the zoning of the property mid-RFP, what

impact would that have on the value of this property. Chairman Flynn stated that perhaps that could be a subject of litigation for the State. Chairman Flynn noted there were any number of possible things that could happen; however, given everything we have heard from Director Lewis, do we not act because of the potential of any one of countless scenarios occurring? Mr. Khamsyvovong reminded the Chair that the zoning issue is one of the five major issues that the Committee outlined requesting that it be given clear definitive language regard zoning before it would move forward and the Committee still has not be provided with said information. Mr. Khamsyvovong stated that if the City and State cannot cooperate on an issue as important as this, then he does not see how this Committee can move forward at this time. Chairman Flynn indicated that he understands Mr. Khamsyvovong's concern, but at the same time the Committee has also just heard from Director of the Department of Transportation and from Mr. Butler of Federal Highway as to the dire consequences of non-action relative to the sale of the subject property. Mr. Khamsyvovong noted that he understands the consequences and he has heard them mentioned verbally several times now and he notes a letter eluding to zoning in the Committee's package and has heard it from several representatives; however, he has made numerous request to be shown that, in writing, in any of the legal agreements the Department has with the federal government and has still not seen it. Mr. Khamsyvovong stated that he has been a member of the State Properties Committee for three (3) years during which this property has come before us numerous times and

he indicated that he has made said request every single time. Director Lewis stated that there may have been some miscommunication relative to Mr. Khamsyvoravong's request; however, the Director will be happy to provide Mr. Khamsyvoravong with a copy of Title 203, which is the Statute of Regulations in accordance with Federal Law. Director Lewis stated that the federal government explicitly outlines how states need to address disposition of land that was acquired through the use federal funds. The Department will provide a copy of the same to Mr. Khamsyvoravong today. Mr. Khamsyvoravong noted more specifically, the community needs to know the exact dollar figure that is owned to the federal government; once that figure is known, the community can start to figure out how to obtain it. Mr. Pagliarini noted that the last official document that the Department or Committee has indicates that the City does not intend on changing the zoning. The Department may or may not have sought additional information from the City, but the City is well aware that the State has been moving forward with this project. Mr. Pagliarini noted that the Department of Transportation has relied upon the City of Providence Department of Planning's letter that they are not going to change the zoning; therefore, silence is a response, which indicates that the City is not changing the zoning. The City has had every opportunity to come to this Committee, send a one page document or to send a representative and in the absence of any of those things, the Department has to rely upon the last official document that it has. Mr. Pagliarini stated that he believes the Department has satisfied its

obligation in terms of the zoning issue. Mr. Pagliarini stated that the Department can not force the City to come to the table; if it chooses not to, the City has abdicated its rights in his opinion. Mr. Carcieri noted that the invitations made to the City by the Department to attend this meeting were made several time over the last week via email, telephone and certainly a copy of the State Properties Committee's agenda. Mr. Carcieri also stated that a specific elusion to the very questions of the five that the Committee cited over a year ago is the exact same question before us now. Mr. Khamsyvoravong explained that his comments were not meant as a reprimand to the Department of Transportation by any means; it is specifically directed at the City of Providence. Mr. Khamsyvoravong explained that the Committee's request for these five things, which included obtaining definitive language from the City of Providence regarding zoning was made in January of 2009. At that point in time, the Committee determined that the letter received in 2008, from the City Planning Department was not sufficient in terms of zoning. Chairman Flynn clarified that said letter was misdated; the letter was actually sent in 2009 evidenced by the Department's "Received" stamp dated January of 2009. Mr. Pagliarini noted that he has a document, going back ten years, stated that "India Point Marina grants to SDC Land Company exclusive rights of four (4) fifty (50') foot slips" and that SDC Land Company was the owner of the Shooter's property in 1990. Mr. Pagliarini noted that he had not reviewed the document in detail, but that he questions whether or not there is an easement over an abutters marina or if the State is committed for 50 years on 200 feet of

slips on the Shooter's property. In any event, Mr. Pagliarini believes there is an encumbrance on the property. Mr. Mitchell stated that he has never seen said document and he is not certain whether it appears in the title commitment the State has for the property. Mr. Pagliarini offered his one and only copy of said document to Mr. Mitchell and stated that it was recorded in the City of Providence and he located in a ten year old file of his last night. Also contained in said file was the original India Point Ferry Terminal update by RIPTA. Mr. Pagliarini stated that after reviewing that document it seems as though the Ferry Terminal was a temporary use of this site during the construction phase and that very similar to what the Director just testified to the documents states that the site had future development potential as a hotel, condominium, retail or marina with RIPTA hoping to work with the Department of Transportation on its future redevelopment and explore a water transportation component. Therefore, RIPTA was going to test the site for the decade of 2000 through 2010, and then hope to have a foothold for a water transportation component at the re-use of the property. Mr. Pagliarini does not want it to be perceived that the final use of the property was for water transportation. In 2000, there were opinions drafted that the highest and best use was for a temporary ferry on site, but upon the disposition of the property, the more intense use would be the highest and best use of the site. Mr. Woolley asked whether anyone from the Department has contacted either Interstate Navigation or Cross Sound Ferry, which are the boats that service Block Island; one from New London and one from Galilee, with respect to reinstating

private ferry service from Providence to Newport to Block Island or even the State's DEM Island Park system. Both Director Lewis and Mr. Devine indicated they had not made direct contact with either of those entities. However, both last year and this year, RIPTA issued an RFP to extend ferry service. Director Lewis indicated that last year's RFP included two options, one was for a subsidized service and the other was for a non-subsidized service. Director Lewis explained that one bid asked what kind of subsidy would a vendor need in order to deliver a specific product and the other asked if no subsidy was provided what type of product could the vendor deliver. RIPTA received no bids on the subsidized service; the non-subsidized service received one bid which was not successful. Director Lewis does not wish to indicate that as the definitive answer on ferry service, but that was the result of last year's RFP. This year RIPTA issued an RFP for a non-subsidized ferry service only and received no bids. Mr. Woolley asked if there is a deadline specifically set out in the agreement between the Department and Federal Highway as to when the surplus real estate from the Iway Project has to be sold. As in an absolute month, day and year by which the surplus property has to be sold. Director Lewis indicated he is not aware of an absolute drop dead date. Mr. Carcieri indicated that there rarely is a deadline date; the agreement usually stipulates the sale upon the completion of the project. The difference in the instance is the money constraints unlike other projects which come before the Committee. Mr. Woolley asked if the Department and/or its appraisers take into account the fluctuations in the real estate market with respect to

whether or not it might be prudent to hold on to a piece of property like this until the economy improves and the value of the property increases. Director Lewis explained that the Department has cash flow requirements in order to match the federal funds and that is more involved with the Department of Administration Controllers Office as a cash management issue. Mr. Pagliarini stated that in his experience with commercial properties and tax appeals, the cities and towns are finding an increase in the value of water front property while all other real estate experiences a decrease in value. Mr. Pagliarini does not think that the value of this particular water front property has gone down as much as one might think; waterfront property seems to better hold its value regardless of any fluctuations in the economy. Mr. Carcieri noted that it is very much the same situation discussed regarding the City Planning Department's intention relative to rezoning. What factors does the Department use to determine that the market has been restored or is ascending upwards and how long does the Department wait especially with a keen pressure to dispose of this property for the purposes of the federal highway program? Director Lewis stated that what the Department is asking for from the Committee today is authorization to proceed with the RFP process. The State always retains the right reject bids, terminate the RFP process at anytime or find a better deal.

Director Lewis expressed to the Committee and to the community organizations that this constitutes the beginning of the process not the end. Mr. Woolley asked if the RFP provided to the Committee is the final form of the RFP that will be issued. Director Lewis stated

that based upon the discussion today and conversation he has had in the past, he believes the Department should be more explicit rather than implicit in preparing the RFP with regard to the opportunity for public/private partnerships and the compatibility with water transit and marine uses insofar as it is in compliance with the MOA mentioned earlier in today's presentation. Mr. Carcieri noted that the MOA appears to apply more to the development of the property and not to its disposal or sale into private or public hands. Mr. Woolley noted that paragraph 4 of the special conditions references Title 37, Chapter 7, Section 3, which is condemnation and as it is his understanding that the purchase of the property was by Warranty Deed, he questioned if Section 4 would not be the more appropriate reference. Mr. Carcieri indicated that is a typographical error in the documents, which will be corrected as the purchase of the subject property was a deed acquisition. Mr. Woolley asked that due to the fact that the document was not made available to him until late on Friday afternoon and he was dealing with flooding issues at his home, he questioned whether the RFP is a work in progress and the Committee will have another opportunity to review same. Director Lewis stated that was he is requesting authorization to issue an RFP, which reflects the comments and opinions of the Committee. Director Lewis also indicated that any revisions having to do with the legal language will be made as well. Mr. Khamsyvoravong asked if the RFP moves forward and the Department is in a position to have to balance a public interest aspect, whether it's a marine terminal or otherwise, does the Department believe it will be able to balance that

aspect with the fiduciary requirements it must satisfy as well. Director Lewis believes that the Department can balance the two; however, the decision the State will ultimately have to make is its exposure to Federal Highway seeking federal funds back and what the implications of that are. Director Lewis indicated that he is confident that Federal Highway will be very open in its position on that issue so the Department will be aware, before any action is taken, of what the risk is to the State and based upon that risk, the State can make sound public policy decisions. Chairman Flynn stated that he will open the discussion to a few representatives from the community organizations and reminded the Committee that he received a letter, which was distributed, from Representative Segal and Senator Perry and an email regarding the Shooter's waterfront site from David Riley.

Chairman Flynn asked Mr. Riley to act as a representative for his group and asked that his comments specifically address Director's Lewis desire to move forward with an RFP, which would incorporate the concerns of the community groups. Mr. Riley thanked the Director and the Committee's for their consideration of this issue which reflects the widespread public interest and concern regarding this property. Mr. Riley indicated that with regard to the definitive language relating to the zoning of the property, that the vote by the City Planning Commission was four votes in favor of rezoning to zero votes opposing rezoning with one abstention. Mr. Riley realizes that the City's Planning Department has failed to respond but it has made a definitive statement by way of said vote and he would hope that the City and the State could work together to somehow clarify the issue.

The community has been working with the City in an attempt to obtain a very definitive statement from the Planning Department regarding the zoning issue. Mr. Riley stated that the Committee instructed the Department to produce a letter stating that it has examined the site for suitability as a marine terminal. Mr. Riley stated that this has not been accomplished as of yet. Mr. Riley noted that a letter in the package from Mr. Devine to Mr. Daniel Clarke states that the letter from RIPTA, which Mr. Riley is unable to locate in his package, states they “do not consider the former Shooter’s property as a future ferry landing. However, the Committee’s instructions were that the Department examine the site not that RIPTA examine the site for its suitability as marine terminal; therefore, the Committee’s condition has clearly not been met. Mr. Riley stated that he appreciates Director Lewis’ expression of interest in the ferry issue as the community feels very strongly about this issue and has tried very hard to convince RIPTA to conduct a feasibility study, which has never been done in the “Ocean State” regarding the feasibility of commuter ferries. Mr. Riley noted that there is a new federal grant, which could fund the cost of conducting said feasibility study. On the “takings” issue, Mr. Riley indicated that he and the members of various community organizations have met with Bruce Kogen, who is a professor at Roger Williams Law School and very familiar with the takings issue and have also had other lawyers review the takings issue. Mr. Riley indicated that these inquiries have determined that there have been no taking cases in the State of Rhode Island. In fact, the City Solicitor of Providence has confirmed that there has never

been a case where the federal government or the state government sues a municipality for a zoning decision. Mr. Riley stated that if all use was taken away from a property than it would be a takings issue, but that is not the case in this instance. Therefore, the taking issue has been dispensed with. Mr. Riley indicated that the community is very concerned that the process going forward will end up depriving public control of this incredibly valuable parcel of land. Mr. Pagliarini asked what Mr. Riley's objection is to the Department issuing an RFP that gave the neighborhood equal rights to put together a proposal relative to this property. Mr. Pagliarini asked what the harm is in allowing the Department to proceed. In fact, it may actually accelerate action by the neighbors to acquire this property. Mr. Riley stated that the neighbors have been speaking with several developers regarding the possibility of producing a proposal; however, what the community is really interested in pursuing is the possibility of the Department and Federal Highway considering a lease of the subject property. If the State retains ownership and leases it to a developer to provide an appropriate public destination than the State retains control of the property. However, the concern is that if the property is sold outright without condition and/or restrictions, the State and the public will lose the power and control to assure the site becomes a public destination. Mr. Pagliarini noted that the City of Providence has more rights than any developer as it stands in line first to match or make an offer to obtain the property, what harm does it do to allow the Department to issue a RFP. Mr. Woolley stated that the City's rights are subject to the former owner's right of first refusal;

therefore, it is more appropriate that the government maintain ownership of the property. Mr. Pagliarini stated that is assuming that that one person is desirous of getting the property back and developing it. Both Mr. Riley and Mr. Woolley confirmed that the former owner has expressed his desire to do just that. Mr. Riley stated this is the reason neighbors are seeking to pursue with the Department and Federal Highway the possibility of a lease whereby a developer would obviously pay rent and could pay back the value of the property over time or perhaps the developer could obtain a loan to pay back Federal Highway quickly. Director Lewis indicated that the RFP can reflect that as an option to be considered. Mr. Riley indicated that even if the City was interested in taking ownership, which does not appear to be the case, this is a statewide resource and the public feels strongly that for the State to lose control of this property through a one time sale, when the economic development opportunities over time are much greater, would be penny wise and dollar foolish. Chairman Flynn clarified that the Committee's approval to allow the Department to move forward does not preclude that possibility. Mr. Carcieri also indicated the allowing the Department to move forward at this time would not preclude the possibility of the Department transferring the custody and control of the property to another State-agency. Mr. Pagliarini advised that Mr. Riley be cautious of requesting the lease language as that would open it up to private individuals to submit a lease proposal as well and allowing someone else to outbid the neighbors on a lease. Mr. Riley indicated that although that is true at least the State would

retain ownership and maintain control over the property. Mr. Pagliarini stated that if he was representing a client, he would want the Committee to allow the Department to move forward so that the players are identified and everyone knows where they stand because once you issue the RFP, you know the lay of the land. The Department retains the right to reject all bids, but at least you know where you stand. Mr. Pagliarini moved to allow the Department of Transportation permission to seek RFP subject to the Department amendments as discussed. Mr. Pagliarini stated that he would leave it up to the Department of Transportation's discretion to craft its RFP subject to the comments heard today. Mr. Kay asked if the request today is for conceptual approval. Chairman Flynn clarified that the RFP would be subject to the comments made today and stated that the Committee would have final say, if not on the language of the RFP, at least the responses to the RFP would reflect those conditions. Mr. Kay indicated that on that basis he would second Mr. Pagliarini's motion to approve.

Under discussion, Mr. Griffith asked if Mr. Pagliarini's motion to approve also includes his reference to the potential encumbrance of the marina. Mr. Pagliarini noted that legal counsel will have to identify the title for prospective bidders. The Department cannot tell bidders that they are bidding on a free and clear parcel of land if it is in fact encumbered. Mr. Woolley stated for the record that Attorney General Lynch is opposed to the sale of this property in the manner that is being proposed here today.

A roll call vote was taken and the votes were as follows: : Mr. Griffith

voted “Aye”, Mr. Pagliarini voted “Aye”, Mr. Woolley voted “Nay”; Mr. Kay voted “Aye” and Chairman Flynn voted “Aye”. The motion passed four (4) votes “Aye” to one vote “Nay”.

**Four (4) Votes “Aye”**

**Mr. Griffith**

**Mr. Pagliarini**

**Mr. Kay**

**Chairman Flynn**

**One (1) Vote “Nay”**

**Mr. Woolley**

There being no further business to come before the State Properties Committee, the meeting was adjourned at 11:47 a.m. A motion was made to adjourn by Mr.

Pagliarini and seconded by Mr. Woolley. Passed Unanimously

---

**Holly H. Rhodes, Executive Secretary**