

## **STATE PROPERTIES COMMITTEE MEETING**

**TUESDAY, JULY 6, 2010**

The meeting of the State Properties Committee was called to order at 10:06 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, Public Member; and Mark Dingley representing the Rhode Island Office of the General Treasurer, Ex-officio Member. Others in attendance were Meredith Pickering from the Rhode Island Senate Fiscal Office; John Faltus and Michelle Sheehan from the Rhode Island Department of Environmental Management; Deborah White and Michael D. Mitchell from the Rhode Island Department of Administration; Mary Ellen McQueeney-Lally from the Department of Labor and Training; Robert B. Jackson, Bruce Cadden, Colleen Kerr, Gil Bricault, John Glynn, Eva Bernardo, Paul Carcieri and Annette Jacques from the Rhode Island Department of Transportation; Thomas Brueckner from the Narragansett Bay Commission; Anthony J. Bucci, Jr., from Boisseau & Dean LLP; Thomas V. Moses from the law offices of Moses & Afonso, Ltd.; Kelly Coates from Carpionato Corporation; Charles Breagy from Downtown 5K, Inc.; and Howard Kramer from DMSE, Inc.

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

The approval of the meeting minutes from the May 25, 2010, and the June 9, 2010 meetings are deferred to the next meeting of the State

## **Properties Committee.**

**ITEM A – Department of Administration – A request was made for approval of and signatures on a License Agreement by and between the Department of Administration and Lifespan for Hasbro Children’s Hospital to utilize Station Park for the 2010 Hasbro Children’s Hospital Walk on October 3, 2010, and October 4, 2010. Howard Kramer indicated that he is before the Committee representing Dave McGillivray Sports Enterprises, which is managing the Children’s Hospital Walk for Lifespan, and will gladly answer any questions the Committee may have. Ms. White explained that this is the second year Lifespan has requested use of Station Park for the Hasbro Children’s Hospital Walk. The event is scheduled for October 3, 2010, and October 4, 2010. Ms. White indicated that Lifespan anticipates that between 2,000 and 2,500 individuals will attend this year’s event. Ms. White stated that Lifespan has satisfied all of the Department’s requirements associated with the use of Station Park with the exception of its submission of the appropriate Certificate of Insurance, which Lifespan will submit on or before August 3, 2010. A motion was made to approve by Mr. Woolley subject to the submission of the appropriate Certificate of Insurance to the Department and to the State Properties Committee. Said motion was seconded by Mr. Griffith.**

**Passed Unanimously**

**ITEM B – Department of Administration – A request was made for approval of and signatures on a License Agreement by and between**

**the Department of Administration and Downtown 5K, Inc. for use of the State House Grounds from Friday, September 17, 2010, through Sunday, September 19, 2010, for the CVS Caremark Downtown 5K Road Race. Ms. White indicated that Downtown 5K, Inc. anticipates that between 7,000 and 8,000 individuals will attend this year's event. Ms. White stated that the usage fee has been paid and once again the Division of Facilities is merely awaiting the submission of the appropriate Certificate of Insurance. A motion was made to approve, subject to the submission of the appropriate Certificate of Insurance to both the Department and the State Properties Committee, which in addition to general liability insurance coverage shall include product liability insurance coverage, by Mr. Woolley. Said motion was seconded by Mr. Kay.**

**Passed Unanimously**

**ITEM C – Department of Labor and Training – A request was made for approval of and signatures on a Memorandum of Agreement between the Department of Labor and Training; the Department of Mental Health Retardation and Hospitals; and the Department of Environmental Management to coordinate, facilitate and operate the annual “Farmers’ Market” go be held every Friday, from July 23, 2010, through September 24, 2010, at the Pastore Complex in the City of Cranston. Ms. McQueeney-Lally indicated that she has appeared before the Committee for the past four (4) years seeking approval to operate the annual Farmers’ Market in Margaret Walsh Park located on the grounds of the Pastore Complex. Mr. Kay questioned whether the \$100,000/\$300,000 limited liability insurance coverage is adequate**

to satisfy the State of Rhode Island requirements. Ms. McQueeney-Lally stated that the amount of liability insurance coverage has remained the same for the past three (3) years. Ms. McQueeney-Lally noted that the amount of liability insurance coverage was increased at the request of the State Properties Committee after the first year. Mr. Kay indicated that the need for product liability insurance coverage applies to this event as well. Mr. Kay stated that in addition to the Department(s) securing product liability insurance coverage, each and every participating vendor shall be required to secure general liability and product liability insurance coverage and submit the appropriate Certificate of Insurance evidencing the same. A motion was made to approve by Mr. Griffith subject to the Department(s)' submission of the appropriate Certificate of Insurance to the State Properties Committee, which in addition to general liability insurance coverage shall include proof of product liability insurance coverage. Additionally, each and every vendor shall secure general liability and product liability insurance coverage and provide Certificates of Insurance evidencing the same to the Department(s). Said motion was seconded by Mr. Woolley.

**Passed Unanimously**

**ITEM D – Department of Environmental Management – A request was made for approval of and signatures on a License Agreement by and between the Department of Environmental Management and Eugene Pezzulli and Autos of the World to hold the annual classic car show at Goddard Memorial State Park from Friday, July 23, 2010, through**

**Sunday, July 25, 2010. Mr. Faltus indicated that this is an annual request from Mr. Pezzulli and his non-profit organization, Autos of the World, to hold a classic care and truck show at Goddard Memorial State Park. Mr. Faltus stated that this year Mr. Pezzulli requested that in lieu of soliciting donations from the people attending the event, he wishes to charge a \$3.00, per person, admission fee to help offset some of the costs associated with this event. Mr. Faltus stated that a provision regarding the admission fee has been incorporated into the License Agreement. Mr. Faltus stated that the Department has assessed a usage fee of \$400.00 for this event. Mr. Faltus noted that there have been no problems associated with this event in the past. Mr. Pezzulli will submit an updated Certificate of Insurance upon its annual renewal. A motion was made to approve by Mr. Woolley subject to the submission of an updated Certificate of Insurance to the Department and to the State Properties Committee. Said motion was seconded by Mr. Griffith.**

**Passed Unanimously**

**ITEM E – Department of Environmental Management – A request was made for approval of and signatures on a Conservation Easement by and between the Department of Environmental Management and the Foster Land Trust over 84.9 acres of land located along Shippee Schoolhouse Road in the Town of Foster; known as the Grass Property. Ms. Sheehan explained that this project was awarded a Local Open Space Grant from the RI Natural Heritage Preservation Commission in March of 2009, for fifty (50%) percent of the property's purchase price. The State of Rhode Island will contribute \$125,000**

toward the acquisition of the Conservation Easement. A motion to approve was made by Mr. Woolley and seconded by Mr. Griffith.

**Passed Unanimously**

**ITEM F – Department of Environmental Management – A request was made for conceptual approval to purchase a Conservation Easement over seventy-five (75) acres of land located along Hopkins Hill Road in the Town of West Greenwich. Ms. Sheehan explained that if said request is approved, The Nature Conservancy will hold fee ownership of the property and the Department will be granted a Conservation Easement, the cost of which will be funded entirely through the Federal Highway Enhancement**

**Program. A motion was made to approve by Mr. Woolley and seconded by Mr. Kay.**

**Passed Unanimously**

**ITEM G – Department of Transportation – A request was made for approval of and signatures on a License Agreement by and between the Department of Transportation and Olympia Holding, LLC for use of 1,065 square feet of State-owned land located adjacent to the Washington Secondary Bike Path on Park Avenue in the City of Cranston for purposes of vehicle parking. Mr. Cadden explained that this particular parcel of land was previously licensed to another entity with the approval of the State Properties Committee. Mr. Cadden noted that as use of the property is being transferred, a new License Agreement is required. A motion was made to approve by Mr. Woolley and seconded by Mr. Griffith.**

**Passed Unanimously**

**ITEM H – Department of Transportation – A request was made for conceptual approval to dispose of 2,300 square feet of State-owned land located at the intersection of Gate Road and Enterprise Drive in the Quonset Business Park in the Town of North Kingstown. Mr. Jackson explained that the Quonset Development Corporation intends to relocate the former driveway westward to align it with the entrance to the Gateway shops across Gate Road. The Department’s Land Sales Committee approved the sale of the subject property at fair market value provided the Quonset Development Corporation relocates two existing trees and that the Department’s Environmental Resource Section be notified as to the date the trees will be relocated and the name of the entity that will perform the work. In the event the existing trees do not survive the transplant, the Quonset Development Corporation is required to replace the said trees in kind with the same size and species at its own expense or pay compensation to the Department in the amount of \$850.00 for the replacement cost of said trees. A motion was made to approve by Mr. Kay and seconded by Mr. Woolley.**

**Passed Unanimously**

**ITEM I – Department of Transportation – A request was made for approval of and signatures on a Quit Claim Deed and Deed of Easement by and between Ruggiero 231 Realty, LLC and the Department of Transportation to redevelop a parcel of land located at 231 County Road in the Town of Barrington. Ms. Kerr explained that Ruggiero 321 Realty, LLC is proposing to redevelop said parcel.**

**Ruggiero 321 Realty, LLC has applied for a physical alteration permit and has requested a modification of the location of a permanent drainage easement, which was previously acquired by the Department for the construction of County Road. Ms. Kerr stated that the Quit Claim Deed effectively relinquishes the Department's rights to the existing permanent drainage easement in exchange for a new permanent drainage easement to accommodate the redevelopment of the subject parcel of land. Ms. Kerr stated that she believes Ruggiero 321 Realty, LLC is constructing a bank and stated that there is a long-term lease associated with the property. Chairman Flynn asked why no monetary compensation is required. Ms. Kerr stated that as Ruggiero 321 Realty, LLC has agreed to pay all expenses associated with the relocation of the drainage infrastructure and shall be solely responsible for the development of the easement documents. A motion was made to approve by Mr. Griffith and seconded by Mr. Woolley.**

**Passed Unanimously**

**ITEM J – Department of Transportation – A request was made for authorization to purchase land by virtue of Condemnation Plat 2738 for the completion of ongoing improvements to Atwood Avenue (Route 5) in the Town of Johnston. Ms. Kerr explained that the Department is working with Factory Mutual Insurance Company relative to the improvements as part of the so called, "FM Global Off-Site Improvement Project." Said project includes widening the roadway to provide a four lane cross section, geometric and drainage improvements and upgrading traffic signal equipment. Mr. Kerr**

**indicated that the private property-owners have agreed to waive any right of compensation as the improvement project will benefit their business. Additionally, Ms. Kerr stated that the entire improvement project is being funded by Factory Mutual Insurance Company as part of an agreement it reached with the Department and the Town of Johnston relative to a physical alteration permit. A motion was made for approval by Mr. Griffith and seconded by Mr. Kay.**

**Passed Unanimously**

**ITEM K – Department of Transportation – A request was made for approval of and signatures on a Certificate of Transfer of Land transferring the custody, control and supervision of approximately 67,800 square feet of State-owned land located at the corner of Route 2 and Route 102 in the Towns of Exeter and North Kingstown from the Department of Transportation to the Department of Environmental Management. Ms. Bernardo stated that the Department of Environmental Management intends to utilize the subject property for open space and preservation. Ms Bernardo indicated that this property previously came before the State Properties Committee in November of 2006, for conceptual approval to sell said property to the abutting property owner, Schartner Farms. However, at that time, said request was tabled to a future meeting due to comments received from the Department of Environmental Management and the Town of Exeter. Ms. Bernardo indicated that since that time, the Department’s Land Sales Committee approved the transfer of the subject property to the Department of Environmental Management. Ms. Bernardo respectfully requests that the Committee approve and**

**execute the Certificate of Transfer of Land. Chairman Flynn clarified that Schartner Farms still retains access across the subject property. Ms. Bernard stated that is correct. A motion to approve was made by Mr. Woolley and seconded by Mr. Kay.**

**Passed Unanimously**

**ITEM L – Department of Transportation – A request was made for approval of and signatures on a Purchase & Sale Agreement and Quitclaim Deed transferring 7,400 square feet of land located at the intersection of Hamlet Avenue and Florence Drive in the City of Woonsocket from the Department of Transportation to the City of Woonsocket. Ms. Bernardo stated that the State of Rhode Island will receive compensation in the amount of \$7,400 for the sale of the subject property. Chairman Flynn noted that the approval letter from the Chief Purchasing Officer dated May 19, 2008, evidencing the approval to sell the subject property was executed by former Director, Jerome F. Williams, in his capacity as Chief Purchasing Officer. Chairman Flynn suggested that going forward, it would be prudent for the various State-agencies to secure updated approval letters executed by the current Chief Purchasing Officer. Chairman Flynn indicated that he is aware that some transactions take longer to finalize than others; however, he does not believe it is wise to rely on obsolete correspondence and/or other documents relating to the sale of State-owned property. A motion was made to approve by Mr. Griffith and seconded by Mr. Woolley.**

**Passed Unanimously**

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

approval of and signatures on a Real Estate Option Agreement by and between the Department of Transportation and Warwick Hotel Associates, IV, LLC (a Carpionato Corporation) for the sale of 5.58 acres of land and a 33,000 square foot uneconomic contiguous parcel of land located at the intersection of Routes 5 and 113 in the City of Warwick. Mr. Carcieri indicated that due to myriad issues, he just submitted the finalized documents to Ms. Rhodes immediately prior to the meeting. Ms. Jacques clarified that there have been no changes to the documents since Mr. Woolley's last review of the same. Mr. Woolley indicated that he is satisfied as to the form of the document; however, he noted that the concept of the transaction is somewhat atypical. Mr. Carcieri stated that approximately eighteen (18) months ago, the Department appeared before the Committee seeking approval of and signatures on a Purchase and Sale Agreement for the outright sale of the subject property. Mr. Carcieri noted that subsequent to said presentation, a closing of the property was scheduled for June 2009. However, the closing did not take place as the applicant requested that the Department to enter into a Real Estate Option Agreement instead. Mr. Carcieri also noted a correction to the submission memorandum, which reads: "review and execution of a Purchase and Sale Agreement" as that document has been replaced with a Real Estate Option Agreement at the applicant's request. Mr. Carcieri indicated that he will defer to Ms. Jacques to explain the provisions of the agreement, but stated that the Real Estate Option Agreement gives the applicant the opportunity to purchase approximately 5.58 acres of land by exercising its option

within a five (5) year period of time. During that time, execution of the Agreement would be mutually agreed to by the parties, and the sale of the property would proceed for an amount not less than the purchase price established in 2009. Using a site map, Mr. Carcieri illustrated the exact location of the subject property and indicated that said property directly fronts the Crown Plaza Hotel at the intersection of Routes 5 & 113 in the City of Warwick. Mr. Kay asked how the value of the property was determined. Mr. Carcieri indicated that the property's value was established via a fee appraisal conducted in 2008. Mr. Carcieri indicated that according to an in-house appraisal, it has been determined on two separate occasions that the real estate market has not dictated any change in the value of the subject property since 2008. Ms. Jacques explained that the Department's decision to even contemplate entering into the Real Estate Option Agreement, considering there was already an executed Purchase and Sale Agreement to close on the property for a specific purchase price, was contingent on the condition that the Department would not accept a lesser amount any time during the term of the Real Estate Option Agreement. However, the Department can re-appraise the property upon an agreement between the parties selecting a single appraiser from the State's MPA list. Therefore, if the property's value has increased by the time that Warwick Hotel Associates, IV, LLC exercises its option, the State will receive the benefit of the increased value. Ms. Jacques indicated that the Department initially chose to dispose of the subject property via a sole source sale to Warwick Hotel Associates, IV, LLC based upon

the determination that there could be no access from either Route 113 or Route 5, rendering the property landlocked unless access was allowed through the abutter's property. Therefore, due to the subject property's lack of access, the Department recognized that this is not a property that can simply be taken off the market and subsequently offered via an open bid process and began to consider Warwick Hotel Associates, IV, LLC's request to utilize a Real Estate Option Agreement rather than the Purchase and Sale Agreement relative to the disposal of the subject property. Ms. Jacques indicated that language to this effect is included in the Real Estate Option Agreement and will be carried over into the deed, should Warwick Hotel Associates, IV, LLC exercise the option as a condition running with the land. Ms. Jacques indicated that said language was discussed and negotiated in great detail with Mr. Woolley when the parties entered into the Purchase and Sale Agreement stipulating that said language would not only appear in the Purchase and Sale Agreement as well as being incorporated in the deed as an attached exhibit. Ms. Jacques indicated that she used the exact same language that was used in the Purchase and Sale Agreement in the Real Estate Option Agreement. Ms. Jacques explained that any ability Warwick Hotel Associates, IV, LLC will have to conduct environmental due diligence to receive zoning relief or any other relief, can only occur once they exercise the option and submit a \$5,000 deposit to the Department. Once they have exercised the option, the execution of the Real Estate Option Agreement will essentially act as a purchase and sale agreement allowing Warwick

**Hotel Associates, IV, LLC to begin due diligence and investigate zoning relief. Ms. Jacques stated that the Real Estate Option Agreement also contains the condition that at the time the option is exercised, the City of Warwick will have to be offered the right to purchase the property as the purchase price may change. A 33,000 square foot corner parcel of land has recently been included in this transaction, which was not encompassed under the original Purchase and Sale Agreement. Ms. Jacques indicated that this corner parcel will round off the property; however, the said parcel comprises existing State drainage structures and the acquisition of said parcel will be subject to those drainage structures remaining intact. Mr. Dingley asked if Warwick Hotel Associates, IV, LLC is compensating the Department for the option. Ms. Jacques noted that Warwick Hotel Associates, IV, LLC has put down a deposit and will have to submit another deposit in the amount of \$5,000 when they exercise the option. Ms. Jacques reiterated that this parcel of land is essentially landlocked and under the conditions relative to access, imposed by the Department, the property is not transferable to any other party. Chairman Flynn asked what will happen as of May 5, 2013, if Warwick Hotel Associates, IV, LLC decides not to exercise the option. Ms. Jacques indicated that the State will retain ownership of the property unless the Department's Engineering Division makes a determination that for whatever reason, it will allow some sort of curb cut providing access from Route 5 or 113, or an by an agreement reached with the abutting property owner to grant access through their property, the subject property will remain a landlocked parcel. Mr. Woolley noted**

that the documents clearly state that if a curb cut was ever allowed, it would be at the sole discretion of the Department of Transportation. Ms. Jacques added that a curb cut would also require the approval of the State Properties Committee, which is not the Department's standard practice relative to physical alteration permits for curb cuts. Mr. Woolley indicated that if a curb cut became available it would change the entire complexion of the property as the property's value would increase significantly. Mr. Carcieri indicated that the value of the property and the compensation the State will receive is based upon an assumed curb cut. Therefore, the purchase price before the Committee reflects theoretical access to the property; thus, the State will receive the higher value. Mr. Woolley noted that as Warwick Hotel Associates, IV, LLC does have access through its own abutting property, it is not unreasonable for the State to request the higher value. A motion was made to approve by Mr. Griffith and seconded by Mr. Kay.

**Passed Unanimously**

**ITEM N – Department of Transportation – A request for approval of and signatures on an Assignment of License Agreement Rights and Interest by and between the Department of Transportation and Extell Providence, LLC, and U.S. National Association. After a brief discussion, a motion was made to table this item to a future State Properties Committee meeting by Mr. Griffith and seconded by Mr. Woolley.**

**Passed Unanimously**

**ITEM O – Narragansett Bay Commission – A request was made for**

authorization to acquire 17,592 square feet of land for permanent easements from the City of Pawtucket and 5,904 square feet of land for permanent easements from Storage Acquisition Pawtucket-Concord, L.L.C. by virtue of condemnation in conjunction with the Concord Street Project. Mr. Bucci stated that the Narragansett Bay Commission (the "NBC") was previously before the Committee in 2004, concerning the rehabilitation of the sewer in this area. Mr. Bucci explained that after the construction was completed, the NBC learned that the sewer had not been placed directly in the established easement area. Subsequently, the NBC returned to the State Properties Committee and obtained approval to acquire an increased easement area in order to accommodate the actual alignment of the sewer pipe. Mr. Bucci explained that the NBC sent its offers of just compensation to the land owners and to the City of Pawtucket; however, the City never responded to said offer. As a courtesy to the City, the NBC deferred proceeding with the actual filing of the condemnation. The City of Pawtucket recently agreed to the NBC's offer of just compensation and therefore, the NBC is seeking the State Properties Committee's approval to file the condemnation relative to the necessary Permanent Easement. Chairman Flynn asked Mr. Bucci to clarify what the NBC is compensating the City of Pawtucket for. Mr. Bucci directed the Committee's attention to the Permanent Easement document and indicated that the City is being compensated for Parcels 2PA, 5PA and 7PA. Mr. Bucci presented a site map for the Committee's review and illustrated the new alignment of the easement area for which the

**NBC is compensating the City of Pawtucket. Chairman Flynn asked if the easement area is within a public right of way. Mr. Bucci indicated that he believes a portion of the easement area is within a public right of way; however, privately owned property is involved as well. Mr. Brueckner clarified that the location of the permanent easement area is actually not a public right of way. Mr. Brueckner noted that it is odd, because it is a road, but it is not a public right of way. Chairman Flynn asked if the road is paved and used by the public. Mr. Brueckner stated that the road is paved and in fact serves a number of businesses. Mr. Brueckner stated that the road begins as a public right of way, but then becomes privately owned property. Mr. Bucci noted that the area has actually been assigned plat and lot numbers, which are normally not associated with public roads. A motion was made to approve by Mr. Griffith and seconded by Mr. Woolley.**

**Passed Unanimously**

**ITEM P – Department of Administration – A request was made for approval of and signatures on a Subordination, Non-Disturbance and Attornment Agreement by and between TD Bank, N.A. and Michael A. Grieco relating to property located at 1670 Hartford Avenue in the Town of Johnston. Mr. Mitchell explained that there is a Lease Agreement associated with the above-referenced property to allow the State to remain in the building for a period of one year or less depending on when the renovations to the new Information Technology (“DoIT”) facility located at 50 Service Street in the City of Warwick are completed. Mr. Mitchell stated that the Lease Agreement anticipates a Subordination, Non-Disturbance and Attornment**

**Agreement which is slightly different from the Lender's agreement as the format of these sorts of agreements often vary. Mr. Mitchell noted that as Mr. Woolley has not had much time to review said Agreement; he would be happy to table this item to the next meeting in order to provide Mr. Woolley adequate time to thoroughly review said Agreement. Mr. Woolley indicated that as the Agreement seems to be the standard form of Subordination, Non-Disturbance and Attornment Agreement, unless there are any objections, he would take a moment to review the document at this time so that its approval would not have to be held up for two weeks. After reviewing the document, Mr. Woolley indicated that he is satisfied with the same and moved to approve the Subordination, Non-Disturbance and Attornment Agreement. Said motion was seconded by Mr. Griffith. Said motion passed three (3) votes "Aye" to one (1) vote "Nay")**

**Three (3) Votes "Aye"**

**Mr. Woolley**

**Mr. Griffith**

**Chairman Flynn**

**One (1) Vote "Nay"**

**Mr. Kay**

**There being no further business to come before the State Properties Committee, the meeting was adjourned at 10:52 a.m. The motion to adjourn was made by Mr. Griffith and seconded by Mr. Woolley.**

**Passed Unanimously**

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**Holly H. Rhodes, Executive Secretary**