

STATE PROPERTIES COMMITTEE MEETING

TUESDAY, AUGUST 16, 2011

The meeting of the State Properties Committee was called to order at 10:03 a.m. by Chairman Ronald N. Renaud. Attendance of the members was taken by roll call and the following members made their presence known: Robert Griffith representing the Rhode Island Department of Administration; Richard Woolley representing the Rhode Island Department of Attorney General; Lawrence S. Eichler, Public Member; and Andrew Marcaccio representing the Rhode Island Office of the General Treasurer, Ex-Officio Member. Others in attendance were Anthony Robinson from the State of Rhode Island General Assembly; Director Richard Licht, Fred Stolle, Michael D. Mitchell, Cheryl Asquino, Kevin Carvalho and Deborah White from the Rhode Island Department of Administration; Colleen Kerr, Gil Bricault, Richard Kalunian, Paul Carcieri and Annette Jacques from the Rhode Island Department of Transportation; Mary E. Kay, Michelle Sheehan and Terri Bisson from the Rhode Island Department of Environmental Management; Keith W. Stokes and Paul Hardin from the Rhode Island Economic Development Corporation; James H. Hahn from the law firm of Partridge, Snow & Hahn; and Charles Breagy from Downtown 5K, Inc.

Chairman Renaud stated for the record that the State Properties Committee did have a quorum present.

Chairman Renaud stated that the State Properties Committee would be hearing the Executive Session portion of the meeting prior to the

open session in order to accommodate the schedules of several individuals presenting Item E1. Rather than displace those individuals who were present relative to items being presented in open session, the Committee moved to a separate conference room to conduct the Executive Session portion of the meeting..

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

A motion to enter into Executive Session was made by Mr. Griffith and seconded

by Mr. Woolley.

A roll call vote was taken and the votes were as follows: Chairman Renaud voted "Aye," Mr. Griffith voted "Aye," Mr. Eichler voted "Aye" and Mr. Woolley voted "Aye."

After discussions relating to both Executive Session items concluded, a motion to return to the open session portion of the State Properties Committee meeting was made by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

The State Properties Committee returned to Conference Room C and

the open session of the meeting at 10:58 a.m.

A motion to seal the minutes of the Executive Session was made by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

Further, the Committee voted relative to the following items presented in Executive Session:

ITEM E1 – Rhode Island Economic Development Corporation – A request was made for final approval of and signatures on a Letter Agreement, among the Rhode Island Economic Corporation, the Department of Administration, the Department of Environmental Management and America’s Cup Event Authority, LLC (the “ACEA”) to allow the ACEA to utilize certain portions of State-owned land situated at Fort Adams State Park in the City of Newport from June 9, 2012, through and including, July 5, 2012. After a detailed discussion in Executive Session, Mr. Eichler moved to approve the Letter of Agreement, subject to the State Properties Committee’s receipt of the following items, including but not limited to, Certificate of Disclosure, Certificate of Authority, Certificate of Good Standing, Certificate of Insurance and any and all other documents appropriate and required relative to said request. Said motion to approve was seconded by Mr. Woolley.

A roll call vote was taken relative to Item E1 and the votes were as follows: Chairman Renaud voted “Aye,” Mr. Griffith voted “Aye,” Mr. Eichler voted “Aye” and Mr. Woolley voted “Aye.”

ITEM E2 – Department of Transportation – A request was made for

approval to acquire easements over property located on Main Street at Manchester Street in the Town of West Warwick in conjunction with the Statewide Drainage Improvement Project by virtue of Condemnation Plat 2752. After discussing Item E2 at length in Executive Session, a motion to approve was made by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

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, acting through the Division of Facilities Management, and Downtown 5K, Inc. ("Downtown") to allow said organization to utilize the State House Grounds and Station Park for the annual CVS Downtown 5K Roadrace to be held on Sunday, September 18, 2011. Ms. White stated that this is the tenth (10th) year Downtown 5K, Inc. has utilized the State House Grounds for this event. Ms. White indicated that there have been no problems associated with this event. Mr. Breagy indicated that this event was first held in 1990, and over the years, Downtown has contributed more than

\$1 million dollars to local charities. Mr. Breagy also indicated that the Downtown 5K Roadrace has become an extremely successful event and both participation and attendance have steadily increased throughout the years. Mr. Woolley noted that there appeared to be a discrepancy regarding the amount of insurance coverage required. Mr. Woolley explained that the License Agreement states that a \$1 million dollar insurance policy is required; however, the attached

letter dated August 9, 2011, indicates that a \$5 million dollar policy is required. Ms. White explained that because Downtown wishes to utilize Station Park, Amtrak has required Downtown to secure a \$5 million dollar insurance policy. Mr. Griffith asked if the insurance policy includes product liability coverage as well as general liability insurance. Ms. White indicated that Downtown has applied for product liability insurance coverage; however, they have not yet received the Certificate of Insurance evidencing that both general and product liability insurance coverage have been secured. A motion to approve was made by Mr. Woolley, subject to the State Properties Committee receiving a Certificate of Insurance, in advance of September 16, 2011, evidencing that both general and product liability insurance coverage have been secured for this event. Said motion was seconded by Mr. Griffith.

Passed Unanimously

ITEM B – Department of Environmental Management – A request was made for approval of and signatures on Warranty Deed, by and between Herman Bates and the Department of Environmental Management for the purchase of thirty-seven (37) acres of land located along Durfee Hill Road in the Town of Gloucester. Ms. Sheehan stated that the State Properties Committee approved and executed the Purchase and Sale Contract for the subject property on March 29, 2011. The Department is now seeking approval of and signatures on the Warranty Deed for the conveyance of said property.

Ms. Sheehan noted that both The Nature Conservancy and the Department's Open Space Bond Fund provided the funding for this

acquisition. 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 approval of and signatures on the Termination of Indenture of Lease, by and between the Department of Environmental Management and PITA, LLC relative to Lot 221 located at 316 Great Island Road within the Port of Galilee in the Town of Narragansett. Ms. Bisson explained that last year Interstate Navigation Company (“Interstate”) approached the Department with a proposal to take-over the Land Lease for the above-referenced Lot 221. Interstate informed the Department that they wish to relocate their corporate offices, which are currently located in Connecticut, to Lot 221 within the Port of Galilee. Ms. Bisson indicated that Interstate’s proposal includes razing the existing building and constructing a larger more attractive building to house their corporate offices. Unfortunately, the existing structure has fallen into disrepair over the past several years due to the lack of proper maintenance. Ms. Bisson noted that over the years, the existing structure has housed several restaurants including both the Sunflower Café and Angie’s Family Restaurant. The current owner has attempted to operate several restaurants at this location; however, due to the nature of the Port of Galilee and the lot’s lack of adequate available vehicle parking spaces, said ventures have been unsuccessful. Ms. Bisson stated that additionally, the current owner’s attempts to sell the building have been fruitless. Ms. Bisson

explained that Interstate’s proposal relative to Lot 221 has been approved by the Port of Galilee Advisory Committee. The subject property is zoned “Galilee Fishing”; however, as myriad restaurants have been operated on said Lot, its use has always been considered and accepted as non-conforming. Ms. Bisson stated that on August 1, 2011, the Narragansett Town Council approved a zoning amendment to change the property’s zoning designation from “Galilee Fishing” to “Galilee Ferry.” Ms. Bisson noted that as a result of said zoning amendment, Interstate’s proposed use of the property fully conforms to its zoning designation Ms. Bisson indicated that pursuant to Mr. Woolley’s request, she researched the current status of PITA, INC.’s rental account and learned that no rental payments are due and owing to the Department and in fact the rent is paid through September 2011. For the reasons stated above, Ms. Bisson respectfully requested that the Committee allow the Department to terminate the existing Indenture of Lease with PITA, INC. A motion was made to approve by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

ITEM D – Department of Environmental Management – A request was made for approval of and signatures on an Amendment to Indenture of Lease dated March 1, 2010, by and between the Department of Environmental Management and Interstate Navigation Company (“Interstate”) to allow Interstate to lease Lot 221, located at 316 Great Island Road within the Port of Galilee in the Town of Narragansett. Ms. Bisson presented a site map for the Committee’s review and explained that Lot 221 abuts property currently leased by Interstate.

Ms. Bisson reiterated that Interstate has approached the Department with a proposal to raze the existing structure and construct a two-story building to house its corporate offices. The new structure will provide office space for as many as ten (10) year-round employees. Ms. Bisson explained that prior to the commencement of any demolition and/or construction on the subject property, Interstate must submit detailed plans to the Department for approval. Said plans will be carefully reviewed and, if necessary, revised in accordance with the Department's specifications. Ms. Bisson noted that if approved, Interstate's proposal will result in rental payments in the amount of \$5,245.80 per year, in addition to the \$40,000.00, per year, presently being received by Interstate for existing land leases within the Port of Galilee. Ms. Bisson stated that Interstate is also current in all rental payments relative to all existing land leases. Ms. Bisson indicated that the Department will require Interstate to secure a substantial amount of liability insurance coverage relative to its use of Lot 221. Mr. Woolley asked if Interstate's proposal will generate any new jobs for Rhode Island, and if so, how many. Ms. Bisson noted that the Galilee Advisory Committee asked that very same question; Interstate indicated that three (3) individuals presently employ by Interstate will be relocated to the Port of Galilee; however, it is estimated that this proposal will generate up to seven (7) additional jobs for the State of Rhode Island. Mr. Eichler asked the lease fee was determined as he believes that a rental rate of \$5,245.80, per year, seems relatively inexpensive for land located within the Port of Galilee. Ms. Bisson explained that the Port of

Galilee is zoned by use and section. In 2008, at the insistence of the State Properties Committee, the Department conducted appraisals of all land/lots located within the Port of Galilee. The results of said appraisals were submitted, reviewed and approved by the State Properties Committee. Ms. Bisson explained that the subject property is considered "primary rural; without bulkhead access." The appraisal valued said property at .70 cents per square foot. Ms. Bisson reminded the Committee that the appraisal only takes into consideration the value of the land; the value of the structure/building is not considered. Ms. Bisson also indicated that the Department is currently in the process of updating the 2008 appraisals at this time. Mr. Eichler asked if the Department anticipates that the current property values will increase with the completion of the updated appraisals. Ms. Bisson stated that the Department actually anticipates that the value of the property will decrease. Mr. Eichler asked the length of the leases term. Ms. Bisson indicated that the existing Indenture of Lease was approved in 2010 for a term of five (5) years and includes seven (7) five (5) year renewal options. Mr. Eichler asked if the rent increases with each of the renewal options. Mr. Bisson noted that the rent will be adjusted in accordance with the updated appraisals, which are conducted every three (3) years. Chairman Renaud agreed with Mr. Eichler that the rent seems very low. Mr. Griffith's explained that the intent of these leases is to assist and support the commercial fishing industry in the Port of Galilee. Ms. Bisson noted that the property was condemned in the 1940s for the specific purpose of assisting and supporting the commercial

fishing industry and reasonable rental fees are purposely maintained for this reason. Ms. Bisson reminded the Committee that the operation of these businesses is not only of a seasonal nature, but also very much weather driven. The season begins during the Memorial Day weekend and ends on Labor Day. Chairman Renaud asked what criterion the Department considers when selecting tenants to occupy property in the Port of Galilee. Ms. Bisson indicated that the Department has developed and implemented a specific process for tenant selection. All potential tenants are first required to present their proposals to the Port of Galilee Advisory Committee for consideration. Said Committee is made up of representatives from the commercial fishing industry, the Department of Environmental Management and the Town of Narragansett. Ms. Bisson noted that there is a special district zoning plan in place for the Port of Galilee. Said plan identifies the specific types of businesses which are allowed to operate within the Port. Ms. Bisson explained that some portions of the Port are reserved solely for commercial fishing businesses. Others include parking in support of the fishing industry and tenants are selected based upon how well their proposals conform to this special zoning plan. Mr. Eichler commented that under the terms of this Indenture of Lease, the Department could be locked into this arrangement for next forty (40) years; he questioned whether these types of agreements are in the State's best interest. Mr. Woolley explained that as these Indentures of Lease are exclusively for the use of land, the tenants need long-term leases in order to obtain the financing necessary to build

the structures and cover initial operating costs. Absent these long-term agreements, lending institutions would not even consider providing financing for these businesses. A motion was made to approve by Mr. Woolley, subject to the submission of a revised Certificate of Insurance naming the State of Rhode Island as an additional insured. Said motion was seconded by Mr. Griffith.

Passed Unanimously

ITEM E – Department of Transportation – A request was made for approval to initiate negotiations with property owner, Sandra Rossi, for the acquisition of an easement area comprising approximately 3,600 square feet via a Quitclaim Deed.

Mr. Bricault explained that this easement is being sought in connection with the Replacement of Natick Bridge No. 383 Project for which two (2) single family dwellings were acquired by the Department. At the time of the acquisition, the Department identified an easement on one of the properties. Mr. Bricault indicated that the Department excluded said easement from the taking documents; however, as the project's design progressed, it was determined that the placement of the bridge abutments, guardrails and detention basin would make the subject easement inaccessible unless it was either relocated or the Department obtained a release of said easement. The Department decided to seek a release of the easement for the appraised value of \$2,675.00 via a Quitclaim Deed. Mr. Bricault stated that the property owner does in fact have a second means of access to the easement area through a parcel she owns located nearby on East Avenue. Ms. Kerr explained that the Department

acquired the two (2) properties during the early stages of the project's design, because the State was experiencing very serious flooding conditions in certain area at that time. In good faith, the Department appeared before the State Properties Committee on the very day of the floods and obtained approval for said acquisitions. Subsequently, the Department proceeded with the acquisitions, although the exact placement of the bridge abutments, guardrails and detention basin had not yet been identified. Ms. Kerr indicated that the project's final design did in fact render said easement inaccessible. Therefore, the Department respectfully requests authorization to enter into negotiations with the property owner for the release of easement rights. A motion was made to approve by Mr. Woolley and seconded by Mr. Griffith.

Passed Unanimously

ITEM F – Department of Transportation – A request was made for approval of and signatures on four (4) Temporary Use Agreements in connection with the ADA Improvements to Metacom Avenue (Route 136) in the Town of Warren. Ms. Kerr explained that the owner of the property designated as Assessor's Plat 15A; Block 99 is deceased and the Department has been unable to locate the individual authorized to sign on behalf of Erlino Avila's Estate; therefore, the Department is excluding that particular Temporary Use Agreement from its presentation today. Ms. Kerr indicated that these Agreements are in conjunction with the ADA Improvement Project to Metacom Avenue in the Town of Warren. The purpose of the Agreements are to gain access the properties in order to repair

adjacent sidewalks, curbing and for the removal of trees in compliance with ADA regulations. The remaining three (3) Temporary Use Agreements have been duly executed by the parties and the Department is here today seeking approval and execution of said Agreements by the State Properties Committee. Mr. Woolley indicated that the inclusion of the 9-31-1 et seq language in Paragraph 3 of the Agreements is unfamiliar to him and asked the Department to clarify why said language has been added. Ms. Jacques explained that the Department is attempting to standardize the indemnification clause for all use agreements. Ms. Jacques noted that in the past, either the property owners or their legal representatives have expressed concern that the indemnification clause indemnifies and holds the State harmless against any actions or claims which may arise from any injuries and/or damages received by person(s) or property resulting from the rights granted by the property owner to the State; however, property owners often request that language be added to indemnify and hold them harmless against such actions or claims as well. Therefore, the Department now includes language which protects the property owner as well. A motion to approve was made by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

ITEM G – Department of Transportation – A request was made for approval of and signatures on a Temporary Use Agreement, by and between Preserve Rhode Island and the Department of Transportation to allow the Department to access property located at 432 Massasoit Avenue in the City of East Providence to replace a fence and gates as

part of the Rehabilitation of the Ten Mile River Bridges Nos. 478 and 479 and the 1R Improvement Project on North Broadway. Ms. Kerr explained that the Department determined that an additional easement was necessary for purposes of constructing a sidewalk in conjunction with this project. Ms. Kerr noted that in exchange for the granting of the easement, the Department has agreed to install a new fence and gates. Ms. Kerr indicated that the installation of the fence and gates would have been a structural disposition in the event a standard temporary easement agreement had been required. Therefore, entering into a Temporary Use Agreement is beneficial to both the property owner and the State. The property owner has been notified and has executed said Agreement. The Department is before the Committee today seeking its approval and execution of said Agreement. A motion to approve was made by Mr. Woolley and seconded by Mr. Griffith.

Passed Unanimously

ITEM H – Department of Transportation – A request was made for approval of and signatures on a Corrective Quit Claim Deed, by and between the Department of Transportation and the Town of Smithfield conveying 3.82 acres of land located at the intersection of Route 7 and Route 116 in the Town of Smithfield (referred to as the Salt Barn Parcel) designated as State Highway Plat 365A. Mr. Carcieri explained that in June of 2010, the State Properties Committee approved and executed a Quit Claim Deed (the “Deed”) for the conveyance of the above-referenced property to the Town of Smithfield. Subsequent the Committee’s execution of said Deed, the

parties closed on the property and the purchase price of \$986,560.00 was received by the Department. The Deed was then filed with the Town of Smithfield. Mr. Carcieri stated that thereafter, an inconsistency was discovered relative to the Deed and the exhibit, which depicted the subject property. More specifically, Mr. Carcieri explained that the Deed referred to the subject property as "Parcel A"; however, the aforementioned exhibit identified the property as "Parcel 1." Additionally, Mr. Carcieri stated that the Deed's meets and bounds description was originally prepared on legal size paper, albeit upon the recording of the Deed, said description had been reduced to letter size paper. This reduction in the paper's size resulted in the exclusion of the last paragraph of the meets and bounds description. Mr. Carcieri stated that these unfortunate deficiencies necessitated the preparation of the Corrective Quit Claim Deed before the State Properties Committee today. Mr. Carcieri respectfully requested the Committee's approval and execution of said Corrective Quit Claim Deed. A motion was made to approve by Mr. Woolley and seconded by Mr. Griffith.

Passed Unanimously

There being no further business to come before the State Properties Committee, the meeting was adjourned at approximately 11:45 a.m. The motion to adjourn was made by Mr. Griffith and seconded by Mr. Woolley.

Passed Unanimously

Holly H. Rhodes, Executive Secretary