

STATE PROPERTIES COMMITTEE MEETING

TUESDAY, MARCH 27, 2012

The meeting of the State Properties Committee was called to order at 10:07 a.m. by Chairman Ronald N. Renaud. Attendance of the members was taken by roll call and the following members made their presence known: John P. Ryan representing the Rhode Island Department of Administration in the absence of Robert K. Griffith; 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; Kelly Carpenter from the Rhode Island Senate Fiscal Office; Sue Urso from the Rhode Island Department of Attorney General; Annette Jacques, William McCarthy, Richard Kalunian, Colleen Kerr and Eva Bernardo from the Rhode Island Department of Transportation; John Faltus, Michelle Sheehan, Joseph Dias, James McGinn and Mary E. Kay from the Rhode Island Department of Environmental Management; Benjamin Cople from the Rhode Island Department of Labor and Training; Tina Benros from the Rhode Island Division of Motor Vehicles on behalf of the Rhode Island Department of Revenue; Anthony J. Bucci, Jr. and Katheryn Kelly from the Narragansett Bay Commission.

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

A motion was made to approve the minutes of the State Properties Committee meeting held on March 13, 2012, by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

ITEM A – Narragansett Bay Commission – A request was made for authorization to acquire Assessor’s Plat 56; Lot 238 (Terminal and Service Roads) located in the City of Providence in fee simple. Mr. Bucci explained that the Narragansett Bay Commission (“NBC”) is before the Committee seeking authorization to acquire the Providence Transfer Station from the City of Providence. Mr. Bucci indicated that the RIDEM has issued permits to NBC, which impose new and significantly more stringent standards for the removal of nitrogen from effluent. Mr. Bucci explained that the NBC needs to acquire additional property to erect more treatment facilities in order to meet these new standards. Mr. Bucci indicated that since the tragic events of September 11, 2001, the NBC has been trying to both consolidate its campus and make it more secure . For the above reasons, Mr. Bucci respectfully requested the Committee’s approval to proceed with these acquisitions by condemnation. A motion to approve was made by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

ITEM B – 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 the Town of Westerly for the presentation of two (2) Community Festivals to be

held at Misquamicut State Beach on May 11-13, 2012, and September 14-16, 2012. Mr. Faltus stated that this is the second year the Department has received a request from the Town of Westerly to host these community festivals. Mr. Faltus indicated that included in the submission package are two letters; one from Steven T. Hartford, Town Manager of the Town of Westerly and also from Starkweather & Shepley Insurance Brokerage, Inc. assuring the Department that said insurance brokerage firm will again provide the required insurance coverage for both festivals; however, the Town is waiting until the festivals are approved by the State Properties Committee before securing said insurance coverage. Therefore, Mr. Faltus respectfully requested that the State Properties Committee consider granting its approval subject to the Town of Westerly providing the required Certificate of Insurance as it did last year. Chairman Renaud asked who polices these events. Mr. Faltus indicated that the security for these events is a joint effort between the Department and the Town. The License Agreement contains a condition which requires DEM Environmental Police Officers to be on the State property during both the day and nighttime hours of the festivals and the Town is required to reimburse the State for the cost of said EPO(s). Mr. Faltus noted that the Town also reimburses the Division of Parks and Recreation for any over-time hours that its maintenance staff may incur in assisting with the set up of the beach and/or the parking lot for these festivals. Mr. Ryan asked if alcoholic beverages will be served during these events. Mr. Faltus indicated that no alcoholic beverages will be sold/served or allowed on State-owned property; however, the Town

allows the owner of a local establishment to erect a tent to sell alcoholic beverages. Mr. Faltus reiterated that no alcoholic beverages will be sold/served or allowed on State-owned property. A motion to approve was made by Mr. Woolley subject to the Applicant's submission of the appropriate Certificate of Insurance. Said motion was seconded by Mr. Ryan.

Passed Unanimously

ITEM C – Department of Environmental Management – A request was made for

approval of and signatures on a Purchase and Sale Contract for the purchase of Development Rights over 17 acres of land located along William Sisson Road in the Town of Little Compton; known as the St. Pierre Farm Property. Ms. Sheehan stated that both the Agricultural Land Preservation Commission and the Little Compton Agricultural Conservancy Trust will be contributing \$155,000.00 toward the acquisition of said Development Rights, with the majority of the funding being provided by the NRCS's Farm and Ranchland Protection Program's contribution in the amount of \$310,000.00. Ms. Sheehan indicated that this is one of many farms located in the Town of Little Compton and the Little Compton Agricultural Conservancy Trust has made a substantial effort to protect many of them and this transaction will assist them in that effort. Chairman Renaud asked how long ago the appraisal of the property had been conducted. Ms. Sheehan state that the appraisal was completed in January of 2012.

A motion was made to approve by Mr. Woolley and seconded by Mr. Ryan. Said motion passed three (3) votes “Aye” with one Abstention.

Three (3) Votes “Aye”

Chairman Renaud

Mr. Woolley

Mr. Ryan

One Abstention

Mr. Eichler

ITEM D – Department of Environmental Management – A request was made for for approval of and signatures on a Warranty Deed for the purchase of 121 acres of land located along Lake Road in the Town of Tiverton; known as the Tiverton Rod & Gun Property. Ms. Sheehan stated that the subject property is owned by the Tiverton Rod and Gun Club. The Club is working to consolidate its operation into other existing properties. The funding for the acquisition of this property will come from a combination of State Open Space bond funds, The Nature Conservancy, the Champlin Foundation and the U.S. Fish and Wildlife Service. Ms. Sheehan explained that the subject property is part of the “Great Swamp” which constitutes the largest natural aquifer in this portion of the State and is part of the City of Newport’s drinking water watershed. Chairman Renaud asked whether this

property will be open to the public. Ms. Sheehan stated that there will be full public access to this property and hunting will be allowed and managed by the Department. Mr. Eichler noted that the Purchase and Sale Contract was for the acquisition of 142 acres of land and asked if the encroachment previously discussed is the cause of the reduction in the acreage. Ms. Sheehan stated that is correct. Mr. Ryan questioned how the property can be utilized by the public for both hiking and hunting. Ms. Sheehan stated that hiking and hunting are allowed many of DEM's properties; the "hunting season" is clearly posted at and around these properties. A motion was made to approve by Mr. Woolley and seconded by Mr. Ryan. Said motion passed three (3) votes "Aye" with one abstention.

Three (3) Votes "Aye"

Chairman Renaud

Mr. Ryan

Mr. Woolley

One (1) Abstention

Mr. Eichler

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

approval of and signatures on a Conservation Easement over 72 acres of land located along Moorehouse Road in the Town of

Westerly; known as the Camp Wahaneeta Property. Ms. Sheehan explained that The Westerly Land Trust will hold fee ownership to the subject property and the Department will be granted a Conservation Easement over the same. The acquisition of the Conservation Easement is funded through a Local Open Space Grant awarded to The Westerly Land Trust in the amount of \$127,000.00. Additionally, the State's Open Space Bond will contribute \$60,000.00 toward the purchase of the fee interest. Ms. Sheehan noted that the subject property directly abuts the Department's Woody Hill Management Area and although The Westerly Land Trust will own and manage the land, it will be open to the public for passive recreation as well as hunting. Mr. Sheehan indicated that there is a historic building situated on the property which the Trust will retain and use for educational programming. Chairman Renaud questioned why there is such a difference between the assessed value of \$635,500.00 and the appraised value of \$255,000.00. Ms. Sheehan stated that she is not certain, but believes the assessor probably assumed the property had far more access than it actually does. Ms. Sheehan noted that as the property does not have direct road frontage, its development potential is rather minimal. A motion was made to approve by Mr. Ryan and seconded by Mr. Woolley. Said motion passed three (3) votes "Aye" with one (1) abstention.

Three (3) Votes "Aye"

Chairman Renaud

Mr. Ryan

Mr. Woolley

One (1) Abstention

Mr. Eichler

ITEM F – Department of Environmental Management – A request was made for approval of and signatures on an Easement Agreement, by and between the Department of Environmental Management and The Narragansett Electric Company (“NEC”) to allow NEC access over land located within Fort Adams State Park. Mr. Dias explained that this Easement Agreement is part of an upgrade of the utility services at Fort Adams State Park for the America’s Cup World Series and the future sailing center. Mr. Dias explained that National Grid/Narragansett Electric needs this perpetual easement to install, construct, reconstruct, repair, replace, add to, maintain and operate an underground distribution system for the distribution of electric current to include manholes, switching cabinets and pad-mounted transformers together with all necessary wires, cables conduits and the like. Mr. Dias stated that the Department is awaiting the submission of NEC’s certificate of insurance, which they expect to receive by the end of the business day. Mr. Dias noted that this is the standard form of agreement utilized by the Department when granting easements to NEC. Mr. Dias noted that the utility upgrade project should commence in two (2) weeks. Mr. Ryan noted that due to a conflict of interest, he will have to abstain from voting relative to this item. A motion to approve was made by Mr. Woolley and seconded

by Mr. Eichler. Said motion passed three (3) votes “Aye” with one (1) abstention.

Three (3) Votes “Aye”

Chairman Renaud

Mr. Eichler

Mr. Woolley

One (1) Abstention

Mr. Ryan

Prior to the introduction of Item G, Ms. Kay stated that Mr. McGinn, an engineer with the Department, will provide the Committee with a brief overview of the Blackstone River Fish Passage Restoration Project, which will encompass all of the easements requested in Items G through O. Therefore, Ms. Kay stated that as all the easement agreements are standard, similar and part of the same project, perhaps, in the interest of time, a single motion could be made to approve all the easement at once if the Committee has no objection and is so inclined. Mr. McGinn stated that this project has been in the works for the past two (2) decades and noted that save the purchase of a few heated suits and some minor modification to the plans, the Department is ready to proceed and hopes to issue a Request for Proposals in the next month or so. Mr. McGinn noted that the information package provided to the Committee includes a map illustrating the location of the easement areas. Mr. McGinn explained

that the purpose of this project is to assist anadromous fish, which are fish that either live in freshwater and spawn in salt or live in saltwater and spawn in freshwater, to pass through the dams situated in the Lower Blackstone River. The lower four (4) dams are the target of this project, which include: Main Street Dam, Slater Mill Dam, Elizabeth Webbing Dam and Valley Falls Dam and will eventually arrive at the habitat area of Valley Falls/Lonsdale Marsh area. The first part of the project encompasses the Main Street Dam and the Slater Mill Dam, which is funded by Natural Resources Conservation Service through its Wildlife Habitat Census Program together with some DEM bond funds. The Main Street Dam is owned by Pawtucket Hydropower, LLC, which also operates a hydropower electrical generation facility on the dam. Mr. McGinn stated that the hydropower electrical generation facility building is owned by The Narragansett Electric Company. The Slater Mill Dam is owned by both the Old Slater Mill Association and The Narragansett Electric Company. The City of Pawtucket owns a boat ramp and a small park down river, which the Department will need to utilize as a staging area. The boat ramp will be used to stage barges. The Old Slater Mill Association owns property on the opposite side of the river from the Slater's Mill Village that will be utilized for the project's main staging area where construction trailers will be located. Mr. McGinn stated that the following Items G – O designate the property owner, the type of easement, whether perpetual or temporary and the dam affected by each of the necessary easements. Chairman Renaud expressed concern relative to the State's exposure relative to this project.

Chairman Renaud asked how much liability the State would assume should something go wrong once the work completed. Mr. McGinn stated that Rhode Island General Laws § 20-12-4 specifically states that the Department of Environmental Management is authorized and directed to install fish ladders on dams in rivers and streams in the State of Rhode Island and that the owners of said dams are not liable for said structures. Mr. McGinn explained that as the Main Street Dam is a hydropower dam, the dam's safety falls under the jurisdiction of the Federal Energy Regulatory Commission ("FERC"). Mr. McGinn stated that FERC has a far more stringent dam safety program than even DEM has for non-FREC dams. The dam at Slater's Mill is obviously a very historic dam. Said dam was rebuilt back in 1995 and therefore is in relatively good condition. Mr. Woolley noted that the fish ladders are situated on the side of the dams. Mr. McGinn stated that is correct; that the fish ladders are actually slots cut into the dam to allow water that would normally be impounded to flow through the dams. Gates or drop boards are also installed in the event the fish ladder needs to be closed off. Mr. McGinn stated that there are also low level notches made in the dam to let the fish out in September when the river levels are lower than normal. Mr. McGinn indicated that the actual modification to the dam is very minimal. Mr. Woolley asked if the activity of the fish is seasonal. Mr. McGinn indicated that the activity is seasonal; however, the fish engage in different activities throughout the year. For example, at this time of year, the anadromous fish are returning from the sea to spawn in fresh water. The adult fish immediately go back out to sea and the

juveniles remain in the fresh water over the summer and return to the sea in the fall. Mr. Woolley asked if the fish passage is left open throughout the year. Mr. McGinn indicated that the Department's policy is to leave the fishway open year-round. Mr. Woolley stated that he spoke to Richard Bianculli last week and indicated that he is satisfied as to the form of the Easement Agreement. Chairman Renaud indicated that although he still has some concerns about the State's liability relative to this project, given the Department's apparent confidence and assurances that a tremendous amount of time and effort has been expended on completing thorough due diligence relative to this project, he has no objections. Ms. Kay reiterated that experienced engineers and other professionals have been working on this project for over twenty years and the Department is very pleased that the time has arrived to commence construction. Ms. Kay stated that the Department is under a statutory mandate to construct these fish ladders and that there is federal funding available to assist the Department with said project. Mr. Eichler asked if there has been an overall site assessment completed by a qualified engineer to ensure that the work being contemplated will not affect the structural integrity of the existing dams. Both Ms. Kay and Mr. McGinn stated that thorough site assessments and engineering studies have absolutely been completed. Mr. Eichler asked if those engineering reports mention the potential for damage to the dams after the project is completed. Mr. McGinn explained that the dams will be modified and the Department is confident that said structural modifications will not compromise the structural integrity

of the dams. As Mr. Ryan previously stated, due to a conflict of interest, he will be unable to participate in the voting of any items which involve The Narragansett Electric Company; therefore, a motion was made to approve Items G, H, I, J, K, by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

A second motion was made to approve Items L, M, N and O, by Mr. Woolley and seconded by Mr. Eichler. The motion passed with three (3) votes “Aye” and one (1) abstention.

Three (3) Votes “Aye”

Chairman Renaud

Mr. Eichler

Mr. Woolley

One (1) Abstention

Mr. Ryan

Below is a list of the nine (9) easements requests:

ITEMS G – Department of Environmental Management – A request was made for approval of and signatures on a Temporary Easement Agreement, by and between the City of Pawtucket and the Department of Environmental Management for access to construct a fishway at the Main Street and Slater Mill Dams in the City of Pawtucket.

ITEM H – Department of Environmental Management – A request was

made for

approval of and signatures on a Perpetual Easement Agreement, by and between the Old Slater Mill Association and the Department of Environmental Management for access to construct a fishway at the Slater Mill Dam in the City of Pawtucket; and

ITEM I – Department of Environmental Management – A request was made for

approval of and signatures on a Temporary Easement Agreement, by and between the Old Slater Mill Association and the Department of Environmental Management for access to construct a fishway at the Slater Mill Dam in the City of Pawtucket; and

ITEM J – Department of Environmental Management – A request was made for

approval of and signatures on a Perpetual Easement Agreement, by and between the Pawtucket Hydropower, LLC and the Department of Environmental Management for access to construct a fishway at the Main Street Dam in the City of Pawtucket; and

ITEM K – Department of Environmental Management – A request was made for

approval of and signatures on a Temporary Site Access Agreement , by and between the Pawtucket Hydropower, LLC and the Department of Environmental Management for access to construct a fishway at the Main Street Dam in the City of Pawtucket.

ITEM L – Department of Environmental Management – A request was made for

approval of and signatures on a Conditional Perpetual Easement, by

and between The Narragansett Electric Company (“NEC”) and the Department of Environmental Management for access to construct a fishway at the Main Street Dam in the City of Pawtucket; and

ITEM M – Department of Environmental Management – A request was made for

approval of and signatures on a Perpetual Easement Agreement, by and between The Narragansett Electric Company and the Department of Environmental Management for access to construct a fishway at the Slater Mill Dam in the City of Pawtucket; and

ITEM N – Department of Environmental Management – A request was made for

approval of and signatures on a Temporary Easement Agreement, by and between The Narragansett Electric Company and the Department of Environmental Management for access to construct a fishway at the Main Street Dam in the City of Pawtucket; and

ITEM O – Department of Environmental Management – A request was made for

approval of and signatures on a Temporary Easement Agreement, by and between The Narragansett Electric Company and the Department of Environmental Management for access to construct a fishway at the Slater Mill Dam in the City of Pawtucket.

ITEM P – Department of Transportation – A request was made for approval of and signatures on a Permanent Loop Detector Easement Agreement, by and between JFBF Realty Partners, LLC and the Department of Transportation in conjunction with improvements to West Main Road (Route 114) in the Town of Portsmouth. Ms. Kerr

explained that the Permanent Loop Detector Easement Agreement was previously executed by the appropriate representative of JFBF Realty Partners, LLC as well as by Director Lewis. This Agreement is will allow the State to gain access to privately owned property for the installation and maintenance of a loop detector. A motion was made to approve by Mr. Ryan and seconded by Mr. Woolley.

Passed Unanimously

ITEM Q – Department of Transportation – A request was made for approval of and signatures on three (3) Temporary Use Agreements in conjunction with the improvements to Putnam Pike (Route 44) in the Town of Glocester. Ms. Kerr stated that the Department was previously before the Committee on February 28, 2012, with a total of 21 Temporary Use Agreement which are necessary to complete the aforementioned improvements. Ms. Kerr indicated that since that time, the Department has obtained signatures on the final three (3) agreements; therefore, the Department is seeking the Committee’s approval and execution of these additional Agreements. A motion was made to approve all three (3) Temporary Use Agreements, as presented, by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

ITEM R – Department of Transportation – A request was made for approval of and signatures on a Temporary Construction and Perpetual Easements, by and between the Department of Transportation and the Narragansett Bay Commission for the construction of a storm sewer drain. Ms. Bernardo explained that the subject Easements will allow the Narragansett Bay Commission to

gain access to property located on Smithfield Avenue between Collyer Street and Concord Street in the City of Providence. Ms. Bernardo indicated that the easement area consists of approximately 19,536 square feet. The Narragansett Bay Commission will pay monetary compensation in the amount of \$779.00 for the permanent easement and \$2,452.45 for the temporary construction easement. Ms. Kelly explained that the subject easements are needed for a project which is part of the Commission's CSO Abatement Program. Ms. Kelly explained that catch basins within this part of the City of Providence have always been tied into the sewers. As the Commission has constructed a new storm sewer system, said catch basins will need to be tied into this new system. A motion was made to approve by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

ITEM S – Department of Revenue/Division of Motor Vehicles – A request was made for approval of a three (3) year Lease Agreement, by and between the Town of Westerly and the Department of Revenue/Division of Motor Vehicles for the premises located at 45 Broad Street in the Town of Westerly. Ms. Benros explained that before the Committee is a three-year Lease Agreement with the Town of Westerly for space suitable to operate the Division of Motor Vehicles' Westerly satellite office. Said office will be open to the public one day per weeks on Fridays. The cost to the State for the subject premises is \$1.00 per year and the Lease Agreement contains an option to extend said Lease for an additional three (3) year term. Ms. Benros noted that the Steven Hartford, the Westerly Town

Manager has been extremely accommodating in preparing the premises for occupancy by the Division. Ms. Benros stated that all utility and janitorial services will be provided and paid for by the Town of Westerly. A motion was made to approve by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

ITEM T – Department of Labor and Training – A request was made for permission to initiate license negotiations with Kimco Realty Corporation for use of a parking area available near the Department of Labor and Training Providence Branch Office. Mr. Copple explained that the Department is seeking permission to enter into negotiations with the principals of Kimco Realty Corporation which owns the Mashpaug Commons property. Said property consists of a vacant Stop and Shop building with a very large parking lot. The Department wishes to license fifty (50) parking spaces for those individuals who are required to participate in a federally mandated unemployment insurance program. Mr. Copple indicated that the Department will engage the services of a security guard to monitor the area during the term of the Agreement. All expenses incurred by the Department relating to this transaction will be paid for with federal funds. Mr. Copple stated that the aforementioned program will commence on April 2, 2012, until December 31, 2012, and will be offered four (4) days per week in the mornings (Monday through Thursday). A motion was made to approve by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

The Committee may move 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 item:

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

by Mr. Ryan:

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

After a detailed discussion relating to Executive Session Item E1 concluded, a motion to return to the open session of the State Properties Committee meeting and to seal the Executive Session minutes until such time as said matter is resolved was made by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

Upon returning to open session at 11:04 a.m., the Committee proceeded to vote

relative to Item E1 presented in Executive Session:

ITEM E1 – Department of Transportation – A request for conceptual approval to acquire real property located in the City of Warwick. After discussion in Executive Session, a motion was made to approve by Mr. Woolley and seconded by Mr. Ryan. The motion passed three (3) votes Aye with one (1) abstention.

Three (3) Votes “Aye”

Chairman Renaud

Mr. Ryan

Mr. Woolley

One (1) Abstention

Mr. Eichler

There being no further business to come before the State Properties Committee, the meeting was adjourned at 11:05 a.m. The motion to adjourn was made by Mr. Woolley and seconded by Mr. Ryan.

Passed Unanimously

Holly H. Rhodes, Executive Secretary