

STATE PROPERTIES COMMITTEE MEETING

TUESDAY, JULY 16, 2013

The meeting of the State Properties Committee was called to order at 10:05 a.m. by Chairman Ronald N. Renaud. Attendance of the members was taken by roll call and the following members made their presence known: Karen Scott attended in the absence of Robert K. Griffith representing the Rhode Island Department of Administration; Richard Woolley representing the Rhode Island Department of Attorney General; Christopher Feisthamel 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; John Ryan from the Rhode Island Department of Administration; Paul Carcieri, Robert B. Jackson and Colleen Kerr from the Rhode Island Department of Transportation; J. Joseph Baxter and Erica Kruse Weller from the Rhode Island Department of Judiciary; Ronald Cavallaro, Paul Forte and Donald E. Tencher from Rhode Island College; Thomas Lockwood from Lockwood Commercial, LLC.; and Paul Grimaldi from The Providence Journal.

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

Approval of the minutes from the State Properties Committee meeting held on

Tuesday, June 18, 2013 is deferred to a future meeting of the State

Properties

Committee.

ITEM A – Department of Rhode Island Judiciary – A request was made for final approval of a Lease Agreement, by and between 56 Associates, LP and the Rhode Island State Courts for the premises located at 450 Main Street in the City of Pawtucket. Mr. Baxter provided a brief background concerning the Judiciary's purpose for appearing before the Committee today. Mr. Baxter explained that back in 1989, the Judiciary entered in to a lease agreement for the subject premises, which was extended until 1996. In 2000, the Judiciary once again exercised its option to extend said lease for an additional term of ten (10) years. Mr. Baxter indicated that by the time all was said and done, the lease ran until November of 2011. The Judiciary again extended the lease for an additional six (6) months to carry them through that fiscal year. Mr. Baxter noted that in the spring of 2011, the General Assembly approved a lease for a term of five (5) years rather than the ten (10) year lease the Judiciary had previously negotiated. Mr. Baxter explained that in 2012, the Judiciary once again contacted the General Assembly seeking approval of a ten (10) year lease. He stated that said request previously failed due to a lack of support during the 2010 session. Mr. Baxter explained that the proposed ten (10) year lease was once again submitted to the General Assembly in 2013; said lease was approved and is included in a budget article. Mr. Baxter indicated

that the question of whether last year's one (1) year extension will be considered the first of the ten (10) year term is of some concern to the Judiciary. However, the Judiciary has requested that the subject lease be deemed an entirely new lease, commencing on July 1, 2013, through and including June 30, 2023. Mr. Baxter indicated that the annual lease rate is \$234,539.28, per year, and enthusiastically informed the Committee that said rate has not increased since the extension of the lease back in 2000. Mr. Baxter explained that the facility is a sort of warehouse. The Judiciary utilizes 3,900 square feet of space for storing older records/files that the Judiciary is required to maintain. Mr. Baxter noted that the courthouses and clerks' offices store approximately five (5) years worth of files, which the public is welcome to review provided their contents is unrestricted. The files that eventually age out of the five (5) year phase are then relocated and stored at the Pawtucket facility, as the courthouses are simply without adequate space to accommodate the older files. Again, the public is welcome to visit the Pawtucket facility and allowed to retrieve, view and/or copy any files that are unrestricted. The Judiciary also out-sources with private vendors such as Iron Mountain and others, but the Pawtucket facility is the Judiciary's primary location for its off site record storage. Mr. Baxter stated that the Pawtucket facility is occupied by approximately ten (10) record storage personnel together with staff involved with the Domestic Violence Coalition. Mr. Baxter indicated that the Judiciary has enjoyed an excellent working relationship with the landlord over the past twenty-seven (27) years and looks forward to continuing the

same. Ms. Scott asked if the Judiciary has considered converting these older files to a digital system. Ms. Scott believes that investing in a digital solution would, over time, save the State a considerable amount of money given the cost of leasing multiple storage facilities. Mr. Baxter indicated that digital solutions have been explored and stated that next spring the Judiciary is converting the courts to an E-filing system beginning with the Workers' Compensation Court. Mr. Baxter explained that with E-filing, the records themselves will be digital; although, he is not thoroughly convinced that the Judiciary will ever see an entirely paperless system. However, he expressed that a paperless system is certainly the direction the Judiciary is moving toward. Chairman Renaud asked, in the event that any or all of the stored files/documents were to be damaged/destroyed due to any negligence on the part of the landlord and/or due to building failure (such as a burst water pipe) would the landlord or the Judiciary be responsible for the cost of restoration and/or cleanup. Mr. Ryan indicated that in the event of a building failure, the landlord would be liable. Chairman Renaud questioned whether the Judiciary is confident that the landlord's \$1 million dollar insurance coverage policy is sufficient in view of the volume and nature of documents/files being stored within the facility. Mr. Baxter indicated that the Judiciary is confident that the landlord's insurance coverage is adequate. Mr. Feisthamel asked if the Judiciary performed a cost benefit analysis to perhaps store all records/files off-site. Mr. Baxter stated that a cost benefit analysis was performed, but explained that when the Judiciary contracts with an outside vendor, the cost is not

in the storage of the records per se, but rather in the retrieval of said records. Chairman Renaud asked if the State Fire Marshall has inspected the site and if the facility meets all current fire/safety codes and requirements. Mr. Ryan indicated that the State Fire Marshall has inspected the facility and that all current fire/safety code requirements have been addressed. Mr. Baxter added that Steve Kerr, the Judiciary's Assistant Court Administrator in charge of Facilities and Operations, conducted a thorough inspection of the facility and indicated that any and all issues were promptly addressed and remedied by the landlord. Mr. Ryan informed the Committee that together with myriad other leases, this Lease Agreement was prepared by the State utilizing the State's uniform language and format. Mr. Ryan indicated that the Department of Administration's goal is to convert all lease renewals and/or any future lease agreements to the State's lease form. Mr. Woolley added that as the lease's initial term is for (10) years and includes options to extend for up to a total of twenty (20) years, entering in to a new lease is actually mandatory. Returning to the matter of the Chair's insurance coverage concerns, Mr. Woolley indicated that in the event of any damage to State-property, the lease's indemnification clause supersedes insurance coverage policies. Therefore, if the cost to compensate the State for damages were to exceed the landlord's \$1 million dollar insurance coverage policy, the State could look to the landlord or the LLC for the balance of any additional compensation due. However, Mr. Woolley explained that any additional compensation would largely depend upon the entity's degree of solvency and this may or

may not be beneficial to the State. Mr. Woolley added that this is precisely the reason landlords must secure insurance coverage policies. Chairman Renaud asked if there were any further questions and there being none, a motion to approve was made by Mr. Woolley and seconded by Ms. Scott.

Passed Unanimously

ITEM B – Department of Transportation – A request was made for approval to convey 6,650 square feet of land located adjacent to 60 Cadillac Drive in the City of Providence to Garwaine Realty, LLC. Mr. Jackson illustrated the exact location of the subject property utilizing photographs taken by the appraiser for the Committee's review. Mr. Jackson reiterated that the Department wishes to convey approximately 6,650 square feet of land located in the City of Providence to Garwaine Realty, LLC. He stated that that an in-house appraisal valued the subject property at \$5.50, per square foot, and the Department's Land Sales Committee approved said sale at its meeting held on December 17, 2012. Chairman Renaud asked who conducted the appraisal and how recently the same was completed. Mr. Jackson noted that the appraisal was conducted as an in-house appraisal and was accomplished on March 25, 2013. Mr. Woolley noted that it does not appear from the photographs that the applicant has encroached upon the subject property as it has not been paved or striped; however, he questioned whether the Department is aware of any unauthorized use of the property. Mr. Jackson stated that the Department is not aware of any encroachments whatsoever by the applicant. Mr. Jackson stated that the subject parcel is a

uneconomical remnant; it is not a stand alone parcel. Chairman Renaud asked if Garwaine Realty, LLC petitioned the Department to purchase the subject property. Mr. Jackson stated that is correct. Ms. Scott noted that it is her understanding that 6,650 square feet of land may in fact meet the requirements as a buildable lot in accordance with City of Providence's Regulations and Zoning in said area. She asked Mr. Jackson if the Department has actually received confirmation that said property is not a "stand alone" parcel. Mr. Jackson explained that the reason the subject property is not considered a buildable lot is because of its configuration and the fact that it slopes down from Interstate 95. Mr. Jackson reiterated that the City will only allow the property to be utilized for surface use; he again confirmed it does not meet the requirements as a buildable lot. Subject to written confirmation from the City of Providence that the subject property is not a "stand alone" parcel, a motion to approve was made by Mr. Woolley and seconded by Ms. Scott.

Passed Unanimously

ITEM C – Department of Transportation – A request was made for approval to convey 0.27 acres of land located adjacent to 650 Succatash Road in the Town of South Kingstown to Lockwood Commercial, LLC. Mr. Jackson presented photographs of the subject property for the Committee's review. Mr. Jackson stated that the subject property consists of 11,700 square feet of land and its appraised value is \$6.50 per square foot. Mr. Jackson noted that the sale of this property will both cure an existing encroachment and restrict the applicant's use of said property for an expansion of the

adjacent marina's parking area. The Department's Land Sales Committee approved said sale at its meeting held on December 17, 2012. Mr. Woolley explained that not long ago he was in this area and noticed a young man sitting in a beach chair with signs situated on Mr. Lockwood's property advertising available parking spaces at the rate of \$5.00 per vehicle. However, the vehicles were being parked on State-owned land, not on Mr. Lockwood's privately-owned property. Mr. Lockwood explained that this area is a high traffic area and over the past few months visitors were wreaking havoc on his parking lot. He noted that countless people were parking any way and any where they were able without concern for other vehicles and/or safety issues. Further, automobiles were double parked and parked diagonally causing mayhem in his parking lot. Mr. Lockwood explained that in order to regain some control over the chaos, he decided to hire a young man to sit in the parking lot to direct traffic and ensure that cars were parked in an orderly and safe manner; otherwise, he foresaw the parking situation becoming a free for all. Mr. Lockwood explained that because he had already been contacted by the Department of Transportation concerning his unintentional encroachment upon State-owned land as well as both parties interest in a conveyance of the subject property, he never imagined that his actions would some how be perceived by the Department as deceitful. However, shortly thereafter, Mr. Lockwood received a telephone call from Mr. Jackson instructing him to cease and desist from allowing any vehicle parking on said State-owned land until such time as the Department and he were able to further discuss the

potential conveyance of the subject property. Chairman Renaud asked Mr. Jackson to clarify exactly what portion of the property is currently owned by the State. Mr. Jackson clarified the land currently controlled by the Department utilizing a map and photograph. Mr. Woolley stated that after reviewing the photograph, it appears that Mr. Lockwood has benefited from the use of State-owned property to store boats for a number of months or even years. To that end, Mr. Woolley asked if the Department is confident that the appraisals conducted relative to the two (2) properties known to being encroached upon by both the Matunuck Oyster Bar and by Mr. Lockwood, have established accurate and reliable valuations of said properties. Mr. Carcieri stated that he is confident that both appraisals establish true and accurate values for each of the properties and believes that there is no need to commission an external appraisal. Mr. Carcieri stated that the Department's appraiser did not utilize the income approach relative to the Matunuck Oyster Bar's encroachment and stated that said property would be used exclusively for vehicle parking. Mr. Woolley made a motion to grant approval of the Department's request for conceptual approval to convey the property, subject to the Department of Transportation commissioning an "independent" appraisal of not only this parcel, but all State-owned properties located in this area, along and on either side of Succatash Road and subject to the Department conducting an analysis to determine fair and equitable proposals for the payment of retroactive compensation due and owing to the State of Rhode Island for the past and existing encroachments. Further,

Mr. Woolley stipulated that said conceptual approval is granted conditional upon the comprehensive, independent appraisal determining whether any State-owned property presently considered by the Department to be an "uneconomical remnant" parcel of land located along Succotash Road meets or has the potential to meet the requirements of a "stand alone/buildable" parcel, inclusive of the subject property being presented before the Committee today. Said motion to approve conceptual approval reliant upon the conditions compelled by the maker of the

motion is seconded by Ms. Scott.

Passed Unanimously

ITEM D – Department of Transportation – A request was made for approval of and signatures on four (4) Permanent Loop Detector Agreements, by and between the Department of Transportation and the following property owners in conjunction with the 1R Safety Improvements to West Main Road in the Town of Portsmouth:

- 1. Middletown Associates (AP 106, Lot 142); and**
- 2. Deborah A. Jesdale (AP 38, Lot 13); and**
- 3. Raytheon Company (AP 51, Lot 1): and**
- 4. Kings Grant Fellowship (AP 38, Lot 12).**

Ms. Kerr explained that before the Committee today are four (4) Permanent Loop Detector Agreements with the above-referenced property owners. Back in July 2012, the Department met with each one of the property-owners concerning the taking of permanent easements by virtue of Condemnation Plat 2506. Since that time, it

has come to the Department's attention that the Easement Agreements were not specific enough, as they did not thoroughly clarify that each permanent easement would additionally serve as a the Permanent Loop Detector Agreement. Therefore, the Department has made arrangements to once again meet with the property-owners to explain in detail that the purpose of the Agreements were to install, maintain and repair loop detector signals along West Main Road in the four (4) above-referenced areas. Ms. Kerr noted that the subject Permanent Loop Detector Agreements supersede Condemnation Plat 2506. As the property-owners were originally compensated for the Permanent Easements no additional compensation is associated with the modified Permanent Loop Detector Agreements. Ms. Kerr indicated that all the property-owners have executed the Permanent Loop Detector Agreements and the Department is merely seeking the Committee's approval and signatures on said Agreements so that the same may be recorded with the Town of Portsmouth. A motion to approve was made by Mr. Woolley and seconded by Ms. Scott.

Passed Unanimously

ITEM E – Rhode Island Army National Guard – A request for approval of and

signatures on a Certificate of Transfer of Land to transfer 0.83 acres of land located at 200 Avenue “A” in the City of Woonsocket from the Rhode Island Executive Military Staff to the Department of Administration. (David J. Mello to attend) Item E is deferred to a future meeting of the State Properties Committee.

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 items:

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

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

After detailed discussions relating to Executive Session Items E1 and E2 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 matters are resolved, was made by Mr. Woolley and seconded by Ms. Scott.

Passed Unanimously

Upon returning to open session at 11: 09 a.m., the Committee proceeded to vote

relative to Items E1 and E2 presented in Executive Session.

ITEM E1 – Department of Transportation – A request was made for approval to acquire partial acquisitions and temporary easements in

conjunction with the High Hazard Ramps Intersection (Contract 1) by virtue of Condemnation Plat 2800 in the Towns of Cranston and Johnston. After discussion in Executive Session, a motion to approve was made by Mr. Woolley and seconded by Ms. Scott.

Passed Unanimously

ITEM E2 – Board of Education/Rhode Island College – A request was made for approval to proceed with the acquisition bid process and to establish a bid price range for property located in the City of Providence. After discussion in Executive Session, a motion to approve was made by Mr. Woolley and seconded by Ms. Scott.

Passed Unanimously

There being no further business to come before the State Properties Committee, the meeting was adjourned at 11:10 a.m. The motion to adjourn was made by Mr. Woolley and seconded by Ms. Scott.

Passed Unanimously

Holly H. Rhodes, Executive Secretary