

## COMMITTEE ON LANDS AND BUILDINGS

May 29, 2007

5:00 PM

Chairman Thibault called the meeting to order.

The Clerk called the roll.

Present: Aldermen Thibault, Smith, Roy, Long

Absent: Alderman Forest

3. Communication from Glen Ohland regarding two items relating to the JacPac properties:
  - A. Draft purchase and sale agreement anticipated to be submitted at meeting

Chairman Thibault addressed Item A, Draft purchase and sale agreement. A copy was distributed to members of the committee.

Mr. Ohland stated as you know last fall we put out a request for proposals on the JacPac site. We got one submission from Anagnost Investments. His conceptual plan was for two or three office buildings comprised of a total of up to 300,000 square feet of class A office tenants. I believe I recall the number of housing units at 36 on the site and a retail component that was out facing Queen City Avenue area of the 17 acre site. In addition, his conceptual plan called for deeding back the parcel of land on the west side of the railroad tracks to the City for creation of a riverfront park and continuation of the riverwalk along that area. That parcel is approximately 4 maybe 5 acres of the entire 17 acre site. This Committee had basically given us the direction or permission to enter into negotiations with Anagnost Investments for a purchase and sale for transfer for the potential of developing a project similar to the conceptual plan that he outlined in his response to the request for proposals. Over the past month and a half the Economic Development Office, the City Solicitor's Office, Finance Office, Planning, a representative from the Mayor's Office, and Manchester Housing Redevelopment Authority have all been working to come to conclusion and agreement. The number as stated in his original proposal was for a purchase price of \$3.6 million. Where we are at today, after a little bit of back and forth around the terms of the purchase and sale, is a purchase and sale agreement that all parties concerned with are happy with and are bringing it forth to you tonight with the understanding that

you would make a recommendation one way or another to the full Board of Mayor and Aldermen at next week's meeting.

Alderman Roy stated one of my first concerns under the Section 11, Development, is where it talks about any material deviation from the intent and quality levels set forth. It really takes everything out of the hands of this Board, which is one of my concerns. You've got a good group of people there but they are all staff members and one of my concerns is that we are ultimately responsible to the taxpayer and the constituents of Manchester and if all parties found it agreeable I wouldn't mind an Aldermanic representative being at that table. It is not something I am going to draw a line in the sand about. I think so far in looking this over it seems to be a very nice purchase and sale, it hits along all of the topics we have talked about earlier, and I think Dick has a proven track record of getting done what he says he is going to do, so that carries a lot of weight. Has the Solicitor reviewed this?

Mr. Tom Arnold, Deputy City Solicitor, replied yes, we have.

Alderman Roy asked are you comfortable with all language?

Mr. Arnold replied as comfortable as I am going to get I guess. One could always hope for more favorable terms, but it was negotiated.

Alderman Roy stated I think the beginning section of the purchase price being the \$3.6 million and that, combined with the CMC lease, I believe is a nice step forward in going towards what we did as Board to move this project where it is and I commend the gentlemen at the center for doing that.

Mr. Dick Anagnost asked Alderman Roy, are you requesting that the ward Alderman be placed on the Committee or someone to be named by the Board of Mayor and Aldermen? I just want to understand.

Alderman Roy replied I don't have a preference if it were the ward Alderman. I try not to bury the ward Aldermen or commit them to things. If the ward Alderman was the designee that would not bother me at all. I think he represents his ward perfectly, but it could be anyone on the Board.

Alderman Long stated I wouldn't have a problem sitting on this committee, and I have the same concerns as Alderman Roy does. As far as seeing this go toward what we had intended, just being assured of it.

Mr. Anagnost stated I have no problem with it. I was just trying to clarify who it might be.

Alderman Long stated it could be the ward or a designee. Who would appoint that?

Mr. Anagnost asked aren't you the ward Alderman of this project?

Alderman Long asked but who would appoint?

Chairman Thibault replied I would imagine that the ward Alderman would probably have preference to serve on that Board if that's what you would like. I'm sure that Alderman Roy would also go along with stating that you would probably be the one, it being in your ward, I have no problem with that.

Alderman Long stated and what I am hearing from the developer that there is not a problem either way.

Mr. Anagnost stated there is no issue either way, I was just trying to clarify where or when or how we would get somebody aboard.

Mr. Arnold stated what I would envision if this Committee expressed a preference for the ward Alderman we could merely modify the agreement to add Mr. Long to that list of staff and present that to the full Board and take care of it in that manner.

Chairman Thibault asked are you saying that we should do that now?

Mr. Arnold replied yes, added to the list of staff contained in the agreement.

Chairman Thibault stated yes, I certainly have no problem with that.

Alderman Smith asked I have no problem with that, but if the purchase and sales agreement is approved by the full Board of Mayor and Aldermen when to you foresee action down there?

Mr. Anagnost replied the following Monday.

Alderman Smith asked and your plan is still with the housing and commercial development?

Mr. Anagnost replied correct, nothing has changed. Actually, I am under the gun to get moving because now I have 29 months left with the proposed tenant to get them in, so I have to move fairly quickly. That's why I didn't want it to be delayed for the appointment of an Alderman at a later date and hold up the contract.

Chairman Thibault asked are you saying that if we inject an Alderman that you will have no problem with that?

Mr. Anagnost replied none whatsoever. As a matter of fact, the City Solicitor's recommendation to me is even better because if we modify the contract to include him then we don't need to go through any formal appointment process.

Alderman Long asked if he had a layout of parcel and two and three that is going to be donated.

Mr. Anagnost stated he did not have it with him, but I can tell you it is all of the land that's owned by this project west of the railroad tracks.

Alderman Long asked does it stop at the railroad track?

Mr. Anagnost replied correct.

Alderman Long asked and that is roughly four acres?

Mr. Anagnost replied correct.

Alderman Roy asked what is the process? Would the report come out to the Board at the June meeting?

Deputy City Clerk Johnson replied I would be looking for a motion to amend the agreement and then the recommendation would be that that Board authorize execution of that agreement subject to the review and approval of the City Solicitor, that recommendation will be reported out at the June meeting.

Alderman Roy moved that they accept and approve the purchase and sales agreement with the amendment on the last line of Section 11.01 interjecting after economic development officer the Ward 3 Alderman or the Ward 3 Alderman's designee. Alderman Long seconded the motion. There being none opposed the motion carried.

Chairman Thibault addressed Item B relating to Keyspan and the License Agreement from MHRA.

- B. Lease opportunity with Keyspan. MHRA has voted to approve execution of a License Agreement subject to review and approval of the use by the appropriate Aldermanic Committee or full Board of Mayor and Aldermen.

Mr. Ken Edwards, Assistant Executive Director of MHRA, stated with me tonight is Dick Webster, MHRA, and Tricia Haederle with Keyspan. As owners of the JacPac property, we were approached by Keyspan for use of a portion of the site to remediate coal tar that is in the river and Keyspan has been working with their environmental engineers, Anchor Environmental, and the Department of Environmental Services at the State level to develop a plan for the dredging of this material and the offloading of the material onto a site for drying and then removal to a suitable disposal site. We have negotiated a lease agreement with Keyspan which includes a rate of \$8,000 a month for the use of the property and again, this is the property at the river on the west side of the railroad crossing which ultimately Mr. Anagnost, if the purchase and sales of the property goes through, will be turning back to the City. That is the parcel we are talking about. It is a paved area in front of what was known as the freezer building at Jac Pac. It's approximately 50,000 square feet. The original offer was to lease that space for \$4,000 a month, which is pretty consistent with what vacant rental property land is worth in Manchester, between \$.75 and \$1 per square foot a year. In order to make the deal a little more attractive to the City and with our urging, they agreed to increase that offer from \$4,000 to \$8,000 a month which is what is consistent with what we had been charging CMC for use of the property for parking on an interim basis. In addition they have agreed to pay for the services of an independent environmental engineer. Haley and Aldrich has been retained on our behalf and the City's behalf to assure that we have an independent look at the remediation process and to do some pre remediation soil sampling and ground water sampling to assure that after they have completed their remediation we have not left any contamination of the site. They will do a pre-screening to determine exactly what's there and then they will do a post-screening after remediation to assure that there has been no change in the property during this remediation process. Of course their environmental engineers will be reviewing the remediation process as well as the Department of Environmental Services. They have already applied for and received a permit from DES for this remediation. Based on this proposal that they made, we have brought to our Board the license agreement and they have approved it and forwarded it on to the City for consideration, I think that's where we are.

Ms. Haederle stated Mr. Edwards covered everything well, but I'm available to answer any questions about the remediation.

Alderman Smith stated I noticed the temporary close and the rerouting of the walk way that is very vital to all the pedestrians and so forth. It's highly used and I am familiar with the land and would assume it is highly contaminated because of the plant that was adjacent, so I want to know what your procedures are going to be and so forth in regards to the citizens using the walkway.

Mr. Edwards stated Keyspan has provided for the relocation of the river walk in the area that they are going to construct their ramp to off load the material from the river to the storage area. It will only be kept open nights and weekends since during their daily operations they will be crossing that area, but they are willing to build a paved, relocated riverwalk out of the large sloped area from the river bank under the bridge abutment and provide fencing around it so it could be opened for evenings and weekends.

Alderman Smith asked what time limit they expected for the clean up?

Mr. Edwards replied they have indicated that they will be complete by the end of December. They have asked for an eight month license starting June 1<sup>st</sup> and expect to be done operations...their operations include full restoration of the riverwalk to its current location after they are complete and they expect to be done by the end of December.

Alderman Smith asked what would be the time limits. What time would they be starting and what time would they be ending on a daily basis.

Mr. Haederle replied we haven't set a firm work schedule, but it would probably be somewhere between the hours of eight and four.

Alderman Smith asked this won't interfere with the Chinburg development at all?

Ms. Haederle replied the dredging that we are planning on doing as part of this project is actually in the water in front of that development or adjacent to it, but as far as any work on the land, we are not planning on doing any work on the landward side in that area.

Alderman Roy stated the 9,000 cubic yards for the coal tar that will be dredged, other damage that would be caused environmentally, I know you are doing this to get it out of the river, but as far as odors and smells for the ballpark and residents of that area what can we foresee when we start dredging the river?

Ms. Haederle replied we have submitted an extensive plan that has been approved by portions of the Department of Environmental Services and we expect a full approval before we begin the work which describes how we will deal with odors and assure that people in the area will not be exposed to the odors. We will actually stop dredging during ballgames just for that reason to be sure that there is no disruption to the public. We do have mechanisms for dealing with the odors. There are modifications that we can make to our dredging operations to lessen that impact so we will be monitoring the air quality throughout the project. We do

have instruments that we deploy all around the work area and somebody is watching that all the time so we will be making sure that that's not an issue.

Alderman Roy stated once the coal tar is out of the river as far as containment using the location that you are leasing covered, sealed, what will the...

Ms. Haederle replied again, there are a variety of different ways that we will deal with this: we can cover the piles, we use a foaming agent which not only keeps the dust down, but it keeps the odors down and we also added desiccants to get rid of or lessen the water content and then we move it off site as quickly as possible in covered trucks so our goal is to keep it moving through the site so it is not sitting around for long periods of time. We want to be completely out of there by December 31<sup>st</sup>.

Alderman Long stated can I assume that the dredging plan cuts down on the odor. Is that part of the plan with the DES? Is that part of your description that you have to give the DES?

Ms. Haederle replied yes.

Alderman Long asked is that a public plan?

Ms. Haederle replied it is. I have a copy and would be happy to supply a copy for him.

Alderman Long stated but it states within in that calming of the odors and airbornes or what have you.

Ms. Haederle stated yes, we will be doing that.

Alderman Long asked the temporary storage and stabilization has federal and state guidelines that you will be following?

Ms. Haederle replied absolutely. We couldn't have gotten a permit unless we had guidelines in the report and we will follow those guidelines.

Alderman Long stated as Alderman Smith mentioned, it was going to be a daytime operation, not a nighttime operation.

Ms. Haederle replied absolutely.

Alderman Smith asked how is this going to affect the developer with the JacPac situation since you are going to be abutting each other?

Mr. Edwards replied they had talked with Dick Anagnost about the scheduling and the scheduling he indicated would not be a problem. If his purchase and sales is approved he is going to go through a due diligence period in which he is going to be doing his investigation and so forth and this work will be occurring during that time. Worse case scenario, the building would be demolished during the time they are doing remediation which you could ask Mr. Anagnost, but I believe that probably won't happen before the end of this calendar year, but if it were, we have talked with Keyspan about that and demolition of the building could be accommodated and they could still continue their remediation.

Alderman Smith asked what would be the complement of construction people down there on a daily basis, trucks, equipment, and people?

Ms. Haederle replied with the plan that I offered to leave with you it will give you a better idea, but in a nutshell, I can tell you that we will probably have ten or so full time employees down there on a daily basis. We will have several barges and excavators out in the river and I anticipate probably five to ten truck trips a day to remove the material out from the site and take it off site to its disposal facility.

Alderman Smith asked if you are taking it off the site, are you taking it up through the ballpark and out through Commercial Street, or are you going to try and go out through Queen City Avenue or West Hancock Street?

Ms. Haederle replied we will be exiting out by Queen City Avenue and getting on to I-293 as quickly as possible.

Alderman Long asked in the plan is there notification to abutters as to when you are going to start this operation or maybe a little warning that you may get a scent or what have you?

Ms. Haederle replied when we applied for our permit with the State of New Hampshire to do this work, we had to notify abutters, so abutters were notified at that time. The plan was made available to anybody who wished to see it and in there it gave a time frame and a schedule. In that sense abutters have been notified. We would hope that there wouldn't be any odors that anybody would notice. They will see signage go up around the river walk when it is being relocated so that will give them some sense of when the work is going to start.

Alderman Long stated I understand that the abutters were noticed for the public hearing that you had with the DES, but is there any kind of notice...I could just see the questions coming in is the water downstream going to be contaminated

when you are dredging this out...Is there some sort of public notice of here's we are going start dredging?

Ms. Haederle replied there is no requirement. We will post an 800 number so that anybody who is walking by the site can call us for more information, but we don't have any other requirements from the state or local requirements that require us to notify anyone in advance.

Mr. Anagnost stated I am in favor of it going forward. MHRA and I have worked out all of the details necessary with Keyspan. My main concern was that there be pre-soil testing and post-soil testing because with me coming in to the chain of title, if there was something that was left there post that hadn't been there pre, I would then be as responsible as the City to clean it up. I don't want to be in the chain of title for 15 minutes and then give it back to you and be held responsible for the contamination. They've pretty well addressed that issue. All of the other issues have been addressed. We are in a position where even if we started demolition, Alderman Smith, we would save west of the railroad tracks for last thereby they wouldn't interfere with us wouldn't interfere with them and the majority of our environmental testing on our own is east of the tracks anyway because that's where we are going to be disturbing the soil. I would say that the only issue that I would have of concern, but not a major one in any way, is if they are going to be using the impervious surface which is the asphalt parking lot there, and they are under an obligation to restore it to the condition that it was in prior. Should that become damaged where it is going to be a park, we'd prefer it if they just pick it up and take it away with them and left the City some loom and seed. My concern is I don't want them to go in and fix it back to new again because that wouldn't make any sense for them or us. Also, they are going to be building a boat ramp to the river and one of my suggestions was that they leave it there for the use of the City. I'm not sure if that is feasible. Those are the main issues we raised today.

Alderman Long asked where does the \$8,000 go?

Mr. Edwards replied we hold it, just as we are holding the revenue that we collected from CMC for parking to be used by the City for whatever they would elect to use it for. We would hope that this money would go toward a future economic development project. That would be our preference but that's at the discretion of this Board.

Alderman Long stated I also saw that there was general liability with the City named on that.

Mr. Edwards stated correct.

Chairman Thibault asked is there a motion?

Alderman Smith moved to recommend approval of the agreement, subject to the conditions of pre and post soil testing, if there was damage to the parking lot, rather than replacing it, it was to be removed, and the issue of the boat ramp. The agreement would be subject to the review by the City Solicitor.

Ms. Haederle stated we find the pre and post testing acceptable that's not a problem. One thing that I do want to point out with respect to the boat ramp is we are constructing something that is designed to be temporary and the design was approved as part of our permit condition and that if I understand, the boat ramp that the developer is looking for is something that is a permanent structure. That would require an entire new permit application and is completely outside of the scope of work that we had planned on doing so I can't agree to a boat ramp. The question about the asphalt, yes, if we do damage the asphalt during the course of our operations we would be amenable to replacing that, but I can't agree to take up 50,000 square feet of pavement whether it is damaged or not. I just want to be clear. We will gladly replace anything that we damaged during our operations, but we do have a duty to the ratepayers of the State of New Hampshire and we need to keep costs under control.

Alderman Long stated as far as the asphalt, I believe that was under the developer's impression, whatever you are using, whatever you damage, instead of replacing it where it is not going to be asphalt, maybe you can loom and seed what you damaged instead of asphalt since the developer is not going to be using it for that purpose.

Ms. Haederle stated I just wanted to be clear because it had been bandied about that we replace all of it, and unless we damage it I am not in a position to replace it.

Alderman Long asked would the boat dock be the preliminary that you wanted, the template?

Mr. Anagnost replied if they were putting in something the City could have used in the future then he thought it would make sense to have them turn it over to the City.

Alderman Long stated in the agreement it calls for replacing everything the way it was and what we are looking for, if the developer accepts, is what they have out there then they don't have to replace that.

Ms. Haederle stated the boat ramp and dock that we are putting in is a temporary floating dock and the only part of that could be construed as permanent is the earth work that we need to do to construct a ramp from the water up to the Jac Pac area. Bear in mind that this ramp will cut through what is the river walk so we had agreed to replace the river walk to the condition that we had found it in so if we were to leave this ramp in place there are a couple of caveats. We wouldn't be able to replace the river walk back to its original condition nor is this designed to be permanent and there will be erosion that will take place and we don't have the controls in place and hadn't designed the controls to take care of that erosion so it's really not designed to be a permanent structure.

Alderman Long stated so the only advantage that the developer may have is the excavation that's already been proposed so if that fits for a dock, you would have to replace the river walk and maybe he would want you to fill that in.

Mr. Anagnost stated not having seen what they were proposing to do I would agree with her that it is probably too complicated to leave it there, but I thought it might have been brought to your attention as a potential amenity. Just to clarify what I was looking at was if you destroy 5,000 feet of asphalt I don't want you to go back in and repave 5,000 square feet of asphalt it would be a waste of your money and a waste of my time. One more thing the City Solicitor brought to my attention was that we had requested in the indemnity agreement that we be allowed to add some language that covers us as well and I neglected to mention that earlier. As purchasers we ask to be covered as well.

Alderman Long asked when you close out could you meet with the developer and look at work that you may or may not have to do, using the dock as an example?

Ms. Haederle replied I understand what you are asking, but we also have this scope of work that describes what we were planning on doing, we gave it to the State and they expect us to comply with that. She did not want to put the company out of compliance. It put everything back the way it was and did some significant plantings along the river walk to stabilize. As far as the indemnity goes I would have to take that back. I am not an attorney so I would have to take it back to our counsel.

Alderman Smith stated it appears they didn't have all their ducks lined up and didn't have all the particulars, I would just like to say that.

Mr. Edwards stated the area of the lease was concurred in that it was in essence the same parcel that was ultimately to be returned to the City in the proposed purchase and sales agreement and the indemnity agreement would need to include the purchaser because I would potentially own the property at some period of time

during the process, but the City and MHRA would need it in the interim because of ownership.

The former motion was withdrawn and Alderman Long moved to approve the agreement submitted subject to conditions as follows: pre and post soil tests, indemnity language agreeable to the city Solicitor to cover future purchasers, and asphalt pavement damages are to be replaced with loam. Alderman Roy duly seconded the motion. There being none opposed the motion carried.

There being no further business, on motion of Alderman Smith, duly seconded by Alderman Long, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee