

## COMMITTEE ON LANDS AND BUILDINGS

January 19, 2010

5:00 PM

The meeting was called to order.

The Clerk called the roll.

Present: Aldermen Lopez, Shea, Roy, Greazzo

Absent: Alderman Osborne

Messrs: D. Webster, J. Baringer, T. Arnold, J. Minkarah, L. LaFreniere,  
D. Cornell

On motion of Alderman Shea, duly seconded by Alderman Roy, it was voted that Alderman Lopez would chair the meeting in Chairman Osborne's absence.

Chairman Lopez addressed item 3 of the agenda:

3. Communication from Dick Dunfey, MHRA, requesting that the City enter into a Subordination and Non-Disturbance agreement with Verizon Wireless related to a cellular antenna lease on the former Brown School.

On motion of Alderman Shea, duly seconded by Alderman Roy, it was voted to discuss this item.

Mr. Dick Webster, MHRA, stated I have with me Dave Whitman who is with Verizon in case there are questions that come up that he can respond to. This all came about when we renovated the Brown School to provide housing. In the process of renovating, we had a couple of liens on the building. They are related to loans that we took out as part of the renovation. They were with the City and the New Hampshire Housing Finance Authority. In the meantime, the building has been up and running and we have negotiated a lease arrangement with Verizon whereby Verizon will install cell phone equipment at the Brown School and they will pay us for that. In order to install the cell phone equipment, Verizon has asked that the City and the New Hampshire Housing Finance Authority both execute the subordination and non-disturbance agreement, which basically says that in the

event that there is a foreclosure on the property, they will not be required to remove their equipment. The equipment installation is rather costly and they want to be able to protect their investment down the road. If there was a foreclosure, the lease would transfer and the income from the lease would transfer to anybody down the road as well. In any case, we need your permission to proceed.

Chairman Lopez stated the Brown School is fully taxed. Is that correct?

Mr. Webster replied yes, it is.

Alderman Shea stated the subordinate agreement is predicated on the fact that in the event that the City or MHA decides to foreclose for any reason, the equipment would stay there.

Mr. Webster replied yes, it is all based upon them not having to move the equipment.

On motion of Alderman Shea, duly seconded by Alderman Roy, it was voted that the City enter into a Subordination and Non-Disturbance agreement with Verizon Wireless.

Chairman Lopez addressed item 4 of the agenda:

4. Communication from Jack Baringer, Site Acquisition Manager for Goodman Networks, submitting a proposal for Clearwire to Lease City Property.

On motion of Alderman Roy, duly seconded by Alderman Shea, it was voted to discuss this item.

Chairman Lopez stated this came in to the full Board at the last meeting in December and no one seemed to know what is going on. Maybe you can enlighten us a little bit.

Mr. Jack Baringer, Site Acquisition Manager for Goodman Networks, stated we represent Clearwire Inc. in the Manchester and Nashua areas. Clearwire is owned by Sprint and we are in the process of building a wireless internet access system, which is broadband for Boston and southern New Hampshire. I'm happy to have an opportunity to explain this. There seemed to be, at least on my part, some confusion as to how this process worked in terms of entering into a transaction with the City of Manchester. I was told that the initial step would be for me to make a proposal to the Board of Aldermen where it would be referred to the Lands

and Buildings Committee for vetting. That might explain why the proposal came without any background or explanation. I was at the meeting in December and I was hoping I would have an opportunity to explain my position, but it went pretty quickly and it was over before I had any chance to comment on it. There are four transactions that we would like to pursue with the City. The one that is on the agenda this evening is for Thomas Donnelly Field. There are three others. One is Rockland Park and another is the high school. We would like to at least explore that possibility and talk to the folks. The fourth one is the existing tower on the City reservoir. I have resubmitted the proposals for the other three. They were tabled. I restructured the financial aspects of it to increase it. I talked to Mr. Osborne on Saturday and again this morning. The proposal that is in front of you is meant to be an initial offer and I fully expect that there would be some response from the City and some negotiation, at least on the economic aspects of it, and what that project would look like aesthetically. I'm not clear, and perhaps I can get some direction from this body, on how we go forward in terms of architecturally what the project would be. For example, on Crusader Way I proposed a stealth flag pole. On the reservoir we are simply mounting at the existing tower. The other two were mono-poles that could be used as light stands on a ball field. I would like to point out that we have absolute flexibility in terms of stealthing these structures. We can do mono-pines, flag poles or other things to blend in so it doesn't create a visual impact for your community and still satisfies the RF requirements for coverage and network operations. That is how I got here this evening and I was hoping that I can answer any questions that you have. I consider this the start of the process. I'm not expecting a decision immediately, but I am looking for input. In Nashua for example, we have had some community seminars where we have sat down with people in the community and constituents and given them the opportunity to ask questions and give us input as to what kind of project they want for their community. I don't live here and I don't know how people react to things and what is important to your community. At the end of the day, Clearwire is going to be selling a retail product in your community so we want to be good neighbors.

Chairman Lopez stated in my opinion, and I'll let the City Solicitor weigh in on it too, the normal process would be that we would send this to staff. If it were going to be on Parks and Recreational land the department head would get involved. If it was going to be on school property then the Building and Sites Committee from the School Department is involved. As far as negotiations and looking at what type of price, staff would guide us and then we would send it, if it is on school property, to Building and Sites Committee. Tom, do you agree with what I am saying?

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

Alderman Roy stated I think you hit the nail on the head when you said that there hasn't been any public input. You said that the three other proposals were tabled. I was wondering who tabled that?

Mr. Baringer replied those were tabled at the meeting in December. It was at the full Board, which is where I thought it started.

Alderman Roy asked you haven't negotiated with anybody from the City or anything like that? Would the Building Department have anything to do with this? Is there zoning that is involved with these towers?

Mr. Baringer replied just to let you know, I have met with the Planning Department and spent a lot of time there. Before I started on this project I met with Ms. Donnelley to understand the process and the types of projects that your City was looking for in terms of architectural design and historic impact and things like that. I have spent a lot of time with them. I met with Mr. DePrima and talked to him about the types of projects that we would like to do on park sites. I attempted to meet with the School Committee, but I wasn't quite as successful as I'll be if this were referred from you to them.

Chairman Lopez stated we have no documentation from staff on those meetings or a recommendation.

Mr. Baringer stated I assume not.

Chairman Lopez stated that is what I am speaking of.

Alderman Shea stated just to refresh people's memories, I did recall it coming before the Aldermanic Board because there was a site down by Southside Junior High School around Memorial High School.

Mr. Baringer stated there was one proposed on the high school and again it was a flag pole. There was somewhat of a negative reaction to that. I wasn't given an opportunity to...I'm not trying to sell anybody on it, but at the same time we have flexibility so if that specific approach was unacceptable to the community perhaps there is an alternative that would work within that general area that would still satisfy our network signal requirements and be acceptable to the community as well.

Alderman Shea stated at the time there was discussion concerning whether or not children would be impacted by that because it would be so closely allied to the schools.

Mr. Baringer stated I think the RF safety issue and the design aspects of that would be something we would like an opportunity to talk about and make people feel comfortable with it. I usually bring my RF engineer with me to those types of discussions.

Alderman Shea asked how did you indicate on this particular agenda the situation around the ballpark? Did you contact someone concerning that? In other words, the placement there. Who did you contact?

Mr. Baringer replied a long time ago I talked to Mr. DePrima conceptually. He is not in any way endorsing, nor would I ask him to in his capacity. What we were trying to do is put it in a position where it would have the least impact on the operations of the ballpark as is possible and provide a light standard that would light the field. Like some other projects that we have worked on in other communities, this is the initial step. There may be some part of the operation of that ballpark that I'm not aware of that would make that a really bad location. There might be a better location in another part of that facility that would work better for the folks who run that. Again, I'm happy to meet with those people to have that discussion.

Alderman Shea asked who did you say you had contact with down there?

Mr. Baringer replied I talked to Mr. DePrima on the Parks Department properties in general. There were probably ten of them that we looked at initially, that we talked to him about.

Alderman Shea asked this was all City owned property?

Mr. Baringer replied that's correct, all City owned property in the Parks Department.

Alderman Greazzo stated you said you had some other sites that you had considered. Did you submit them to the City in writing at all?

Mr. Baringer asked on City owned properties or in general?

Alderman Greazzo replied in general.

Mr. Baringer stated the other three I have resubmitted. They went to Heather Freeman last week and I suspect that they will be following this one in process.

Chairman Lopez stated \$1,400 for the lease of a tower or lease of the land. Is that correct?

Mr. Baringer replied yes, that is correct. Actually, the one on the tower is for leasing a tower on your space.

Chairman Lopez asked how many cell companies are on one tower?

Mr. Baringer replied we are building this just for us.

Chairman Lopez asked just one cell company? Each tower is capable of holding how many companies?

Mr. Baringer asked are you talking about the issue of pole location? I don't know. Let me answer it this way, we are constructing the tower for Clearwire. We have no expectation, nor are we structuring the financial approach as if anybody else would go on that tower. From a structural standpoint, it would be very easy for us to design it to accommodate other carriers, but that is not our financial model. The Clearwire financial model is to build it solely for our company. Because our technology is different there may or may not be other carriers who would go on it, but there might be. It depends.

Chairman Lopez stated that is why we need our City Solicitor and staff to write that contract. If we are getting \$1,400 from one company and you add another company...you see where I am going?

Mr. Baringer replied I see exactly where you are going. I have heard that question before.

Chairman Lopez stated what I would recommend to the Committee is to send this to Building and let him work with City staff and the City attorney and come back and give us some direction so we can...there also might be School property that is involved, which is a different issue as I indicated. I would ask the Committee to table this and direct it to Leon, the Building and Planning Commissioner, to get the staff together and give us a recommendation.

Mr. Baringer asked will your staff contact me for me to come in and meet with them and talk about the details?

Chairman Lopez replied I'm sure that the department head will contact you. The three other requests at the City Clerk's office can be picked up at the same time.

Alderman Roy stated you can contact the department head as well and that way he knows.

Mr. Baringer stated I'm happy to do that.

On motion of Alderman Shea, duly seconded by Alderman Greazzo, it was voted to table this item and refer to Leon LaFreniere in the Planning and Community Development Department to work with the related departments.

Chairman Lopez addressed item 5 of the agenda:

5. Communication from Jay Minkarah, Economic Development Director, regarding a Request for Proposal for Northwest Business Park at Hackett Hill.

On motion of Alderman Shea, duly seconded by Alderman Greazzo, it was voted to discuss this item.

Chairman Lopez asked what are we doing, Jay?

Mr. Jay Minkarah, Economic Development Director, replied I think we are at the point where we have come a long way with the project. The development plans have been committed. As you know, we had some permitting issues earlier, but it looks as though those have been resolved. We are at the point of moving forward. In some of the conversations that we have had previously we had talked about the cost of the infrastructure improvements. To take a couple steps back, we have approved phase one of the northwest business park, which is 12 lots on two streets that are currently existing, but need improvements. The improvements that we are looking at are about \$5 million in cost. We have two options. Initially, the concept was that the City was going to move forward, working with MHRA and be the developer. We were going to put in all the improvements and we were going to sell those 12 lots to individual users. What has been fairly clear in more recent discussions, looking at the \$5 million price tag it appeared that we should be looking at a different alternative, which would be to sell the whole project, all of phase one, to a developer who would put in the infrastructure improvements and sell the lots. In essence, he would take our place and take that role on our behalf. That is really what we are looking to do at this point. We want to put this out with our request for proposals, see if we can identify a developer who is willing to develop the park in a way that is consistent with our goals.

Chairman Lopez asked is that under the guidelines we set forth?

Mr. Minkarah replied yes, under the guidelines in the RFP and consistent with the development plan.

Chairman Lopez stated I don't know if the Mayor wanted to speak to this.

Alderman Roy stated just so I have this straight, you are saying that we are going to sell this to a developer and then our hands are clean. We have no ownership up there whatsoever. Is that what you are saying?

Mr. Minkarah replied that would be the intent, yes.

Alderman Roy asked has any thought been given to getting a developer to develop it, but we still own it and lease it?

Mr. Minkarah replied I think the way we structured the request for proposals is to allow a lot of flexibility in what type of proposal someone could bring forward. There are different ways someone could come forward. I don't know that we could find a developer who is willing to put up all the up front costs while we hold on to the property. That would strike me as us being the developer and just finding a contractor, unless I am misunderstanding your question. I think the way the RFP is structured it allows for a lot of flexibility in how someone wants to come forward with a proposal. At this point, we would be at the RFP process if you approve. Officially, the next step would be to form a review committee which would include an Aldermanic representative and we would have an opportunity to review the proposals and then make a recommendation back to this Committee and then to the full Board.

Alderman Roy asked even if we put out this RFP our hands wouldn't be tied? We wouldn't have to go with that plan if we didn't like it, right?

Mr. Minkarah replied not at all. It would be up to the Board of Mayor and Aldermen.

Alderman Shea asked because of the amount of money that we have invested there, would there be a minimum amount below which we would not take any kind of proposal? In other words, what I am indicating is, we don't want to give it away. Your RFP is going to indicate that there would be a price that a developer would have to meet in order for us to accept that. It wouldn't be open to someone offering a minimum bid. Maybe the Mayor wants to address that.

Mayor Gatsas stated I think it is important that we understand that no matter what we get for that property we are never going to recoup our money. We are looking for about \$12 or \$13 million. Looking at a developer to give us a minimum offer of that amount is going to get us out of the project. I think it is important that we understand that if we can get a developer to come in, come forward with a proposal, get the property, or at least the land, on the tax roles we're in better

shape and it would get us out of a business that during the last ten years, which has some of the biggest economic booms that we have seen in the country... we will have someone out there who will have an opportunity to develop the three lots as we requested with the same parameters that we have put in then once they have those three gone then can go in and do the road and complete the other nine lots.

Alderman Shea stated my thoughts ran along the line of not a higher amount, but an amount that does not indicate that we are giving it away. In other words, we want to sell it for a reasonable price, even though we will not gain back what we have invested there, rather than just accepting anything. We would have 100 people running after that property.

Mayor Gatsas stated if we had 100 coming after us, Alderman, I would say that would be a good thing because we would at least get it on the tax roles. I have talked to Jay and I appreciate that he came forward this quickly with the RFP process. If someone takes it and does nothing with it in five years, it will revert back to the City.

Alderman Roy stated you mentioned three lots. I think you are talking about the three that are along Hackett Hill, but this RFP process says 12.

Mayor Gatsas stated that's correct, for the other nine.

Alderman Roy asked you are suggesting a different plan?

Mayor Gatsas replied no, I'm talking about all 12. That way it gives the developer the opportunity to develop the three that are on the street before he has to go in and put in a road. It would be the entire package.

Chairman Lopez asked does the broker go away that MHRA had?

Mr. Minkarah replied they would, yes. We have spoken with them and let them know that we are in the process of doing this. Of course, they have an interest in it, but they are aware that we are issuing a RFP.

Alderman Arnold stated I have a couple questions for you. This RFP is just phase one. How big is that compared to the entire property that the City owns?

Mr. Minkarah replied phase one is about 126 acres. The balance of the property is 300 acres. The lion's share of the property has yet to be developed and has yet to be planned for development, although 20 acres of that is dedicated to the Job Corps site. You still have about 280 acres left.

Alderman Arnold stated in this RFP I noticed that proposals for development that would result in residential uses will not be accepted.

Mr. Minkarah stated correct.

Alderman Arnold asked for the remaining lots or acreage on the property that is something we may entertain?

Mr. Minkarah replied it is certainly possible. I wouldn't want to rule that out, but I don't think that was the intent.

Alderman Arnold stated that is what I was trying to get at.

Mr. Minkarah stated that was not the intent.

Alderman Arnold stated the only other thing I have, and it might just be semantic, is that under the general requirements of the RFP it says consistency with the northwest business park development plan is preferred. Is that semantic?

Mr. Minkarah replied it is not. I guess that is a word that I weighed, whether we were going to say required or preferred. There are certain aspects of that development plan, such as mandating certain types of building materials, that I would be a little concerned that it was too rigid, if we said it was mandated. I think some of the conversations that we have had more recently about development in the park is maybe that we need a little leeway. For example, use a brick or masonry façade facing the street, but perhaps not all the way around the building. Some of these requirements we have some concern about adding too much cost.

Alderman Shea stated according to your calendar of events, you would like the RFP to be issued tomorrow. Do you have within your budget the necessary funding to do whatever you intend to do with the RFP?

Mr. Minkarah replied yes.

On motion of Alderman Shea, duly seconded by Alderman Roy, it was voted to accept the proposal.

## **TABLED ITEMS**

6. Request to obtain lot number 611-4A Island Pond Road.  
*(Note: Attached is a memo from Joan Porter regarding the Tax-Deeded property; appraisal from the Board of Assessors, if available. Tabled 9/1/09, additional information submitted by the Director of Planning & Community Development.)*

On motion of Alderman Shea, duly seconded by Alderman Roy, it was voted to remove this item from the table.

Alderman Shea stated this seems to have the backing of the previous tax collector, Joan Porter, and it has been assessed and evaluated by Leon LaFreniere. I would say that we should probably move on this if the other members of the Board want to concur with what my thoughts are on in the matter. Leon, do you want to come up and discuss it? I think you have a couple of letters indicating this process on Island Pond Road.

Mr. Leon LaFreniere, Planning Director, stated we have had conversations with the person who requested this as well as an abutter to the property who has also expressed interest. That is the reason our recommendation indicated that perhaps it should be disposed of by the highest bid between the two abutting properties with a requirement that it be merged with the property that acquires it.

Chairman Lopez asked what are you recommending? That we sell it?

Mr. LaFreniere replied yes.

Alderman Shea stated to the higher bidder of the two abutters and that it be merged with the property that acquires it.

Alderman Shea moved to sell the property to the highest bidder and merge the property to that abutter. The motion was duly seconded by Alderman Greazzo.

Alderman Roy stated I'm trying to find it on the GIS and when this came up before. I guess the question back then, and Leon, you can refresh my memory, was that we didn't know what the appraised value was and we didn't know what to sell it for. Was that the issue? If I remember right there was some sort of drainage that came into the corner or something. That may be another case that I'm thinking of. I'm not sure.

Mr. LaFreniere replied as for the appraised value I am not sure if that was an issue at that time or not. I can't speak to that. I know the Assessor is here this evening.

Chairman Lopez asked David, are you okay with that?

Alderman Roy stated I don't need to hear a price. I just want to make sure that our interests are protected and we aren't just giving it away for no particular reason.

Mr. David Cornell, City Assessor, stated on the particular lot, part of the requirement would be that you have to merge the area into the existing lot. If that was an existing lot and we could put a house on it there would be a different value.

Alderman Roy asked lot 4A is going to be merged with lot 4? And instead of 70 feet of frontage he is going to have enough frontage to have a buildable lot?

Mr. LaFreniere replied the lot is buildable today as a non-conforming lot of record. This would make the abutter's lot a fully conforming lot if it was consolidated. That's why we want to recommend that if this very small non-conforming parcel that is currently City owned is acquired by one of the abutters, it is merged with their lot. The problem becomes where this position should go and that's why we didn't recommend that it go to one abutter over the other because you could make an argument that it should go to both. The lot that you are talking about from the person who requested it, it would square off their lot and make them a fully conforming lot. To the abutter, it would provide him additional side yard, which would make his house more conformant. There could be benefits to it going to either abutter.

Alderman Roy asked you're saying that it may end up being done like that if we have two different bids?

Mr. LaFreniere replied I don't think it makes sense to subdivide it further. It is a very small parcel as it exists. I think it makes sense to see which abutter places more value on the lot, with perhaps a minimum price being the value the Assessors say it would have on the open market.

Alderman Roy asked if lot 4 gets this and combines it, it doesn't change anything does it? It wouldn't allow him to put in a planned development and have a lot of...and make the development more intense? It is all single families out there and we probably don't want to ruin that.

Mr. LaFreniere replied we had taken a look, just this afternoon as a matter of fact, to determine if the additional frontage would allow lot 4 to be further subdivide. It does not appear that you could further subdivide that lot. Therefore, I don't believe that additional development would be able to be completed without a Zoning Board action. It is possible that someone could go to the Zoning Board and ask to further subdivide and create non-conforming lots.

Alderman Roy asked what you are telling me is that they could do that right now as well?

Mr. LaFreniere replied it would be more difficult for them to do that. Keep in mind that Island Pond Road has historically required larger parcels because there has been no sewer there, but with the sewer being extended to Island Pond Road that will permit smaller parcel development in that area. This lot, because of the minimum frontage in a R1A, is 100 feet, even if he acquires lot 4A he still doesn't have 200 feet so he doesn't have the ability to further subdivide it without a variance.

Chairman Lopez stated I just had a conversation with the City Solicitor and I don't mind moving this thing forward to get it out of here and get it into the right hands. The City Solicitor has a legal question if you want to let the rest of the members know so we can put it in Leon's hands and have him work with you.

Mr. Arnold stated because this property is tax deeded there is a statute that applies. My recollection of the statute, but I've been unsuccessful in bringing it up, is that we can either go to public auction or in the alternative you can authorize transfer of the land by Ordinance. I need to look at the statute again because I'm not sure the effect of having a public auction between two bidders. Off the top of my head, it probably wouldn't fit the statutory intent of a public auction, though you could do that. You would have to authorize the ultimate transfer of the land by Ordinance, but that is something I would have to look at for the concern I was indicating.

Chairman Lopez stated it is off the table, so we can put it back on the table until you find that information or give them the authority to sell it.

Alderman Shea withdrew his original motion.

On motion of Alderman Shea, duly seconded by Alderman Roy, it was voted to table this item until the Planning Director and the City Solicitor return with a recommendation.

7. Draft agreement submitted by the City Solicitor's Office between the City of Manchester and the Manchester Dog Park Association for a proposed dog park in the city.

*(Note: On November 10, 2009 the Committee voted to send the agreement to the Dog Park Association and table this item until they have responded.)*

This item remained on the table.

8. Communication from Chuck DePrima, Acting Director of Parks, Recreation and Cemetery Department, regarding dog park site investigations for Dunbarton Road and Crescent Road.  
*(Note: Referred by the Board of Mayor and Aldermen on 10/6/09. Tabled on November 10, 2010)*

This item remained on the table.

9. Report of the Board of Mayor and Aldermen advising that is has requested staff to prepare documents to provide that the City agree to extend the term on the 2<sup>nd</sup> mortgage relating to Lowell Terrace Associates property located at the northwest corner of Lowell and Chestnut Streets to coincide with the expiration of the existing first mortgage in 2013.  
*(Note: The Committee has requested clarification from Finance as to whether financials from 1984 – 2001 have been provided; Solicitor to provide a fair market value for the property as established by the Superior Court in October; Tabled 8/04/08; The Committee requests the Solicitor to provide an updated Certificate of Insurance for the property; Retabled 12/2/08. Information to be provided by the Assessor. Retabled 7/07/09 waiting for disposition letter. **Retabled 9/1/09, Finance Officer and City Solicitor to provide a final disposition letter.**)  
**On file for viewing with Office of the City Clerk, One City Hall Plaza.***

On motion of Alderman Shea, duly seconded by Alderman Roy, it was voted to remove this item from the table.

On motion of Alderman Shea, duly seconded by Alderman Roy, it was voted to discuss this item.

Alderman Shea stated if you look at this, it has been retabled a couple of times. I think we ought to get the necessary material back to us so we can make a disposition as far as this is concerned. I believe we had discussed this and the previous Lands and Building Committee had also discussed this for some sign of formality about this issue. Looking through this particular agenda I didn't see anything on file for viewing with the office of the City Clerk or the final disposition letter from the City Solicitor. I did not see that letter. I am requesting that we receive a final disposition letter from the Finance Officer and the City Solicitor in order for us to make a decision regarding this matter.

Chairman Lopez asked may I include the Mayor there because he was very much involved in this?

Alderman Shea replied also the Mayor's office.

Alderman Roy asked could you explain the motion to me again?

Alderman Shea replied the motion would be for the Finance Officer and the City Solicitor, along with the Mayor's Office, to provide us with a final disposition letter so we can make a decision regarding this matter.

Alderman Roy asked and we are going to put this back on the table?

Alderman Shea replied yes, I'm going to put it back on the table.

Chairman Lopez stated what we are talking about in item nine is the preparing of documents on the second mortgage relating to Lowell Terrace, just so the people understand what we are talking about.

On motion of Alderman Shea, duly seconded by Alderman Roy, it was voted to instruct the Finance Officer, City Solicitor, and the Mayor's Office to prepare a final disposition for the Committee on this item.

On motion of Alderman Roy, duly seconded by Alderman Greazzo, it was voted to table this item.

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

A True Record. Attest.

Clerk of Committee