

COMMITTEE ON LANDS & BUILDINGS

July 31, 2023 Immediately Following PSHT

Chairman Long called the meeting to order.

The Clerk calls the roll.

Present: Aldermen Long, Fajardo, Levasseur, T. Sapienza, Trisciani

Messrs.: R. Tilsley, J. Nazaka, P. Chiesa, M. Gomez

1. Communication from Brenda Masewic Adams, Tax Collector, regarding the public auction held on Saturday, July 15, 2023.

Chairman Long asked does anybody have an issue with the proposed bids. Seeing none, can we just vote on this without going into non-public session?

Matthew Normand, City Clerk, responded yes. You can make a motion to approve the staff recommendation.

*On motion of **Alderman Trisciani**, duly seconded by **Alderman Levasseur**, it was voted to approve the staff recommendations for the purchase of tax-deeded parcels that went to public auction.*

2. Communication from Mark Gomez, Chief of Parks, Recreation & Cemetery, requesting approval for the installation of a donated combat photographer statue in Veterans Park and to authorize Parks & Recreation to work with the benefactors to draft associated legal agreements to be reviewed by the City Solicitor and brought to the Board of Mayor and Aldermen for final approval.

*On motion of **Alderman T. Sapienza**, duly seconded by **Alderman Fajardo**, it was voted to approve the request.*

3. Communication from Ted Kitchens, Airport Director, requesting approval of an amendment to the existing ground lease agreement with Electronics For Imaging, Inc., for property located at 12 Innovation Way, Londonderry, N.H.

*On motion of **Alderman Fajardo**, duly seconded by **Alderman T. Sapienza**, it was voted to approve the amendment.*

4. Communication from Dockside II Condominium Association proposing an easement agreement for the property located at Riverfront Drive (Tax Map 105, Lot 8A), which includes boat access to the river for City emergency personnel.

Alderman T. Sapienza moved to receive and file.

Chairman Long asked do you want to let everyone know why you want to receive and file this.

Alderman T. Sapienza stated this came up recently and we indicated that we were open to a revocable license not a...this is basically a sale that we already rejected. I would be willing to do a revocable license.

Alderman Levasseur stated I just want to know from their attorney. What is different than when you came before us previously Atty. Tilsley?

Roy Tilsley, Attorney, answered last time we were proposing to buy out the city's interest in this property. This time we are proposing that the city grant us an easement to allow us to maintain the existing improvements that are on the property, being a gazebo, the lawn and an irrigation sprinkler type system. We have, as part of the discussion with the Solicitor's Office in terms of trying to negotiate easement terms that would be acceptable to the Board, included an emergency access to the water including the right to put the boat ramp in so that the easement doesn't interfere with some of the concerns that we heard back in February regarding potentially transferring ownership of the property to the association. We are trying to find a compromise that allows us to keep what we have there and addresses the city concerns. I think it is important for the committee to know that this is essentially a pre-litigation settlement, at least in our terms. We believe that we have acquired title to the property through adverse possession. This property has a complicated ownership history but it boils down to this. For many years the city thought it owned the property and in fact the city, for what it's worth, authorized us to maintain these improvements on the property. The property was not on the tax rolls. Subsequently, the city realized that it did not own the property. I am a little vague on the dates but I would say in 2018 or 2019 they put the property back on the tax rolls and taxed the property to the defunct corporation that was the actual owner. Not surprising, the defunct corporation did not pay the taxes and the property was not taxed to my client as the people that possess the property. Taxes weren't paid and subsequently the city acquired at least what I would say is record title through the tax sale process. We believe we have adverse possessed against the prior owner for 20 years prior to the city potentially acquiring title through the tax sale. We would like to avoid having Atty. Chiesa and myself go into Superior Court to have that discussion. We are trying to fashion something that is reasonable. Our first approach was to pay the back taxes to see if we could get it. This time we are offering half for an easement and building in the emergency access piece of it, which again I think avoids us potentially acquiring the land, the fee interest in the land, and avoids the battle. I think it is a win-win for everybody. That is where we are coming from and that is why we are back with something similar but a little bit different. We are trying to make a last ditch effort to avoid Superior Court.

Alderman Levasseur asked as far as how you get to adverse possession, can you put me through the line on that as far as when you guys would have...you said there was a defunct corporation or a defunct entity that was getting taxed. I want to make sure that your lineage is good on 20 years.

Atty. Tilsley replied there is a defunct entity that was the record owner of the property. Sometime in the mid 90's or so and I don't have the precise dates but I checked that I have 20 years. The city took the property off the tax rolls because it assumed it was the city's property.

Alderman Levasseur asked because no one was paying the taxes.

Atty. Tilsley answered I don't know why they took it off the tax rolls but they took it off because they thought it was city property. You don't take it off the city tax rolls if no one is paying taxes. You do a tax lien and tax sale and acquire title that way but you don't just take property off. It is sort of a piece that just got lost. Since it was owned as a matter of record by this defunct corporation, my client put the improvements there many years ago. Most certainly anyone who is involved in the association now was not involved in building improvements 25 or 30 years ago there. They were adversely possessing against that corporation and they did that for 20 years and acquired title to the property through that 20 years of adverse possession. They had "permission" from the city to be there beginning I think in the beginning of 2003 but the city had no authority to give them permission because the city was incorrect in its premise that it was the owner of its property. The city realized that and I think it was the Assessor's Office in 2018 or thereabouts that put the property back on the tax rolls. At that time, my position is my client had already acquired title from the prior corporation by adverse possession and at that point the city was obligated to tax my client because the city was clearly aware that my client was in possession as evidenced by the fact that the city tried to give us an agreement to authorize it. Like any adverse possession case, Alderman Levasseur, you are always going back 25 or 30 years so it is always a kerfuffle at the court house.

Alderman Levasseur stated but a mistake of fact by the government is basically forgiven correct as far as your lineage. I just made that up.

Atty. Tilsley responded I know you made it up. I don't think the government can acquire title to property...

Alderman Levasseur interjected I just made that up because that is the argument I am going to make. A mistake of fact or a mistake of law. We know that if it is a mistake of fact and they thought the city owned it, does that break the chain of your adverse possession?

Atty. Tilsley replied no because the city never owned it. I don't think the fact that the city was mistaken about its ownership changes any of that. The city did not own it at the time as evidenced by the fact that at some point the city looked at it and put it back on the tax rolls.

Alderman Levasseur stated but they could have been taxing it all along.

Atty. Tilsley responded they could have been; absolutely.

Alderman Levasseur stated if they could have been taxing it all along then somebody owned it. When did you guys come in as the owner?

Atty. Tilsley answered it would take us 20 years of possession before we owned it. We put the improvements on in 1988.

Peter Chiesa, Deputy Solicitor, stated there is nothing adverse about the possession. As Atty. Tilsley mentioned, they voluntarily entered into a revocable license agreement with the city I think in 2003 or 2004. Twenty years hasn't passed since then. There can't be anything adverse if they don't think they are doing something adverse to whoever owned it. When they signed that revocable license, and I think there was another one on it as well, it was always believed that the city owned it. You are not taking anything adverse from anybody else if you enter into an agreement to do whatever you want to the property or whatever was permissible under the revocable license. As time went on...

Alderman Levasseur interjected so it wasn't hostile to the city.

Deputy Solicitor Chiesa stated it wasn't hostile to the city or the owner.

Chairman Long stated we are having a discussion on what should be litigated. If that is going to happen, it is going to happen. Is there anything that Dockside II Condo Association cannot do that they currently want to do through a revocable license or is this just a matter of fighting about ownership?

Atty. Tilsley answered a revocable license, alderman, allowing them to maintain what they have there is certainly a reasonable short-term solution as long as the city doesn't seek to revoke it. If you are asking me legally, you could give me a revocable license today and revoke it tomorrow and that doesn't do my people much good. I think part of why we are pushing against that is we do feel that we have a claim and a valid claim of ownership and to give that up for a license that the city can revoke at any time is not really a good trade for my people.

Alderman T. Sapienza stated I would like to help you out and find a settlement but what bothers me is the "in perpetuity". I don't know what is going to happen 10 years from now or 25 years from now. I don't want to give up the city's rights in perpetuity. That is basically a sale which is what we already rejected. I think there is a solution.

Atty. Tilsley replied I am open to it and that is why I am here.

Alderman Fajardo asked would you consider a 10-year agreement or a renewal 10-year agreement.

Atty. Tilsley answered I would have to talk to my people. I think if there was some type of a trigger on what would allow the city...to the extent that Alderman T. Sapienza says there must be a deal here someplace and I hear what you are saying, maybe there is something where we can agree on a trigger that if certain things happen then the easement could possibly be modified or rescinded. That would take some thought with my people but I am certainly willing to try to come up with something and work with Atty. Chiesa to see if there is some way to address both of those concerns.

Alderman Levasseur asked what is the difference between a license and an easement. You want an easement and not a license correct?

Atty. Tilsley responded an easement is exactly what Alderman T. Sapienza said. It runs with the property.

Alderman Levasseur stated we would still have some sort of authority to revoke at some point with one of those two right.

Atty. Tilsley answered with a license yes but with an easement...

Alderman Levasseur interjected well a 50-year license is not long enough.

Atty. Tilsley replied no.

Alderman Levasseur stated well you don't want revocable right.

Atty. Tilsley responded right.

Alderman Levasseur stated and he was obviously okay with a revocable but he wants to be able to have that ability in case the building burns down and there was this land...who knows what happens 50 years from now. They may want to do something new with the river but a revocable you don't like but a license to me at least gives us some authority and power at some point and the years are probably what we could agree on. I don't think there would be a problem with longer than 10 years for a license.

Chairman Long stated this is something that can be discussed with the Solicitor's Office. I think a motion to receive and file is appropriate at this time. Then they can have that discussion and see what would be amenable. I don't think we are going to come up with something amenable tonight.

Atty. Tilsley stated that is fine and we appreciate the feedback. We are trying to get this done.

Alderman Levasseur duly seconded the motion to receive and file. ***Chairman Long*** called for a vote. *There being none opposed, the motion carried.*

5. Proposal from Harry Umen for a mural on a bridge pillar beneath the Bridge Street Bridge near 500 Commercial Street.

Alderman T. Sapienza moved to approve. ***Chairman Long*** duly seconded the motion.

Alderman Trisciani stated in the past we have had people come to us and present what they are doing and all of the standards they are following. Is Mr. Umen here tonight? If someone is not here to speak to us and talk about what is going on, I will not blindly vote to approve it.

Chairman Long stated we are looking to approve the mural that he sent us in his package. I have no issue with it. The only question I had, and my understanding is that it will happen but I haven't spoken with him, is the only difference with the other murals is they were putting a sealer or something over it. I want to be assured that it will

happen with this one too. My understanding is that it will and that is what they are doing now so they don't have to go back with paints.

Alderman Trisciani stated we talked about maintenance with the other people as well. Is he willing to maintain it because we did talk about that with the other artists about maintaining it? Just the coating doesn't always work. They need to maintain it.

Chairman Long stated my understanding with the other ones is the coating was the maintenance and there wouldn't be maintenance and five or ten years is what we were told. The coating was helping to seal it so there wouldn't be a need for maintenance.

Alderman Trisciani responded it helps but can we call up Jodie Nazaka because we did a coating on the stairs but we also have James Chase maintaining it. We did coating on the sections that are being done now and the artists have agreed to follow-up and maintain that. We actually need to come up with a mural program but we need to get the maintenance question answered because I would hate to have it done and then things chip and we have a mess that no one is maintaining.

Jodie Nazaka, Economic Development Director, stated for the stairs we did have the muralist sign a contract.

Chairman Long asked regarding this artist, do you know if he committed to abatements or if he is sealing it.

Ms. Nazaka replied I was just chatting with Mark Gomez. We are pretty sure that DPW and Parks will be putting a coating on when the other two are complete. We don't think it has been done yet. That is slightly different than what Alderman Trisciani is talking about. The stairs did have that same coating on them but we did have the muralist commit to a three-year contract and if there is any need for a touch-up, he will come back and do that.

Chairman Long asked so the contract consisted of what.

Ms. Nazaka answered we actually drafted it with similar language that as used for the Parks contract for the tunnel for the rail trail.

Chairman Long asked so the muralist would touch-up something that we needed touched up and we would pay for that.

Ms. Nazaka responded there would be no cost to the city.

Chairman Long asked so they would be paying for it. What about the last two we approved? Did we have contracts with them?

Ms. Nazaka responded I was not involved with those. I think I did recommend, when they came before the Board, that the Board have a contract signed to force some sort of maintenance or just an agreement.

Alderman Trisciani stated I don't think we did a contract but we did ask them about maintaining and they committed to maintaining. I can't remember if we said three years but Dave and Jyl made a commitment to maintain them.

Chairman Long asked so there was no contract.

Ms. Nazaka stated unfortunately I wasn't involved with those so I can't speak to them but I do remember from the meeting hearing something about Parks or DPW helping with the coating once they are completed.

Alderman Levasseur asked who pays for the paint and the work.

Chairman Long stated they got a \$10,000 CEAG grant.

Alderman Levasseur asked how do we end up getting into a contract with somebody that we are not paying. They are getting a grant but that doesn't create a contract with the city.

Ms. Nazaka stated the stairs was a completely different process. That was submitted through Manchester Connects. The muralist entered into a contract with Manchester Connects that I reviewed and also signed-off on. It was an agreement between two separate parties that we in the Economic Development Office helped to administer just to make sure that we were having some sort of maintenance plan on it. In that contract, the muralist agreed that at no additional cost to the city they would maintain it for three years as needed.

Alderman Levasseur asked and after three years it is ours.

Ms. Nazaka answered it does have the coating so in theory DPW or Parks could go in and remove the graffiti but any touch-up for color vibrancy or anything like that after three years is on the city. I am not sure on these bridge abutments if they have anything similar.

Alderman Trisciani stated I love the murals and I think it is great for the community. Are we able to maybe ask the Arts Commission...I know we all talked about this on the side but I think we should formally request that the Arts Commission create some sort of mural program and documentation. I know they have been talking to Nashua.

Chairman Long stated we did receive a letter.

City Clerk Normand stated they are working on that now.

Alderman Trisciani stated I know they are working on it but I think we need to firm that up and have something so that when people are coming to us we have that maintenance piece. Murals are great and like I said I love them but if they fall into disrepair then we have a bigger problem that we have to deal with.

Chairman Long stated I don't know what the timeline is on the CEAG grant. I don't want to hold this up. I think we have two weeks if we vote today. We can talk to the muralist

to see if the three-year contract stands and if we can get that in writing and be assured that DPW is going to seal it.

Alderman Trisciani stated the sealing isn't so much the question but I don't know this artist and it would be great to have him connect with Jyl and Dave about what they are doing for maintenance moving forward and just keeping an eye on it.

Chairman Long stated in my opinion it fits perfect.

City Clerk Normand stated the Board doesn't meet again until September. This sub-recipient agreement that is in your agenda packet is effective September 8.

Chairman Long stated and we are meeting on September 5 so we have time.

Alderman Fajardo stated I think it says he is looking to start work in August.

City Clerk Normand stated the sub-recipient agreement says September 8...wait a minute, it says 2022 on it.

Chairman Long stated I believe it is September 8.

City Clerk Normand stated we can get the contact information for the artist and send it out to the committee if you want to ask him questions.

Chairman Long replied okay. I think we can wait and have the report go on the September BMA meeting.

Chairman Long called for a vote on the motion to approve. The motion carried with Alderman Levasseur being duly recorded in opposition.

6. Discussion regarding the future use of the Hallsville School building.

Chairman Long stated I left a message with Atty. Chiesa. There was a second bid. Is there a necessity to go to that second bid or could we...?

Peter Chiesa, Deputy Solicitor, interjected no. You can start carte blanche. You don't have to go back to the second bid.

Chairman Long asked if we do go to the second bidder and they accept it, would that be protocol or do we have to go out with an RFP again.

Atty. Chiesa answered you could certainly have that discussion with them. I know there was a small committee that met with them. I forget what the criteria was but there was a reason the Board chose to go with this particular project rather than the competing bid.

Alderman Fajardo stated I think it was due to the fact that the competing bid didn't agree to keep the gymnasium. They were going to take over and use the entire space for their project. That was one among other reasons.

Chairman Long asked would there be any other use.

Alderman Trisciani stated there are a lot of calls out there right now for groups that are looking for a community center and currently we don't have anything that fits the bill. We know today that Parks & Recreation operates as full a schedule as they can out of the building. We have the Safari Youth Club that operates out of there. We also know that OYS is looking to expand some of their programs and we will be hearing about Youth Build and some other things in September. It feels like maybe there is an option now that we revisit it to see if it is a community center and we bring in some other groups that are looking for space and share the building. I think that is the best use for this property. I think the neighborhood would like that as well. There is also currently some CDFA funding out there. Obviously, we would need to find an agency to oversee the whole thing but there is some money out there to build out community centers and I think it would be a win for the building. I also recognize that we need to move fairly quickly on this because unfortunately this building has been left empty and vacant for too long.

Chairman Long stated yes we do have to move quickly and would a community group have the wherewithal to renovate it for their use. That is going to be expensive. I know the community centers that I have spoken to didn't have the wherewithal to come up with major funding.

Alderman Trisciani stated I think in all honestly, neither did Southern NH Services and we gave that a try. I think with the community grants and...

Chairman Long interjected they came up with \$6 million. The community centers are not going to come up with \$1 million.

Alderman Trisciani responded right but in talking to OYS and the Safari Youth Club and Parks & Recreation, I think there are some options there and if we can just give them a little time to look at that and maybe pull a team together and figure that out.

Chairman Long asked who is looking at that. Parks & Recreation?

Alderman Trisciani answered Parks & Recreation and we have Michael here from OYS. I can get the Safari Youth Club and CDFA on board and potentially some other folks that were looking at it.

Chairman Long asked would you have that ready for the September L&B meeting. That gives you a month.

Mark Gomez, Chief of Parks, Recreation & Cemetery, stated we have had preliminary conversations with CDFA and we have been in partnership for some time with the Safari Youth Club who has been operating programs out of the gym. In terms of having something ready by the September meeting, I don't know if I could commit to that. Just from a narrow Parks & Recreation perspective, what we have been looking at is utilizing the gym and perhaps there could be funding from CDFA to build out some space adjacent to the gym, which is a newer building. The remainder of the school, I

understand, it quite old and not in nearly as good a shape. That is narrowly what Parks & Recreation has been looking at. I know that OYS, as Alderman Trisciani mentioned, is looking for space as well. There might be some city use or municipal use for the school building itself as opposed to just the gym. I think there is probably a lot of conversation that still needs to happen.

Chairman Long stated I don't have an issue going out two months. The only issue I have is Alderman Heath mentioned some degradation going on and people getting inside. Maybe Facilities can talk about it. I don't know if anything is being done to stop that. If you could head in that direction to see if it is a possibility that would be good.

Alderman Trisciani stated I would be happy to bring the other people to the table that we talked about for community groups. At this point, what are the other options for the building?

Chairman Long stated what about Studio 550.

Alderman Trisciani responded that is a fair thing too. If they want back in, they were second.

Alderman Levasseur stated I have an idea. How about we put it on the market and sell it in the private sector like I said two years ago or however long this has been going on. Now that the interest rates are 7%, things are tightening up. These people didn't come through. We should have just put it on the market without any restriction that we have to leave the gym open for the community. That property could have already been bought and made into housing. I am not sure if it would have been low income but it could have been affordable housing and we could have had this done. Now you guys are going to delay it for another two months and come back with something else. It is never going to be on the tax rolls. At the very minimum, it should be sent out for an RFP without restrictions to see what is out there. I looked at some of the buildings that we have allowed the private sector to get involved in. They did a phenomenal job on Ash Street and there was another school off of Wilson Street I believe that is beautiful. Some of these private entities come in and refurbish these buildings and make them really nice. They can use them for office space which does fit in that area because then it is closed at night and on the weekends or they can put in affordable housing. I don't think we should keep locking ourselves into non-profits because the money is not out there like it was when interest rates were really low.

Chairman Long stated the consideration is the neighborhood. They accepted the 20 Section 8 apartments that were going to be built. If it is going to be apartment units, that would be an added burden to the neighborhood. At the community meeting that I attended, they weren't looking...20 or 30 units was okay but 50 or 80 units, that would be a burden on them. It is up to the committee what we want to do. I am on board with taking a look at that. The sooner the better.

Alderman Fajardo stated there is nothing to lose and certainly time is ticking anyway. We should entertain exploring the options that we discussed. Alderman Levasseur, your perspective isn't unreasonable given the situation. Let's consider the work that is already underway and I would say the sooner the better. I don't think it has to be

perfect but if we could get a sense of what it could be sooner that would be good and could help us start to process options faster.

Alderman Trisciani stated I think in looking at a plan we should also look at what the immediate needs for maintenance and safety are. There is a longer term plan but we are kind of going nowhere with the building now and we have a community need.

Chairman Long stated so we won't take any action. Is that okay Matt?

City Clerk Normand asked so you want them to come back at a future meeting with a plan.

Chairman Long answered yes. A month would be good but I understand if that can't be done.

*There being no further business, on motion of **Alderman Levasseur**, duly seconded by **Alderman T. Sapienza**, it was voted to adjourn.*

A True Record. Attest.

A handwritten signature in black ink, appearing to read "Matthew Normand". The signature is fluid and cursive, with a long horizontal stroke at the end.

Clerk of Committee