

Executive Session

May 20, 2014

10:00 p.m.

Present: All Councillors, Maria Luise, Debbie Burke, James Norton, Kevin Molis, Ron Hogan, Chuck Ranaghan, Tom Brennan, Doug McGarra (Foley, Hoag), Kate Fallon, Sheila Fermano

Councillor Anderson said when he spoke with the Mayor he wasn't sure if there would be an Executive Session this evening. However, he said the Mayor had an emergency at home and while he could not attend, Maria Luise would represent him. He said there would also be discussion on the status of City Hall.

MRA Director Deborah Burke said she wanted to make sure all were on the same page. She said she was advised by the Mayor to talk about the City Hall plan and discuss the use of the Jackson Street Garage for the police station. She said she brought lease information if it would be helpful. She said Doug McClory (?) (MRA lawyer) would discuss the eminent domain piece to acquire 110 Florence Street for City Hall. Ms. Burke also said they wanted to talk about the Jefferson apartment as they were making substantial changes to the deal currently on the table.

Councillor Anderson said last week the Council met in Executive Session and motions were approved by the Council, which he brought to the mayor. He said the Council was not supportive of the Mayor's Plan B.

He said the Council had Plan C – the acquisition of 110 Florence Street by eminent domain or purchase; and a temporary location for the police station = CDBG and Jackson Street garages. Councillor Anderson said he and the City Clerk met with the Mayor and Maria Luise on Friday morning and spoke about the dynamics. He said now the internal committee was here for feedback from the Council. He said the police station details being in one or two facilities was a concept to work on. He turned the meeting over to the Council.

Councillor Spadafoas said so put city hall there and find a temporary police station. He said that the idea was to use Florence St. for City Hall and find a temporary place for the Police Station. He said that if cells became a problem, they could look at other communities.

Chief Molis said that he had to be cognizant of his obligation to the public and their safety. He said that a decision should be made out of deliberation rather than desperation. He said that if the decision was made out of desperation, they would not be functioning as a police department and would not be meeting their obligation to the community. In response to a question from the Council, he said that they had arrested 30 people last week.

Councillor Anderson asked how many cells the police station currently contained.

Chief Molis said that there were 12.

Councillor D'Arcangelo asked if they ever used them all.

Chief Molis said that could happen on a busy week end.

Councillor Matheson asked the Chief if he could make it work in the garages.

The Chief said that he had come into the room believing that he was limited to 3800 sq. ft. He said that he could not do that.

Councillor Matheson asked if could do it now that he knew more space would be available.

The Chief said that he needed to know how much space was available and what the tipping point for being able to perform the required tasks adequately.

Councillor D'Arcangelo asked where he had gotten the figure of 28,000 sq. ft.

The Chief said that he had met with two sets of architects relative to departmental needs. One said 29,269 sq. ft.

Councillor D'Arcangelo asked Councillor Kinnon where he was getting 25,000 sq. ft.

Councillor Kinnon said that was the size of the present police station.

Councillor Matheson said that, if the question of adequate sq. ft. was resolved, could the police department work there.

The Chief said that it was downtown, which was his preferred locale. He said that with adequate sq. ft. he supposed that anything was possible. But, he said, he needed to preserve the professional standards that the personnel had the right to expect.

Ms. Burke said that the old registry was currently a day care with a lease that extended through 6/30/20. She said that the space was 4,266 sq. ft. She said that the Emergency Center had a bay and an office, as well as Jackson Suite. She said they were tenants at will and occupied 7,760 sq. ft.

Councillor Kinnon asked about areas in the other garage (CBDG).

Ms. Burke said in Jackson St., there was also an area to the left of the entry that contained about 30 parking spaces and a small office. She said that in the CBDG garage, the MEA occupied 1,000 sq. ft. with a lease until 8/20/14. She said that GTA's lease had expired on 3.31.13 and was for 2,180 sq. ft.

Total available space was calculated at about 15,000.

Councillor Spadafora asked if the 25,000 sq. ft. currently occupied included the garage.

The Chief said that it could – he wasn't sure.

Councillor Spadafora said that would give them the opportunity to look for a place that would not require the building of a 7 million dollar parking. And, he said, it would enable them to keep City Hall together. He said that 2020 was a long way off.

Mr. Hogan said that the team had had a conversation with Jefferson Apartment Group and that they were requesting changes in a number of items in the LDA. He said that they realize that the numbers don't work and they need to add value to the project. Their proposals are as follows:

1. To increase the number of units from 245 to 282 by adding a third small building on the site;
2. To change the parking calculation by reducing the number of spaces to 280 (the current requirement is .75/unit, which they had exceeded);
3. to add 10,000 sq/ ft. of retail space, for a total of 27,000;
4. For the city to assume the cost of two environmental issues that were discovered in their investigation.
The environmental issues are PCBs in caulking of the windows and petroleum the building. He said that the estimated cost range was \$750,000 to \$2,750,000.
5. They were looking for some tax certainty on the property and were suggesting the city establish a ceiling of \$700,000 for the first year with an escalator thereafter.

He said that they had asked which of these were deal breakers and were told that they all were.

Councillor D'Arcangelo asked what the deadlines were.

Mr. Hogan said that the due diligence period expires tomorrow and JAG was asking for another 30 days. He

said that their need to change the agreement opened the whole things for negotiation.

Councillor D'Arcangelo said that, if we agreed to pay the environmental remediation, the sale price was effectively reduced to 7 million.

Mr. Hogan said that they had agreed to pay \$40,000 for each additional unit, so with the added units, the purchase price was up to \$11.28 million. He said that the mid point of the remediation costs would bring the purchase price back to where we had started. With the initial number of units, taxes had been projected at \$625,000. With the added units, he said, they were estimated at \$700,000. He said that these would be residents who would be unlikely to have great needs for city services and there would probably be few children in the building.

Councillor Murphy said that, even absent children, there would be an effect on net school spending.

Councillor Matheson asked who from the city was speaking with JAG.

Ms. Burke said that Doug McGarra spoke with their attorney. She, Mr. Hogan and Mr. Brennan spoke with Sandi Silk from JAG.

Councillor Matheson asked why, if they had signed an agreement, they were still negotiating.

Mr. McGarra said that the LDA allowed them 60 days to do due diligence. In that time, if they discovered any problems, they could get their money back and walk away. He said that an initial extension of 30 days had been granted and now they were seeking an additional 30 days in which to further negotiate on terms.

Councillor Matheson asked what the basis was for them seeking to modify terms.

Mr. McGarra said it was the environmental issues – they had found PCBs in the window caulking, which changed the cost of demolition. He said that test borings had also showed contamination on the site.

Mr. Hogan said that the look period had given them wide latitude.

Councillor Matheson asked what the cost of the remediation was.

Mr. McGarra said that the range was from \$750,000 to \$2,500,000.

Councillor Matheson said that was an enormous range.

Ms. Burke said that, as she understood it, the PCBs could infiltrate the brick, leading to a large increase in demolition costs.

Mr. Hogan said that he thought that their further due diligence also revealed different market conditions with respect to the rental values and the size of apartments.

Councillor Matheson asked if they could use that to renegotiate.

Mr. McGarra said that the city had asked for 285 units, with an additional \$40,000 for each additional unit. He said that it was the desire for them to look at and further define what the market was. He said, with respect to parking, this is a transit oriented development, so it is not surprising that they want a lower parking requirement. He said that was the trend everywhere with those types of developments.

Councillor D'Arcangelo asked what was going on with the ball park. He asked, why, if the ball park wasn't

going to happen, the city did not go there.

Mr. McGarra said that National Grid was getting market rent on that property and that is what they continue to expect. He said that they had been cajoled into accepting the possibility of Baseball Field of Dreams and would be getting market rent from them.

Councillor D'Arcangelo asked if the ball park was happening or not.

Ms. Burke said that the city should have clarity on that by the end of July.

Mr. Hogan said that the due diligence period gave JAG complete latitude. He said that they could ask for anything and, if the city refused, everyone walks away.

Councillor Matheson asked if they would face any damages for walking away.

Mr. McGarra said that they would not during the due diligence period.

Councillor Ultrino asked if the Planning Board would be involved in the decision on density and parking.

Mr. Hogan said that their original plan overshot on the parking. He said that their revised request will conform with the city's existing parking requirement for residential property.

Councillor Ultrino asked about the commercial parking.

Ms. Burke said that there is no requirement to provide parking for commercial space in the downtown. She said that, under their revised plan, they would be offering 2 spaces/1000 sq. ft.

Mr. McGarra said that JAG would be required to go through the city's normal permitting process.

Councillor Ultrino asked how much more intrusive would what they were asking for be.

Mr. McGarra said that the density was greater but that is that is what the city wanted in the downtown area.

Ms. Burke said that it was still early in the discussions. But, she said, on the upside, their market analysis had suggested that this was a good site for commercial space.

Councillor Murphy said that the offer of \$9.8 million had grabbed everyone but the plan had been her least favorite. She said that the building was very self-contained, except for the retail portion. She said that she was concerned with a design that shut the community out and wanted to see modifications of the green space. She said that the idea that the increased density would make some of that green space more self contained through roof top decks and interior space was concerning to her. She said that they appeared to be taking away all the things that had initially made the proposal attractive to the city. She said that the request on taxes would impact net school spending and not in a positive way. She said that they were struggling to make this work but that the third building didn't set well with her. She said that she was not sure she wanted to negotiate with them on these items.

Councillor Nestor said that this seemed to him to be a standard course of negotiations. He said that right now, they wanted another 30 days to explore it. He said that he was sure that, in that 30 days, there would be movement on both sides.

Councillor DeMaria asked who was the next runner up in the RFPs.

Ms. Burke said that it was a company who had recently won a bid to build at River's Edge named Criterion. She said that they were offering \$4 million for the site. She said that, when Jefferson was chosen, they had asked her to keep their deposit, in the event that things did not work out with Jefferson and they had indicated that they would be willing to go as high as \$7 million for the property.

Councillor Kinnon said that was true but his recollection was that they wanted to keep the grants for roadwork, bringing the offer back to a net \$4 million.

Mr. McGarra said that, given the timeframes, he did not believe that they could go back to them now. He said that a new RFP would have to be issued.

Councillor DeMaria said that the 1st church was for sale.

Councillor Ultrino said that was an historic building.

Councillor Spadafora asked if an extension granted on the due diligence time would result in an extension on the date for vacancy of this property.

Mr. Hogan said that it would.

Councillor Spadafora said that the worst case scenario seemed to be that we would get \$8.5 million for the building. He said that would affect the move going forward.

Ms. Burke said that it would be helpful to know the Council's parameters for negotiations.

Councillor Spadafora said that, as far as he was concerned, taxes were off the table. He said that he was OK on the residential parking but wanted commercial parking available – otherwise there would be no draw to the commercial space.

Councillor Kinnon said that they had offered 68 spaces for 17, 000 sq. ft. of retail space. He said that the number of spaces needed to go up in the same proportion if the retail area was to expand.

Councillor Spadafora said that he would be willing to make concessions on the residential space but, on commercial spaces, he wanted to maintain the formula of 4/100 sq. ft.

Councillor Matheson said that they needed finality to the terms. He said that the Council needed to figure out what they could live with. He said that the parking concerned him, as did the green space. He said that they were expected to provide an answer by 5 p.m. tomorrow. He said that he thought that the deal was coming apart and that Jefferson had waited until the 11 hour to try to exert pressure on the city.

Councillor D'Arcangelo said that, if they scrapped this plan, they could issue a new RFP for office and commercial space. He said that adds a totally different elements and has no impact on services and net school spending.

Councillor Murphy said that she was not agreeing to anything until she saw a plan on the 3rd building.

Councillor DeMaria asked Chief Molis if this did not happen, could the Police Department continue to function as it was now.

Chief Molis said that it could – he said that they were functioning now.

Councillor Murphy asked what had happened with Florence St.

Mr. McGarra said that 110 Florence St. had not responded to the RFP that was issued. He said that it had recently sold for \$2.4 million and the new owner was not interested in selling. He said that the city could take it by eminent domain but that there were 6 tenants who had procedural rights.

Councillor Murphy said that they had given an order before for taking and it never went anywhere. She said that the Council wanted to see that something was being done.

Mr. McGarra said that they had moved further down the road on other sites. He said that there had been an order of taking in public session and an appraisal.

Councillor Matheson said that had been done for Hostess but then activity stopped.

Mr. McGarra said that an engineering study indicated that it would have been a costly endeavor so they had abandoned it.

Councillor Matheson said that he did not get to make that decision – the Council did.

Mr. McGarra said that it was that engineering report that had made them turn to 110 Florence St.

Ms. Burke said that she did not know if they took it off the table.

Councillor Kinnon said that he knew that the Council had taken it off the table. He said they had done it in an Executive Session on February 25th in a series of votes on four different scenarios. He said that he remembered the date because those votes were what led him to resign from the Standing Committee.

Councillor D’Arcangelo said that he remembered that but thought that it was presented to them as a cost issue, rather than a structural issue with the building.

Mr. McGarra said that it was both. He said that there was significant eminent domain exposure as well as significant construction costs due to structural elements revealed in the study.

Councillor Kinnon said that, if the city granted the extension, he thought that we needed more than 30 days on the back end. He said that, in theory at least, the extension should shut down the city’s process on moving. He said that he would like to ask for 6 months on the back end.

Mr. Hogan said that it was helpful to know the Council’s expectations as the negotiations proceeded. He said that he would like to get direction with as much specificity as possible.

Councillor Anderson said that he would like to dismiss the invited guests to allow the Council to deliberate. After guests had left the room, Councillor Anderson suggested that they go around the table, allowing each Councillor to express his or her concerns. He asked Councillor DeMaria to start.

Councillor DeMaria said she thought that the city had sold its soul for the money and they were now jumping through hoops to try to make this work. She said that she would not want to see the extension granted.

Councillor Sica said that she was not yet prepared to comment. She said that she had missed the last executive session and wanted to listen and get a better sense of what was going on before she made any decisions.

Councillor Crowe said that she would be willing to extend for 30 days but wanted to get more time for the city on the back end. She said that this had the feeling of a bait and switch and she thought that the city needed to be prepared to walk away if JAGs demands were too great.

Councillor Nestor said that he would like to agree to the 30 day extension. He said that he would agree that retail parking was needed and he did not want to see a third building on the site. He said that, so far, though, this just seemed to be a normal course of negotiations and that the city should proceed to see what came of it.

Councillor Murphy said that she was definitely opposed to a third building but could agree to the parking. But, she said, she still needed to see a design with open space – she said that she realized that might be premature but it was a serious concern for her. She said that, with respect to the idea of staying here, she didn't want to waste more money on this building. She said that she would not be entirely disappointed if the deal fell apart, as they could use the time to find a better location.

Councillor Nestor said that he thought that no one should be married to the plan that they saw in front of them. He said that he had seen 7 or 8 plans on the Super Fitness site and it was to be expected that the plan would change multiple times as this progressed.

Councillor D'Arcangelo said that he would like to let this go away and issue a new RFP for anything but residential. He said that the budget was a disaster and we were trying to move major chips around the table. He said that he thought that too much was up in the air. He said that he did not see this happening and would like to wait to put together a plan with cost/benefit on all the pieces.

Councillor Matheson said that he was uncomfortable that they could come back any time with any terms. He said that, if the extension were granted, he would ask for another 6 months on the back end. He said that he was ok with the parking but was concerned about the density. He said that clearly they had put the cart before the horse but what they had come up with in the last week was workable and the idea of city hall at Florence St. was superior to the plan to split up city hall offices.

Councillor Ultrino said that he didn't see a problem with allowing the 30 day extension. But, he said, he did not think that they would budge – they now knew that they had offered too much for the building. He said that, with respect to everything else, he was not certain that we needed to make a move, so he couldn't really talk about that now.

Councillor Spadafora said that he thought that this should be the last 30 days that we gave but we should give it only if they give us 6 months on the back end. He said that, at the end of the day, \$9.8 million was still not enough. He said that he was also very concerned that the Police had walked through the building with architects. He said that five months ago, the Chief had said that he would work out of trailers. He said that he thought that, if they couldn't agree to terms in the next 30 days, it was time to cut bait. He said that he had already expressed his concerns with commercial parking. He said that he definitely didn't want a third building and that taxes should be off the table – he said that he believed that it was illegal anyhow. He said that he would also like to see what they were proposing for retail and how that space would be divided.

Councillor Kinnon said that he agreed with Councillor Matheson. He said that the big thing was that they could back out and we couldn't. He said that in the next 30 days we should also be able to back out without any penalty. He said that should be a condition of the extension – that we could back out as well.

Councillor Nestor said that he had negotiated with the same people on the city side for a surrounding community agreement with casino developers and he thought that they were terrible. He said that they were always saying that this was the best we could get but as we kept pushing we got more.

Councillor Kinnon said that he did not believe that JAG wanted to walk away. He said that they had already made a substantial investment in the property and they wanted to proceed.

Councillor Spadafora said that he would like to see any remediation that the city agreed to pay capped, whether by dollar value or by percentage.

Councillor Anderson said that it appeared that the issues were clear and it was time to take some votes.

ON COUNCILLOR MURPHY'S MOTION TO REFUSE THE REQUEST TO ADD A THIRD BUILDING TO THE PLAN'

(11)Y-(0)N

ON COUNCILLOR SPADAFORA'S MOTON TO ESTABLISH PARKING REQUIREMENTS OF .75/RESIDENTIAL UNIT AND 4/1000 SQ. FT. OF COMMERCIAL SPACE

(11)Y-(0)N

ON COUNCILLOR MURPHY'S MOTION TO REFUSE TO ASSUME ANY OF THE REMEDIATION COSTS ON ENVIRONMENTAL ISSUES

(11)Y-(0)N

ON COUNCILLOR SPADAFORA'S MOTION TO REJECT THE REQUEST FOR A TAX DEAL OR TAX GUARANTEES

(11)Y-(0)N

ON COUNCILLOR KINNON'S MOTION TO OFFER A 30 DAY EXENTIONS, PROVIDED THAT THE CITY BE GIVEN EQUAL OPT OUT PROVISIONS DURING THAT TIME AND A 6 MONTH EXTENSION TO THE CITY OFN THE BACK END

(10)Y-(1)N, COUNCILLOR DEMARIA OPPOSED

ON COUNCILLOR SPADAFORA'S MOTION TO STIPULATE THAT THIS BE THE LAST EXTENSION

(11)Y-(0)N

ON COUNCILLOR ULTRINO'S MOTION TO ADJOURN

(11)Y-(0)N

MEETING ADJOURNED 12:00 AM

238-24

Communication: During the meeting of April 30, 2024, the Council unanimously voted to enter into Executive Session with legal counsel for the City, in accordance with Exemption Seven Massachusetts General Laws Chapter 30A Section 21(a)(7), to comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements, in order to act on the periodic review of those executive session minutes listed herein; council vote is required prior to release of the executive session minutes of the following dates:

May 20, 2014

June 17, 2014

August 19, 2014

September 30, 2014

October 14, 2014

November 18, 2014

A motion was made by Councillor Sica, seconded by Councillor Crowe, to release the aforementioned Executive Session minutes, pending appropriate redaction at the discretion of the City Solicitor. The Order was adopted by the following roll call vote:

Yea: Colon Hayes, Condon, Crowe, Linehan, McDonald, Sica, Simonelli, Taylor, Winslow

Absent: O'Malley, Spadafora

Sponsors: Stephen Winslow

Attachments: Final Paper: 238-24

Clerk Desiderio noted that after the redaction of released records by Solicitor McNeil, the Executive Session minutes would then be posted accordingly for public review.

A motion was made by Councillor McDonald, seconded by Councillor Taylor, that the Communication be placed on file. The motion carried by a unanimous vote.

8. COMMITTEE REPORTS

239-24

Committee Report: The Standing Committee on License to whom was referred Papers 192, 198, 199, 201 through 207 Series of 2024, having considered the same make the following report: Committee recommends these petitions out favorably to the Full Council.

A motion was made by Councillor Sica, seconded by Councillor Crowe, that the Committee Report be received and filed. The motion carried by a unanimous vote.

192-24

Petition: Fortune Teller: Chris Burgan Full Heart Tarot, 73 Linden Avenue #1, Malden (New)

A motion was made by Councillor Sica, seconded by Councillor O'Malley, that the Petition be granted. The motion carried by a unanimous vote.

198-24

Petition: Pool Tables: AOH Division 12, 259 Charles Street, Malden, 1 table (Renewal)

A motion was made by Councillor Sica, seconded by Councillor O'Malley, that the Petition be granted. The motion carried by a unanimous vote.