

LONG RANGE CAPITAL PLANNING AND UTILIZATION COMMITTEE

Legislative Office Building, Room 201

Concord, NH

Tuesday, September 18, 2012,

MEMBERS PRESENT:

Rep. John Graham (Chairman)

Rep. Carl Seidel

Rep. Gene Chandler

Rep. David Campbell

Rep. John Cloutier

Rep. Christopher Nevins

Sen. James Rausch

Sen. John Gallus

Sen. Sylvia Larsen

ALSO PRESENT:

John Beardmore, Governor's Office

Michael Connor, Dept. of Administrative Services

1. Acceptance of Minutes of the June 26, 2012 meeting.

CHAIRMAN GRAHAM: Time being 10 o'clock, call the meeting of the Long Range Planning and Utilization Committee to order. First order of business is the acceptance of the minutes.

****** REP. CHANDLER: So moved.

SEN. GALLUS: Second.

CHAIRMAN GRAHAM: Moved and seconded the minutes of the June 26th meeting be approved as distributed. Any discussion? Seeing none, all those in favor say aye? Opposed nay? The ayes have it and they are approved.

******* {MOTION ADOPTED}

2. Old Business:

CHAIRMAN GRAHAM: Old Business. Item 12-030.
Representative Chandler.

****** REP. CHANDLER: I -- I guess there's a question over whether this Committee does have jurisdiction over this particular item or not. I happen to think we do, given what's happening, especially taking money from State Parks for their use. But, nonetheless, since it's unclear, I would just move to table this item now until we can come up with a definitive conclusion of whether this Committee does have jurisdiction or not.

SEN. GALLUS: Second.

CHAIRMAN GRAHAM: Been moved and seconded that Item 12-030 be tabled.

(Senator Larsen enters the committee room.)

CHAIRMAN GRAHAM: Non-debatable motion. All those in favor signify by saying aye? Opposed nay? The item is tabled. We may have another meeting.

***** {MOTION TO TABLE ADOPTED}**

(Representative Campbell enters the committee room.)

CHAIRMAN GRAHAM: Moving on. Item 12 --

SEN. RAUSCH: Can I clarify?

CHAIRMAN GRAHAM: Sure.

SEN. RAUSCH: A question on that. Who is this going to for an opinion on who has jurisdiction?

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CHAIRMAN GRAHAM: I will --

REP. CHANDLER: Representative Graham.

CHAIRMAN GRAHAM: I will look at it with LBA and the Commissioner and see what their opinion is.

SEN. RAUSCH: Then you'll e-mail and give us what the --

CHAIRMAN GRAHAM: What the word.

SEN. RAUSCH: Okay. Thank you.

CHAIRMAN GRAHAM: You really wanted me to have work to do, didn't you?

3. New Business:

CHAIRMAN GRAHAM: All right. Item 12-040 from the Department of Transportation. Let the record show that Representative Campbell arrived late.

REP. CAMPBELL: But is present.

REP. CHANDLER: Pretty close actually. That's like early.

REP. CAMPBELL: I apologize, Mr. Chairman. Another meeting down the hall.

CHAIRMAN GRAHAM: We have another one at 11.

REP. CAMPBELL: I know.

CHAIRMAN GRAHAM: And 11:30.

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CHUCK SCHMIDT, Administrator, Bureau of Right-of-Way, Department of Transportation: Good morning. I'm Chuck Schmidt from New Hampshire Department of Transportation. I'm the Administrator of the Bureau of Right-of-Way. With me today I have Philip Miles. He is the Department's Chief of Property Management.

The Department requests authorization to sell a 2,994-square foot parcel of land located on the easterly side of New Hampshire Route 11, New Hampshire Route 28 in the Town of Alton, directly to JOBEAN, LLC for \$5,100, which includes an \$1,100 administrative fee subject to the conditions as specified in the request dated June 25th, 2012.

CHAIRMAN GRAHAM: Representative Chandler.

****** REP. CHANDLER: Make a motion we approve Item 040.

SEN. RAUSCH: Second.

CHAIRMAN GRAHAM: Been moved and seconded that we approve Item 12-040. There any questions or discussions? Seeing none; all those in favor say aye? Opposed nay? The ayes have it and it is approved.

******* {MOTION ADOPTED}

CHAIRMAN GRAHAM: Item 12-045.

MR. SCHMIDT: The Department requests authorization to amend the listing price from \$250,000 to \$150,000, allowing negotiations within the Committee's current policy guidelines, and assess an \$1,100 administrative fee utilizing Coldwell Banker to sell a 4.4-acre parcel of land located on the corner of Radburn Street, Smith Road and

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Mammoth Road with the parcel also being located on the easterly side of Interstate 93 in the City of Manchester, subject to the conditions as specified in the request dated August 17th, 2012, LRCP 11-032, originally approved November 3, 2011.

CHAIRMAN GRAHAM: I do have a question. How long does his listing still have to go with the 250?

MR. MILES: For three to four more months,

MR. SCHMIDT: Yeah.

CHAIRMAN GRAHAM: Senator Rausch.

SEN. RAUSCH: Is this the property that the Liquor Commission was looking at for a state liquor store?

MR. MILES: No.

SEN. RAUSCH: It's not this piece?

CHAIRMAN GRAHAM: No.

MR. SCHMIDT: No.

CHAIRMAN GRAHAM: Representative Chandler.

REP. CHANDLER: Thank you, Mr. Chairman. What -- what were the -- some of the estimates when we initially did the broker estimates? What were other brokers' estimates that given the price? My concern is we do approve drops in prices. This is pretty significant.

MR. SCHMIDT: Right.

REP. CHANDLER: Did we just go with this or did that --

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I mean, sometimes it's very easy for a broker to put a high price on the property to get people to list it knowing full well it's not going to sell; but then they'll keep it at a lower price as opposed -- did anyone come in originally in the 150 range?

MR. MILES: No. The values -- and I'll just read them -- would be, say, 255, 300,000, 240, and then the State appraisal's 200,000.

REP. CHANDLER: Okay. So the estimate, everyone was in the same ballpark.

MR. SCHMIDT: Yeah.

REP. CHANDLER: Okay. Thank you very much.

MR. MILES: To follow-up, too, the realtor contacted me and said he has no interest in this property at all, which his feeling is it's overpriced. Normally, you would get some interest with some bartering and he said he got none.

MR. SCHMIDT: It's a tough piece. There's a swale along the frontage. It makes the access pretty limited.

REP. CHANDLER: No, my concern was we weren't just going to start to set up a precedent where someone puts in a high price with this one and then that's all. So they're all the same. I'm happy.

MR. SCHMIDT: Yeah.

REP. CAMPBELL: Chairman.

CHAIRMAN GRAHAM: Representative Campbell.

REP. CAMPBELL: You're satisfied he's been marketing

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this adequately?

MR. SCHMIDT: Yeah.

** REP. CHANDLER: I move we approve Item 045.

SEN. GALLUS: Second.

CHAIRMAN GRAHAM: Been moved and seconded that item 12-045 be approved. Any discussion? All those in favor say aye? Opposed no?

Opposed. The ayes have it. It is approved.

*** **{MOTION ADOPTED}**

CHAIRMAN GRAHAM: Item 12-046.

MR. SCHMIDT: The Department requests authorization to enter into a listing agreement for a term of one year with Better Homes and Garden Real Estate, the Masiello Group, for the sale of 8.17-acre parcel of State-owned land improved with a single-family house located at 30 Fitzwilliam Road in the Town of Troy for \$80,000, allowing negotiations within the Committee's current policy guidelines, and assess an \$1,100 administrative fee, subject to the conditions as specified in the request dated August 23, 2012, LRCP 10-129, originally approved April 13, 2010, with subsequent approval action taken on LRCP 11-010, March 22, 2011, and LRCP 11-037, November 3, 2011.

** SEN. GALLUS: Move the item.

CHAIRMAN GRAHAM: Senator Gallus just moved. Is there a second?

REP. CHANDLER: Second, then ask a question.

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CHAIRMAN GRAHAM: Okay. Been moved and seconded. Any questions or discussion? Representative Chandler.

REP. CHANDLER: Thank you very much, Mr. Chairman. Can you let us know how much the sales agreements, what the amount -- what the asking -- what the selling price was proposed to be that fell through? Chuck, there were two sales agreements?

MR. SCHMIDT: Yep, three total.

MR. MILES: The first one was for 105,000, May 2011, and the other one was 88,000, March 2012.

CHAIRMAN GRAHAM: Any other? There being none; all those in favor of the motion to approve Item 12-046 signify by saying aye? Opposed nay? The item is approved.

***** {MOTION ADOPTED}**

CHAIRMAN GRAHAM: Item 12-047.

MR. SCHMIDT: Excuse me. The Department requests authorization to amend the listing price from 132,000 to \$109,000, allowing negotiations within the Committee's current policy guidelines, and assessing an \$1,100 administrative fee, and further authorization to extend the listing agreement with Shea Commercial Properties, Inc., for a term of six months to sell a 0.58-acre parcel located at the southeasterly corner of New Hampshire Route 28 and Harris Road in the Town of Windham, subject to the conditions as specified in the request dated August 28, 2012, LRCP 10-059, originally amended and approved November 15, 2010, and subsequent approved action taken on LRCP 12-001, January 31, 2012.

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CHAIRMAN GRAHAM: Representative Campbell.

REP. CAMPBELL: Thank you, Mr. Chairman. Why six months and not a year?

MR. SCHMIDT: That's the past practice has been to extend six months.

REP. CAMPBELL: Oh, it's an extension. I'm sorry, I didn't follow that.

CHAIRMAN GRAHAM: Representative Chandler.

REP. CHANDLER: Once again, can you disclose what the offer was?

MR. SCHMIDT: Do you have that?

MR. MILES: The offers that we received that we accepted 119 and 125. However, during the due diligence period there's some site issues with topography. There's two roads for offsets. It's a difficult site to develop and that seemed from both parties that had -- we had P&S's signed with.

REP. CHANDLER: You're comfortable that we are not going to -- these same people are not going to come back now just to get a lower price?

MR. MILES: I would be surprised. Yeah.

MR. SCHMIDT: They shouldn't be able to.

CHAIRMAN GRAHAM: Senator Rausch.

SEN. RAUSCH: I read here that this is because of design restraints; but I thought the town -- it's kind of

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in a commercial area but this piece is residential. So I thought the problem was that it's -- they could not get it changed from residential to commercial. Did that come into play or am I wrong on that? I thought that was the real dilemma, is the zoning component to it.

MR. SCHMIDT: I think that was one piece of it.

MR. MILES: In speaking with them, it was the ability to get a building that was functional on the site. It seemed to be more than the zoning. They didn't have the concern with zoning as much.

SEN. RAUSCH: Okay.

** SEN. GALLUS: Move the item.

CHAIRMAN GRAHAM: Senator Gallus has moved the item.

REP. SEIDEL: I'll second.

CHAIRMAN GRAHAM: Been seconded by Representative Seidel. Any further discussion or questions on this item? Seeing none; all those in favor signify by saying aye? Opposed nay? The ayes have it.

*** {MOTION ADOPTED}

CHAIRMAN GRAHAM: Item 12-048.

MR. SCHMIDT: The Department requests authorization to sell an access point through the Controlled Access Right-of-Way, CAROW, of U.S. Route 302 in the Town of Carroll directly to Steven Messina for \$15,100, which includes an \$1,100 administrative fee, subject to the conditions as specified in the request dated August 29, 2012.

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CHAIRMAN GRAHAM: All right. What is being handed out, and I believe Mr. Messina is here, is an e-mail that I and some of the other members. I'm not sure everybody got it so I made a copy of the e-mail from him. You'll have an opportunity to speak as well. But I just wanted everybody to have what I got so you have that and you're on.

MR. SCHMIDT: Okay. The Department did perform an appraisal for the property. The original price was valued at approximately \$20,000. Mr. Messina submitted a few items questioning it. The -- our chief appraiser did look at it, considered both of them and was able to reduce the money to 15,000 or to 14,000 and that's -- at this point that's the value that we recommend.

CHAIRMAN GRAHAM: Questions of the Department?

SEN. RAUSCH: Well, Mr. Chairman, if I may, I'll just make a comment. May I regarding right-of-ways that --

CHAIRMAN GRAHAM: Go ahead. I'll allow it for the moment.

SEN. RAUSCH: Well, I had worked with the Department about a piece of land in my area that is landlocked, and basically on a limited right-of-way they do charge this. In fact, my client was -- or my constituent, 'cause it's in the town I represent, was happy to pay whatever fee but they weren't granted it no matter what, because --

CHAIRMAN GRAHAM: Right.

SEN. RAUSCH: -- it's a limited right-of-way. So that's my comment here.

CHAIRMAN GRAHAM: Let's hold off on that till we get to a motion to address that. For the Department?

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REP. CHANDLER: Yes, please. Thank you.

CHAIRMAN GRAHAM: Okay.

REP. CHANDLER: At some point in time the State paid for this; right?

MR. SCHMIDT: That's correct.

REP. CHANDLER: Right.

CHAIRMAN GRAHAM: Representative Campbell.

REP. CAMPBELL: Thank you, Chairman. Just a clarification. I was just looking ahead to Mr. Messina's letter, but you're asking authorization to sell it to him, do you have some kind of agreement with him or is there anything in place?

MR. SCHMIDT: No.

REP. CAMPBELL: You just -- okay. You just wanted to sell it for this value.

MR. SCHMIDT: He approached us.

REP. CAMPBELL: He's an abutter and he'd like to purchase it.

MR. SCHMIDT: He approached us to purchase it. Yeah.

CHAIRMAN GRAHAM: There being no further questions for the Department, if you could vacate for a minute and ask Mr. Messina --

MR. SCHMIDT: Absolutely.

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CHAIRMAN GRAHAM: -- to come forward.

MR. MESSINA: These gentlemen been great trying to help me get this property.

CHAIRMAN GRAHAM: If you could take a seat. Give your name and everything.

MR. MESSINA: All right. Steve Messina. I own property in Carroll, New Hampshire, on Route 302. Basically, I just wanted to get a driveway permit. I didn't realize it was going to be such a process that I would have to purchase a piece of State's land as opposed to just getting a documented right-of-way, I guess, but apparently I do. And so the request you see here, number one, I'd be more than happy to withdraw that. I appreciate everything everybody's doing for me to try get this landlocked property accessible. But in request two, I did notice that in the appraisal on -- if you take a look at the appraisal on Page 4, the third paragraph, it notes that no adjustment has been made to the comparable sales data since the cost of comparable to the sales data used in this appraisal is probably near or equal to the cost of hooking up to public water. So, in other words, all the properties that he compared my property to have access to public water. My property does not. Public water is about four miles away. I don't know if everybody got any of those attachments, but I did get the rate sheet from the town. A hook-up is \$1,500, and I got an appraisal for -- I mean, an estimate for a well being drilled, which is \$9,200, which I have copies here if anybody wants to look at.

CHAIRMAN GRAHAM: They all did get copies of that.

MR. MESSINA: Which is a difference of approximately \$7,780, which I don't think the appraisal took into account. He assumed that I had public water access and that

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public water access would be the same cost as drilling an artesian well and it isn't. It's almost \$8,000 difference to drill a well as opposed to just hooking up to the Town of Carroll's water source. So I guess what I'm asking, of course, for the driveway permit itself or the access itself, and maybe a reduction, if possible, of that difference of the artesian well in comparison to hooking up to town water, which would be a reduction of \$7,780.

CHAIRMAN GRAHAM: Questions from the Committee? None. Thank you. Department come back.

****** REP. CHANDLER: I would make a motion we table this just for our next -- another meeting. Just get a clarification on the appraisal. I would vote to approve it, 'cause I feel it's -- everything's been considered, but I don't think the Department has had a chance to look at Mr. Messina's information, necessarily, to get a response to it. So I would like to do that.

MR. SCHMIDT: Okay.

REP. CHANDLER: If that's okay. I believe it to be okay; but still, I think we should afford the Department an opportunity to look at it.

REP. CAMPBELL: Second the motion.

CHAIRMAN GRAHAM: It is a non-debatable motion and since some of you are just getting all this information --

REP. CHANDLER: So for the Committee, too.

CHAIRMAN GRAHAM: That's what I meant, the Committee. The motion is to table Item 12-048 till our next meeting. All those in favor say aye? Opposed nay? The ayes have it. The item is tabled.

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***** (MOTION TO TABLE ADOPTED)**

CHAIRMAN GRAHAM: Item 12-049.

MR. SCHMIDT: Excuse me. The Department requests authorization to amend LRCP 12-013, approved April 3, 2012, by increasing the minimum bid requirement from 13,100 to 20,200, which includes an administrative fee and to remove the administrative -- excuse me -- the historical covenants contained in the previous request to sell a 0.7 of an acre parcel of State-owned land with improvements located on the southerly side of Shortfalls Road in the Town of Epsom by sealed bid process to the general public, subject to the conditions as specified in the request dated August 29, 2012.

CHAIRMAN GRAHAM: Questions of the Department?

REP. CHANDLER: You got one going in the right direction here.

CHAIRMAN GRAHAM: I thought you would be happy.

MR. SCHMIDT: Try to help you, Representative.

CHAIRMAN GRAHAM: Is there a motion?

****** REP. CHANDLER: Well, I'll move to approve. Okay. I move to approve.

SEN. SEIDEL: Second.

CHAIRMAN GRAHAM: It's been moved and seconded the item be approved. Is there any discussion or questions?

All those in favor say aye? Opposed nay? The item is approved without objection from the Committee.

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*** {MOTION ADOPTED}

CHAIRMAN GRAHAM: We'll move to 12-041 as long as the Department is sitting there. They'll be back, 'cause we want to talk about something else with them.

LOU BARKER, Railroad Planner, Bureau of Property Management, Department of Transportation: Good morning, Chairman, Members of the Committee. My name is Lou Barker. I am the Railroad Planner/Property Manager for the Bureau of Rail and Transit, Department of Transportation.

I'm here to have the Department requesting authorization to sell -- to enter into a lease agreement with Colebrook Feeds and Garden Center, LLC, for 2,160-square foot parcel of land on the State-owned North Stratford-Beecher Falls Branch Railroad Corridor in Colebrook at \$425.00 per year for a total of \$2,125 for five years, with a five-year renewal provision and a one-time administrative fee of \$1,100, as specified in the request dated July 11, 2012.

** REP. CAMPBELL: Move the item.

SEN. GALLUS: Second.

REP. CHANDLER: Second.

CHAIRMAN GRAHAM: Moved and seconded that Item 12-041 be approved. Any questions or discussions? If not, all those in favor signify by saying aye? Opposed nay? The item is approved.

*** {MOTION ADOPTED}

MR. BARKER: Thank you, Ladies and Gentlemen.

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CHAIRMAN GRAHAM: Item -- last action item, Item 12-042 from the Department of Employment Security.

RICHARD J. LAVERS, ESQ., Counsel, Department of Employment Security: Good morning, Mr. Chairman, Members of the Committee. Richard Lavers, counsel for New Hampshire Employment Security, joined by Ernie Liakas, our Director of Facilities and Maintenance, and John Carpenter, Financial Analyst for the Department.

The Department is here this morning to request authorization to sell four NHES properties. The first property located at 32-34 South Main Street here in Concord, the second property is 10 West Street here in Concord, third property is 298 Hanover Street in Manchester, and the fourth and final property is 300 Hanover Street in Manchester, all for current market value, allowing negotiations within the Committee's current policy guidelines and assess an \$1,100 administrative fee per property, subjects to the conditions as specified in the request dated September 18, 2012.

CHAIRMAN GRAHAM: I do have one question just to refresh my memory. The proceeds from this, these sales when they materialize, go to pay your bond?

MR. LAVERS: Cash equivalent of the proceeds direct from the sale go to pay down the bond.

CHAIRMAN GRAHAM: That's what I remembered.

REP. CHANDLER: That's on two of the properties. The other two are -- some of them just it goes back to the Federal Government; right?

MR. LAVERS: No. Actually, what the -- all four properties, the sale proceeds go back to pay down the bond.

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Two of the properties have Federal equity in that they were Federal dollars used to originally purchase those properties. In 2007, the US-DOL divested itself of equity in real estate that state workforce agencies had purchased throughout the country. And what they required was that a percentage of those funds used to purchase the property, that the same percentage of the proceeds when they were eventually sold would then be invested in programs, so unemployment insurance program and employment services program. Those funds, the Federal equity portion of the two Concord properties, as there's no Federal equity in either of the Manchester properties, that would then be put back into the Department's contingent fund and a corresponding amount from the contingent fund would then be freed up to be applied towards the bond payments.

REP. CHANDLER: One more, if I may?

CHAIRMAN GRAHAM: Follow-up.

REP. CHANDLER: What about the other two properties?

MR. LAVERS: Neither Manchester property had any Federal equity. Those were contingent fund dollars that the Department had used to purchase those properties.

REP. CAMPBELL: Follow-up on that. What's the breakdown on the Concord properties as far as what percentage?

MR. LAVERS: It's roughly 52% of the 32-34 South Main Street property administrative building is Federal equity. And then about I believe it's -- Excuse me. About 88% of the administrative building is Federal equity and then about 52% of the 10 West Street property. I had those reversed.

REP. CHANDLER: I'm sorry, I didn't hear. I'm sorry.

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You're saying because of some Federal change that all of these -- these proceeds will be able to be used in the contingent fund?

MR. LAVERS: Correct. They would -- the portion of Federal equity from the two properties here in Concord, those dollars will go back into the contingent fund as required by the Federal Government. And that will then, in turn, free up a portion of the contingent fund to then pay down the bond proceeds that are being used to finance the renovation of the Tobey Building.

REP. CHANDLER: I will tell you that's in direct contradiction to what I have from your Department on those two issues. So I just want you to know that. 'Cause we have gone -- we have had two meetings about that issue with two different commissioners 'cause that's the way you've gone recently. But any way, thank you.

CHAIRMAN GRAHAM: Representative Campbell.

REP. CAMPBELL: Thank you. So 18% of one of those Concord properties and 48% of the other go to pay down the bonds. The rest of it goes in the contingency fund; is that correct?

MR. LAVERS: Correct. And then --

REP. CAMPBELL: All the Manchester property goes to pay down the bonds.

MR. LAVERS: Correct.

REP. CAMPBELL: Bond. And what bond? What bond is it and what is the balance and what is the situation with the bond?

MR. LAVERS: We were authorized -- the Department received authorization as part of the capital appropriation for \$22 and a half million for the renovation of the Tobey Building along with the construction of the parking deck.

REP. CAMPBELL: How much of that bond has been paid down; do you know?

JOHN CARPENTER, Financial Analyst Department of Employment Security: There is no Tobey bond per se. It's really part of the overall Treasurer's revenue --

REP. CAMPBELL: Right.

MR. CARPENTER: -- bond. We are just taking a piece of it. She's financing the overall construction. We take 22 and a half million. We haven't paid off anything yet. We are still in the demolition phase.

REP. CAMPBELL: Thank you.

CHAIRMAN GRAHAM: Any further questions? What is Committee's pleasure?

MICHAEL CONNOR, Director, Bureau of Plant & Property, Department of Administrative Services: Mr. Chairman, I have a question, please. Could you please explain the provision of the City of Concord to invoke their first right of refusal and what that means to the process and how you're going to ensure that we get the maximum amount of return on those facilities?

MR. LAVERS: Certainly. The statute, RSA 440, requires that current market value is obtained for those -- for all four properties. Both Concord properties, the City of Concord had initially invoked their right of first refusal. They have since withdrawn their right of first refusal on

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the 10 West Street property, just leaving the 32-34 South Main Street property.

The Department had appraisals done of all four properties in July of 2011 and the Department is planning on updating those appraisals in the coming months so that the appraised amount is the most accurate figure and would assume that the appraised value of the properties would be what would be considered current market value.

Now, the way in which the City has exercised their right of first refusal isn't a straight right of first refusal. It's -- they're essentially looking to broker a deal to a third party private owner of these properties as they feel a need to control what goes on in these locations. It's not the Department's position to evaluate or determine whether or not that's a valid exercise of the right of first refusal. I would assume that if it is not, Governor and Council would then have conversation with the City of Concord about their intent.

CHAIRMAN GRAHAM: Follow-up.

MR. CONNOR: I'm just concerned that it's counter to the process we've done in the past, and I'm not quite sure you're going to be able to guarantee that we are going to get the maximum value for that and that the City is going to control that process and have a vested interest that may not necessarily be the best price that you get. And, also, there will be a delay in the process of up to year. So how does that work? How do you pay for the ongoing costs of the facility? Who's going to pay for that --

MR. LAVERS: Hm-hum.

MR. CONNOR: -- that process?

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MR. LAVERS: We're -- right now we're, as you know, we're expected to finish the renovation of the Tobey Building late 2013, possibly early 2014. So we are not going to be able to vacate any of these buildings until that point where we have an occupancy certificate and are able to walk-in and start have our employees housed at the Tobey Building. So we do have a considerable amount of time.

It's my understanding that with the manner in which Concord has chosen to exercise that right of first refusal is if there are problems with that, I would assume that when this proposal goes before Governor and Council that those problems would be raised. Our understanding of while we have an appraised value of these properties, market value is market value and will be determined by what the market tells us at the point that those properties are put out for sale.

CHAIRMAN GRAHAM: Senator Rausch.

SEN. RAUSCH: Thank you, Mr. Chairman. I guess I need a little clarification on why your first right of refusal, you're -- you've got a twist I have never heard of before. Because if an entity comes in to buy it at full price, what I hear you saying is that if Concord doesn't like that entity that's willing to pay full price, they're going to exercise the first right of refusal which that's okay, but then that says they buy it for that purchase price. There's no other negotiation. They can't negotiate with the third entity. They either buy it or -- that's the part that I don't understand is how are you allowing a negotiation? You exercise your first right of refusal. City then purchases it, period.

MR. LAVERS: Hm-hum.

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SEN. RAUSCH: There's no negotiation. Where is this negotiation with the third party?

MR. LAVERS: And just to address, there's some confusion there. The -- this is -- the Department is not part of this process. The City has in a letter, I believe was to the Office of Energy and Planning, had invoked and declared that their intention was to invoke their right of first refusal on these properties and those letters -- I believe the Committee members have a copy of those letters, and they go through an elaborate description of what they consider their version of right of first refusal to be. The Department has had no part of that process. We received the letter just like everybody else did. We haven't had any sort of negotiations with the City. We've read that letter. Knowing what a right of first refusal is, which you've aptly described, that's not the textbook definition of a right of first refusal, I would agree with you. And the statute has it set up so that Governor and Council are required to give the community in which the property is located the first bite at the apple, if they so desire to acquire the property. Whether or not the Governor and Council believe that's a valid exercise of the right of first refusal, the Department really has no comment or say in that part of the process.

CHAIRMAN GRAHAM: Well, I think you're confusing Governor and Council with us for the first -- for the first go round. But, anyways, Representative Chandler.

REP. CHANDLER: I assume when we get to make a motion --

CHAIRMAN GRAHAM: Yeah.

REP. CHANDLER: -- to approve this, part of our motion would be it's to move ahead with the right of first refusal

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just the way it's been traditionally done with no -- that's the way it's going to be. They get to buy it or don't buy it. But that's -- we can do that when we get a motion. But I do have a question.

Since Mr. Kane was at the meeting, I want to be perfectly clear when I say that's not what I understood, and correct me if I misunderstood, but didn't they say that there was -- there were two different projects. Two of these buildings, all of the money would be used to pay the bond. This makes a significant difference in the eyes of some people worried about how this bond is going to be paid for. I was under the understanding that not all of the money would be available to go into the contingency fund. Please don't be afraid to correct me if I'm wrong.

MICHAEL KANE, Deputy Legislative Budget Assistant,
Office of Legislative Budget Assistant: No. At one meeting I did -- the one meeting I did attend with you that's how it was presented to you, correct. And what the Department is saying and how the bond is structured, the sale of the proceeds and the contingent fund can be used for the payment of Tobey School renovation bonds. And what the Department is saying is yes, the sale proceeds, the Federal fund portion of the sale proceeds will be deposited into the fund and basically what that does is free money up already in the contingent fund to be used to pay down towards the bond. So there is another twist that wasn't mentioned in that first meeting.

REP. CHANDLER: Thank you. If I could ask? I'm going to vote to approve this when the motion is made, but could we just, so everyone's on the same page, get just a clarification of exactly how much of these proceeds will be eligible to defray bond payments on the Tobey Building?

MR. LAVERS: 100% of the proceeds from both Manchester

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properties.

REP. CHANDLER: And the other?

MR. LAVERS: The 48% of the proceeds from the West Street property will go directly to pay down the bond. The other 52% will be deposited into the contingent fund and then free up a corresponding amount that would then be applied to the bond. And then on the 32-34 South Main Street property, the 12% would go directly to the bond, whereas the other 88% would then be -- go into the contingent fund, free up corresponding amount. That would be applied towards the bond.

CHAIRMAN GRAHAM: So, essentially, no matter how we move the money around, 100% of all -- all four are going to pay the bond.

MR. CARPENTER: That's right.

MR. LAVERS: One correction there. 100% is correct. There is 12% in the 32-34 South Main Street property. That was a different type of Federal dollars that were used and that 12% is required to actually go directly into the Unemployment Compensation Trust Fund.

CHAIRMAN GRAHAM: So all but that 12% then.

****** REP. CAMPBELL: Move the item.

CHAIRMAN GRAHAM: Well, wait a minute. I did have a question from the Governor's side.

JOHN BEARDMORE, Budget Director, Office of the Governor: Sure. So once we fully dispose of the proceeds of the four properties we're hoping to dispose of, what is the balance of the debt on the new property, the Tobey

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building? How is that being financed?

MR. LAVERS: What we're authorized to spend upwards of 22 and a half million dollars. We are hoping that that will come in under the 22 and a half, obviously. We just went out to bid on the main portion of that being the renovation portion of the project this week. So once those bids come in, we'll have a better understanding of what the total project cost is going to look like. The appraised values of the four properties are roughly five and a half million dollars. So that would be applied to pay down the bond and then the remaining payments, the annual payments that are due to pay down the bond would then be made from the RSA 282-A:140, Contingent Fund, as is required by the capital authorization.

MR. BEARDMORE: Okay.

CHAIRMAN GRAHAM: Representative Campbell.

****** REP. CAMPBELL: Mr. Chairman, I'd like to move that the item with the Amendment or provision that the right of first refusal be treated in the manner that's customary for administrative services, I guess.

SEN. LARSEN: Second.

CHAIRMAN GRAHAM: Second. And just for clarification that is the hosting municipality has 30 days to make up their mind and --

REP. CAMPBELL: That the standard?

CHAIRMAN GRAHAM: And I believe that that's what we've been using. Okay. Just so that we are all on the same page here. Been moved. Is there any further discussion on this item? Senator Larsen.

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SEN. LARSEN: I would just say that this is an important project for the City of Concord. It is one which, I think, is fiscally responsible and Capital Budget Committee already has worked on this. And I'm -- I'm -- I think we ought to all recognize the right of first refusal as part of the statute, and we look forward to seeing redevelopment on Main Street and reuse of the Tobey Building. It stands vacant right now.

CHAIRMAN GRAHAM: Any further discussion? If not, all those in favor signify by saying aye? Opposed nay? And the item is approved as moved.

*** {MOTION ADOPTED}

4. Miscellaneous:

5. Informational:

CHAIRMAN GRAHAM: There are two informational items. Anybody have any questions or desire to speak about them? Hopefully, you've all read them. There is one additional item I would like to bring up. If the Department of Transportation would come back to the table.

Some of you may not know it but I, and I believe Senator Rausch, and I'm not sure who else got blind-sided, I guess last week, when I started getting phone calls from town officials in the Town of Windham saying that the National Guard was looking at taking the piece of property, the golf course, for their use. Kind of like just going to them. And I said that as far as I was concerned, Long Range Planning had voted to put that piece of property for sale and that it was for sale and if the National Guard had the three point whatever million dollars to buy the piece of property, they were more than -- we'd be more than willing to let them buy it. So that's kind of where this item came

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up. But I think that it's important that you all know what is going on with that piece. And I'm not sure if it's had an impact on our marketing ability to sell it.

MR. SCHMIDT: Well, we have -- oh, I'm sorry.

SEN. RAUSCH: Just for clarification, I would -- I would just like to note that as a Senator from District 19, I did not get blind-sided by the Department of Transportation. Assistant Commissioner Brillhart did call me and inform me that the National Guard was going out to look at the property.

CHAIRMAN GRAHAM: I'm not that nice. Nobody called me and I'm not sure if they called the Chairman of Public Works and Highways.

REP. CAMPBELL: Probably should have gone to look at it in a tank though.

SEN. RAUSCH: That is the only notification I have received. So just for the record.

CHAIRMAN GRAHAM: But it is disconcerting that somebody would come in this late in the process. Just leave it at that. If you could tell us where we are and what it's doing because, you know, as state law requires, that three point -- what is it, 3.4 if I remember?

MR. SCHMIDT: 3.4.

CHAIRMAN GRAHAM: Would go into the Highway Fund. So I don't want to give it to anybody.

MR. SCHMIDT: Well, what we -- what we've done after the -- again, this is Chuck Schmidt from the Department of Transportation for the record.

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At the last meeting, you had requested that we come back with an update. That was before the National Guard. So we went to Shea Properties, asked them to give us their status. And I've attached in your handout their report, including an offer in two additional interested parties doing research. Subsequent to that we were surprised, also, by National Guard's interest because the time had lapsed. So we have stressed to them that it is our position that this Committee has approved a value and that's -- that's -- from our position that's what we need to proceed with. We have reached out to Federal Highway and they have reiterated that their policy requires the money to be used for highway purposes. It doesn't matter what Department pays for it, but it does have to end up into the -- what we -- what we use as the Highway Fund. So that's -- that's their position as well.

CHAIRMAN GRAHAM: Okay.

MR. SCHMIDT: So we have put on notice Shea Properties, but we have asked them to continue to market.

CHAIRMAN GRAHAM: But -- so they are still marketing --

MR. SCHMIDT: Correct.

CHAIRMAN GRAHAM: -- to the best of their ability. Have there been any, other than the Guard, has there been any interest in the property?

MR. SCHMIDT: Yeah, in that letter from Shea.

CHAIRMAN GRAHAM: I haven't read it.

MR. SCHMIDT: No, that's fine. There are three total parties interested to date. One is a local developer and he's had -- he's having his engineer review the site and

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the zoning. And he's anticipated to be making an offer in the near future. It may be lower than the asking price because of the zoning restrictions. The -- another one, a local doctor slash developer, he says has met with an engineering firm and they're looking at purchasing the property primarily as an office park and a restaurant. And then we received an offer for \$2 million, no contingencies, and a closing of within 30 days, and we naturally could not accept that.

CHAIRMAN GRAHAM: Thank you. And I do appreciate that. But I want you -- I personally as the Chairman, and I think the entire Committee, wants you to continue to sell that. If the Guard comes up with the money, they can -- they can bid along with everybody else. But I think the Governor's representative ought to take that back to his boss and tell him that as far as this Committee is concerned, the property is still for sale and they probably ought to sit down with his two agencies and figure out what the heck is going on.

REP. CHANDLER: I will say I'm a little torn because given the fact that Windham doesn't want the Guard there, I still I feel I would like -- I would like to offer it to them, just to stick it to them after what they did to us.

REP. CAMPBELL: No comment from the Senator.

REP. CHANDLER: I know. I know how he feels.

SEN. RAUSCH: Senator Rausch is receiving a lot of phone calls.

REP. CHANDLER: I think we ought to take the \$2 million, I think. But anyway, thank you.

CHAIRMAN GRAHAM: Senator Gallus, I believe you have a
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motion.

****** SEN. GALLUS: I'd like to remove Item 12-048 from the table.

REP. CHANDLER: Second.

CHAIRMAN GRAHAM: Moved and seconded we take item 12-048 off of the table. Any discussion? Seeing none; all those in favor say aye? Opposed no? All right.

***** {MOTION ADOPTED}**

SEN. GALLUS: Mr. Chairman, I was discussing with Mr. Messina the fact that he's been waiting for a long time to do this project, and he's -- he doesn't really feel he wants to sit around for another month or two to wait, and he's willing to go along with the original request from the Department at 15,000.

CHAIRMAN GRAHAM: Your motion is to approve the item?

****** SEN. GALLUS: I make a motion that we approve the item.

REP. CHANDLER: Second.

CHAIRMAN GRAHAM: Moved and seconded that Item 12-048 be approved. Is there any discussion? Seeing none; all those in favor say aye? Opposed nay? The item is approved.

***** {MOTION ADOPTED}**

CHAIRMAN GRAHAM: And that, with the one exception, if you would explain what you handed out. I think everybody got it.

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MR. KANE: Yes. Everyone should have received, it's an update from DOT on all their -- the items that this Committee has approved, Long Range Capital Planning, and just an update of where they are today.

CHAIRMAN GRAHAM: Okay. Did you get -- Representative Campbell.

REP. CAMPBELL: Thank you. I'm just looking at the bottom lines on these and it looks, you know, at first glance it's 2011, \$750,000 worth of sales. This year as of right now it's 3900 bucks. What was that? Very low. \$3,900. But I see there's a lot pending. There's a lot pending with G & C approval. Looks like 1.75 million if I did my math right. Which, I mean, it would be good, I think, if the only step left is G & C approval, if you could do this with a pending G & C approval and other number so we look at it and we know what we are looking at. 'Cause it looks like we did pretty well this year if that's true. I mean, it's over 1.7 million. When I first saw it I said we haven't sold anything on here. So that would be helpful.

MR. KANE: We'll work with the Department with that.

REP. CAMPBELL: And two other things, Mr. Chairman, if I could?

CHAIRMAN GRAHAM: No.

REP. CAMPBELL: With DOT.

CHAIRMAN GRAHAM: Okay.

REP. CAMPBELL: Discussion that we had, Representative Chandler brought up the point that sometimes somebody bids on the property, then they withdraw and later on comes

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back. If it's a returning party, would you at least let us know that in the future? Okay. I'm not saying you haven't. But if it's a returning party, somebody who earlier bid and come back that would be good to know.

My last question is really simple. When do you determine when to go seal bid and when to go to broker? What's the factors that you do?

MR. MILES: I guess the thought is, you know, how much of a demand there is for a property. And, you know, usually if it's a landlocked piece, we would be looking at a sealed bid versus a realtor. And then if we have a piece that maybe has limited value and we feel that the abutters are the interested and logical party, we would go that route, like the property in Epsom, for example.

REP. CAMPBELL: Follow-up, Mr. Chairman. Would the Windham property be a candidate for that if we work out this deal with the Adjutant General?

CHAIRMAN GRAHAM: It's already been marketed.

REP. CAMPBELL: But sealed bid I'm saying, could it be a candidate for a sealed bid based on the factors there's interested parties and maybe we can get it out the door quicker, which Representative Chandler would like to see. But I think you'll get your best shot if you got people in there, if they have their due diligence time, I think.

MR. MILES: When we came in initially on how to sell it, we kind of went through those steps and the thought would be --

REP. CAMPBELL: Yeah.

MR. MILES: -- if you did a sealed bid, you know, you'd

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be looking at probably half the value. I don't think anybody would bid a full value with, you know, not having due diligence done.

REP. CAMPBELL: You have to give due diligence period, for sure.

MR. MILES: With that piece, I would think.

REP. CAMPBELL: Okay. Thank you.

CHAIRMAN GRAHAM: I do not know whether or not we will have to have another meeting before the first Wednesday in December. Some of us may or may not be back here, Senator Gallus.

SEN. GALLUS: That's a lovely thought.

REP. CHANDLER: Some of us for other reasons.

REP. CAMPBELL: Voluntarily or involuntarily.

CHAIRMAN GRAHAM: Voluntarily or involuntarily, yeah, since we are all facing re-election on the 6th of November. Is there a preference of the Committee if I have to have a meeting whether we do it the week before Thanksgiving or the week after?

REP. CLOUTIER: Mr. Chairman, just everybody, Thanksgiving is early this year. It's the 22nd.

CHAIRMAN GRAHAM: It's the 22nd. The parade starts early.

REP. CLOUTIER: Just for your information and I just thought --

CHAIRMAN GRAHAM: We are looking at the week of the 12th or week of the 26th if we have to have a meeting. I'm just trying to get a feel for preference.

REP. SEIDEL; I won't be here the 12th.

CHAIRMAN GRAHAM: Okay. So after. All right. If we have to have one. And I'm not saying that we will but who knows, now that we have taken care of one that would have had to come off the table. Thank you, Senator Gallus.

Is there anything else to come before this Committee? If not, we are adjourned to the call of the Chair.

(Concluded at 10:56 a.m.)

CERTIFICATION

I, Cecelia A. Trask, a Licensed Court Reporter-Shorthand, do hereby certify that the foregoing transcript is a true and accurate transcript from my shorthand notes taken on said date to the best of my ability, skill, knowledge and judgment.

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