

COMMITTEE ON INFRASTRUCTURE

FEBRUARY 12, 2009

A meeting of the Committee on Infrastructure was held Thursday, February 12, 2009, at 6:45 p.m. in the Aldermanic Chamber.

Chair Marc W. Plamondon presided.

Members of the Committee present: Alderman-at-Large Fred S. Teeboom, Vice Chair
 Alderman-at-Large David W. Deane
 Alderman Michael A. Tamposi

Members not in Attendance: Alderman Jeffrey T. Cox

Also in Attendance:

Chairman Plamondon

I spoke with Alderman Cox this morning, and he is still very very sick. He was going to try to come in, but he was really ill last night and still ill this morning so we wish him a speedy recovery.

COMMUNICATIONS

**MOTION BY ALDERMAN DEANE THAT THE RULES BE SO FAR SUSPENDED AS TO
ALLOW FOR THE INTRODUCTION OF A COMMUNICATION RECEIVED AFTER THE
AGENDA WAS PREPARED
MOTION CARRIED**

From: Dorothy Clarke, Esq., Deputy Corporation Counsel
Re: R-09-153: Missing Terms and Conditions for Conveyance

**MOTION BY ALDERMAN TEEBOOM TO ACCEPT AND PLACE ON FILE
MOTION CARRIED**

**MOTION BY ALDERMAN PLAMONDON TO GO OUT OF THE REGULAR ORDER OF
BUSINESS TO TAKE UP NEW BUSINESS
MOTION CARRIED**

NEW BUSINESS – RESOLUTIONS

R-09-153

Endorser: Alderman Michael A. Tamposi

**AUTHORIZING THE CONVEYANCE OF A DISCONTINUED PORTION OF
EDSON STREET TO STEPHEN J. BONNETTE AND JOAN E. BONNETTE
AND MARY J. DALY, TRUSTEE, MARY J. DALY REVOCABLE TRUST**

MOTION BY ALDERMAN TAMPOSI TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Teeboom

If you look at the analysis under R-09-153, you will see a quotation to NRO paragraph 285:25. If you look up 285:25, which says procedure, the procedure has to do with the conveyance. We are dealing here with the conveyance of a discontinued street and assigning the title of this discontinued street area to the parties named here in the resolution. What is not named in the resolution is that which is required under NRO 285:25, namely terms and conditions of the conveyance such as a sales price or any other condition of conveyance. That is spelled out under 285:25 A and B and it has to be stated within the resolution.

I was curious, and this brings you to the communication that we introduced and accepted earlier. I addressed this to the Mayor's office who does the conveyance and I addressed it to the Legal Office to ask what happened to the resolution that spells out the terms and conditions. That prompted the communication. If you read the communication, it is very short; basically what this says is that in case of a discontinued street, the city really holds no title to the area below the street. Basically the city holds a right of way. If the street is discontinued then that right of way reverts back to the owners of the property up to the center line on the street.

Typically the city does a quitclaim deed, and she says that is not even necessary because basically the city doesn't hold title to anything just holds the right of way. To discontinue the right of way then you hold nothing left. She says title insurance companies like to see a title so the legal office typically does a quitclaim deed.

However, there are no conditions attached to a quitclaim deed. There is no sales price, no transfer conditions, it is just simply the rights to the property below the street revert back to the owners and the right of way the city discontinues.

That is the sum of the memorandum. Therefore, there is nothing in the resolution because there are no conditions attached to the resolution. That is the answer, and that is why I wanted to make this part of the record. I am not sure this is well understood. I don't think this has ever come up before, and I think it is important we check out sales conditions when we do a conveyance. Thank you.

Chairman Plamondon

I will say this is common. We have done this historically for many years in situations like this where we have like a dead-end street and usually the abutting property owners have been doing the maintenance. We might not have even been plowing the street. What this does –

normally there is not a selling fee associated because the goal is to take the property and put it back on the tax rolls so now the two abutting properties it affects their property taxes. Normally that is what has been done in past years.

Alderman Deane

Thank you. My personal feeling is I think this is another function of this committee that should be abolished. I think this can be done administratively. I think it can be done through the City Engineer's Office. Has anybody contacted the city engineer to see if this is going to create any problems with anything the Public Works Department might be doing? It just seems like if there was a request made of the Public Works Department pertaining to street discontinuance it would seem to me that between the Legal Department and the Public Works Department they could make a decision on whether to discontinue the street or not or whether it is worthy of discontinuance or whether the city had some future plans for that property or street or anything else for that matter even though it hasn't been utilized since we paved the street or whatnot.

Yes these have come before us numerous times since I have been on the board and I have even brought legislation in for a street discontinuance because one of the abutters had to hire an attorney to go through the whole process – there is some legwork that has to be done on both sides, but when you think about it, our part in this is what – nothing. We file the resolution and that is it.

Alderman Teeboom I thought had a good point – has Mr. Dookran been contacted about this, has he reviewed this, and is that piece of property fine to discontinue? It is sitting there and it probably hasn't been utilized in a number of years, but I think we should look at removing this as one of our active duties and having them do it administratively. Between the legal council hired by the individual interested in capturing that piece of property, our legal department, and the city engineer, I think this can be addressed between those three parties and dealt with in that manner instead of now we are acting on something that quite frankly other than probably the sponsor of the resolution, have absolutely no clue about this. I know where Edson Street is, but I am not quite sure where this piece of property is.

I do agree with you Alderman Plamondon that if we have paper streets that are discontinued and they are just sitting there and no longer serve the purpose and there are property owners that are interested in capturing that piece and relocating their lot lines, I am all for that. We had one up at the airport where the people wanted that piece of property, they were going to use it, and it was to help them.

Alderman McCarthy spoke to me briefly about this Tuesday night and he said maybe the board should look at making this an administrative function. I tend to agree. I don't know where the rest of you folks stand on it, but we could bring an ordinance in that abolishes this process and talk to the Mayor. I will ask the Mayor about it and see what she thinks about it, and have her contact Mr. Dookran and preferably probably Dory Clarke because she does most of all of these and see what this opinion is. Maybe they will just do it in house and we can forego our blessing of something that more or less nobody really has a handle on unless you bring in a resolution – unless you are approached. When I was approached I was given the scenario, but it is a piece of property that hasn't been utilized in a number of years and the city wants to let it loose. I think we should look into that. Thank you.

Chairman Plamondon

Again, I understand. I would look forward to that debate. This is lands and buildings and it does affect the tax rolls and the transitioning of city property to private property so we could debate that on another piece of legislation.

I will also state in past years we have had representatives here from public works or more recently normally have something in writing on an opinion from staff. I don't know why we haven't on this particular legislation. I have spoken to one of the abutters, and in my communications with public works, I haven't heard of any dissenting issues or problems with the legislation. Watching the time here...

Alderman Teeboom

I am not concerned about the time. I am concerned about what we are doing here. If you want to do it earlier I would call the time before 6:45 p.m. – like call it at 6:30 p.m. Alright I will make a couple of points. We do have something in writing from our legal counsel because I asked her. I have a question to the sponsor, Tamposi. Legal counsel mentions that really there are two parties; you have a street; there is a party on the left side of the street that gets to the center and there is a party on the right side of the street that gets to the center. Are you satisfied, I forgot to ask that question, that the parties mentioned own property on both sides of the street?

Alderman Tamposi

I believe so yes.

Chairman Plamondon

I can actually answer that, and I have spoken to them, and yes they are.

Alderman Teeboom

Okay so then it is a done deal. Then I am in favor of it. I do think Alderman Deane has a good point – we get encased in trivia in this committee and now we are trying to deal with bigger issues, and bigger issues are lands and buildings throughout the city. There is a fire house that has to be sold, that is up for sale. I don't know what the story on that is. There is the library, Chandler that is up for sale. I don't know what the story on that is. We ought to worry about the bigger issues and not worry about this administrivia. I would like to see Alderman Deane bring in an ordinance to take this issue off the responsibility of this committee.

Chairman Plamondon

Again, the motion on the floor is to recommend final passage of R-09-153.

MOTION CARRIED

MOTION BY ALDERMAN PLAMONDON TO RETURN TO THE REGULAR ORDER OF BUSINESS

MOTION CARRIED

UNFINISHED BUSINESS

Broad Street Parkway

Alderman Teeboom

I have a very brief announcement to make. The draft contract was received from the NRPC and VHB. It was decided to do a sole source for the initial part, namely the environmental impact part of the study. Because of VHB's intimate knowledge and the NRPC's intimate knowledge, the Mayor and her executive team decided to award this sole source. The city has received a contract and is now I think is negotiating the contract. I think they are close to doing – it is quite a detailed contract actually – it is a little more pricey than expected – it is around \$500,000. I think we were expecting maybe a little less.

There is some initial design and there will be further design that has to be done on the selected route #2, which is the preferred route. Whether or not that gets negotiated down some or not is sort of up to Public Works, the city engineer. Steve Dookran is doing all of the negotiation.

Hopefully that goes to Finance next week for approval. I should also mention that the preliminary contract was passed to the Board of Public Works, and they approved it contingent on the Finance Committee approving the award.

That will be the first contract in place, and important piece. Hopefully we can expect bringing the schedule in. I should also mention the overall schedule will be stretched by about a year because it started late. It was initially meant to start the middle of last year and didn't really get going that soon so the whole thing is stretched about a year. Well a year is expensive so the whole idea is to try to get the thing compressed back to within the original schedule for completion in 2012. Right now it says completion 2013.

It is moving, and it is moving under the direction of the Mayor at this point, and I think it is moving well. Thank you.

Chairman Plamondon

Thank you. I also understand the Mayor has formed an executive committee on the Broad Street Parkway, and that you have been asked to serve representing not just the Broad Street Parkway Liaison for Infrastructure but the board so...

Alderman Teeboom

That is my report. If we have more time next time I will go over the schedule in more detail. We have a new schedule, and I think I would like to go over that **...tape inaudible...** and give you a slip on what that means.

NEW BUSINESS – ORDINANCES – None

TABLED IN COMMITTEE

Petition for Street Acceptance: Emerald Drive

R-08-47

Endorsers: Alderman-at-Large David W. Deane
Alderman Marc W. Plamondon
Alderman Michael J. Tabacsko
Alderman Jeffrey T. Cox
Alderman Paul M. Chasse, Jr.
Alderman-at-Large Brian S. McCarthy
Alderman Mark S. Cookson

**AUTHORIZING THE ACCEPTANCE OF DONATED SERVICES FOR
MAINTAINING CITY YOUTH BASEBALL FIELDS**

O-08-29

Endorser: Alderman Richard P. Flynn

**AUTHORIZING THE INSTALLATION OF STOP SIGNS ON BURKE STREET
AT ITS INTERSECTIONS WITH NEWBURY STREET AND MAJOR DRIVE**

GENERAL DISCUSSION - None

PUBLIC COMMENT - None

ADJOURNMENT

**MOTION BY ALDERMAN TAMPOSI TO ADJOURN
MOTION CARRIED**

The meeting of the Committee on Infrastructure was adjourned at 6:59 p.m.

Alderman Michael A. Tamposi
Committee Clerk

Fred Teeboom

From: Clarke, Dorothy [ClarkeD@nashuanh.gov]
Sent: Thursday, February 12, 2009 3:02 PM
To: Fred Teeboom; Lozeau, Donnalee
Cc: Mike Tamposi; Legal Department; Cloutier, Brenda
Subject: RE: R-09-153: Missing Terms and Conditions for Conveyance

Fred -

If there are any requested terms and conditions for the sale, we put them in the resolution. If there are none, there are none in the resolution. More often than not, there are no requested terms and conditions in these transfers of land under discontinued streets. We prepare a quitclaim deed or deeds and give them to the named abutter(s), at no cost, as requested by the alderman endorsing the legislation.

In most of these cases, a quitclaim deed isn't even necessary, as the city rarely holds a fee interest in the land under the street, but only an easement to use the right-of-way for public travel and associated uses. Abutting land owners usually continue to own the land beneath the highway easement to the center line of the road. So once the public travel easement is discontinued, the abutters then have the full ownership and use of that land again (even without any kind of deed from the city). But title insurers tend to like to having the quitclaim deeds.

Dory.

From: Fred Teeboom [mailto:fredtee@myfairpoint.net]
Sent: Thursday, February 12, 2009 12:17 PM
To: Lozeau, Donnalee; Clarke, Dorothy
Cc: Mike Tamposi; Legal Department; Cloutier, Brenda
Subject: R-09-153: Missing Terms and Conditions for Conveyance

All:

R-09-153, Conveyance of a discontinued portion of a street to abutters, under the Analysis quotes NRO-285-25, "Conveyance of Title of Discontinued Streets."

NRO 285-25 stipulates that terms and conditions of the sale be stated in the resolution, but none are stated in R-09-153.

I called Brenda this morning about missing terms and conditions.

Please clarify, as this resolution is before Infrastructure this evening.

Fred Teeboom
Alderman-at-Large