

BOSTON TRANSPORTATION DEPARTMENT

Minutes

Public Facilities Commission
Boston Transportation Department
26 Court Street, 1st Floor, Winter Chambers
Boston, MA 02108

August 14, 2019

ATTENDING:

Katherine P. Craven, Chair (Not Present)
Lawrence D. Mammoli, Commissioner
Dion S. Irish, Commissioner
Angela D. Atchue, Legal Advisor PFC/PFD, Law Department
Colleen M. Daley, PFC Secretary
Catherine P. Pendleton, Articled Clerk PFC/PFD, Law Department
Henry C. Luthin, First Assistant Corporation Counsel, Law Department (Not Present)
Sean Chen, Assistant Corporation Counsel, Law Department
Robert Arcangeli, Assistant Corporation Counsel, Law Department
Kellie Duffy, Intern PFC/PFD, Law Department
Gregory Rooney, Acting Commissioner, Boston Transportation Department
Patrick Hoey, Senior Transportation Planner, Boston Transportation Department
Brian P. Vaillancourt, Certified Project Manager, AECOM
Melissa Ryan, Planner Transportation, New England, AECOM
Katharine Lord Klein, KP Law

Commissioner Mammoli called the meeting to order.

**VOTE 1: Gregory T. Rooney, Acting Commissioner, Boston Transportation Department (BTD)
Brian P. Vaillancourt, Manager, Planning and Permitting Department, AECOM**

Order of Taking: Various property interests located in Roxbury for the Melnea Cass Boulevard Reconstruction project.

ORDER OF TAKING

**City of Boston
Public Facilities Commission**

At a regularly convened meeting of the Public Facilities Commission of the City of Boston, held on August 14, 2019, it was VOTED and ORDERED:

The Public Facilities Commission of the City of Boston, County of Suffolk, Commonwealth of Massachusetts, duly appointed, qualified, and acting as such, on behalf of the City of Boston by virtue of and in accordance with the authority of the provisions of Chapter 642 of the Acts of 1966, and Chapter 79 of the Massachusetts General Laws, and any and every other power and authority which is hereunto in any way enabling, hereby takes, on behalf of the City of Boston, and for the public purposes of installing, constructing, reconstructing, repairing and replacing portions of Melnea Cass Boulevard, shown on certain plans entitled “Melnea Cass Boulevard Reconstruction, Easements Plan of Land, Melnea Cass Boulevard – Albany Street – Columbus Avenue, Roxbury, MA,” dated August 9, 2019 prepared by A-Plus Construction Services Corp., recorded with the Suffolk Registry of Deeds in Plan Book _____, Page _____ (the “Plans”), the following interests in land:

Permanent Easements: Non-exclusive permanent easements for all purposes for which public ways are used in the City of Boston, including, but not limited to, public access on foot, or by wheelchair, including providing a pedestrian path compliant with the Americans with Disabilities Act, to pass and re-pass, and for construction, grading, re-grading, operation, maintenance, repair and replacement of roads, sidewalks, together with related utilities, access ramps, traffic signs and poles for traffic signals and street lights, landscaping and plantings, in, over, under, through, across, upon and along certain properties, identified as “E-1,” “E-2,” “E-3,” “E-4,” “E-7,” “SW-4,” “SW-5,” “SW-6” and “D-1,” including the right to construct, install, maintain, repair, replace, relocate and abandon in place roads and sidewalks, to enter upon and/or authorize others to enter upon, from time to time, the said properties for all the foregoing purposes and at any time, or from time to time, without any further payment to the property owners, to cut, trim and/or remove trees, brush, overhanging branches, and any other obstructions to the extent the City deems necessary to clear or keep clear the easement areas (the “Permanent Easement Premises”). Notwithstanding the foregoing, the rights acquired with respect to the Permanent Easement Premises extend one (1) foot subsurface (measured from the top of the existing sidewalk) and not above any first story constructed at the building, but in no event more than ten (10) feet above the existing sidewalk.

Temporary Construction Easements: Non-exclusive temporary construction easements for the purpose of constructing the Project, identified below, and for all uses incidental thereto, including, without limitation, temporary construction easements to facilitate adjacent construction/reconstruction of roads, sidewalks, paths, driveways, entryways, lights and signals, necessary or convenient to the Project, in, over, under, across, upon and along the parcels of land identified as “TE-5,” “TE-6,” “TE-7,” “TE-9,” “TE-11,” “TE-12,” “TE-13,” “TE-14,” “TE-15,” “TE-16,” “TE-17” and “TE-18” (the “Temporary Construction Easement Premises,” together with the Permanent Easement Premises, the “Easement Premises”), including the right to access, pass and re-pass over, under, across, upon and along the Easement Premises, by foot and motor vehicle, including heavy equipment, for the aforesaid purposes.

The Temporary Construction Easements shall terminate automatically three (3) years from the recording/filing of this Order of Taking, and shall terminate without the necessity of recording any instrument with the Registry of Deeds or filing any instrument with the Registry District of the Land Court.

In exercising the rights to the Easement Premises, the City of Boston will make all reasonable efforts to minimize interference with the Owners' access to and egress from and use of their properties.

The Easement Premises are acquired in connection with a project commonly known as "Melnea Cass Boulevard Improvements Project" (the "Project"). Acquisition of the property interests for the Project is governed by Public Law 91-646, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and specifically 42 U.S.C. §§4601 et seq. and 49 CFR §§24.1 et seq.

Any and all trees and structures located upon the Easement Premises are included in this taking. Notwithstanding the foregoing, there is excepted from this Order of Taking all easements to public utility companies for wires, pipes, conduits, poles, and appurtenances for the conveyance of water, sewage, gas and electricity and for telephone communications and television transmission now lawfully in or upon the Easement Premises and the lawful rights of the public to use those parts of the public streets and ways which may be included in the foregoing description.

Said parcels of land are owned, supposed to be owned, and/or formerly owned by the persons listed in Schedule A, attached hereto and incorporated herein, hereinafter collectively referred to as the Owners. If in any instance the name of the Owner is not correctly stated, the name of the supposed Owner(s) is provided in this Order of Taking, and further it is understood that in such instance where the land referred to is owned by an Owner or Owners unknown to the City, said parcels of land are hereby taken.

Damages are awarded to the Owners in accordance with the provisions of G.L. c.79, §6, said damages set forth in Schedule B, incorporated herein, which Schedule B shall not be recorded with the Registry of Deeds. No damages are awarded to the Owners in connection with those takings set forth in Schedule C, as these Owners have waived the right to damages. Schedule C is incorporated herein, but shall not be recorded with the Registry of Deeds.

No betterments are to be assessed under this Order of Taking.

WHEREAS, the Public Facilities Commission, by virtue of the requirements contained in Section 3(f)(ii) of Chapter 642 of the Acts of 1966 has the authority to delegate any of its powers or functions to any other department or officer of the City of Boston and such officer or department is authorized and directed to accept such delegation and exercise the power and perform the function so delegated; and

WHEREAS, the Public Facilities Commission, by virtue of the requirements contained in Section (3)(f)(v) of Chapter 642 of the Acts of 1966 has the power and authority to make and execute all contracts, documents and instruments, and to record orders and instruments necessary or convenient for the exercise and fulfillment of the Commission's powers, duties and responsibilities pursuant to this Act.

NOW, THEREFORE, BE IT VOTED: That the Commissioner of the Transportation Department for the City of Boston be, and hereby is, authorized to execute and deliver all contracts, documents or other instruments, which are approved as to form by the Corporation Counsel for the City of Boston or the First Assistant Corporation Counsel for the City of Boston, in the name and on behalf of the Commission, when such are deemed necessary or appropriate to effectuate the purposes of the aforementioned Order of Taking, and to record and file any and all of the required documents concerning the same with the Suffolk Registry of Deeds and the Suffolk Registry District of the Land Court.

WITNESS our hands and seals this 14th day of August, 2019.

PUBLIC FACILITIES COMMISSION

_____, Chair
Katherine P. Craven

_____, Member
Lawrence D. Mammoli

_____, Member
Dion S. Irish

APPROVED AS TO FORM:

Eugene L. O’Flaherty
Corporation Counsel
City of Boston

Colleen Daley
Secretary for the Public Facilities Commission

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 14th day of August, 2019, then personally appeared before me the above-named members of the City of Boston Public Facilities Commission, and acknowledged the foregoing to be their free act and deed on behalf of the City of Boston Public Facilities Commission.

Notary Public
My Commission Expires: _____

SCHEDULE A – Property Owners and Interests Taken

SW-6 and TE-14

Property Owner: Northeastern University
Interest(s) Acquired: SW-6 (184± S.F.) (Reconstruct Sidewalk to Existing Limits) and TE-14 (1,291± S.F.) (Grading at Back of Sidewalk)
Property Address: 1115-1135 Tremont Street, Boston, Massachusetts
Mailing Address: John Tobin, Vice President, Northeastern University, 320 Huntington Avenue, #208, Boston, MA 02115
Deed Reference: Suffolk Registry of Deeds, Book 21809, Page 307

SW-4 and TE-15

Property Owner: Northeastern University
Interest(s) Acquired: SW-4 (681± S.F.) (Reconstruct Sidewalk to Existing Limits) and TE-15 (738± S.F.) (Grading at Back of Sidewalk)
Property Address: 775 Columbus Avenue, Boston, Massachusetts
Mailing Address: John Tobin, Vice President, Northeastern University, 320 Huntington Avenue, #208, Boston, MA 02115
Deed Reference: Suffolk Registry of Deeds, Book 7851, Page 189 and Book 7950, Page 645

SW-5

Property Owner: Northeastern University
Interest(s) Acquired: SW-5 (486± S.F.) (Reconstruct Sidewalk to Existing Limits)
Property Address: 1125 Tremont Street and 835 Columbus Avenue, Boston, Massachusetts
Mailing Address: John Tobin, Vice President, Northeastern University, 320 Huntington Avenue, #208, Boston, MA 02115
Deed Reference: Suffolk Registry of Deeds, Book 60514, Page 246

TE-16

Property Owner: Roxse Residences Limited Partnership
Interest(s) Acquired: TE-16 (1,024± S.F.) (Grading at Back of Sidewalk)
Property Address: Melnea Cass Boulevard and Tremont Street, Boston, Massachusetts
Mailing Address: Roxse Tenant Council, c/o Linda Evans, 105 Hammond Street, Apt. #504, Roxbury, MA 02120-2236
Deed Reference: Suffolk Registry of Deeds, Book 36036, Page 144

E-1 and TE-5

Property Owner: Morgan Memorial Goodwill Industries, Inc.
Interest(s) Acquired: E-1 (2,228± S.F.) (Sidewalk Reconstruction) and TE-5 (2,558± S.F.) (Grading at Back of Sidewalk)
Property Address: 1010 Harrison Avenue, Boston, Massachusetts
Mailing Address: Joanne Hilferty, President and CEO, Morgan Memorial Goodwill Industries, Inc., 1010 Harrison Avenue, Boston, MA 02119
Deed Reference: Suffolk Registry of Deeds, Book 59037, Page 53

TE-11 and TE-13

Property Owner: Boston Planning & Development Agency (Leaseholder: Madison Tropical Market, LLC)
Interest(s) Acquired: TE-11 (552± S.F.) (Grading at Back of Sidewalk) and TE-13 (232± S.F.) (Matching Sidewalk Limits into Existing Sidewalk)
Property Address: 450 Melnea Cass Boulevard, Boston, Massachusetts
Deed Reference: Suffolk Registry of Deeds, Book 51934, Page 113

TE-12

Property Owner: Boston Planning & Development Agency (BPDA) (Leaseholder: Melnea Residences LLC)
Interest(s) Acquired: TE-12 (63± S.F.) (Matching Sidewalk Limits into Existing Sidewalk)
Property Address: Ball Street, Boston, Massachusetts
Deed Reference: Suffolk Registry of Deeds, Book 9060, Page 435

TE-18

Property Owner: Boston Planning & Development Agency
Interest(s) Acquired: TE-18 (15,139± S.F.) (Bringing Columbus Avenue into Layout)
Property Address: Columbus Avenue, Boston, Massachusetts
Deed Reference: Suffolk Registry of Deeds, Book 17669, Page 234

E-7 and TE-17

Property Owner: Boston Water and Sewer Commission (Leaseholder: Trustees of 845 Albany Street Trust)
Interest(s) Acquired: E-7 (1,616± S.F.) (Sidewalk Reconstruction) and TE-17 (429± S.F.) (Grading at Back of Sidewalk)
Property Address: 980 Harrison Avenue, Boston, Massachusetts
Deed Reference: Suffolk Registry of Deeds, Book 23938, Page 164

The following easements are dedications by the City of Boston:

E-2 and TE-6

Property Owner: City of Boston (Department of Neighborhood Development)
Interest(s) Acquired: E-2 (2,012± S.F.) (Sidewalk Reconstruction) and TE-6 (6,339± S.F.) (Grading at Back of Sidewalk)
Property Address: Melnea Cass Boulevard, Boston, Massachusetts

E-4 and TE-7

Property Owner: City of Boston (Boston Public Schools)
Interest(s) Acquired: E-4 (2,015± S.F.) (Sidewalk Reconstruction) and TE-7 (1,051± S.F.) (Construction at Back of Sidewalk)
Property Address: 906 Albany Street, Boston, Massachusetts

E-3, D-1 and TE-9

Property Owner: City of Boston (Public Works Department)
Interest(s) Acquired: E-3 (6,282± S.F.) (Sidewalk Reconstruction); D-1 (4,754± S.F.) (Bio-Retention Area) and TE-9 (2,962± S.F.) (Grading at Back of Sidewalk)
Property Address: Melnea Cass Boulevard, Harrison Avenue and Albany Street, Boston, Massachusetts

NOTE: Angela Atchue noted for the record Commissioner Irish is the Commissioner of the Inspectional Services Department (ISD); and is also a member of the Public Facilities Commission (PFC). Additionally, he is a board member of the Madison Park Development Corporation (MPDC) and volunteers his personal time in an uncompensated position. Madison Tropical Market, LLC (MTM) is a subsidiary of the MPDC. Commissioner Irish has had no involvement with MTM nor the MPDC in its interactions with the City of Boston concerning any of the properties identified in the Order of Taking. In addition, no one at the MPDC, MTM or elsewhere has discussed or requested his opinion on the matter presented by BTM to the PFC. Furthermore, he has no individual, financial, or other interest in any recommendation made by BTM to the PFC. He has no conflicts of interest by participating in the PFC hearing, nor the discussion, review or vote on the matters publicly posted on BTM's agenda. Due to the fact that there is a need for a quorum of Commissioners, which is two members as required under the PFC enabling Act, known as Chapter 642 of the Acts of 1966, Commissioner Irish is present to vote with Commissioner Mammoli as Chair Craven is unable to attend today's meeting. **See the Disclosure Notice, dated August 12, 2019, from Commissioner Irish attached hereto.**

NOTE: Angela Atchue noted for the record Commissioner Mammoli is the Director of Engineering and Facilities Management for the Economic Development Industrial Corporation (EDIC), which is part of the Boston Redevelopment Authority (BRA) d/b/a the Boston Planning and Development Agency (BPDA). Commissioner Mammoli has had no involvement in the matters being presented by the BTM to the PFC for the Order of Taking. No employee or agent for the City of Boston, BTM the EDIC, nor BRA d/b/a BPDA has requested that Commissioner Mammoli vote in any particular way. Furthermore, he has no individual, financial, or other interest in any recommendation made by BTM to the PFC. He has no conflicts of interest by participating in the PFC hearing, nor the discussion, review or vote on the matters publicly posted on BTM's agenda. Due to the fact that there is a need for a quorum of Commissioners, which is two members as required under the PFC enabling Act, known as Chapter 642 of the Acts of 1966, Commissioner Mammoli is present to vote with Commissioner Irish as Chair Craven is unable to attend today's meeting. **See the Disclosure Notice, dated August 12, 2019, from Commissioner Mammoli attached hereto.**

NOTE: Gregory T. Rooney addressed the Commission and provided an overview of the project and briefly thanked those involved in the collective efforts to advance the project.

NOTE: Brian P. Vaillancourt provided further details concerning the purpose of, the due diligence performed, and the process followed for each of the temporary and permanent easements.

NOTE: Commissioner Mammoli expressed praise for the work undertaken to advance the project and improve City infrastructure.

NOTE: Commissioner Irish asked, "For TE-5, how will the trees be impacted?"

NOTE: Brian P. Vaillancourt replied, "TE-5, which is part of the Morgan Memorial Goodwill property. The project has been redesigned several times, but unfortunately many of the trees shown in the presentation have to be cut down in order to accommodate separation of the bike lane, pedestrian walkway and the sidewalk. However, the total project is planting a net increase of 240

new trees. The project went through a redesign process to try to save as many of the large caliber trees as practicable, but a number of trees will need to be cut down in order to meet the design standards.”

NOTE: Commissioner Irish expressed his understanding of the design constraints and appreciation for the net increase of trees. He then asked, “What are the next steps for 845 Albany Street Trust parking issues? Is that expected to go into litigation or what are the next anticipated steps?”

NOTE: Brian P. Vaillancourt replied, “The property owner has a three (3) year period in which they can bring forth litigation if they so choose. This would require them to hire an appraiser to conduct an appraisal to establish the value of the parking spaces. As part of the due diligence, the project team obtained an appraisal, which was performed by an experienced Massachusetts Licensed appraiser with whom the team has previously done business. This appraisal was also reviewed by an independent appraiser who also has experience working with the City on similar projects. Both of the appraisers believe the amount derived, \$48,090, is fair and just compensation for the value of the parking spaces.”

NOTE: Commissioner Mammoli stated, “You are giving them their pro-tanto payment and letting them decide if they want to take any further action.”

NOTE: Angela Atchue noted with respect to the legal review process, “All property interests, the temporary easements and the permanent easements, have been reviewed by me. I would like to thank Katharine Klein, of KP Law, who has provided sage legal counsel through this entire process to the Boston Transportation Department and to the right-of-way team. Robert Arcangeli is an Assistant Corporation Counsel with the City’s Law Department and he and I have discussed the latest correspondence that has come from the Trustees of 845 Albany Street Trust. My counsel to the Commission is to proceed forward under M.G.L. c. 79. The project has been done in full conformance with an eminent domain taking process and that any disagreements, as Commissioner Mammoli has noted and as Brian Vaillancourt has pointed out, regarding the sum for pro-tanto payment can be handled by those with a property interest with a certified independent appraisal. The next steps for us, as legal counsel, is to be able to communicate with the attorney who is representing the Trustees of 845 Albany Street Trust and be able to move the matter toward a resolution. With that said I would ask the Commissioners to make a motion if there are no further questions and to proceed with the vote.”

NOTE: Commissioner Mammoli asked, “When is MassDOT expected to go out to bid on this?”

NOTE: Brian P. Vaillancourt replied, “August 31st, and the team expects the notice to proceed to the contractor to be issued in the fall and hard construction to begin in the spring of 2020.”

NOTE: On a motion duly made and seconded, the vote was unanimously approved by Commissioners Mammoli and Irish.

Exhibits: August 6, 2019, project background memorandum with enclosures and PowerPoint presentation.

NOTE: The August 14, 2019 Public Facilities Commission Meeting is available at the web address of https://www.cityofboston.gov/cable/video_library.asp?id=31273.

A True Record.

The meeting commenced at 10:15 a.m. and adjourned at 10:37 a.m.


Colleen Daley, PFC Secretary