

BOSTON TRANSPORTATION DEPARTMENT

Minutes

Public Facilities Commission
Boston Transportation Department
Virtually via Zoom
Boston, MA 02201

August 4, 2021

ATTENDING:

Katherine P. Craven, Chair
Lawrence D. Mammoli, Commissioner
ThyThy Le, Legal Advisor PFC/PFD, Law Department (Not Present)
Shamus J. Hyland, Assistant Corporation Counsel PFD, Law Department
Colleen M. Daley, PFC Secretary, Law Department
Catherine P. Pendleton, Articled Clerk PFC/PFD, Law Department
Henry C. Luthin, Corporation Counsel, Law Department
Gregory Rooney, Commissioner, BTM (Not Present)
Patrick Hoey, Neighborhood Planning Director, BTM
Charlotte Fleetwood, Senior Planner, BTM
Melissa Ryan, Project Manager, Planning and Permitting Department, AECOM
Brian P. Vaillancourt, Manager, Planning and Permitting Department, AECOM
Katharine Lord Klein, Attorney, KP Law

Chair Craven called the meeting to order.

**VOTE 1: Charlotte Fleetwood, Senior Planner, Boston Transportation Department (BTM)
Melissa Ryan, Project Manager, Planning and Permitting Department, AECOM**

Order of Taking: Various property interests located in Boston for the Fenway Multi-Use Path (Phase 1) Construction 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 4, 2021, 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 the Fenway Multi-Use Path (Phase 1), shown on certain plans entitled “Fenway Multi-Use Path Phase 1, Easement Plan of Land” dated July 19, 2021, prepared by Nitsch Engineering, recorded with the Suffolk Registry of Deeds in Plan Book _____, Page _____ (the “Plans”), the following interests in land:

Permanent Easement: A non-exclusive permanent easement for all purposes for which public ways are used in the City of Boston, including, but not limited to, public access on foot, bicycle, wheelchair and other similar motorized mobility devices for persons with disabilities, including providing a pedestrian path compliant with the Americans with Disabilities Act, but in no event for use by privately-owned motor vehicles, to pass and re-pass, and for construction, grading, re-grading, operation, maintenance, repair and replacement of roads, drainage underdrain system, landscaping and swale, sidewalks, together with related utilities, landscaping and plantings, in, over, under, through, across, upon and along certain property, identified as “SUP-2,” 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 property 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, maintain the existing swale and underdrain system, and any other obstructions to the extent the City deems necessary to clear or keep clear the easement area (the “Permanent Easement Premises”). Notwithstanding the foregoing, the rights acquired with respect to the Permanent Easement Premises extend four (4) foot subsurface (measured from the top of the existing sidewalk) and not above any first story of any existing building and any building hereafter constructed adjacent to, the taking areas, but in no event more than forty-two (42) feet above Boston City Base.

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 and landscape areas necessary or convenient to the Project, in, over, under, across, upon and along the parcels of land identified as “TE-9” and TE-13” (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. Notwithstanding the foregoing, the rights acquired with respect to the Temporary Construction Easement Premises extend four (4) subsurface (measured from the top of the existing sidewalk) and not above any first story of any existing

building and any building hereafter constructed adjacent to the taking areas, but in no event more than forty-two (42) feet above Boston City Base.

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 the "Fenway Multi-Use Path (Phase 1) 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.

No damages are awarded to the Owners in connection with those takings, as the Owners have waived the right to damages.

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.

WITNESS our hands and seals this ____ day of August, 2021.

PUBLIC FACILITIES COMMISSION

_____, Chair
Katherine P. Craven

_____, Member
Lawrence D. Mammoli

APPROVED AS TO FORM:

Henry C. Luthin
Corporation Counsel
City of Boston

Colleen Daley
Secretary for the Public Facilities Commission

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this 4th day of August, 2021, before me, the undersigned notary public, personally appeared before me the above-named members of the City of Boston Public Facilities Commission, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose on behalf of the City of Boston Public Facilities Commission.

Notary Public
My Commission Expires: _____

SCHEDULE A – Property Owners and Interests Taken

SUP-2 and TE-9

Property Owner: BCH 819 Beacon Street, LLC
Interest(s) Acquired: SUP-2 (1,725 S.F.±) and TE-9 (569 S.F.±)
Property Address: 819 Beacon Street, Boston, Massachusetts
Mailing Address: c/o Longwood Research Institute, 300 Longwood Avenue, Boston, MA
02115
Deed Reference: Suffolk Registry of Deeds, Book 56224, Page 71

TE-13

Property Owner: IQHQ-109 Brookline, LLC
Interest(s) Acquired: TE-13 (285 S.F.±)
Property Address: Overland Street, Boston, Massachusetts
Mailing Address: c/o Jennifer Schultz, Esq., Sullivan & Worcester LLP, One Post Office
Square, Boston, MA 02109
Deed Reference: Suffolk Registry of Deeds, Book 62548, Page 164

NOTE: Charlotte Fleetwood addressed the Commission and provided an overview of the project.

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

NOTE: Chair Craven stated, “This sounds like a great project!” She then asked if there were any questions from Commissioner Mammoli.

NOTE: Commissioner Mammoli stated, “On the permanent easement, I’m assuming that’s a surface easement, and only Boston Children’s Hospital still owns it in fee, which I assume they’ll want for zoning purposes.” He then asked, “Who is ultimately responsible for any maintenance going forward; it would not be Boston Children’s Hospital, but which government body will maintain this?”

NOTE: Melissa Ryan replied, “To answer your first question, the land does remain in fee to Boston Children’s Hospital and it’s a surface easement. There is approximately four feet subsurface that the easement is applicable for drainage work. We did negotiate a memorandum of agreement, the final form has been circulated, the City of Boston has signed off on it and it does outline the parameters of the easement and it was a requirement to get the certificate of donation. So, we worked that out with Boston Children’s hospital and they sent us the donation. Now in the next coming days Boston Children’s Hospital will be signing the memorandum of agreement. To your second point, Charlotte could probably answer that best, so I’ll turn that over to Charlotte.”

NOTE: Charlotte Fleetwood replied, “Yes we’re also working with Children’s Hospital on a maintenance agreement for the portion that’s adjacent to their site. That’s in their original transportation action plan agreement for the development of the site so they were not surprised that we asked for that. They have told us that they’re willing to sign the agreement and it’s going through the process now they have the draft and they’ve told us that they will sign it. Then the other

half of the path is adjacent to Harvard Vanguard Medical Associates. They have also agreed to sign it, we met with them and their lawyers about two weeks ago. They're comfortable with the agreement; they just want to make sure that by signing the agreement it's not going to trigger anything else that they might have to do with any property that's around the path; so, they're going to add some language to that effect and then they'll be willing to sign it."

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

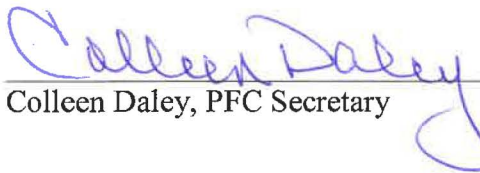
Exhibits: July 19, 2021 project background memorandum with enclosures and PowerPoint presentation.

NOTE: On a motion duly made and seconded, the meeting was adjourned.

NOTE: A recording of this August 4, 2021 Public Facilities Commission Meeting is available at the web address of https://www.cityofboston.gov/cable/video_library.asp?id=35852.

A True Record.

The meeting commenced at 1:09 p.m. and adjourned at 1:23 p.m.



Colleen Daley, PFC Secretary