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August 26, 2009

**REPORT OF THE COMMITTEE**  
**ON PUBLIC HEALTH AND PUBLIC SAFETY**

The Committee on Public Health and Public Safety convened on August 26, 2009, with Chairman William White presiding and Committee Members Aldermen John Connolly and Rebekah Gewirtz also present and voting. Also present were Aldermen Maryann Heuston, Bruce Desmond, Dennis Sullivan and William Roche, Administrative Assistant Matt Dias, Monica Lamboy from SPCD, George Landers from ISD, Assistant City Solicitors Frank Wright and David Shapiro, Police Chief Anthony Holloway, Chief Fire Engineer Kevin Kelleher and interested members of the public.

Chairman White requested that a resolution be prepared and forwarded to the MBTA, with copies to the City's state delegation, expressing the committees dismay that the MBTA failed to send a representative to this meeting.

Alderman Desmond informed the committee that Alderman O'Donovan left word that he had an emergency and would be unable to attend this meeting. Alderman Desmond told those present that he has been receiving many calls regarding kids drinking at the Max Pak site and throwing things from the roof of the building. He continued to express his safety concerns in the event of a fire at the site. Due to the large amount of brush along tracks, the surrounding area has become a staging area for house break-ins. The building is an eyesore and a danger and Alderman Desmond asked when it was going to be torn down.

Ted Tobin, from KSS, the owners/developers of the property, said that there are no immediate plans to demolish the building, due to finances, and he noted that the lowest cost he received was \$600,000. There is asbestos on roof that resulted in the demolition cost increasing over the original estimate. The developer is unable to obtain financing for the project despite his best efforts. There is presently \$5.5 million of debt on property and the developer has been working with the city to find available programs to help. Applications have been made to secure stimulus funds and a meeting has been set between the developer and Secretary of Transportation Aliosi's staff to see if TOC grant funds might be available.

Chairman White inquired about the status of brownfields at the site and Mr. Tobin replied that the soil has been remediated. Alderman Desmond asked what would happen to the asbestos in the event of fire, since asbestos becomes dangerous when it is broken and its fibers become airborne. There is approximately \$231,000 of grant funding remaining that can be used towards the razing of the building.

Mr. Landers spoke and said that the main concern is the roof and he quoted Chief Kelleher as stating "It's not IF someone gets killed, it's WHEN". Kids have been observed in the bushes surrounding the property. Mr. Landers asked Mr. Tobin if some of the remaining funds could be used to remove the roof. Mr. Tobin told the members that he has permission from the MBTA to remove brush, rails and ties and that he

planned on doing that after the building was torn down. The MBTA isn't taking any responsibility to clean the property that it owns so that the city's funds could be used for other things pertaining to the property.

Chairman White asked Ms Lamboy to draft a letter to the MBTA explaining the situation and asked that a copy of the letter be sent to all members of the BOA. He also requested that Mr. Tobin meet with Mr. Landers, Chief Kelleher and Chief Holloway to develop a plan of action to address the concerns and report back to committee within 2 weeks. Chairman White also asked that the plan be emailed to all BOA members.

Alderman Connolly inquired about security at the site and Mr. Tobin replied that there is none at night and that the property is checked twice during the daytime. Alderman Connolly asked that a plan to provide security be part of the meeting between Mr. Tobin and city officials, as well. Chief Holloway informed the members that his department has been conducting directed patrols in the area since 2007 and that the city new K-9 patrols the area at night. Alderman Sullivan said that the city needs a commitment tonight to provide round the clock security when work is not going on at nearby construction site.

Chief Kelleher told the members that Mr. Tobin has been responsive to the city's requests, however, the building's roof looks like swiss cheese and the site is not secured. If someone gets on the roof, there will be a fatality. The graffiti on outside of building is about 20% of what's inside the building. The building is starting to crumble in places and it is probably the worst building in the city. Chief Kelleher said that he understands that money is an issue, but he stated that this building needs to be razed immediately. An inspection of the site was performed prior to this meeting and showed that steps have been taken to make the building more secure, however kids are still finding ways in.

Alderman Gewirtz asked if there were signs posted warning of the dangers present and Mr. Tobin said that there were not. Alderman Gewirtz asked that those signs be posted right away. She went on to say that the city was under the impression that the developers had the capital to get the job done and that she is concerned that it is stalled. Mr. Tobin said that he anticipated a 2 year permitting process and that 2 years ago, financing would not have been a problem, now, however it's virtually impossible. In order to finance the property, lenders require a 30% equity to 70% debt ratio, up from the previous ratio of 10% to 90%. Additionally, the property is worth ½ of what it was worth 10 years ago.

Alderman Heuston agrees that there are safety issues and said that security is good idea and expensive. If the developer has any funds available for security, she would prefer that it be used to demolish the building. She stated that it is inconceivable to her that the developers can't find the \$400,000 needed to demolish the building. She told Mr. Tobin that he'll never control the kids, but that he could control the building to protect his own interests and those of the city's residents. Mr. Tobin replied that he doesn't have the money and he can't find it and he doesn't know how to finance security, either. Alderman Bruce stated that the fact remains that the responsibility lies with KSS and that when a life is lost, the \$400,000 will seem like a drop in the bucket. Mr. Landers asked Mr. Tobin to contemplate razing the building, removing the wood and putting up a fence around the resulting debris.

Resident Ralph Russo told the members that the residents want the lot cleaned up. He noted that some time ago, the developer was asked about its solvency and the residents were assured that the company had \$700 million. Mr. Russo claims that there is a brownfield issue on the inside of the building that hasn't been resolved. Mr. Russo said that the residents are in favor of the project but the current issues need to be

addressed. The previous occupant, SABIS, took out 15,000 yds of soil at the site and more contamination rose to the surface. Mr. Tobin replied that since SABIS was there, the soil has been tested (less than a year ago), by a licensed person and sent to a lab for analysis. Ms. Lamboy said that DEP is the controlling agency for brownfields but the city is involved with what is happening at the site.

Alderman Heuston asked what recourse the city had in this matter and Mr. Shapiro replied that, assuming a code violation exists, the city could impose fines and ultimately bring the matter before the courts.

Mr. Zack Kron said that installing a 6 foot high fence won't help since kids will still find a way to get in. He also told the members that he observed someone on roof at about 6:00 PM tonight. Mr. Joe Lynch noted that MBTA and state help is critical to this issue since kids are gaining access to the property from the Lowell Street bridge.

On another matter, Mr. Shapiro distributed information regarding the Sober House Mechanism for Requesting Reasonable Accommodations and information regarding a domestic and wild animal policy. The information has been emailed to all members of the BOA and will be discussed at next Committee meeting on September 17<sup>th</sup> at 6:30 PM.

No papers were acted on.

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Alderman William A. White, Jr., Chairman  
Committee on Public Health and Public Safety