

City Of South Portland

Open Space Acquisition Committee (OSAC)

Meeting Agenda

Tuesday, February 9th, 2021 / 3:30-5:30 pm

Zoom Invite: <https://zoom.us/j/96278509845>

1. Call the meeting to order
2. Approve minutes from January meeting
3. Additions for Acquisitions Consideration List (45 Wallace - Milan, PPL property, Rigby/tank farms, others?)
4. Property leasing conversation about OSAC - Tom
5. Bond Issue timeline clarifications - Milan
6. Evaluate properties with rubric
7. Initial contact with current property list assignments
8. Funding considerations (Jeanne)
9. Open Discussion
10. Public Comment
11. Schedule Next Meeting - are add'l meetings necessary to accomplish task in timely manner? (Tuesday, March 9, 2021, additional meetings prior?)
12. Adjourn

Attachment 1

Nevajda, Milan

Cc: Kelley, Alice; Coughlin, Karl
Subject: Land Bank Leasing Option.

OSAC,

I wanted to update you regarding an item that was discussed at last meeting. **Please refrain from engaging on this topic via email and hold comment until your next meeting. The Chair's agenda affords the Committee time to discuss this matter under item 4.** Consider this email an attachment to the Agenda for our next meeting under discussion item #4. **Alice, can you please update the posted agenda to the version attached.** It is unchanged except that I appended this email as an attachment so it is in the record.

At yesterday's Land Bank Revision Committee meeting, I raised the issue of lease-based acquisitions to the committee and OSAC's specific and general concerns about the option to utilize Land Bank funds for lease arrangements.

Ultimately, the Committee voted unanimously to support the following revised language in the draft revised Land Bank ordinance to address the matter. To summarize the Committee's position, they felt lease acquisitions could be an important tool in certain circumstances and those were very difficult to predict. They were sensitive to the issue of abuses and leases for short periods of time, but at the same time felt that flexibility was needed so that the City could be creative in finding solutions that work toward long term or perpetual access to open space.

Section 18-73 of the current Land Bank ordinance lays out what the fund may be used for and how it is managed. Subsection a) provides the language that would enable the fund to cover a lease arrangement (under the "any lesser interest" language).

The Land Bank Committee voted to add this clause to this provision (see bold, italic, underline clause below:

Sec. 18-73. Management of the Open Space Fund.

In managing the Open Space Fund, the City may:

- a) Purchase and acquire fee simple interests and any lesser interests, including conservation restrictions, development rights or easements, in any real property situated within the borders of the municipality, of the types set forth in Sec. 18-74, including any improvements on that real property, provided that all purchases or acquisitions are consistent with the purpose of this Article. ***While the primary intent of the fund is for purchase and acquisition in perpetuity, acquisitions through lease may be justifiable and consistent with the purpose of this Article subject to a formal finding by the City Council with respect to the terms of the lease that the funds expended are commensurate with the community benefit gained in furtherance of this Article;***

The Committee noted that there are circumstances where lease arrangements have been necessary in the past (e.g. greenbelt), and they contemplated unique scenarios for the future that might also warrant lease arrangements (e.g. leasing access via a private parcel for an extended period to gain public access to a city-owned open space parcel that may be a flag lot without frontage). The use cases are multiple and there are many scenarios where leases could be a critical step to eventual fee title acquisition in perpetuity. The Land Bank Committee felt that leaving flexibility was key but that it would be imperative for the Council to make a declarative finding in the record as to the basis for entering into a lease arrangement, and that finding needed to reflect on consistency with the Land Bank Ordinance, as amended.

The Committee will be meeting on the 11th at 3PM, and they invited the OSAC or any individuals acting independently to attend their next meeting if there are more thoughts to share on this proposed solution to the issue that was raised at

OSAC's last meeting. At the next meeting, you may decide to address the matter as a group, or if not, individuals can act as residents of SoPo and attend the Land Bank meeting to discuss this further.

Finally, it's worth noting the next steps on this. Once the Land Bank Committee finalizes their draft of the Ordinance, they will present it to Council at their next available meeting following Corporation Counsel review of the draft language. The OSAC will have an additional opportunity to make additional recommended edits at the time of the Council's review on this ordinance amendment. And of course, as it is an ordinance, Council will need to hold 2 hearings on adopting the changes.

Best,

Milan Nevajda
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