

# STATE PROPERTIES REVIEW BOARD

## Minutes of Meeting Held On April 12, 2012 State Office Building, Hartford, Connecticut

The State Properties Review Board held its regularly scheduled meeting on April 12, 2012 in the State Office Building.

**Members Present:** Edwin S. Greenberg, Chairman  
Bennett Millstein, Vice-Chairman  
Bruce Josephy, Secretary  
Mark A. Norman  
Pasquale A. Pepe  
John P. Valengavich

**Staff Present:** Brian A. Dillon, Director  
Mary Goodhouse, Real Estate Examiner

Chairman Greenberg called the meeting to order.

Mr. Josephy moved and Mr. Norman seconded a motion to enter into Open Session. The motion passed unanimously.

### OPEN SESSION

**ACCEPTANCE OF MINUTES OF APRIL 5, 2012.** Mr. Norman moved and Mr. Valengavich seconded a motion to approve the minutes of April 5, 2012. The motion passed unanimously.

### COMMUNICATIONS

**Department of Transportation Report of Property Acquisitions.** As required by CGS Section 13a-73(h), the Board received a report from DOT dated April 3, 2012 listing property acquisitions, not in excess of \$5,000, processed during March 2012.

**Criteria Architect for State Data Center Project.** Chairman Greenberg received a letter dated April 11, 2012 from DAS Commissioner Donald J. DeFronzo regarding the status of the State's data center project and advised the Board on the next steps and schedule for the State to develop the specifications for the project.

### REAL ESTATE- UNFINISHED BUSINESS

#### REAL ESTATE- NEW BUSINESS

**PRB #** 12-088      **Transaction/Contract Type:** RE / Admin. Settlement  
**Origin/Client:** DOT / DOT  
**Project Number:** 302-007-002  
**Grantor:** Shepard's Incorporated  
**Property:** 32 Henry Street, Bethel, CT

**Project Purpose:** Danbury Branch Centralized Train Control Signalization Project  
**Item Purpose:** Acquisition of approximately 10,219 SF for an "ingress and egress" temporary work area easement and approximately 4,589 SF for a temporary construction easement.

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Ms. Goodhouse reported that the Danbury Branch Centralized Traffic Control (CTC)-Signalization Project will enable tracks on the Danbury line to be switched directly from Metro-North’s control center in Grand Central Terminal. Currently, operators must switch tracks on site manually with a block system. There are no active switches or signals.

Initially, DOT identified two temporary work areas, and offered the property owner, Shepard’s Incorporated, \$7,100 for their use. However, a 26 year series of events led the owner to prepare to file an inverse condemnation action against DOT and Metro-North for using their property without obtaining permission or paying compensation. Shepard’s Incorporated (Shepard’s) owns a 34± acre property that abuts the Danbury Branch Rail Line, owned by the State and serviced by Metro-North. For decades from this location, Shepard’s has operated a commercial and residential moving & storage business. The facilities include two active spur tracks or sidings. The property was recently appraised for a value of \$12,000,000.

DOT has negotiated a settlement in the amount of \$300,000. The table below recites the necessary acquisitions (Items 1 -6) and the items (Items 7 – 10) discussed in the negotiated settlement.

Item	Description	Estimated Cost
1.	Easement for access from Henry Street to the SOC railroad right of way. Easement is for travel only, and not to be use for storage, and may not impede owner’s use of driveway. Easement Area – 15,878 sq. ft.	\$6,950
2.	Easements for parking & access for rail construction & maintenance related activities in two areas – 6,019 sq. ft.	\$550
3.	Drainage rights of way in two areas – 2,672 sq. ft.	\$2,350
4.	Easement for parking & access for rail construction & maintenance related activities and a congruent drainage right of way – 1,255 sq. ft.	\$100
5.	Undefined easement for provided access from Henry Street to SOC railroad right of way, being across the southerly & westerly portions of the property & limited to construction, future construction & maintenance. Easement shall not impede the normal traffic flow of the property – 23,158 sq. ft., estimated	\$30,400
6.	Easement for temporary work area for purpose of using the private owners’ siding during Danbury Branch Signal System Improvements – 696 sq. ft.	\$350
Subtotal, DOT’s offer tendered to Shepard’s on 2/7/2012:		\$46,350
7.	Metro-North Railroad use of Shepard’s property for maintenance over a 26 year period without obtaining proper permissions. Shepard’s property was used for access and staging of equipment and materials. Metro-North also constructed a drainage right of way without permission. Estimated cost based on land value of \$1.00/sq. ft.	\$112,678 to \$316,604
8.	Metro-North unauthorized installation of a drainage outlet on Shepard’s property, leading from a catch basin in the railroad right of way. Drains to a “regulated area” (wetland) to the south. (Acquisition cost covered in item 3 above.) Shepard’s is concerned about “caustic run offs from the railroad right of way” and “potential environmental out fall”	Not estimated
9.	Severance/cost to cure two sidings on Shepard’s property, one of which will be non-compliant as a result of the Metro-North project. Federal regulations require 30 feet separation between in service passenger trains and private sidings. The Metro-North project requires the construction of a Metro-North	\$88,150 to \$109,000

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	siding at this location, reducing the separation between the private Shepard's siding the Metro-North passing siding. Shepard's requires compensation to upgrade their private siding to "Class 1" standards.	
10.	Effect of permanent access easement (Item 5) which "literally bisects the 34± acre parcel in half" and "this type of encumbrance poses distinct limitations on the property's future development and sale potential...."	Not estimated
Negotiated Administrative Settlement: \$300,000		

Staff recommended that the Board approve the settlement in the amount of \$300,000 to compensate Shepard's Incorporated for the past use of the property, the present rights to be acquired, and future access for maintenance and future construction for the following reasons:

1. Metro-North acknowledges that it has used the property without permission for 26 years, including using property to drain water from a catch basin on the railroad right of way.
2. The DOT staff appraisers prepared an estimate ranging to \$316,604 as compensation for use of the property for 26 years, and an additional estimate of \$88,150 to upgrade the affected private rail siding to conform to federal regulations. With the acquisition costs for easement areas based on \$1.75/sq. ft., the DOT appraisers estimate damages to be \$451,104. According to the DOT memorandum, Shepard's commissioned appraisal estimated damages in excess of \$600,000.
3. The access to be acquired provides a safe point of access for Metro-North to the Danbury line for purposes of continued maintenance and future construction.
4. Shepard's has agreed that the amount of \$300,000 is full and final payment for any and all damages associated with the proposed takings; and Shepard's agreed to waive any and all claims for past damages associated with the misuse by MNR of the subject property.
5. Lack of agreement will lead to a litigated claim for significantly higher damages under an inverse condemnation proceeding.

**PRB #** 12-090 **Transaction/Contract Type:** RE / Voucher  
**Origin/Client:** DOT / DOT  
**Project Number:** 105-206-001  
**Grantor:** The Knollwood Beach Association  
**Property:** Maple Avenue, Old Saybrook, CT

**Project Purpose:** Rehabilitation of a Seawall along State Route 154  
**Item Purpose:** Acquisition of approximately 4,871 SF for a slope easement and a temporary construction easement comprising 30,581 SF.

Ms. Goodhouse said that this project concerns the repair and reconstruction of a masonry seawall along Route 154, as a result of damages from Storm Irene, August 2011.

Using the authority under CGS §13b-26(f), a Declaration of Emergency Condition was signed by DOT Commissioner James Redeker on September 23, 2011. For necessary acquisitions, the rights of way cost estimate was \$100,000. The project will be 80% federally funded.

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The toe of the footing of the seawall was exposed and severely undermined. Additionally, the sloped wall exhibited significant cracking and settled creating large voids behind the wall. Work included construction of sheet piling and a concrete cap to stabilize the base of the wall, which is 800 feet long.

The subject location is a portion of a 5 ± acre parcel of residentially zoned land located on the south side of Route 154 (Maple Avenue) and the north side of Long Island Sound. There are 2,663 linear feet of road frontage; and a similar length along the mean high water of Long Island Sound. The depth of the property varies between 18 feet and 125 feet. The majority of the property is 15 feet below street level and is used as a beach for the Knollwood Beach Association.

This voucher will compensate the Grantor for a temporary work area (6 months) and for a slope easement. DOT Michael J. Corazelli based his valuation on three recent sales that ranged from \$30.61/SF to \$39.63/SF. He adjusted the value downward because it cannot accommodate residential use, but has a highest and best use as beach and recreational use for properties located on the opposite side of Route 154. He concluded a value of \$16.00/SF for the subject (\$700,000/acre).

\$16.00/SF x 4,871 SF x 50% =	\$38,968
\$16.00/SF x 30,581 SF x 10% of fee value x .5 years =	<u>\$24,465</u>
Total:	\$63,433, say \$63,400

Staff recommended approval of the item. DOT received emergency authorization from DEEP permitting the repairs to the seawall. The damages of \$63,400 are supported by the appraisal report by Michael J. Corazelli, dated 12/30/2011.

<b>PRB #</b>	<b>12-091</b>	<b>Transaction/Contract Type:</b>	RE / Agency Relocation
<b>Origin/Client:</b>	DAS/DPH		
<b>Property:</b>	99 East River Drive, East Hartford, CT		
<b>Project Purpose:</b>	Dept. of Public Health - <i>Health Information Technology Exchange Program</i>		
<b>Item Purpose:</b>	Approval of an MOU for the use of currently leased space at 99 East River Drive, East Hartford by the Department of Public Health " <i>Health Insurance Technology Exchange.</i> "		

Mr. Dillon said that the Department of Administrative Services ("DAS") is requesting SPRB approval pursuant to CGS 4b-29 for the Department of Public Health ("DPH") Health Information Technology Exchange ("HITE") for use of currently leased space in East Hartford. More specifically, DAS on behalf of BEST is entering into a Memorandum of Understanding ("MOU") with DPH to provide approximately 600 NUSF of space at 99 East River Drive for the HITE.

HITE has been established by DPH as part of an in-kind grant contribution for federal funding that the State has received. The purpose of the State HITE Program is to support states in establishing health information exchanges capability across the health care system - among healthcare providers and hospitals- within and across states.

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Under the terms of this MOU, DPH shall be provided 600 NUSF rent free from DAS; although DPH shall be required to comply with the terms of the underlying lease agreement between the Landlord and DAS. In addition, DPH shall be solely responsible for all costs associated with establishing, utilizing and maintaining its own phone service, internet, supplies and supporting infrastructure.

Mr. Dillon recommended approval of the item.

**ARCHITECT-ENGINEER - UNFINISHED BUSINESS**

**ARCHITECT-ENGINEER – NEW BUSINESS**

**OTHER BUSINESS**

The Board took the following votes in Open Session:

**PRB FILE #12-088** - Mr. Valengavich moved and Mr. Millstein seconded a motion to approve PRB File #12-088. The motion passed unanimously.

**PRB FILE #12-090** - Mr. Pepe moved and Mr. Norman seconded a motion to approve PRB File #12-090. The motion passed unanimously.

**PRB FILE #12-091** – Mr. Norman moved and Mr. Millstein seconded a motion to approve PRB File #12- 091. The motion passed unanimously.

The meeting adjourned.

**APPROVED:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Bruce Josephy, Secretary