



**Downtown Waterfront Municipal Harbor Planning  
Advisory Committee Meeting No. 30**  
Wednesday, December 16, 2015  
Boston City Hall, Piemonte Room

### Attendees

**Advisory Committee (“Committee”):** Sydney Asbury, Chair; Tom Wooters, Susanne Lavoie, Jesse Brackenbury, Bruce Berman, Marianne Connolly, Bob Venuti, Joanne Hayes-Rines, Jill Valdes Horwood, Joe Ruggiero, Lois Siegelman, Meredith Rosenberg, Bud Ris, Greg Vasil, Nigella Hillgarth

**City of Boston (“City”):** Richard McGuinness, BRA; Lauren Shurtleff, BRA; Chris Busch, BRA; Erik Hokenson, BRA

**Consultant Team:** Matthew Littell, Utile; Meera Deean, Utile; Tom Skinner, Durand & Anastas

### **Government Representatives:**

**Members of the Public:** Barbara Bailey, S.L. Bailey, Emily Bauernfeind, Will Bennett, Belinda Brackett, Victor Brogna, Chris Burgess, Valerie Burns, Ellen Curren, Teri Davidson, Kirsten Dawson, Jim Duffey, Christina Fish, Lace Garland, Della Grallert, Ernest M. Haddad, Mary Holland, Lynn Hughes, Pamela Humphrey, Justin Kelly, Gabor Korodi, Annie Kreider, Eric Kraus, Dan Laughlin, Cathy LeBlanc, Julie Mairanu, Karen Marcarelli, Lev McCarthy, Sam Melnick, Arlene Meisner, Norman Meisner, Sy Mintz, Thomas Nally, Ann Perry, Keiko Prince, Meg Rabinowitz, Erik Rexford, Duncan Richardson, Liz Richardson, M. Rubin, Matt Rubino, Logan Sheehan, Peter Shelley, Mark Smith, Victoria Smith, Jay Spence, Wes Stimpson, K. Streeter, Rob Stricker, Judith Sugarman, Heather Tausig, Kathleen Tullberg, Lindsay Welch, Amy Whitehead, M. Willock, Jane Wolfson, Tricia Wong, Zara Zsido

### Meeting Summary

Mr. Rich McGuinness, BRA, opened the meeting by introducing BRA staff and the consultant team. He noted that the agenda for the meeting was a review of the presentation from the September 30<sup>th</sup> meeting and a continuation of the discussion on district-wide amplifications, substitutions, and offsetting (mitigating) measures, as well as the schedule for future meetings and next steps.

Mr. Tom Skinner, Durand & Anastas, mentioned that the presentation included components from the September 30<sup>th</sup> presentation, but also some new elements. He noted that more work is still needed to develop the substitute provisions and offsets for the proposed development projects and clarified that the information provided is in draft form on which the Committee and public are to provide feedback to the City. Mr. Skinner referenced earlier municipal harbor planning (MHP) processes and noted that earlier MHPs relied on precedent, but the process

can also introduce new elements depending on circumstances. In the instance of the Downtown Waterfront MHP, the new elements include significant use of amplifications, substitute provisions, and offsets, combined with protections for existing and future water-dependent uses and exceptions primarily for building footprint and building height; an area-wide calculation for open space per Massachusetts Office of Coastal Zone Management's (CZM) direction; a new geographic area protected from net-new-shadow (NNS); and a tiered approach to mitigating measures.

Mr. Skinner proceeded to clarify the difference between substitute provisions, which are quantitative (i.e. they have a numerical value, such as number square feet of open space, number of feet of setback from water's edge, etc.) and amplifications, which are discretionary standards that cannot be less restrictive than the regulations (i.e. they amplify the regulations). One example of an amplification for the Downtown MHP is the designation of special public destination facilities (SPDFs), which are facilities of public accommodation (FPAs) that enhance the destination value of the waterfront by serving significant community needs, attracting a broad range of people, or providing innovative amenities for public use. In the Downtown Waterfront MHP, the New England Aquarium (NEAq) could be designated as the anchor SPDF, with additional focus SPDFs, including the Harbor Islands Gateway (located on the north side of Long Wharf), the Water Transportation Terminal (on the south side of Long Wharf and on Central Wharf), the Ferry Terminal (on Rowe's Wharf), and the future SPDF, whose nature is yet to be determined, at the Hook Lobster site. For this site, Mr. Skinner stated it is constrained by its diminutive size and that as a result, there is a recommendation that the public benefits associated with facilities of private tenancy (FPT) substitution, be required regardless of future use at the site in order to maximize the benefit to the public.

Regarding area-wide substitute provisions and offsets, Mr. Skinner noted that these provisions are enacted to retain the character of the planning area, but also have exceptions so as to avoid precedents. The direction of CZM and Rose Kennedy Greenway Guidelines serve as the basis for open space and building height, respectively. Currently, there are two open space frameworks recommended. The first is an area-wide standard that requires a minimum of 50% of the space within the planning area be open space, which is currently being met. The second is a parcel specific standard which limits lot coverage to a maximum of 70% with offsetting mitigation and public benefits for any lot coverage over 50%. Mr. Skinner provided a recap of this latter framework, which is a tiered approach to mitigating such a building footprint lot coverage (i.e. \$X per SF for building footprint of 51 – 60% lot coverage and \$X + \$Y per SF for 61 – 70% lot coverage), with a possible exception for the Harbor Garage and Marriott Long Wharf sites for 70% or more lot coverage subject to mitigation in the form of \$X + \$Y + \$Z per SF. All of these funds would be used for public open space improvements. Mr. Skinner also presented an alternative, non-monetized offset, whereby all offsets would be the provision of open space public amenities described in MHP, regardless of cost, but would be project-specific and related to the magnitude of the building footprint.

Ms. Meredith Rosenberg, MHPAC Member, inquired as to who makes the valuation of these offsets and how the current market is incorporated into these valuations. Mr. Skinner replied that previous projects have presented these types of challenges, but that the framework is often crafted using the best possible information at the time.

Mr. Tom Palmer, Harbor Towers, inquired as to the reasons for the lot coverage exceptions instead of restricting coverage to the mandated 50%. Mr. Skinner replied that the exceptions would balance the very dense nature of downtown Boston and the Downtown Waterfront, which currently has more open space area-wide than is required. Ms. Rosenberg, suggested that the assumption of current open space should not be used as a basis for future open space.

Mr. Bud Ris, MHPAC Member, asserted that it is logical to require a combination of monetary and site specific offsets. Further, he added that he was under the impression that BRA Director Brian Golden, at the Advisory Committee's previous meeting, suggested that the BRA was not bound by the Rose Kennedy Greenway guidelines regarding building height and inquired as to what height standard offsets would be measured. Mr. Skinner explained that the height offset standards would be based upon a Chapter 91 compliant massing starting at the 55 foot height dimensional standard and net new shadow created beyond that limit. Continuing on the subject of building height, Mr. Skinner reviewed the previously presented substitute provisions and offsets, which include an area-wide 200-foot maximum height, which is the height datum from the Greenway Guidelines, subject to Boston wind standards, with exceptions for Long Wharf (seaward of the Marriott), the Harbor Garage site, and the Hook Lobster site.

In order to incentivize climate change preparedness, an additional building height exception would allow for existing buildings to add up to an additional 30 feet and two floors, with the provision that flood-sensitive mechanicals and utilities are relocated to upper stories, ground-floor and subgrade areas are flood-proofed, and all open space is public with FPAs on the ground floor. Mr. Ris suggested that as technology advances and mechanical equipment becomes more efficient, an entire floor or 30 feet may not be required to house relocated mechanicals and utilities.

Member of Public, inquired as to the basis of the exceptions for the Harbor Garage and Hook lobster sites. Mr. Skinner responded that the City's Request for a Notice to Proceed noted that there are certain pockets of higher density within the planning area, so as to allow for site-specific exceptions in lieu of a revised, higher, area-wide building height limit.

Mr. Skinner continued with a recap of the proposed area-wide offset based upon Net New Shadow (NNS), whereby \$X would be charged per SF of NNS and applied to water transportation. No NNS would be allowed on Long Wharf seaward of the Marriott building. In regard to water transportation, Mr. Bruce Berman, MHPAC Member, suggested an annualized payment for water transportation in lieu of a lump sum payment to prolong the life of water

transit systems. Mr. Skinner replied that subsidy programs in MHPs have not always functioned properly and that CZM is most interested in certainty about payments, funds, and uses. He added that water-transportation is a blanket-term for specific uses that will be determined on a project-specific basis. Mr. Ris inquired if water-transportation includes non-commuter water transportation services, such as whale watching trips that depart from the waterfront. Mr. McGuinness stated that the City has typically preferred regularly-scheduled commuter services that will keep activity in the area consistent year-round, but is open to alternatives. Historically, plans have assumed that the MBTA would eventually takeover existing water transportation, but the MBTA has been reluctant to do so. This shouldn't serve to preclude water transportation, but does require some additional coordination.

Returning to the Hook Lobster site, Mr. Skinner stated that because FPTs over flowed tidelands are not a preferred use, there is no area-wide substitute provision or offset, but rather a site-specific exception. Offsets would include on-site public benefits and must be provided regardless of use, a requirement that serves as an amplification. There is also a proposed substitution related to the Water Dependent Use Zone (WDUZ) which would allow for a reconfiguration of the area provided there is no net loss of WDUZ on site. Mr. Skinner noted the reconfiguration would allow for a larger Harborwalk and there would be provisions to ensure outdoor café seating did not encroach into the public access area.

Regarding next steps, Mr. Skinner noted the need for additional discussions on area-wide and site-specific (i.e. Harbor Garage, Hook Lobster, and Marriott Long Wharf sites) MHP provisions, MHP climate change preparedness provisions, and MHP water transportation provisions, after which a draft MHP would be provided for the Committee's review and comment. Ms. Sidney Asbury, Chair, inquired as to timing. Mr. McGuinness responded that it depends upon future meeting scheduling. Assuming a continuation of the current schedule of two meetings per month, the Committee's responsibilities should be complete around May, at which point the MHP would be submitted to CZM for their review and a 120-day public comment period. Mr. Berman, inquired about tasks in the critical path for progress. Mr. McGuinness responded that the City needs to do additional analysis on offsets (e.g. capital as opposed to monetary, dollar amount per square foot of lot coverage, etc.) and provide a recommendation to the Committee. Mr. Berman asked if an advisory committee has ever been reconvened by the state, and Mr. McGuinness affirmed that it has, but in the 120-day public comment period. Mr. Ris referred to the previous Committee meeting and suggested that Director Golden agreed on the need to continue moving forward with or without the cooperation of the developers. Mr. McGuinness replied that there is a need to keep them engaged in the process to ensure an informed MHP.

Mr. Victor Brogna, North End Resident, inquired if the open space calculation of the planning area included the watershed and Mr. Skinner replied that it did not. Mr. Brogna also asked if there was any reason to suggest that CZM would accept a proposal for a building with 90% lot coverage. Mr. McGuinness stated that 70% lot coverage requires significant public benefit and

that the 90% lot coverage proposal came from the Harbor Square proposal, which would have to qualify as a SPDF.

Ms. Joanne Hayes Rines, MHPAC Member, asked about the Harborwalk connection at the Hook Lobster site underneath the Evelyn Moakley Bridge. Mr. Skinner replied that this connection was vital to the parcel's eventual redevelopment under Chapter 91 regulations.

Mr. Andre Grace, MHPAC Member, sought a clarification on the Chapter 91 regulations not applying to NEAq. Mr. Skinner responded that as NEAq is considered a water-dependent use, they are not subject to Chapter 91 regulations, but still must comply with local zoning. He continued that mixed water-dependent and non-water-dependent uses are also typically considered non-water-dependent for the purposes of Chapter 91. Mr. Erik Rexford, Epsilon Associates, inquired if water-dependent uses count towards the lot coverage of an otherwise non-water-dependent use. Mr. Skinner replied that it depends on the scenario.

Ms. Rosenberg reasserted that the assumption of current open space should not be used as a basis for future open space. Mr. Skinner reiterated that the MHP requires a minimum amount of open space area-wide.

Ms. Valerie Burns, Fort Point Resident, inquired as to how other waterfront cities develop similar regulations to balance the public realm and development forces. Mr. McGuinness responded that the City frequently reviews other cities' regulations, but that Boston, being in Massachusetts, is unique in that Chapter 91 ensures both local and state control of and interest in the waterfront. Further, local zoning is never site-specific, but Chapter 91 enables the City to regulate the waterfront at such specificity. Mr. Berman concurred with Mr. McGuinness's assertion that Boston is rather unique and the present make-up of the waterfront is a testament to that.

Ms. Mary Holland, Harbor Towers Resident, expressed concern with proposed development of the waterfront creating a barrier to the waterfront.

NEAq Employee, inquired about when the negotiation over monetary offsets begins with the developers. Mr. McGuinness replied that it is a constructively iterative process, but currently the City is examining historic offsets in order to provide recommendations.

NEAq Employee, expressed concern that a lack of specificity in the regulations would lead to a squandered opportunity to protect and enhance the public's enjoyment of the waterfront and that there was a lack of vision in the MHP process.

Ms. Rosenberg asked about the proper order of negotiation with developers and the development of the MHP and expressed concern that the developers are exercising an outsized influence on the process. Mr. McGuinness reiterated that the MHP process is a

constructively iterative process and requires discussion with both the private and public stakeholders. He added that it is up to the Committee to judge the information available and make their recommendations to the City.

Mr. Ruggerio, MHPAC Member, stated that activation of the Downtown Waterfront is critical to attracting the public that may not be interested in visiting NEAq.

Mr. Ris requested a review of the Downtown Waterfront Public Realm Plan and a presentation of offsetting scenarios.

Mr. Tom Wooters, MHPAC Member, stated that the existence of exceptions betrays an underlying assumption that dense development at the waterfront is not an inherently positive attribute.

Ms. Nigella Hillgarth, MHPAC Member, also called for a review of the Downtown Waterfront Public Realm Plan.

Mr. McGuinness informed the Committee and public that the next Committee meeting is scheduled for January 13 at 3 PM.

Meeting adjourned at 4:30 PM.