

Assented by
Res. # 583
Approved: 11/25/92

RESOLUTION OF THE CITY COUNCIL

No. 145

Approved March 27, 1992

WHEREAS, it is hereby found and declared that the best interest and general welfare of the people of the City of Providence can be served and provided by the creation and erection of areas within the city for public parks and recreational purposes; and

WHEREAS, it is hereby further found and declared that an area for a public park and recreational purposes is needed and necessary for and within the section of the city known as "Mashapaug Pond" to so serve the best interest and general welfare, not only of the residents in and about the "Mashapaug Pond" section, but for all of the people of the city; and

WHEREAS, it is hereby further found and declared that it is essential for the city, in order to create and erect facilities for such a public park and recreational purposes, to acquire title in fee simple in and to the following described land (the land):

Those 4 lots of land, with any buildings and improvements thereon, laid out and designated as lots 41 and A on plat entitled, "Lakeview Park Providence, R.I. belonging to The Providence Real Estate Improvement Co., By Edward E. Goff, September, 1919.", which plat is recorded in the Land Records of the City of Providence in Plat Book 36 at page 9, and (copy) on Plat Card 1050, and lots 41-B and C laid out and delineated on that plat entitled "Lakeview Park Annex Belonging To The Providence Real Estate Improvement Co. Providence R.I. By Frank E. Waterman Company June-1921.", which plat is recorded in said Land Records in Plat Book 36 at page 14, and (copy) on Plat Card 1059.

Said 4 lots together form 1 tract, bounding westerly on Lakeview Drive a distance of forty-six and 7/10 (46.7) feet, northerly on lots 40 and 40-B on said plats, easterly on Mashapaug Pond, and southerly in part on land now or lately of Congregation of the Sons of Israel and David, and in part on land now or lately of the City of Providence, a distance of two hundred fifty-seven and 9/10 (257.9) feet, and

WHEREAS, it is hereby further found and declared that the owners of the land are not in mutual agreement to sell the land, and convey the title in fee simple, to the City of Providence for just compensation and fair and reasonable market value, and that without the acquisition of the land, the creation and erection of

facilities for such a park and recreational purposes cannot be attained and accomplished; and

WHEREAS, it is hereby further found and declared that the land may be taken by eminent domain pursuant to the provisions and powers granted to the City of Providence under Chapter 104, Rhode Island Public Laws 1963, and all applicable laws, and powers of the Home Rule Charter of the City of Providence, thereunto appertaining;

NOW, THEREFORE, BE IT RESOLVED:

1. That the City Council hereby declares that the acquisition of the land, hereinabove described, for the creation and erection of facilities for a public park and recreational purposes within and about the section of the city known as "Mashapaug Pond," is in the best interest and general welfare of the people of the City of Providence.

2. That the city cause to be made two independent appraisals of the fair and equitable market value of the land, in order to attain just compensation for the taking of the land.

3. That, upon the receipt of such independent appraisals, the City of Providence take the land by eminent domain, pursuant to the provisions and powers so granted to the City of Providence under Chapter 104, Rhode Island Public Laws 1963, and all applicable laws, and provisions of the Home Rule Charter of the City of Providence, thereunto appertaining.

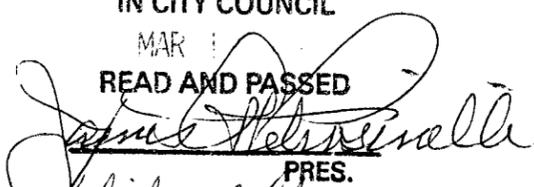
4. That the City Council recommends that the Mayor of the City of Providence pursue and complete the taking of the land by eminent domain in the manner as provided in Chapter 104, Rhode Island Public Laws 1963, and all applicable laws and provisions of the Home Rule Charter of the City of Providence, thereunto appertaining.

This Resolution shall take effect upon passage.

IN CITY COUNCIL

MAR 1

READ AND PASSED


PRES.


CLERK

THE COMMITTEE ON
CITY PROPERTY

Recommends *be Continued*
Jean M. Angelone
Clerk
February 11, 1992

IN CITY COUNCIL
AUG 1 1991
FIRST READING
REFERRED TO COMMITTEE ON CITY PROPERTY

Michael R. Clement
CLERK

Councilman Hillon

THE COMMITTEE ON
CITY PROPERTY

Approves Passage of
The Within Resolution
Michael R. Clement
Chairman
Clerk
March 12, 1992

APPROVED
MAR 27 1992
James A. Cravie
MAYOR



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Environmental Management
DIVISION OF PLANNING AND DEVELOPMENT
83 Park Street
Providence, R.I. 02903 - 1037
(401) 277-2776

April 1, 1991

Alan E. Kornstein
Law Department
60 Eddy Street
Providence, RI 02903

Dear Mr. Kornstein:

RE: 90-50-11 Mashapaug Pond

I am responding to your request of March 28, 1991 concerning Mashapaug Pond. The City shall comply with one requirement of the 1990 grant awards before any funds are released.

The community received approval of this grant under Conditional eligibility status. No funding commitments will be made until your community has attained Continuing eligibility status. Requires the submittal and approval of a Recreation, Conservation and Open Space Plan.

For the acquisition of the property, the following information is required:

Appraisal - An appraisal in accordance with our appraisal standards. We reviewed two appraisals submitted to us and returned comments to the City March 13, 1991. We recommend obtaining our approval prior to signing a Purchase and Sales Agreement.

Survey - A survey by a registered surveyor. The survey shall show the property bounds of the property to be acquired, identifying any deletions from the property, easements, rights-of-way or encumbrances. We reviewed a survey submitted by the City and returned our comments on March 5, 1991. The survey map shall have:

1. A traverse closure of 1:12,000 feet.
2. Monuments sufficient to reproduce the survey.
3. Record plans, plats and replats shall meet the Rhode Island Society of Professional Land Surveyors minimum standards.
4. Legal description for inclusion in the deed.

Title Commitment - A title search of the property. Obtain a title commitment from the insurance company to insure the perimeter boundary of the property and submit it to us for approval. After the closing, submit a title insurance policy for the property for both the State's interest and

Mr. Alan E. Kornstein
April 1, 1991
Page 2

the Local interest. The title search shall show any encumbrances and provide for clear title upon acquisition. We have not received the title commitment for Mashapaug Pond. I understand you are proceeding to obtain the commitment.

We require the following after completion of the acquisition for the development phase of this project:

The City signed the application committing to prepare and abide by a maintenance manual for the grant assisted site. Submit this maintenance plan for review and approval. Final payment on this grant is contingent on approval of the maintenance plan.

An Environmental Assessment for the project area.

Documentation that shows all existing utilities buried underground.

Documentation that shows installation of signs acknowledging the use of the Open Space and Recreational Area Funds.

Architect's design, drawings and bid specifications for the facility that will be developed.

A wet land permit from the Department of Environmental Management.

As of this date, we are honoring all commitments made by the Recreation Resources Review Committee and the Natural Heritage Preservation Commission. We can not make any new commitments from the bond fund. I can not guarantee these commitments will hold. The budget for the next fiscal year is bleaker than this year, so commitments may not be kept. I am moving forward with all active grants, until such time I am told to stop.

I am available for further consultation at 277-2776 to assist you in completing this acquisition.

Yours for environmental quality,



David C. Holt,
Principal Environmental Planner

cc: Nancy L. Derrig, Parks Department
David Dillon, Councilman



STATE OF RHODE ISLAND AND PROVIDENCE

Department of Environmental Management
DIVISION OF PLANNING AND DEVELOPMENT
Rt. 1, Box 1000
Providence, R.I. 02908-1000
(401) 277-2776

Post-It® brand fax transmittal memo 7571		# of pages > /
To: IRVING RHODSKY, Esq	From: LAUREN DUFFEY	
Co: City Solicitor	Co: DEM	
Dept: Providence	Phone: 277-2771	
Fax: 351-7596	Fax: 277-6802	

October 17, 1991

Dear Grant Recipients:

I would like to assure everyone in local government who has been a recipient of a local grant from DEM that those projects will continue to move forward.

We will search for a replacement for David Holt as soon as possible, but in the meanwhile the following people will serve as the contacts for the program. I will coordinate Open Space Acquisition Grants, and Joe Dias will coordinate Recreation Grants. Questions concerning billings, contracts, plan review, and project status in general can also be directed to Dick Tierney. We can all be reached at 277-2776.

In the wake of The Black Point decision, there has been a great deal of concern expressed by local officials that the additional funds needed for the judgment could affect funding for local acquisition grants. This is not the case. The law authorizing the 1989 Open Space Bond authorizes \$16 million for land purchases by DEM, and \$15 million for local grants, to be split evenly between land acquisition and recreational development. Funds to pay for the Black Point decision must come from the \$16 million authorized for State land acquisition. Local Grant funds cannot be used. I hope this clarifies the situation and allays the concerns of communities with local grants.

Sincerely,
Judith S. Benedict
Judith S. Benedict
Chief

JSB/ms

Telecommunication Device for the Deaf 277-6800



Department of Law

"Building Pride In Providence"

October 28, 1991

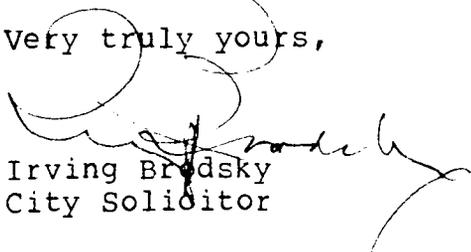
The Honorable David G. Dillon
Chairman, Finance Committee
City Council Office
City Hall
Providence, Rhode Island 02903

Dear Mr. Dillon:

The power of the City of Providence to take by eminent domain real property located in the City of Providence for public parks and playgrounds, and recreational purposes, derives from Public Laws of Rhode Island, 1963, Chapter 104. The procedure of such taking follows the manner provided by Section 1, Article IV of Public Laws of 1960, Chapter 121.

Copies of Chapter 104, 1963 Public Laws, and Section 1, Article IV of Chapter 121 of the 1960 Public Laws are enclosed.

Very truly yours,


Irving Brodsky
City Solicitor

IB:cmr
Enclosures

Hand Delivered

November 5, 1991

Honorable Vincent A. Cianci, Jr.
Mayor
Executive Chambers
City Hall
Providence, Rhode Island 02903

Dear Mayor Cianci:

You have indicated your support in the past for the proposal to acquire land near Mashpaug Pond with a combination of a state grant and funds from the Open Space Bond Issue which was approved by the voters in 1987.

The vast majority of this land is owned by with Mashpaug Circle Associates (O. Ahlborg & Sons) who are willing to sell. Four lots are owned by John and Vera Mickus, who have been estranged for some forty years, but who have never divorced. Vera Mickus has been paying the taxes on the land for all these years, does not believe John should receive any proceeds, and will not sell the land until he dies.

The state will not release the grant funding until the city produces the following:

Evidence of insured title to the property.

A Resolution of the City Council abandoning two paper streets which run through the property.

An easement which covers the Ahlborg Land, the Mickus Land, and the streets.

This leaves us in a Catch-22 situation in that the state will not release the funds until we have title to the property, and the Property Committee and the City Solicitor do not wish to proceed with the acquisition of the property unless the money is forthcoming from the state.



Department of Law

"Building Pride In Providence"

December 20, 1991

Frank E. Corrente, Director of Administration
Department of Administration
City Hall
Providence, Rhode Island 02903

Re: Mashapaug Pond

Dear Mr. Corrente:

May I submit a brief summary concerning the Mashapaug Pond recreational and park project.

An agreement was executed on January 4, 1991 (agreement) by and between Mashapaug Circle Associates, Inc. (seller) (by its president, Richard W. Ahlborg) and the City of Providence (City) (by its then Mayor, Joseph R. Paolino, Jr.) for the sale by seller to the City of land in and around Mashapaug Pond for the price of \$580,000.00, with a closing to "take place on January , 1991". This land purchase was for the purpose of creating a recreational and park area, and was to have been conditioned upon funding in a sum of \$450,000.00 to be made available to the City from the State of Rhode Island through its Department of Environmental Management (DEM). However, the agreement did not contain this important condition.

Following the execution of the agreement, there surfaced the uncertainty of this funding by the State, because of the financial climate of the State. An additional impediment arose, in that 4 additional lots (not owned by the seller) were essential to be included in the purchase by the City, such 4 lots being owned by John Mickus, and wife, Vera B. Mickus (Mickus). Repeated contacts with these people for negotiation for such purchase proved fruitless, mainly due to the estrangement between husband and wife. Whatever else must be completed concerning obtaining title to the requisite number of lots, the issue of certainty of funding by the State, and the Mickus land remain uppermost.

With regard to the state funding, there have been repeated communications with the office of the Governor to obtain a definitive reply that the funding will be forthcoming. By letter dated September 30, 1991, from the Governor's Chief of Staff, addressed to me, it would appear that the State's contribution of \$450,000 will be forthcoming upon the City fulfilling certain named conditions (all of which can be

Frank E. Corrente, Director
Department of Administration
December 20, 1991

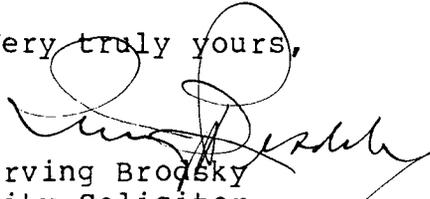
Page Two

readily completed). A copy of that letter is herewith enclosed. However, the State will only make this grant available upon the City having first received a proper deed to all of the lots involved. That means the City would be obliged to pay out the price of \$580,000 to the seller, plus whatever sum is needed to acquire title to the Mickus property. For such interim financing, Joseph P. Palmieri, Deputy Director of the Department of Planning and Development, has indicated to me, by his letter dated August 28, 1991, that such department will, at the Mayor's direction be prepared to provide a temporary bridge loan. A copy of that letter is also enclosed.

To acquire the Mickus property, the only route available is that of condemnation by the City. That procedure would entail the adoption of a resolution by the City Council declaring acquisition of the land to be in the public interest, an appraisal of the fair market value of the 4 lots, a statement, signed by the Mayor, that the land is taken for such public purpose, the filing with the Superior Court a sum of money as the Court determines to be amply sufficient to satisfy the owners' claim, and institution of court action to determine the actual amount to be paid by the City for such taking. It would be essential to conclude with DEM that there are no environmental concerns about all of the lots. The remaining items which include title insurance, perimeter survey, abandonment of streets, and granting to the State a permanent easement (to insure the project's use as a recreational and park area) can be accomplished contemporaneously with obtaining full title to the property.

Should you desire any additional information, I shall be happy to respond accordingly.

Very truly yours,



Irving Brodsky
City Solicitor

IB/sms

cc: Councilman John J. Lombardi,
Chairman, Property Committee

Councilman David G. Dillon



State of Rhode Island and Providence Plantations

EXECUTIVE CHAMBER, PROVIDENCE

Bruce Sundlun

Governor

September 30, 1991

Irving Brodsky
Providence City Solicitor
Providence City Hall
Providence, RI 02904

Dear Mr. Brodsky:

I am pleased to confirm for you the fact that State monies have been earmarked for use by the city of Providence on the Mashapaug Pond acquisition project.

Mr. David Holt of the Department of Environmental Management has indicated that DEM supports the project but notes that the City of Providence must fulfill three remaining requirements: 1) submission of title commitment for property based on perimeter survey; 2) condemnation of the lots; and 3) abandonment of the streets.

The Governor would like to express his assurance that once these requirements have been satisfied, the State's contribution of \$450,000 to this project will be forthcoming.

Sincerely,

R. David Cruise
Chief of Staff

RDC:msn

01841p70

cc/ Sheldon Whitehouse
Michael O'Keefe
Louise Durfee

MICHAEL S. VAN LEESTEN
DIRECTOR



VINCENT A. CIANCI, JR.
MAYOR

Department of Planning and Development

"Building Pride In Providence"

August 28, 1991

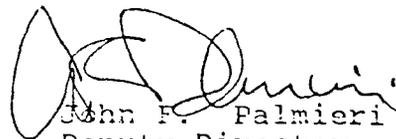
Irving Brodsky
City Solicitor
60 Eddy Street
Providence, R. I. 02906

Dear Mr. Brodsky:

Pursuant to our discussion on Wednesday afternoon with Councilman David Dillion regarding Mashapaug Pond acquisition-condemnation activities. Please be advised that this Department will, at the Mayors direction, be prepared to provide a temporary bridge loan to the Parks Department for the purpose of acquiring property presently owned by Mr. Alborg. Such financial assistance would be conditioned upon satisfactory document that State open space bond funds are, or would be, available to take our loan out within an acceptable time frame.

Sincerely,

JFP/GDP


John F. Palmieri
Deputy Director

City Property



Executive Office, City of Providence, Rhode Island

VINCENT A. CIANCI, JR.

MAYOR

December 23, 1991

Councilman David Dillon
Providence City Hall
Providence, RI 02903

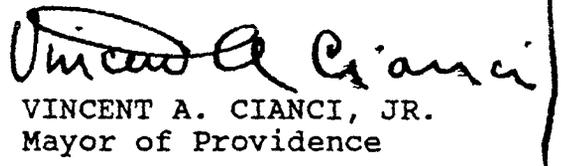
Dear Councilman Dillon:

I am in receipt of your letter dated November 5, 1991 regarding the proposal to acquire land near Mashpaug Pond with Open Space Bond Issue funds. As you know, I support this project and recognize the beneficial impact that will result from our participation in the acquisition and the protection of this important community resource.

To this end, and in response to your request, I have directed Mike Van Leesten of the Department of Planning and Development to provide Bridge Loan Financing of \$250,000 through our Community Development Block Grant Program to acquire the Ahlborg Parcel with the understanding that this loan will be repaid once the Open State Bond Financing is in place.

I look forward to working with you as we move this project ahead.

Sincerely,


VINCENT A. CIANCI, JR.
Mayor of Providence

VAC/11v

has raised concerns that the state money would not be forthcoming, but Bob McMahon indicates that Louise Durfee of DEM indicated that these are two separate program that cannot be commingled. Irving Brodsky is in the process of confirming this with the Governors Office.

The following solution has been proposed:

A "bridge loan" of Community Development Block Grant Funds would be used to acquire the Ahlborg land. This loan would be repaid when the state funding is received.

The Mickus Property would be condemned under the authority of a 1964 State Law which allows the City of Providence to condemn property for parks and recreation purposes. This law requires a City Council resolution as well as certain actions by the Mayor.

The Committee on City Property seeks assurances of your willingness to proceed on both of the above items. This could be accomplished either through a meeting with you, Chairman Lombardi, myself, John Palmieri, Bob McMahon, and Irving Brodsky, or a letter from you indicating your support for the project.

I would very much like to arrange the meeting or get the letter as soon as possible. This project has been in process for more than a year now, and both Ahlborg and the neighbors are understandably getting very anxious.

Sincerely,

David G. Dillon
Councilman
Ward 8

DGD/r

cc: John Lombardi
Irving Brodsky
Frank Corrente
John Palmieri
Bob McMahon



Department of Public Parks
"Building Pride In Providence"

M E M O R A N D U M

TO: Joseph Abbate, Dept. of Planning and Development
FROM: Bob McMahon, Department of Parks *RFM*
DATE: January 31, 1992
RE: Proposed Loan for the Purchase of Mashapaug Pond

In accordance with your request, the following information is provided regarding the above project:

Amount of Loan: \$250,000
Date Needed: March 5, 1992
Repayment Date: September 3, 1992

Please let me know what other information you may need.
Thanks for your help on this project.

cc: Councilman David Dillon



Department of Public Parks

"Building Pride In Providence"

February 11, 1992

Councilman David Dillon
c/o City Council Office
Providence City Hall
Providence, RI 02903

RE: Financial Status of Providence Park Improvement Program/
Financing of Mashapaug Pond Purchase

Dear David:

I have enclosed for your review, and for the City Council Property Committee, an up-to-date financial status report of the Neighborhood Park Improvement Program.

Under "Expenses" is a list of the final projects in the Neighborhood Park Improvement Program which began in 1988 and which has been funded primarily by two sources:

- o The City's 1987 Park and Open Space Bond
- o State DEM Grants from 1987 and 1989 Bonds

As seen in the list of projects, the purchase of Mashapaug Pond is budgeted for \$660,000--\$580,000 for the Ahlborg parcel and \$80,000 for the Mickus lots. There are also funds set aside for improving the land in 1993.

The "Revenues" portion of the ledger shows \$220,000 remaining from the City's 1987 Bond. Items #2, 3 and 4 are reimbursements that are being processed by DEM for grants awarded to the City. Item #5 is a reimbursement to be received from the National Park Service as part of a grant award to the City for improving Ellery Street Park, Niagara Street Park, and Salisbury Street Park.

All of the reimbursements from DEM and the National Park Service are on track. I have checked on their status as recently as last Friday. I should add that, despite the State's financial problems in the last 15 months, the State has processed all of their commitments to the Parks Department. No purchase orders have been rescinded or altered.

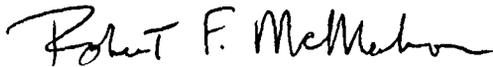
Councilman David Dillon
February 11, 1992
Page 2.

The final piece of the "Revenues" list is the DEM grant commitment for Mashapaug Pond which is \$450,000 for its purchase and 50 percent of the improvement cost which is expected to be 50 percent of \$100,000, or \$50,000.

Finally, the reason we need the \$250,000 loan from the Planning Department is strictly for cash flow reasons. We expect that we won't get the DEM reimbursement for Mashapaug Pond until June, if we close on the property in March. The \$250,000 loan will allow us to meet our other commitments in the Park Improvement Program in April and May.

If there are any additional questions, please feel free to call me.

Sincerely,



Robert F. McMahon
Deputy Superintendent of Parks

RFM/eap

Enclosure.

cc: Councilman John Lombardi
Judge Irving Brodsky
Nancy L. Derrig

PARK IMPROVEMENT PROGRAM: NEIGHBORHOOD PROJECTS
REVENUE/EXPENSE STATUS
2/7/92

REVENUES

1.	Existing Balance		\$220,000
2.	DEM Reimbursement due in February for India Point Park		142,000
3.	DEM Reimbursement due in March for Neutaconkanut Park		280,000
4.	Final DEM Reimbursement due in May for India Point Park		79,000
5.	National Park Service Reimbursement due in March for SouthSide Parks		90,000
6.	Committed DEM Funds for Mashapaug Pond		
	o Purchase	\$450,000	
	o Development	50,000	

			500,000

	TOTAL		\$1,311,000

EXPENSES

1.	Misc. existing project encumbrances		34,000
2.	Near Term Commitments and Projects		
	2.1 Citywide play equip., turf restoration, bleachers	50,000	
	2.2 Mashapaug Pond purchase	660,000	
	2.3 Mashapaug Pond improvements in 1993	100,000	
	2.4 Promenade Center	275,000	
	2.5 Joe Williams Ballfield	30,000	
	2.6 Metcalf Field Lights	100,000	

			1,165,000
3.	Contingencies and change orders		62,000

	TOTAL		\$1,261,000
	SURPLUS FOR FUTURE PROJECTS		50,000



Department of Public Parks

"Building Pride In Providence"

February 11, 1992

Councilman David Dillon
c/o City Council Office
Providence City Hall
Providence, RI 02903

RE: Financial Status of Providence Park Improvement Program/
Financing of Mashapaug Pond Purchase

Dear David:

I have enclosed for your review, and for the City Council Property Committee, an up-to-date financial status report of the Neighborhood Park Improvement Program.

Under "Expenses" is a list of the final projects in the Neighborhood Park Improvement Program which began in 1988 and which has been funded primarily by two sources:

- o The City's 1987 Park and Open Space Bond
- o State DEM Grants from 1987 and 1989 Bonds

As seen in the list of projects, the purchase of Mashapaug Pond is budgeted for \$660,000--\$580,000 for the Ahlborg parcel and \$80,000 for the Mickus lots. There are also funds set aside for improving the land in 1993.

The "Revenues" portion of the ledger shows \$220,000 remaining from the City's 1987 Bond. Items #2, 3 and 4 are reimbursements that are being processed by DEM for grants awarded to the City. Item #5 is a reimbursement to be received from the National Park Service as part of a grant award to the City for improving Ellery Street Park, Niagara Street Park, and Salisbury Street Park.

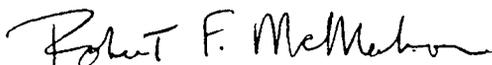
All of the reimbursements from DEM and the National Park Service are on track. I have checked on their status as recently as last Friday. I should add that, despite the State's financial problems in the last 15 months, the State has processed all of their commitments to the Parks Department. No purchase orders have been rescinded or altered.

The final piece of the "Revenues" list is the DEM grant commitment for Mashapaug Pond which is \$450,000 for its purchase and 50 percent of the improvement cost which is expected to be 50 percent of \$100,000, or \$50,000.

Finally, the reason we need the \$250,000 loan from the Planning Department is strictly for cash flow reasons. We expect that we won't get the DEM reimbursement for Mashapaug Pond until June, if we close on the property in March. The \$250,000 loan will allow us to meet our other commitments in the Park Improvement Program in April and May.

If there are any additional questions, please feel free to call me.

Sincerely,



Robert F. McMahon
Deputy Superintendent of Parks

RFM/eap

Enclosure.

cc: Councilman John Lombardi
Judge Irving Brodsky
Nancy L. Derrig

PARK IMPROVEMENT PROGRAM: NEIGHBORHOOD PROJECTS
REVENUE/EXPENSE STATUS

2/7/92

REVENUES

1. Existing Balance		\$220,000
2. DEM Reimbursement due in February for India Point Park		142,000
3. DEM Reimbursement due in March for Neutaconkanut Park		280,000
4. Final DEM Reimbursement due in May for India Point Park		79,000
5. National Park Service Reimbursement due in March for SouthSide Parks		90,000
6. Committed DEM Funds for Mashapaug Pond		
o Purchase	\$450,000	
o Development	50,000	
	-----	500,000

	TOTAL	\$1,311,000

EXPENSES

1. Misc. existing project encumbrances		34,000
2. Near Term Commitments and Projects		
2.1 Citywide play equip., turf restoration, bleachers	50,000	
2.2 Mashapaug Pond purchase	660,000	
2.3 Mashapaug Pond improvements in 1993	100,000	
2.4 Promenade Center	275,000	
2.5 Joe Williams Ballfield	30,000	
2.6 Metcalf Field Lights	100,000	
	-----	1,165,000
3. Contingencies and change orders		62,000

	TOTAL	\$1,261,000
	SURPLUS FOR FUTURE PROJECTS	50,000



Department of Planning and Development

"Building Pride In Providence"

February 12, 1992

Bob McMahon
Dalrymple Boathouse
Roger Williams Park
Providence, RI 02905

RE: Mashapaug Pond Project "Bridge Loan"

Dear Mr. Mahon:

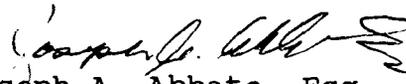
I am enclosing a draft copy of a Letter of Understanding regarding the interim financing of Mashapaug Pond Project.

As I previously explained I have some concern with structuring this transaction through some sought of loan agreement (as was originally proposed). My concern is that the Parks Department does not have unilateral authority to incur debt. Therefore, it is my opinion that this interim financing be documented through a Letter of Understanding which sets forth the transaction.

In my draft of the Letter of Understanding I have provided for the Parks Department and Planning Department to sign off on this document. We will need to discuss whether or not other parties, such as the Director of Finance, should also be made a party to this agreement. This can be worked out once we know the mechanics of transferring these funds.

Once you review this document please call me so that we can discuss any suggestions you might have.

Sincerely,


Joseph A. Abbate, Esq.
Associate Director
Economic Development

JAA:nja

Enclosure

CC: Councilman David Dillon
Councilman John Lombardi
Charles Mansolillo
Nancy Derrig
Michael S. Van Leesten
John F. Palmieri

COUNCILMAN
DAVID G. DILLON
292 WAVERLY STREET
PROVIDENCE, RI 02909
Res. 273-7572



City of Providence, Rhode Island

November 5, 1991

Honorable Vincent A. Cianci, Jr.
Mayor
Executive Chambers
City Hall
Providence, Rhode Island 02903

Dear Mayor Cianci:

You have indicated your support in the past for the proposal to acquire land near Mashpaug Pond with a combination of a state grant and funds from the Open Space Bond Issue which was approved by the voters in 1987.

The vast majority of this land is owned by Mashpaug Circle Associates (O. Ahlborg & Sons) who are willing to sell. Four lots are owned by John and Vera Mickus, who have been estranged for some forty years, but who have never divorced. Vera Mickus has been paying the taxes on the land for all these years, does not believe John should receive any proceeds, and will not sell the land until he dies.

The state will not release the grant funding until the city produces the following:

Evidence of insured title to the property.

A Resolution of the City Council abandoning two paper streets which run through the property.

An easement which covers the Ahlborg Land, the Mickus Land, and the streets.

This leaves us in a Catch-22 situation in that the state will not release the funds until we have title to the property, and the Property Committee and the City Solicitor do not wish to proceed with the acquisition of the property unless the money is forthcoming from the state.

COMMITTEES

Finance
Chairman

Providence
Redevelopment
Agency

Ex-Officio Member

Retirement Board

Board of Contract and
Supply

Capital Center Commission

Board of Investment
Commissioners

The award in regards to the Black Point condemnation by the state has raised concerns that the state money would not be forthcoming, but Bob McMahon indicates that Louise Durfee of DEM indicated that these are two separate program that cannot be commingled. Irving Brodsky is in the process of confirming this with Governors Office.

The following solution has been proposed:

A "bridge loan" of Community Development Block Grant Fund would be used to acquire the Ahlborg land. This loan would be repaid when the state funding is received.

The Mickus Property would be condemned under the authority of a 1964 State Law which allows the City of Providence to condemn property for parks and recreation purposes. This law requires a City Council resolution as well as certain actions by the Mayor.

The Committee on City Property seeks assurances of your willingness to proceed on both of the above items. This could be accomplished either through a meeting with you, Chairman Lombardi, myself, John Palmieri, Bob McMahon, and Irving Brodsky, or a letter for you indicating your support for the project.

I would very much like to arrange the meeting or get the letter as soon as possible. This project has been in process for more than a year now, and both Ahlborg and the neighbors are understandably getting very anxious.

Sincerely,

David G. Dillon
Councilman
Ward 8

DGD/r

cc: John Lombardi
Irving Brodsky
Frank Corrente
John Palmieri
Bob McMahon

LETTER OF UNDERSTANDING

RE: Department of Planning and Development
Mashapaug Pond Loan

WHEREAS, the City of Providence, Department of Planning and Development (hereinafter referred to as "DPD") entered into a contract with the United States of America providing for financial aid to the City of Providence under the Community Development Act of 1974, as amended under all pertinent Federal Regulations; and

WHEREAS, pursuant to said contract DPD is undertaking certain activities for the planning and execution of projects situated in the City of Providence; and

WHEREAS, the DPD desires to engage the Department of Public Parks hereinafter referred to as "DPP" to render its assistance in connection with the acquisition and maintenance of a certain parcel of real estate located in the City of Providence, known as Mashapaug Pond and hereinafter referred to as the "Project"; and

WHEREAS, it is the intent of Mashapaug Circle Associates, the owner of a portion of the Project real estate, to sell to the City of Providence their rights in said real estate; and

WHEREAS, it is the intention of the City of Providence to take possession through its eminent domain rights, a portion of the Project real estate which is presently owned by John and Vera Mickus; and

WHEREAS, the State of Rhode Island hereinafter referred to as the "State" has earmarked \$450,000.00, in the form of a grant (the "Grant"), to the City for the purpose of acquiring said Project real estate; and

WHEREAS, as a condition of the State's grant, the State has required that said grant funds shall not be released until the City has:

- (1) Provided evidence of title commitment for the project based on a perimeter survey.
- (2) Condemnation of certain lots owned by John and Vera Mickus.
- (3) Abandonment of certain existing streets within the Project.

NOW, THEREFORE, the parties hereto mutually agree as follows:

- A. The DPD will transfer, from its Community Development Block Grant account, a sum of \$250,000.00 (hereinafter referred to as the "Project Fund") to the General Account of the DPP.
- B. The Project Fund shall be used by the DPP exclusively for the acquisition of the Project real estate and/or for the purpose of taking a certain portion of the Project real estate by eminent domain.

- C. Upon the receipt of the State grant or on _____, which ever may come first, the DPP shall transfer to DPD's Community Development Block Grant Account, a sum of \$250,000.
- D. Upon the acquisition of the Project real estate the DPP shall maintain said Project in accordance with the Parks and Recreation plan as submitted to and approved by the Providence City Council.

IN WITNESS WHEREOF, this instrument has been executed this _____ day of _____, 1992.

WITNESS

THE DEPARTMENT OF PLANNING
AND DEVELOPMENT

BY:

Michael S. Van Leesten
Director

THE DEPARTMENT OF PUBLIC
PARKS

BY:

Nancy L. Derrig
Superintendent of Parks

COUNCILMAN
DAVID G. DILLON
292 WAVERLY STREET
PROVIDENCE, RI 02909
Res. 273-7572



City of Providence, Rhode Island

COMMITTEES

Finance
Chairman

Providence
Redevelopment
Agency

Ex-Officio Member

Retirement Board

Board of Contract and
Supply

Capital Center Commissior

Board of Investment
Commissioners

February 13, 1992

John J. Lombardi
Chairman
Committee on City Property
City Clerk's Office
City Hall
Providence, Rhode Island 02903

Dear Councilman Lombardi:

I have enclosed correspondence from Mr. Bob McMahon regarding the availability of funding for the Mashapaugh Pond Project.

I have spoken today with Eric Ahlborg who indicates that he has a letter from DEM indicating that the violations have been abated. I will send thaty along as soon as possible. Please let me know if there any other questions in regard to this project.

With my best regards, I remain

Sincerely,

David G. Dillon
David G. Dillon
Councilman
Ward 8

DGD/r
Enc.

MASHAPAUG CIRCLE ASSOCIATES
48 Molter Street
Cranston, RI 02910

February 13, 1992

City Council Office
Providence City Hall
25 Dorrance Street
Providence, RI 02903

Attn: David Dillon

Re: Mashapaug Circle Property

Gentlemen:

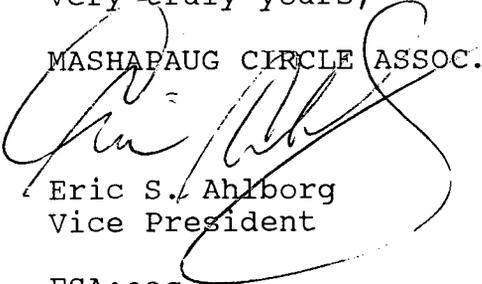
As the Properties Committee requested via you, attached is the documentation confirming the clean-up has been completed at the captioned property.

The person who conducted all inspections was James Ashton of the DEM office, who will also confirm this.

Please feel free to call with any further questions or comments.

Very truly yours,

MASHAPAUG CIRCLE ASSOC.



Eric S. Ahlborg
Vice President

ESA:eac
encl.

cc: Providence Parks Dept.: Robert McMahon
(Dalrymple Boat House, Prov., RI 02905)
Richard W. Ahlborg



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF AIR AND HAZARDOUS MATERIALS
291 Promenade Street
Providence, R.I. 02908-5767

28 March 1991

Mr. Robert L. Ricci
Recorder of Deeds
City of Providence
25 Dorrance Street
Providence, RI 02903

Dear Mr. Ricci:

This letter is to announce our rescinding of the 4 February 1991 Notice of Violation and Order No. 90-68 issued to Mashapaug Pond Estates, L.P., concerning a solid waste violation on Plat 126, Lot 435. This Notice of Violation is rescinded since it has been determined that Mashapaug Pond Estates, L.P. was not the property owner at the time the violation was observed by DEM. This Notice of Violation will be re-issued to the appropriate property owner at the time the violation was observed by DEM.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas D. Getz".

Thomas D. Getz, Chief
Division of Air and Hazardous Materials

TG:CM

cc: Mashapaug Pond Estates, L.P.
Steve McInnis

mndonca.cs/CM

48 Molter Street
Cranston, RI 02910

February 21, 1991

State of Rhode Island
Department of Environmental Management
Division of Air and Hazardous Materials
291 Promenade Street
Providence, RI 02908-5767

Attn: Mr. James M. Ashton
Senior Environmental Scientist

Re: Mashapaug Circle - Providence, RI

Gentlemen:

Please be advised that we have completed the clean-up of the solid waste material as directed by you.

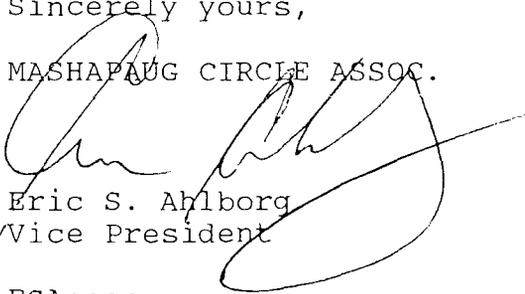
As we discussed, a final inspection by your department is to be scheduled. I propose Tuesday, February 26, 1991 at 10:00 a.m. Please advise if this time is convenient by contacting me at 467-6300 or leaving a message with my secretary.

Also, per our discussion, I will provide receipts verifying proper waste disposal.

Please feel free to contact me with any further questions or comments.

Sincerely yours,

MASHAPAUG CIRCLE ASSOC.



Eric S. Ahlborg
Vice President

ESA:eac

cc: Partridge, Snow & Hahn: John Partridge, Esq.
Edwards & Angell: Charles Rogers, Esq.
Robert McMahon, Dept. Supt. - Div. of Parks
Alan Kornstein, Esq., City Solicitor
David Dillon, Councilman 8th Ward
Richard W. Ahlborg

48 Molter Street
Cranston, RI 02910

February 26, 1991

Ronald Gagnon, P.E., Solid Waste Supervisor
Division of Air and Hazardous Materials
Department of Environmental Management
291 Promenade Street
Providence, RI 02908-5767

RE: Mashapaug Circle Property

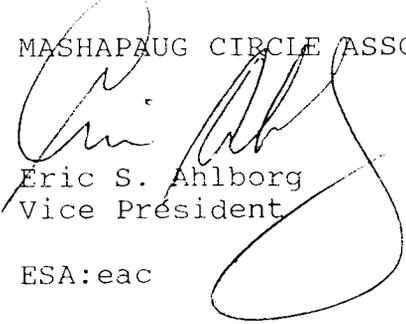
Dear Mr. Gagnon:

Attached are receipts from Chambers United Sanitation verifying that any solid waste cleaned up at the property located on Mashapaug Pond was dumped at state approved landfill.

I believe we have now complied with all terms specified in the attached Notice of Violation. If you agree, please send verification for our records.

Sincerely,

MASHAPAUG CIRCLE ASSOC.



Eric S. Ahlborg
Vice President

ESA:eac

cc: Partridge, Snow & Hahn: John Boehnert, Esq.
Edwards & Angell: Charles Rogers, Esq.
Dept. of Public Parks: Robert McMahon
Alan Kornstein, Esq., City Solicitor
DEM: James Ashton
Richard W. Ahlborg

DECLARATION REGARDING WASTE DELIVERY

The undersigned declares, under penalty of perjury, that the solid waste which is delivered to the Chambers Waste Systems of Rhode Island Transfer Station in the vehicle and on the date shown below, is solid waste which originated within the State of Rhode Island.

CHAMBERS UNITED SANITATION
CRANSTON, RHODE ISLAND
DATA MANAGEMENT SYSTEM

Ticket no. 31445
Date/Time in/out 13:43/13:57

Waste Type M07
CASH CUSTOMER

Weighmaster 39
Vehicle ID 00RI104529
FEDERAL TAX ID
Account 00019412
CHARLES SCOTT

Signature *Charles Scott*
Rate (\$/ton) 66.00
Minimum Charge 25.00

Grid Location 0000000000

City Municipality	%	tons	Price
01 0	100	1.170	77.22

City Municipality	%	tons	Price

Gross lb.	13260	scale 1
Tare lb.	10920	scale 1
Net lb.	2340	1.17 tons

Cash Total Price 77.22
COMPUTED NET
Vehicle Capacity 05

DECLARATION REGARDING WASTE DELIVERY

The undersigned declares, under penalty of perjury, that the solid waste which is delivered to the Chambers Waste Systems of Rhode Island Transfer Station in the vehicle and on the date shown below, is solid waste which originated within the State of Rhode Island.

CHAMBERS UNITED SANITATION
CRANSTON RHODE ISLAND
DATA MANAGEMENT SYSTEM

Truck # 31521
 Date/Time In/Out 11:17/11:36
 Weight Station 39
 Vehicle 00R1104629
 FEDERAL TAX ID
 Account 00036309
 W. HARRIS AND SONS, INC

Waste Type CHARGE SINGLE HAUL
 Signature *[Handwritten Signature]*
 Rate (\$/ton) 66.00
 Minimum Charge 33.00

Grid Location 0000000000

Cty Municipality	%	tons	Price
01	100	1.260	83.16

Cty Municipality	%	tons	Price

Gross Wt.	10040	Scale 1
Net Wt.	2530	1.26 tons

Credit		Total Price	83.16
COACHMAN		Vehicle Capacity	33

DECLARATION REGARDING WASTE DELIVERY

The undersigned declares, under penalty of perjury, that the solid waste which is delivered to the Chambers Waste Systems of Rhode Island Transfer Station in the vehicle and on the date shown below, is solid waste which originated within the State of Rhode Island.

**CHAMBERS UNITED SANITATION
CRANSTON RHODE ISLAND
DATA MANAGEMENT SYSTEM**

Ticket no. 31547
2-22-1991/Time in/out 13:25/13:36

Waste Type MLL
CHARGE/SINGLE A11

Weighmaster 39
Vehicle 00RI104629
FEDERAL TAX ID
Account 00036309
O. AHLBORG AND SONS, INC

Signature *Chas Scott*
Rate (\$/ton) 66.00
Minimum Charge 53.00

Grid Location 0000000000

Cty Municipality	%	tons	Price
01 0	100	0.930	61.38

Cty Municipality	%	tons	Price
------------------	---	------	-------

Gross lb.	12780	scale 1
Tare lb.	10920	scale 1
Net lb.	1860	0.93 tons

Credit	Total Price	61.38
COMPUTED NET		
Vehicle Capacity		03

RECEIVED

FEB - 6 1991

G. AHLBORG & SONS, INC.



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF AIR AND HAZARDOUS MATERIALS

291 Promenade Street
Providence, R.I. 02908-5767

4 February 1991

Mashapaug Pond Estates, L.P.
c/o S. Mcinnis
30 Exchange Terrace
Providence, RI 02903
SW-90-68

Dear Sir or Madam:

Enclosed is a Notice of Violation and Order and Penalty (NOVAP) issued to Mashapaug Pond Estates, L.P. Correspondence and questions concerning this enclosure should be directed to Ronald Gagnon at the following address:

Ronald Gagnon, P.E., Solid Waste Supervisor
Division of Air and Hazardous Materials
Department of Environmental Management
291 Promenade Street
Providence, RI 02908-5767

Requests for a formal hearing on the enclosed should be made, in writing, to the Administrative Adjudication Division at the following address:

Bonnie Stewart, Clerk
Administrative Adjudication Division
Department of Environmental Management
1 Capitol Hill
Providence, RI 02908

A copy of the hearing request should be sent to the Office of Legal Services, 9 Hayes Street, Providence, RI 02903. Be advised that Section 23-18.9-13 of the Rhode Island General Laws requires the Department to place a copy of this Notice in the land evidence records of your city or town. Prior to taking any action to correct the violations described in this Notice, you must contact DEM.

If you wish to arrange an informal meeting to discuss this NOVAP, please contact James Ashton at 277-2797.

Very truly yours,

Thomas D. Getz, Chief
Division of Air and Hazardous Materials

cc: Bonnie Stewart, Clerk
Rose Mendonca, Providence City Clerk
Eric Ahlborg ✓

Telecommunication Device for the Deaf 277-6800

~~STATE OF RHODE ISLAND AND PROVIDENCE TERRITORIES~~
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF AIR AND HAZARDOUS MATERIALS

RE: Mashapaug Pond Estates, L.P.
c/o S. Mcinnis
30 Exchange Terrace
Providence, RI 02903
SW-90-68

NOTICE OF VIOLATION AND ORDER AND PENALTY

Notice is hereby given that Mashapaug Pond Estates, its agents and employees, is and/or has been in violation of the Refuse Disposal Act (RIGL Section 23-18.9-1 et. seq.), as amended, and the Rules and Regulations for Solid Waste Management Facilities adopted thereunder. The Director of the Rhode Island Department of Environmental Management (hereinafter the Director) has the authority to make all rules and regulations pursuant to RIGL 23-18.9-12 and 42-17.1. According to RIGL 42-17.1-2, the Director or his designee has the authority to enforce the provisions of the Act and the regulations adopted thereto.

On 5 November 1990, representatives of the Division of Air and Hazardous Materials of the Department of Environmental Management (hereinafter DEM) conducted an inspection of your property, identified as Assessor's Plat 126, Lot 435 in the city of Providence. During that inspection, violations of the following Rhode Island General Laws, and the Rules and Regulations for Solid Waste Management Facilities, were noted:

RIGL 23-18.9-5: No person shall dispose of solid waste at other than a solid waste management facility licensed by the Director.

Rule 5.01 -- General Issuance and Renewal of Licenses: No person shall construct, develop, establish, manage, own, or maintain a solid waste management facility, without first having obtained a license to operate from the licensing agency. Such a license or license renewal shall be issued only for the facility named in the application and shall not be transferable or assignable except with the written approval of the licensing agency. Each license or license renewal shall show compliance with Rule 4.00, as well as rules relating to the particular type of facility. The licensing agency reserves the right to extend the expiration

at such time as shall be deemed necessary by the Director.

Specifically, Department Personnel noted yard waste, tires, containers, metal, an engine block and other mixed solid waste.

You are hereby ORDERED to:

1. IMMEDIATELY cease all disposal of solid waste and landfilling operations at this site.
2. Submit to DEM a proposed plan and schedule for solid waste removal for approval by 14 February 1991.
3. Remove and dispose of any solid waste located on the site at a properly licensed solid waste management facility as soon as possible.
4. Submit to the Department documentation (receipts, bills, etc.) verifying proper waste disposal.
5. Call for an appointment to dig exploratory test pits on site with a representative of this Division by 14 February 1991.

Based on the severity of the above violation(s), remit to the Department by 14 February 1991, an administrative penalty in the amount of one thousand dollars (\$1,000), payable by certified check to the Order of the General Treasurer, State of Rhode Island, who shall deposit said monies in the Environmental Response Fund, established pursuant to RIGL 23-19.1-23. This administrative penalty was calculated in accordance with the Department's Rules and Regulations for Assessment of Administrative Penalties, and the amount sought for the violation(s) is set forth in the attached Penalty Amount Rationale Memo.

Pursuant to Section 42-17.1-2(u), 42-17.6, and Chapter 42-35 of the General Laws of Rhode Island, 1956 (1984 Reenactment), as amended, Mashapaug Pond Estates is entitled to request a hearing, in writing, before the Director or his designee within ten (10) days of receipt of this NOVAP to show cause why this finding of violation should not stand and why this Order and Penalty should not be enforced. Mashapaug Pond Estates has the right to be represented by counsel at the hearing. Any request for a

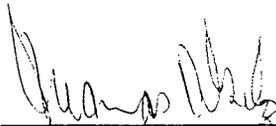
hearing should, as required by RIGL 42-17.9-7, indicate whether Mashapaug Pond Estates denies the alleged violation, and whether Mashapaug Pond Estates intends to assert that the administrative penalty is excessive. If Mashapaug Pond Estates fails to request a hearing within the aforesaid period of time, it is hereby notified that this Notice will automatically become a compliance order.

Failure or inability to comply with this Order may result in civil penalties or criminal prosecution under RIGL 23-18.9-10, as amended. This section imposes a maximum fine of \$25,000 per day and/or imprisonment for not more than five years on any person who operates a solid waste facility without a license.

Under RIGL 23-18.9-10, any person who disposes of solid waste at other than a licensed facility is subject to a maximum fine of \$5,000 per day or imprisonment for not more than five years for each violation.

FOR THE DIRECTOR:

30 January 1991
Date



Thomas D. Getz, Chief
Division of Air and Hazardous Materials

PENALTY RATIONALE MEMO

**Mashapaug Pond Estates, L.P.
c/o S. Mcinnis
30 Exchange Terrace
Providence, RI 02903**

SW-90-68

Regulation No. 5.01 is a Class I violation and in this instance is considered to have a major potential for harm resulting in a penalty of \$1,000.

Therefore, a total penalty of \$1,000 is assessed.

CAM

council shall provide for financing of the improvements.

ARTICLE IV. EMINENT DOMAIN

Condemnation
procedure.

Section 1. The city of Providence shall have the right to acquire all or any part of the real property, or any interest therein, by the exercise of the power of eminent domain whenever it shall be determined by the city council that such acquisition is necessary to the fulfillment of the purposes of this act and is in the public interest as defined herein, and provided, however, that no existing off-street parking facility may be acquired without the consent of the owner and occupant unless such facility is to be incorporated within an off-street parking facility with a capacity at least 100% greater than the facility to be taken. Where property so acquired by the city of Providence for off-street parking facilities is being operated at the time of acquisition as a commercial off-street parking facility then the operator of said commercial off-street parking facility shall be permitted to continue to operate said facility until alterations to the property shall have been commenced by the city of Providence.

Filing of de-
scription and
statement.

(a) The necessity for such acquisition shall be conclusively presumed upon the adoption of a resolution by the city council declaring that the acquisition of the land or interest therein described in such resolution is in the public interest as defined in this act and that such land or interest therein is to be used for the purposes of providing off-street parking facilities as defined herein. Within six months thereafter the mayor of the city of Providence shall cause to be filed in the land evidence records of said city a copy of such resolution

adopted by the city council, together with a plat of the land or interest therein described and a statement, signed by the mayor that such lands or interests therein are taken pursuant to the provisions of this act. Thereupon the mayor shall file in the superior court for the county of Providence a statement of the sum of money estimated by the mayor to be just compensation for the land taken.

(b) Upon the filing of the copy of such resolution, plat and statement in the land evidence records of the city of Providence, the filing in the superior court of the statement, and the depositing in the superior court, to the use of the persons entitled thereto, of such sum as the court shall determine to be amply sufficient to satisfy the claims of all persons interested in said land (and the court may in its discretion, take evidence on the question to determine the sum to be deposited) title to such land, or interest therein, shall rest in the city of Providence in fee simple absolute and said city may thereupon take possession of said land or interest therein.

Same.

Deposit with court registry.

(c) No sum so paid into the court shall be charged with clerk's fees of any nature. After the filing of such copy, plat and statement, notice of the taking of such land, or interest therein, shall be served upon the owners of and persons having an estate in and interested in such land by the sheriff or his deputies of the county in which the land, or interest therein, lies, leaving a true and attested copy of such description and statement with each of such persons personally, or at their last and usual place of abode in this state with some person living there, and in case any of such per-

Same; notice.

Same.

sons are absent from this state and have no last and usual place of abode therein occupied by any person, such copy shall be left with the persons, if any, in charge of or having possession of such land, or interest therein, taking of such absent persons if the same is known to said officer; and after the filing of such resolution, plat and statement, the mayor shall cause a copy of such resolution and statement to be published in some newspaper published in the county where said land, or interest therein, may be located, at least once a week for three successive weeks. If any person shall agree with the city for the price of the land, or interest therein, so taken, the court, upon the application of the parties in interest, may order that the sum agreed upon be paid forthwith from the money deposited, as the just compensation to be awarded in said proceeding.

Same:
Assessment of
damages by
jury.

(d) Any owner of or persons entitled to any estate in or interested in any part of the land, or interest therein, so taken, who cannot agree with said city for the price of the land, or interest therein, so taken in which he is interested as aforesaid, may, within three months after personal notice of said taking, or, if he have no personal notice, may within one year from the first publication of the copy of such resolution and statement referred to in paragraph (a) of section 1. of, this article, apply by petition to the superior court in and for the county in which such land, or interest therein, lies, setting forth the taking of his land or interest therein, and praying for an assessment of damages by a jury. Upon filing of such petition the said court shall cause twenty days' notice of the pendency thereof to be given to said city by serving the mayor with a certified copy thereof, and may proceed after such notice to the

trial thereof; and such trial shall determine all ques- ^{Same.}
 tions of fact relating to the value of such land, or in-
 terest therein, and the amount thereof, and judgment
 shall be entered upon the verdict of such jury and
 execution shall be issued therefor against the money
 so deposited in court and in default thereof against any
 other property of said city. In case two or more con-
 flicting petitioners make claim to the same land, or to
 any interests therein, or to different interests in the
 same parcel of land, said court upon motion shall con-
 solidate their several petitions for trial at the same
 time by the same jury, and may frame all necessary
 issues for the trial thereof; and all proceedings taken
 pursuant to the provisions of this act shall take prece-
 dence over all other civil matters then pending before
 said court.

(e) If any lands, or interests therein, in which any
 infant or other person not capable in law to act in his
 own behalf is interested, are taken by said city under
 the provisions of this act, said superior court, upon
 the filing therein of any such petition by or in behalf
 of such infant or other person, may appoint a guardian
 ad litem for such infant or other person, and such
 guardian may appear and be heard in behalf of such
 infant or other person; and such guardian may also
 with the advice and consent of said superior court and
 upon such terms as said superior court may prescribe,
 release to such agency all claims for damages for the
 lands of such infant or other person or for any such
 interests therein. Any lawfully appointed, qualified
 and acting guardian or other fiduciary of the estate of
 any such infant or other person, with the approval of
 the court of probate within this state having jurisdic-

Same;
 actions in be-
 half of persons
 non sui juris.

Same.

tion to authorize the sale of lands and properties within this state of any such infant or other person, may, before the filing of any such petition, agree with said city upon the amount of damages suffered by such infant or other person by any taking of his lands or of his interests in any lands and may, upon receiving such amount, release to said city all claims of damages of such infant or other person for such taking.

Same:
Withdrawal
of excess funds
from registry
of court.

(f) Whenever, from time to time the city has satisfied the court that the amount deposited with the court is greater than is amply sufficient to satisfy the claims of all persons interested in said land, the court may order that the amount of any such excess shall be repaid to the city. Whenever the city has satisfied the court that the claims of all persons interested in the land taken have been satisfied, the unexpended balance shall be paid forthwith to said city.

Provisions
applicable in
proceedings.

(g) In any proceedings for the assessment of compensation and damages for land or interest therein taken or to be taken by eminent domain by the city, the following provisions shall be applicable:

Order to ex-
pedite action.

(1) At any time during the pendency of such action or proceeding, the city or an owner may apply to the court for an order directing an owner or the city, as the case may be, to show cause why further proceedings should not be expedited, and the court may upon such application make an order requiring that the hearings proceed and that any other steps be taken with all possible expedition.

Property de-
voted to
public use.

(2) If any of the land, or interest therein, included within the project is devoted to a public use, it may

nevertheless be acquired, and the taking shall be effective provided that no land, or interest therein, belonging to the city or to any government shall be acquired without its consent, and that no land or interest therein belonging to a public utility corporation may be acquired without the approval of the division of public utilities or other officer or tribunal having regulatory power over such corporation. Any land, or interest therein, already acquired by the city may nevertheless be included within such taking for the purpose of acquiring any outstanding interests in such land.

(3) The term "owner", as used in this section, shall include a person having an estate, interest or easement in the land to be acquired or a lien, charge or encumbrance thereon.

ARTICLE V. SEVERABILITY AND EFFECTIVE DATE

Section 1. The powers granted and the duties imposed by the several sections of this act shall be construed to be independent and separable and if any one or more sections, clauses, sentences, or parts of this act or the applicability thereof shall be adjudged unconstitutional or invalid such judgment shall not affect the remaining provisions or applications of this act which can be given effect without the invalid provision or application, and the remainder of the act shall remain in full force and effect.

Sec. 2. This act shall take effect upon its passage and thereupon chapter 2307 of the public laws of 1949, chapter 2514 of the public laws of 1950 and all other

CHAPTER 104.

H 1402
Approved
May 6, 1963.

AN ACT Granting Certain Powers to the City of Providence.

It is enacted by the General Assembly as follows:

City of Providence; additional powers.

Section 1. The city of Providence shall continue to have and exercise all its existing powers and privileges and be subject to all existing duties and liabilities conferred or imposed upon it by its charter, by the general laws or by the several acts of the general assembly specially relating to it, until the same shall expire by their own limitation or shall be revoked or repealed.

Without limiting any powers and privileges granted to the said city of Providence by its charter, general laws or the said several acts of the general assembly,

1. To authorize and permit the building, construction and maintenance of bridges, conduits and structures over, under, on and across streets and highways in said city for the purpose of connecting buildings, providing passageways between the same, or for any purpose deemed advisable or necessary; Bridges, conduits, structures between buildings.
2. To change, vary and alter the use of streets and highways by converting the same to pedestrian malls, so-called; Pedestrian malls.
3. To create and establish bodies, commissions, agencies and authorities for the development of projects deemed advisable for the welfare of the city; Development projects.
4. To create and establish such offices, departments, bureaus and agencies and their respective officers, deputies and agents as may be required to administer the powers and duties vested in the city and to eliminate, change, consolidate or otherwise affect any offices, bureaus, agencies and their respective officers, deputies and agents now or hereafter existing and irrespective of the nature or source of the authority creating or establishing the same. Departments, bureaus and agencies.
5. To take by eminent domain real property located in said city for public parks and playgrounds, recreational purposes, schools, highways, sewers, water supply, fire and police stations, municipal buildings of any and all nature such taking to be in the manner provided by sec. 1 of article IV of chapter 121 of the 1960 public laws of the state of Rhode Island. Condemnation for municipal purposes.

Act effective, when.

Sec. 2. This act shall take effect upon its passage and all acts and parts of acts inconsistent herewith are hereby repealed.



Department of Public Parks

"Building Pride In Providence"

March 4, 1992

Councilman John Lombardi
c/o City Council Office
Providence City Hall
Providence, RI 02903

RE: Mashapaug Pond

Dear John:

Enclosed are the following additional items that you requested:

1. Letter from DEM, dated 02/28/92, regarding the removal of solid waste that was cleaned up from the site;
2. Letter from DEM, dated 02/27/92, regarding the funding for the project.

I have also sent Charlie Mansolillo the following information to bring his files up to date:

- o items 1 and 2 above;
- o copy of the original appraisal;
- o copy of DEM's letter indicating the value that they accept for the properties;
- o copy of Ahlborg's cost documentation that was sent to Tom Moses, from which he negotiated the \$580,000 figure with Ahlborg.

I will be at my home on Thursday evening, babysitting my 2-year old, when you meet. But, I am available by phone at 521-6738 if you need to talk to me.

Very truly yours,

A handwritten signature in cursive script that reads "Robert F. McMahon".

Robert F. McMahon
Deputy Superintendent

RFM/eap

Enclosures.

cc: David Dillon



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF AIR AND HAZARDOUS MATERIALS
291 Promenade Street
Providence, R.I. 02908-5767

28 February 1992

Mr. Robert McMahon
Deputy Superintendent
Providence Park Systems
Rogers Williams Park
Providence, RI 02905

RE: Solid Waste Notice of Violation 90-68 Issued to Mashapaug Pond Estates L.P., Plat 126, Lot 435

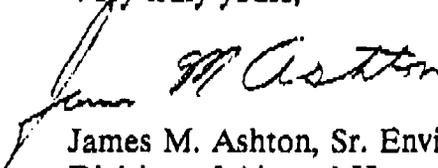
Dear Mr. McMahon:

The solid waste Notice of Violation 90-68 was rescinded on Plat 126, lot 435, Providence, Rhode Island on 28 March 1991. Documentation was provided that indicated Mashapaug Pond Estates L.P. was not the owner of the property in question when the violation was cited.

A cooperative cleanup was initiated by Mashapaug Circle Associates on 20 February 1991. Documentation and a final inspection was made on 26 February 1991 which revealed that the site was clear of solid waste at the time of the inspection.

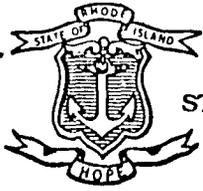
I hope this letter summarizes the chain of events that has taken place to date.

Very truly yours,


James M. Ashton, Sr. Environmental Scientist
Division of Air and Hazardous Materials

JMA/kz

cc: Thomas Epstein
Ronald Gagnon
provpk,ja/kz



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Environmental Management
OFFICE OF THE ASSOCIATE DIRECTOR
Planning and Administrative Services
83 Park Street
Providence, R.I. 02903-1037
(401) 277-2776 (voice)
(401) 277-6800 (TDD)

February 27, 1992

Mr. Robert McMahon, Deputy Director
Department of Public Parks
Dalrymple Boathouse
Roger Williams Park
Providence, RI 02905

Dear Bob:

Per your request, I am writing to advise you and members of the Providence City Council on the availability of funding for the city's grant for acquisition and development as proposed under the Mashapaug Pond 90-50-11 grant application. The city was advised on August 20, 1990 by the department that the grant was approved for funding. See attachment Exhibit A. Subsequently, at the request of Senator Robert Kells, the state notified the city and reconfirmed the availability and commitment of these funds. Specifically, on May 14, 1991, Associate Director/Budget Officer Michael O'Keefe assured Senator Kells that the bond monies for this project were reserved. Please see Exhibit B.

Finally, in the spring of 1991, at the request of Councilman David Dillon, the Governor's Office once again confirmed the state's commitment to the project. This was done in writing from the Governor's Associate Executive Counsel Casby Harrison III. Please see Exhibit C dated June 6, 1991.

At this point in time, please be assured that the monies for the development and acquisition remain committed at the DEM. The last remaining item for the city to submit to complete the acquisition portion of the grant is the submission of a title report and title commitment. When the title work is received and approved by DEM, we will process an invoice voucher for \$450,000 and prepare the appropriate recreation agreement and assignment for the property. I believe, from our discussions, that you are preparing this material for a timely submission.

I hope this clarifies for you and members of the Council that the funds are indeed available and committed for the Mashapaug Pond project.

Page Two

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Frederick J. Vincent". The signature is written in black ink and is positioned above the printed name and title.

Frederick J. Vincent
Associate Director

FJV:mlb

Attachments

cc: Louise Durfee
Judith S. Benedict
Patricia McLaughlin, Esq.



EXHIBIT A

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Environmental Management
DIVISION OF PLANNING AND DEVELOPMENT
83 Park Street
Providence, R.I. 02903 - 1037
(401) 277-2776

August 20, 1990

ROBERT MCMAHON
DALRYMPLE BOATHOUSE
PROVIDENCE, RI 02905

Dear ROBERT MCMAHON:

The Rhode Island Department of Environmental Management (DEM) is pleased to announce that applicants have been chosen to receive grants from the 1989 Open Space and Recreation Capital Development Program. The Recreation Resources Review Committee recommended to the Director of DEM the applicants to receive a grant from the 1989 Open Space and Recreation Capital Development Program

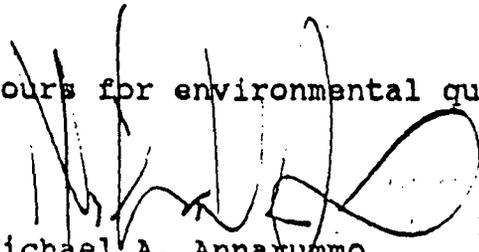
The Committee evaluated and rated all applications according to rules and regulations established for outdoor recreation facilities.

The Committee voted to recommend projects that scored 190 or more points, your project scored 246.52 points.

Your project, 90-50-11 MASHAPAUG POND, was selected for a commitment of funds in the amount of \$450,000.00 for acquisition and \$112,500.00 for development. Further information will be sent to you soon to proceed with the grant application.

Please contact David C. Holt, 277-2776, for further consultation on the commitment of these funds.

Yours for environmental quality,


Michael A. Annarummo,
Director

OSB-124-A
8-17-90

Telecommunication Device for the Deaf 277-6800



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
BUDGET OFFICE
One Capitol Hill
Providence, R.I. 02908-5886

May 14, 1991

The Honorable Robert T. Kells
Room 21, State House
Providence, RI 02903

Dear Senator Kells:

Senator Bevilacqua requested that we research progress on the Mashpaug Pond Open Space Grant to the City of Providence, and take appropriate action to keep the project moving. I have, this day, reserved open space bond funds of \$450,000 for project funding. Its release is subject to appropriate recommendation by the Department of Environmental Management. The City of Providence is aware of the projects requirements of the Department, including appraisal of land value, title insurance, street abandonment, adoption of a municipal open space plan, and execution of necessary easements.

If I can be of further assistance, please do not hesitate to call me at 277-6301.

Sincerely,

A handwritten signature in black ink, appearing to read "M O'Keefe".

Michael O'Keefe
Associate Director/Budget Officer

MOK/191-45

cc: Harry Baird, Director
Louise Durfee ✓
Senator John J. Bevilacqua

State of Rhode Island and Providence Plantations
EXECUTIVE CHAMBER, PROVIDENCE



Bruce Sundlun

Governor

June 6, 1991

David G. Dillon
Deputy Majority Leader
City of Providence
292 Waverly Street
Providence, RI 02909

Dear Councilman Dillon:

Governor Sundlun has received your letter and has instructed me to respond on his behalf.

Thank you for your letter regarding the acquisition of the Ahlberg property, your dedication to the successful financing of this piece of land is apparent.

I have spoken with David Holt at the Department of Planning and Development and he has informed me of the status of your efforts to acquire the land near Mashapaug Pond.

Mr. Holt has informed me that you are in the process of completing the prerequisites necessary to receive State money for this project. There are four criteria to be satisfied to receive State money for this project. The four criteria are: (1) getting an appraisal; (2) having a survey completed; (3) receiving a title and (4) formulating a recreational open space plan. Your group has yet to complete two: (1) title and (2) recreational open space plan, though Mr. Holt informed me that the latter is in draft form.

Mr. Holt believes that Michael O'Keefe has made a commitment that State funds will be available for this project, pending the completion of the above mentioned prerequisites.

Another roadblock is the need for you to account for an interior parcel of land, though Mr. Holt has informed me that this is in progress.

Page 2
David G. Dillon
Deputy Majority Leader
City of Providence
June 6, 1991

It seems that the process of acquiring this land is proceeding according to the plan as provided for by the DEM. Significant progress has been made in this respect, but more work has to be done on your part.

The State has made a commitment to hold money for this project. I have been informed that as soon as you complete the necessary process, monies will be awarded by the State.

I encourage you to keep working with Mr. Holt. He can be contacted at 277-2776. I am confident that this will be resolved soon.

Please keep me informed as to your progress.

Very truly yours,



Casby Harrison, III
Associate Executive Counsel

CH:kj
C0311p.57



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF AIR AND HAZARDOUS MATERIALS
291 Promenade Street
Providence, R.I. 02908-5767

28 February 1992

Mr. Robert McMahon
Deputy Superintendent
Providence Park Systems
Rogers Williams Park
Providence, RI 02905

RE: Solid Waste Notice of Violation 90-68 Issued to Mashapaug Pond Estates L.P., Plat 126, Lot 435

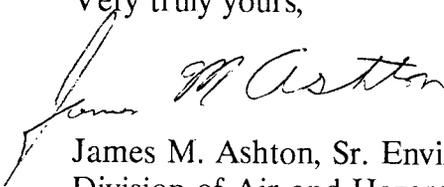
Dear Mr. McMahon:

The solid waste Notice of Violation 90-68 was rescinded on Plat 126, lot 435, Providence, Rhode Island on 28 March 1991. Documentation was provided that indicated Mashapaug Pond Estates L.P. was not the owner of the property in question when the violation was cited.

A cooperative cleanup was initiated by Mashapaug Circle Associates on 20 February 1991. Documentation and a final inspection was made on 26 February 1991 which revealed that the site was clear of solid waste at the time of the inspection.

I hope this letter summarizes the chain of events that has taken place to date.

Very truly yours,



James M. Ashton, Sr. Environmental Scientist
Division of Air and Hazardous Materials

JMA/kz

cc: Thomas Epstein
Ronald Gagnon
provpk.ja/kz