



CITY OF CAMBRIDGE • EXECUTIVE DEPARTMENT

Robert W. Healy, City Manager Richard C. Rossi, Deputy City Manager

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August 4, 2003

To the Honorable, the City Council:

I am submitting a request that the City Council authorize me to issue a Request for Proposals ("RFP") to solicit proposals for the lease of property owned by the City in Harvard Square, known as the Harvard Square Kiosk at Zero Harvard Square (the "Kiosk"). The property is located proximate to the main Massachusetts Bay Transit Authority ("MBTA") Red Line subway entrance in a building presently entitled "Out Of Town News." The Kiosk was restored and adaptively reused as a newsstand in 1984 and has been so used since then. The Kiosk is listed on the National Register of Historic Places, and is protected by a provision in the current lease that requires that the Cambridge Historical Commission approve any exterior alteration, construction, or demolition. For many years the City Council has supported the use of the property as a newsstand. The current lease will expire on September 30, 2003. If the City Council continues to support that use at the site, then in my opinion it would make sense to diminish the process for disposition, and move directly to preparation of an RFP soliciting proposals from anyone interested in leasing the property for use as a newsstand. I have attached a draft RFP for your information. If, alternatively, the City Council does not wish to continue the newsstand use of the site, then I will begin the full process for disposition. This proposal requires action by the City Council.

First, the proposal must be considered by the Council pursuant to Chapter 2.110 of the Cambridge Municipal Code, which governs the disposition of city-owned property. I believe this disposition may properly be subject to Section 2.110.010 (G) of that ordinance. Section G provides for the disposition of city-owned property where the full process of the ordinance would be unduly burdensome. Under this section, the City Manager may request of the City Council a diminution of the process in the ordinance: approval of this request requires a two-thirds vote of the City Council. Assuming continued use of the site as a newsstand, I recommend such approval at this time.

Secondly, Section 2.110.010 also requires a two-thirds vote of the City Council to authorize the City Manager to grant the lease to the bidder whose proposal best meets the comparative evaluation criteria as set forth in the RFP. I also recommend that the City Council vote to authorize me to issue the RFP, to grant the lease to the successful bidder, and to execute and deliver a lease in such form and substance as I determine is necessary or advisable.

Description of the Property

The Kiosk is located in Harvard Square proximate to the northerly end of the MBTA Red Line subway entrance in Harvard Square, in a building presently entitled "Out Of Town News." The property is a small one-story wood frame structure.

The Kiosk was constructed in 1928 by the Boston Elevated Railway, the predecessor of the MBTA, to replace the original subway head-house of 1912, which was considered a menace to traffic. Its original function was to shelter the stairs and escalators leading to the station platforms.

The building was designed by a member of the faculty at the Massachusetts Institute of Technology to be transparent to the vehicular traffic that then surrounded the site on all three sides. The low masonry walls used hand-made brick and limestone in a manner imitating the nearby Widener gates to Harvard Yard. The roof is supported on slender brick and limestone pillars and all the intervening spaces were glazed for visibility through the structure.

The Kiosk was restored and adaptively reused as a newsstand in 1984 after having been dismantled and stored off-site during construction of the MBTA's Red Line Extension project. The restoration was designed by Peter Hopkinson and Edward Tsoi of Skidmore, Owings & Merrill.

The Kiosk was placed on the National Register of Historic Places in 1978, after it was identified by the Cambridge Historical Commission as having extraordinary significance as an example of mass transit architecture and as an internationally recognized symbol of Harvard Square. The structure is and will continue to be protected by a provision of the lease requiring that any exterior alteration, construction, or demolition of the structure or its appurtenances be approved by the Cambridge Historical Commission as though the building were a designated landmark under the provisions of Section 2.78.139A Article III of the Municipal Code or were within a Historic District established under Chapter 40C of the Massachusetts General Laws. The structure is also located in the Harvard Square Conservation District, which carries similar protection. The property is located in a Business B zoning district.

Description of Lease and Financial Arrangements

The tenant space to be occupied by the lessee is in a one-story wood frame structure containing 451 square feet of rentable space and on the outside ground areas directly under the roof overhang of the structure; an additional amount of outside ground area of up to three feet beyond the perimeter of the roof overhang may be available in the City's discretion if the lessee so desires. The heating and air conditioning are electric. There are no bathroom facilities.

The City's RFP will require a minimal rental rate of \$130.00 per square foot of area. This rate is based on the history of the location with its current newsstand use, and because smaller retail spaces historically bring higher per square foot rents. The City Assessor has estimated the market rent for this property as being \$130.00 to \$150.00 per square foot.

I am recommending that the City enter into a lease for five years, with a five-year term of renewal at the City's option. The lease will provide that any additional ground area beyond the perimeter of the roof overhang that the lessee desires to occupy may be added to the lease at the City's option and in its sole discretion at any time during the term of the lease or extension thereof at the rental rate for the leased area then in effect. In addition, the lessee will be responsible for all maintenance and repairs to the building and grounds around the building and all expenses related thereto and for maintaining adequate insurance, and for payment of all taxes, water and sewer charges for the full term of the lease, and snow and ice removal, rubbish removal, all utilities, and all repairs required to maintain the building and outside ground areas leased or maintained, including a minimum of ten feet beyond the perimeter of the entire building and the provision of clear access to the building from all public ways adjacent thereto, in compliance with all applicable provisions of law, regulations, and building codes.

Request for Diminution of Process Stipulated in Chapter 2.110

Chapter 2.110 of the Cambridge Municipal Code on the disposition of city-owned property allows for a diminution of the full process otherwise required by the ordinance if that process would be unduly burdensome. Assuming continued use of the site as a newsstand, I believe that subsection (G) is appropriate for review of this proposal, and I thus request that a limited review process be approved.

Limiting the scope of review for the requested disposition would be consistent with the expressed objective of the procedure required by the Chapter: to render "a fair analysis of how the greatest public benefit can be obtained from the City property in question." I believe that the information furnished in this letter is sufficient to enable the City Council to make a determination on this matter. Carrying out a more detailed review would require a significant amount of money and staff time. Since the procedure set forth in the Chapter would be costly and the use of this property is one that is consistent with City Council policy and has already been successfully in place for some time, I believe this to be the type of disposition anticipated by subsection (G) which allows for a simpler process; and I therefore request that you approve a diminution of the full disposition review process.

I appreciate your consideration of this matter, and welcome any questions you may have.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Healy", written in a cursive style.

Robert W. Healy
City Manager

RWH/mec
Attachment

6.

City of Cambridge

*FINANCE
COMMITTEE MEMBERS
Councillor Brian Murphy, Chair*

In City Council September 8, 2003

*Vice Mayor Henrietta Davis
Councillor Majorie C Decker
Councillor Anthony D Galluccio
Councillor David P Maher
Councillor E. Denise Simmons
Mayor Michael A Sullivan
Councillor Timothy J Toomey*

The Finance Committee held a public meeting on Friday, August 8, 2003 at ten o'clock and ten minutes a. m. in the Mayor's Conference Room.

The purpose of the meeting was to discuss the issue of a Request for Proposals (RFP) and to solicit proposals for the lease of property owned by the city in Harvard Square, known as the Harvard Square Kiosk, 0 Harvard Square.

Present at the hearing were Councillor Brian Murphy, Chair of the Committee, Vice Mayor Henrietta Davis, Robert W. Healy, City Manager, Richard Rossi, Deputy City Manager, Louis DePasquale, Assistant City Manager for Fiscal Affairs, Donald Drisdell, City Solicitor and Donna P. Lopez, Deputy City Clerk. Also present was Michael Brandon, 27 Seven Pines Avenue, Cambridge, MA.

Councillor Murphy opened the meeting and stated the purpose.

He asked City Manager Robert W. Healy to comment on the issue.

Mr. Healy stated that his thought process was that the current lease was a long-term lease with renewable options. The current lease will expire on October 31, 2003. The Kiosk has always been used as a newsstand. He submitted a historical overview of the site (ATTACHMENT A). There is an extensive RFP for bidders. If the City Council wanted to explore other alternatives other than a newsstand then Mr. Healy would recommend the full process under the disposition ordinance. If the City Council desires to keep the newsstand use, then Mr. Healy's recommendation was to diminish the process, to maintain the use as a newsstand and authorize him to issue an RFP. The minimum rental fee will be \$130.00 per foot; competitive bidding would lead to a higher rent. The insurance provision is standard in the RFP. On page five of the Draft RFP the Comparative Evaluation Criteria is outlined (ATTACHMENT B). If the newsstand use is continued by the City Council, a variety of material will be for sale, however the use of the Internet has impacted the quantity of out-of-town newspapers. The Kiosk as a newsstand is a tradition for Harvard Square. He assumed that the City Council would want to keep the use as a newsstand, but if the City Council wanted to use the site for an alternative use he would be glad to initiate the full disposition procedure.

Vice Mayor Davis stated that she would like the site to remain a newsstand.

At ten o'clock and fifteen minutes a. m. Councillor Murphy opened the meeting to public comment.

The committee heard from Michael Brandon, 27 Seven Pines Avenue, who stated that he was opposed to the manner by which the City Manager made his recommendation. He called attention to Chapter 2.110 of the Municipal Code regarding disposition and diminution of city property (ATTACHMENT C). To approve the diminution process as proposed by the City Manager is a mistake because it would result in an unsatisfactory agreement. Nini's Corner is a long-time business that may want to participate in the process, he said. When Mr. Cohen went bankrupt Hudson, a large news distributor, bought him out and the contract was transferred to Hudson at this time. Hudson will be the largest bidder and should pay fair

market value. The City Council should hold a public hearing to determine if the best use is a newsstand. He suggested that the site should have additional uses, such as public restrooms. The site would be used for the sale of T-passes and to disseminate bus schedules. The Planning Board process is not necessary, he said. Paragraph 7 of Chapter 2.110, financial review and independent appraisals, is imperative. He asked for background information as to how the Assessors arrived at their figures. He stated that he wanted real estate appraisals. The contract that is expiring does not protect the city's interest. The RFP needs to be clear and state that the City has the right to terminate the lease for any cause with reasonable notice. He requested that the City Council not delegate to the City Manager the authority to issue an RFP until it is revised and the City Council has reviewed the revised RFP. He further suggested that the rent should include a percentage of overall sales. He requested that this be explored. He also stated that the sale of certain city publications be considered. He asked that when the Purchasing Agent reviews the RFP that the City Council and members of the public be present.

Vice Mayor Davis commented on the evaluation and using the site as a visibility site. Is the site protected from being used as a billboard site, she asked? Could a billboard vendor bid on the site posing as a newspaper vendor and use the site as a billboard? Councillor Murphy stated that there is language in the RFP to protect the city, specifically Article III, section 2.78.139A or Chapter 40C of the Massachusetts General Laws. Vice Mayor Davis stated that she wanted clear prohibition of the use of the Kiosk for billboard advertising in the RFP. City Solicitor Drisdell stated that an advertisement device on the façade would be an alteration requiring Historical Commission approval. The historical designation and the Zoning Ordinance covered signs. The revised RFP will be sent to the City Council before being finalized. Mr. Healy stated that advertisement would not be permitted. Language will be included if it is not in the Historical or Conservation district language stated City Solicitor Drisdell.

Vice Mayor Davis asked who would be the bidders. The response was not known by the city.

Vice Mayor Davis stated that she like Mr. Brandon's suggestion to sell T-passes at the newsstand. She would like a map at the site containing the bus routes. She requested that this be included in the Comparative Evaluation Criteria in the RFP. She requested the City Manager to confer with Sue Clippinger and Susanne Rasmussen regarding their needs in this matter.

Councillor Murphy commented on the standard applied in the years of experience section of the RFP. Mr. Drisdell stated that 5-10 years could be considered, with a minimum of not less than 5 years.

Councillor Murphy asked what annual fee does the \$130 per foot represent. Mr. DePasquale responded \$58,630 per year. The \$150 per foot represented \$67,650 per year.

Mr. Brandon asked the City Manager why a percentage of sales clause was left out of the lease. Mr. Healy responded that to audit the books of the vendor would cost more than the returned percentage. The East Cambridge VFW has this arrangement and it is unworkable, he said.

Vice Mayor Davis stated that even though there is a declining value of newspapers and international news material there is still a lot of interest in tourist information in Harvard Square. Mr. Rossi stated that the Tourist Office distributes this information. Vice Mayor Davis requested that a bidder's proposal to include this information be viewed positively in the Criteria.

Councillor Murphy asked when the lease expires. Mr. Drisdell replied October 31, 2003. There is no automatic renewal. The current tenant is a tenant at sufferance if allowed to stay beyond October 31, 2003.

Mr. Brandon asked the time frame for the RFP. Mr. DePasquale responded 4-6 weeks.

At this time Vice Mayor Davis made the following motion:

ORDERED: That the Request for Proposal (RFP) for the lease of property owned by the city in Harvard Square, known as the Harvard Square Kiosk, 0 Harvard Square be referred to the full City Council with a favorable recommendation pending information on permanent and temporary signage and the possibility of additional public information use, such as transit information, be utilized at the Kiosk.

The motion – Carried.

Councillor Murphy thanked all those present for their attendance.

The meeting adjourned at ten o'clock and forty-five minutes a. m.

For the Committee,

Councillor Brian Murphy, Chair

Attachment