



City of New Bedford
MASSACHUSETTS

Office of City Council

133 William Street · New Bedford · Massachusetts 02740

TEL 508-979-1455 · FAX 508-979-1451

March 20, 2023

The Honorable Maura Healey, Governor
Commonwealth of Massachusetts
State House
Boston, Massachusetts 02133

Dear Governor Healey,

We are writing to you to express our support for our State Representatives in their letter to Secretary Yvonne Hao, Department of Housing and Economic Development regarding transparency of New Bedford State Pier RFP Process.

We have enclosed copies of our letters to former Governor Charles Baker, expressing our support to make the RFP process more open and inclusive. We are now asking you and your administration to do the same. It is very important that the New Bedford State Pier RFP process be fair and equal.

As members of the New Bedford City Council, we were very disappointed to learn that this process was done ‘behind closed doors’ without our knowledge or participation. It is also very frustrating to learn that our State Representatives had to file a FOIA request to obtain public records from a Massachusetts public entity. This is unacceptable and we hope you and your administration agree and conduct an open and transparent RFP process regarding the future uses of the New Bedford State Pier.

Thank you.

Maria E. Giesta
New Bedford City Councillor, Ward 2
Chair, Committee on City Property
Chair, Committee on Fisheries

Linda M. Morad
New Bedford City Councillor At Large
City Council President 2023

Enclosures

cc: New Bedford City Council Agenda/March 23, 2023
Representative Antonio F.D. Cabral, 13th Bristol
Representative Christopher Hendricks, 11th Bristol
Representative Christopher Markey, 9th Bristol
Representative Paul A. Schmid III, 8th Bristol
Representative William M. Straus, 10th Bristol
File



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Linda M. Morad
Councillor at Large

November 8, 2022

Honorable Charles Baker, Governor
Commonwealth of Massachusetts
State House
Boston, MA 02133

Reference: Transfer of the New Bedford State Pier to Private Parties

Dear Governor Baker:

I am writing to you regarding the enclosed letters previously submitted to your Office by the entire House of Representatives New Bedford Delegation and Councillor Maria E. Giesta, my Colleague on the New Bedford City Council.

As I am sure you are aware, the 2018-2023 Port of New Bedford Strategic Plan envisions a collaborative process regarding the development of the New Bedford State Pier. The State Pier is the largest state-owned maritime asset in the Port of New Bedford and is designated to support a diverse array of marine activities that enhance the economic success of the Port of New Bedford. Continued development and long-term investment of this important asset cannot begin until there is an understanding between the New Bedford Port Authority, the City and the State about future uses for the State Pier.

Unfortunately, the process as outlined in the attached letter from the New Bedford Delegation does not appear to be in line with the collaborative process detailed in the Port of New Bedford Strategic Plan. Further, as a long-term New Bedford City Councilor At Large, I was unaware that the Mitchell Administration has somehow given priority to one bidder which will result in the elimination of shipping, ferry access and commercial fishing from the State Pier. This is not what open and transparent government should be nor an example of a fair, open and honest procurement process.

Please utilize the powers of your Office as Governor to negate any priority being provided to one bidder and ensure that the public has a role in learning about and providing input regarding the decisions that will affect the use of the State Pier and the Port of New Bedford for generations to come.

Thank you for your consideration of this correspondence.

Linda M. Morad
New Bedford City Councillor At Large

xc: New Bedford City Council – Councillor Maria E. Giesta
Representative Antonio F.D. Cabral – 13th Bristol
Representative Christopher Hendricks – 11th Bristol
Representative Christopher Markey – 9th Bristol
Representative Paul A. Schmid III – 8th Bristol
Representative William M. Straus – 10th Bristol

Enclosures



City of New Bedford

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Maria E. Giesta
Councillor Ward Two

October 21, 2022

The Honorable Charles Baker, Governor
Commonwealth of Massachusetts
State House
Boston, MA 02133

Dear Governor Baker:

I am writing to you regarding the enclosed delegation letter sent to you by the entire New Bedford Delegation.

As a New Bedford City Councillor, I was unaware that “the administration has apparently given priority to one bidder which will result in the elimination of shipping, ferry access and commercial fishing from the State Pier.”

The 2018-2023 Port of New Bedford Strategic Plan envisions a collaborative process regarding the development of the New Bedford State Pier “long-term investment cannot begin until there is an understanding between the NBPA, the City and the State about future uses for the pier.” The process as outlined in the Delegation’s letter would not appear to be in line with the collaborative process detailed in the Port of New Bedford Strategic Plan.

As Chair of the Committee on City Property of the New Bedford City Council, I know how important it is to have an open and transparent procurement process. That is why I am in full support of efforts by the Delegation to ensure public procurements are open and transparent.

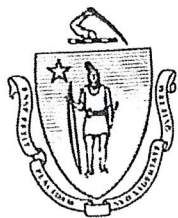
Sincerely,

Maria E. Giesta,
New Bedford City Councillor, Ward 2
Chair, Committee on City Property
Chair, Committee on Fisheries
133 William Street, Room 215
New Bedford, MA 02740

MEG: rrr

Enclosure

cc: File



The Commonwealth of Massachusetts
House of Representatives
State House, Boston 02133-1054

October 11, 2022

Honorable Charles Baker, Governor
Commonwealth of Massachusetts
State House
Boston, MA 02133

Re: Transfer of New Bedford State Pier to Private Parties

Dear Governor Baker,

We are reaching out to you today to express our serious concern about the process which is occurring within Mass Development affecting the future of waterfront development and use in the Port of New Bedford focused upon the Commonwealth asset known as New Bedford State Pier. State Pier is the largest state-owned maritime asset in our port dedicated to the diverse marine uses which have maintained the harbor as an economic success during your time in office.

We are the five State Representatives whose districts include all or parts of the City of New Bedford.

As you know, the Legislature has taken a strong interest in the legislative updates you have approved in recent years affecting the proper uses and industrial water dependent activities occurring on the state pier. Through your leadership and support, the Commonwealth has invested several million dollars in facility repairs and the installation of cold storage capabilities for the pier warehouse; the approximately \$5 million used for enhancing the cold storage warehouse makes this state property an exceptional shipping point, rivaling other coastal ports throughout New England.

As a result of these joint efforts by the Legislature and your administration, the State Pier has proven to be a unique port asset in Massachusetts which supports as tenants and users a diverse array of marine activities including: shipping, ferry access to Martha's Vineyard and

Nantucket, commercial fishing, vessel fuel access, and the Ernestina, as well as public access for numerous public events.

The State Pier now has positive cash flow as compared to what was happening when you took office; it is our understanding, that the regular financial updates for revenues and expenses for New Bedford State Pier is now in the black. This is a record deserving of recognition and praise.

Today, however, the positive work accomplished at the state pier may be put in doubt as a result of a process being implemented by MassDevelopment under an RFP issued April 6, 2022, which the agency has shielded from all public review and discussion! Although the RFP document identifies an obligation to comply with public records requirements of state law, leadership at the agency has rebuffed requests which some of us have made for release of basic information including, what parties have responded to the RFP, what are the nature of the requests, and to what extent are the existing activities on the state pier going to be affected. It is believed that some local officials have been included in meetings and information about the proposals, but no one can be sure. There is no policy or legal reason for legislators to be denied information on the future of New Bedford State Pier.

An open and transparent process about what the contemplated future of New Bedford State Pier is and should be is required and that will require your involvement.

Efforts for a more open process by MassDevelopment have been championed by our Senate colleague Mark Montigny whose amendment to the Senate version of this session's Economic Development legislation is as follows:

SECTION 141A. (a) Notwithstanding any general or special law to the contrary, the Massachusetts Development Finance Agency, in consultation with the executive office of housing and economic development, shall report the results of the request for proposals, dated April 6, 2022 for the redevelopment of the New Bedford State Pier, not later than 10 days of the effective date of this act. The report shall include, but not be limited to: (i) the bids submitted; provided, however, that the secretary shall not include matters deemed to be trade secrets or confidential, competitively-sensitive or other proprietary information; (ii) any scoring and scoring criteria used for each bid submitted; and (iii) the extent to which each bid satisfies mixed-use development priorities pursuant to section 58 of chapter 228 of the acts of 2018 and item 6720-1350 of chapter 286 of the acts of 2014. The report shall be published on the agency's website and submitted to the senate and house committees on ways and means, the clerks of the senate and house of representatives and the senate committee on steering and policy.

(b) The agency shall conduct a 30-day public comment period following the submission of the report and shall not select a final bid until said period is complete.

We support the principal and goal of the amendment quoted above.

We are asking that you now put a hold on any decision or recommendation by MassDevelopment with regard to the pending RFP and undertake your own review of what has

occurred in terms of the process, the lack of transparency, and how the administration has apparently given a priority to one bidder which will result in the elimination of shipping, ferry access and commercial fishing from the New Bedford State Pier—the major state asset in the harbor dedicated to these critical maritime uses. The public deserves a role in learning about, and providing input, in the outcome of decisions now being considered by your administration which will significantly affect the nature of our port for decades to come.

Thank you for your review and we are available for any further discussions about this issue.



Antonio F.D. Cabral
13th Bristol



Christopher Markey
9th Bristol



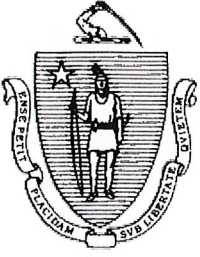
Christopher Hendricks
11th Bristol



William M. Straus
10th Bristol



Paul A. Schmid III
8th Bristol



THE GENERAL COURT OF MASSACHUSETTS
STATE HOUSE, BOSTON 02133-1053

February 13, 2023

Yvonne Hao, Secretary
Department of Housing and Economic Development
Commonwealth of Massachusetts
1 Ashburton Place
Boston, MA 02108

Re: Transparency of New Bedford State Pier RFP Process

Dear Madame Secretary:

We are writing to you today in our role as all five of the State Representatives whose districts include the City of New Bedford. We want to express our concern about the ongoing secretive process conducted by MassDevelopment which excluded the public and other entities in the consideration of the future of the New Bedford State Pier.

We hope that your review and consideration of this letter and the supporting materials will allow you to conclude that the 2022 State Pier RFP process employed by the existing leadership at MassDevelopment, was flawed, exclusionary and contrary to the public's interest. MassDevelopment in late December 2022 "designated" one group of developers to eventually control all the future operations on New Bedford State Pier; however, an actual final agreement remains pending. For the reasons we describe below, we are asking that the new administration review the situation and consider a new and open process for the future use of the New Bedford State Pier. A restarted public process, which is transparent and inclusionary for all stakeholders in the region will allow this diverse and thriving public asset to continue to have a major role in the economic growth of the Port of New Bedford.

History of Legislative Delegation Efforts to Promote State Pier and its Diversity of Uses

New Bedford State Pier encompasses the most diverse uses of the four Massachusetts State Piers. New Bedford State Pier, which today runs in the black based, we believe, on the regular analysis of revenue and net operations provided to MassDevelopment, is owned by DCR and is successful in hosting, 1) support and supply berthing for the **fishing industry** for those vessels who have little or no access to private docking elsewhere in the port, 2) **international freight shipping**, which more recently has benefitted from the roughly \$5 million state investment in the only publicly available maritime cold storage warehouse in the state, 3) **hi-speed ferry service to Nantucket and Martha's Vineyard** under leases approved by the Steamship Authority, and separate essential ferry service to Cuttyhunk Island with the vessel Alert; 4) **fuel**

supply for the fishing fleet provided under DCR leases to the longtime private firm Pier Oil; and 5) the port's home location for the state's historic sailing vessel the Ernestina. By contrast, Gloucester is dedicated by deed restriction to the fishing industry, Plymouth hosts the Mayflower II, and Fall River has positive but more limited uses for maritime purposes. New Bedford's diverse water purposed uses is threatened by the MassDevelopment plan to turn over control and operations to a single group of private firms whose proposal was only revealed to us and the public in December AFTER MassDevelopment had made its decision.

In recent years, the House and Senate members representing New Bedford and the port have advanced legislation expanding the opportunity for even further diversity on the State Pier. Through amendments to the 2014, 2018 and 2020 economic development bills New Bedford State Pier may host a limited percentage of the pier for wind energy uses; some commercial activity which is less marine industrial in nature to a defined area of the pier abutting the western edge of the property and most recently state bond authorization in 2022 for restoration of the existing rail head connection to the cold storage warehouse.

2022 Mass Development RFP Process and Exclusion of the Public and Legislators

On April 6, 2022, MassDevelopment released an RFP regarding the future use of the New Bedford State Pier. From the beginning, however, the process implemented by the CEO of MassDevelopment, and his staff was flawed and secretive. As detailed in the attached October 11, 2022, letter (Attachment #1) from our delegation to former Governor Baker. The New Bedford delegation was excluded from learning who responded, the nature of the proposals, the financial resources of the proposal, and how the proposals might or might not comply with amendments to the economic development bill.

While no public disclosure was made by MassDevelopment, it was acknowledged by Daniel Rivera, the CEO of MassDevelopment, to members of the delegation that the New Bedford City Government participated in the review of proposals with MassDevelopment staff; he stated that the City of New Bedford was a "financial" partner and thus was entitled to access the documents and submissions made to MassDevelopment--documents and submissions to MassDevelopment which we, as elected legislators, were not allowed to see.

Governor Baker did not respond to the delegation letter and the sole response was an email to Rep. Straus (and no other legislators) from MassDevelopment CEO Daniel Rivera dated **November 9, 2022**. The communication briefly noted:

"At this time, the RFP process is still under review. We appreciate this delegation's interest in the RFP process, and we will follow up with more details as soon as the review process concludes."¹

¹ The full text of this email from Mr. Rivera to Representative Straus is attached (Attachment #2). As described in detail below, these comments on November 9, 2022, by Mr. Rivera, were not factually accurate and intentionally failed to disclose that MassDevelopment had selected a

The cloaking during the process was disappointing, and the inaccurate information provided by Dan Rivera to us was frustrating and disturbing. The delegation was trying to acquire information from a state agency about a state asset that our respective constituents were concerned with.

Legislators Request for Documents to MassDevelopment.

As a result of the dismal response of MassDevelopment, we requested the information based upon our constitutional role as legislators and the state's public records law. The document request was issued on December 20, 2022, seeking the internal communications and key documents regarding the consideration by MassDevelopment of the future for New Bedford State Pier. The request is provided with this letter (Attachment #3).

The recent response of MassDevelopment to the document request, has allowed us to conclude three crucial points (and some others). First, the claim on November 9, 2022, in an email to Rep. Straus that the RFP was still under review, was not truthful. Second, the successful designee still had not secured the appropriate financing to handle this significant undertaking. Third, the approved designee, Taber Wharf Partners, is itself uncertain of the viability of its own project because of the statutory restrictions of water dependent industries, described earlier in this letter. Yet, despite these obvious warning signs the MassDevelopment/City of New Bedford partnership continued to work on a final version of a designation agreement.

This third concern is most troubling, because as legislators it would be our responsibility to assist in amending the statute to make sure the State Pier is maximizing its potential. However, our exclusion prevented us and other stakeholders from the opportunity to address any concerns about current law.

These three points require a complete reconsideration of the process exercised by MassDevelopment. Further, we collectively, should review the substantive details of the State Pier RFP to assure the proper financing is in place and that there are no statutory obstacles to assuring the State Pier remains a productive and diverse state asset which provides economic opportunity to the Port of New Bedford.

Summary of Document Disclosures by MassDevelopment to the Legislative Delegation

--Decision Made as Early as October 21, 2022.

successful respondent and alongside the City of New Bedford had been working with the successful respondent on the terms of a designated developer agreement for several weeks.

As described above, we wrote to Governor Baker on October 11, 2022, inquiring as to the status of the RFP for New Bedford State Pier given the lack of cooperation from MassDevelopment. Whether a coincidence or not, we now have learned that at least ten days later, on October 21, 2022, MassDevelopment had already decided to select one of three respondents to the RFP. The attached email from Gary Walker at MassDevelopment to New Bedford Mayor Jon Mitchell (and a staffer of his Derek Santos) provides a MassDevelopment draft of a "Provisional Designated Developer Agreement" between the Commonwealth and the bidder group of private parties named "Taber Wharf Partners". (Attachment #4). Obviously, the drafting within MassDevelopment was initiated much sooner than October 21, 2022.

The October 21, 2022, email makes two things very clear. First, that MassDevelopment had selected one party to move forward in the RFP process well before October 21, 2022. Second, Mr. Rivera was less than forthright in his November 9, 2022, response to Representative Straus. Considering the entire New Bedford delegation was involved in the success of the 2018 Economic Development bill amendment, it is difficult to understand why MassDevelopment would exclude us from the process. Rather, MassDevelopment determined it would only seek the advice of the Mayor's Office of the City of New Bedford. The exclusionary behavior is best exemplified by the email of October 21, 2022, from Gary Walker to Mayor Jon Mitchell which was titled "Confidential".

--MassDevelopment Continues Drafting a Designation Agreement.

The recently disclosed emails delivered pursuant to a FOIA request reveal that New Bedford City Hall shared detailed comments and suggestions for the designated private developer agreement. On October 24, 2022, New Bedford's Economic Development Director emailed MassDevelopment staff detailed responses and suggestions to the original draft (Attachment #5). Interestingly, the City's email response on this issue was also labeled as 'confidential'.

The emails further reveal that the City's responses and suggestions were accepted by MassDevelopment. On October 28, 2022, (Attachment #6) at 11:42AM, MassDevelopment's Tania Hartford, COO and Chief of Staff, writes to the Mayor and his Economic Development Director that the city's 'feedback' had been accepted and incorporated in the draft agreement as well as shared with one of the Taber Wharf partners. Only two minutes later, MassDevelopment's CEO himself shared the news about the status of the designated agreement draft to people elsewhere in the administration including both the Secretary's office and to the then Lieutenant Governor's Deputy Chief of staff.

The significance of this email is clear and unambiguous. As a result, it was clear that on October 28, 2022, the CEO was very much aware of the selection of Taber Wharf Partners as the designated preferred developer. However, on November 9, 2022, he misrepresented the status of the RFP to Representative Straus in an email.

Regarding the financial viability of the designee, MassDevelopment had reasons to question if the chosen designee had the financial ability to complete their proposal. An exchange of internal staff emails (which included CEO Rivera) On November 3, 2022, the email exchange of the staff detailed the internal problems organizing partners for the Taber Wharf group. (Attachment #7). This exchange reveals for the first time, that a key Taber partner, Crowley, had time constraint and was looking to gain control of berthing space in the harbor during a time of only a couple of years. For that reason, Crowley was looking for others to control the refrigerated warehouse space now being used for the international freight. The staff described Crowley as ‘scrambling’ to be able to act on their proposal.

These financial concerns appeared to reflect certain statutory restrictions imposed upon the development of the pier. On November 30, 2022, in an email directed to MassDevelopment by one of the Taber Wharf principals, Edward Washburn, expressed concerns regarding existing state law.² (Attachment #8).

Specifically, Mr. Washburn refers to the existing state law regarding use of state pier and writes as follows:

“Given the Legislative Requirements, there is an immediate and acute challenge in TWP [Taber Wharf Partners] raising the significant additional capital over what has already been invested when the capital investment required to realize the full vision is relatively large, and the lease length as mandated by the Legislative Requirements is relatively short.”

Mr. Washburn informed MassDevelopment that legal restrictions of which state pier is governed caused difficulties raising capital to satisfy the proposal. If that is true, the public would expect the state agency to work with the legislature and the administration to assist with amending to state law, obtaining funding, or a combination of both. However, the exclusive nature of this process prevented the delegation from learning about this until after a designee and announcement was made.

Even at the staff level within MassDevelopment they were quite aware of the financial problems faced by the Taber Wharf Partnership. As late as December 9, 2022, Gary Walker, of MassDevelopment, replied to Mr. Washburn’s proposed edits that “TWP” was trying to “downgrade” its financial obligations and should not be allowed to do so. Taber Wharf attempted to suggested that certain of its obligations only would apply “where financially feasible.” Such proposed language is troubling to the New Bedford delegation because there is no clear standard of what that would mean, it was clear at least to some

² Edward Washburn currently of CLT marine, (Mr. Washburn has a long history in the development of state pier working first as Executive Director of the New Bedford Port Authority from 2016 to early 2021, and then in 2021 with Crowley) signed the RFP response on behalf of the Taber Wharf Partners in 2022 and his November 30, 2022, is worth close review. Apart from having a role in ‘editing’ the designated developer agreement with the Commonwealth, the Taber Wharf group has substantial concerns about the project according to Mr. Washburn’s email to MassDevelopment.

inside MassDevelopment that the anointed Taber Wharf Partners might have money issues in the future.

The closed process under which leadership at MassDevelopment responded to Taber Wharf proposed changes to the draft agreement merits your closest review as to whether the public interest was served in the potential disposition of a major piece of state-owned commercial property.

Conclusion

We have shared these details and documents with you at some length in hopes of correcting what we believe has been both a procedural and substantive cloud over MassDevelopment's work affecting a significant public asset significant to the Port of New Bedford, the City of New Bedford and the region at large.

We respectfully request, that this matter be stayed with no further action on the 2022 RFP until your administration has conducted a prompt and thorough review of the process implemented by MassDevelopment. That process should be guided by transparency and the inclusion of regional stakeholders, and members of the Legislature. If further statutory changes are needed to accommodate a shared vision for the future of the New Bedford State Pier they will certainly be proposed during this review.

Thank you for your attention and we, of course, are available for any questions and conversation.

Sincerely,




Antonio Cabral
13th Bristol



Christopher Hendricks
11th Bristol



William Straus
10th Bristol



Christopher Markey
9th Bristol



Paul Schmid
8th Bristol