

Accepted as Amended on February 10, 2009

AFRICAN BURYING GROUND COMMITTEE

NOVEMBER 17, 2008

PORTSMOUTH CITY HALL

7:00 P.M.

Present: Vernis Jackson, Chair; Mary Bailey, Vice Chair; Valerie Cunningham; Councilor Christine Dwyer; Jack McGee; Suzanne M. Woodland (Ex-officio), Steve Parkinson (Ex-officio)

Absent: Councilor Laura Pantelakos

Also Present: John P. Bohenko, City Manager; Cindy Hayden, Deputy City Manager; David Moore, Assistant Community Development Director; Robbi Woodburn of Woodburn & Company; Kathleen Wheeler & Ellen Marlatt of Independent Archeological Consulting; State Archeologists Richard Boisvert and Edna Feighner from the State Division of Historical Resources; members from the public included Marcia Jebb and Richard Haynes, and Jackson

Chairperson Jackson opened the meeting and welcomed those in attendance. She recognized David Moore to provide brief introduction.

Ms. Wheeler of Independent Archeological Consulting, was then recognized to provide an overview of the Chestnut Street test trenching activities, which took place on Wednesday, November 12th and Thursday, November 13th. She provided specific detail with regard to the discovery of burial shafts, human remains and burial materials including the depths and locations of each finding.

Mr. Boisvert of the Division of Historical Resources provided guidance explaining that, as State Archeologist, he has statutory authority over unmarked graves. Pursuant to state regulation, it is his obligation to identify the next-of-kin or the descendant community and to consult with the next-of-kin/descendant community to determine whether any remains disturbed are further exhumed and how/where disturbed remains are to be reburied.

Ms. Feighner explained her role as the Review and Compliance Coordinator for the Division of Historical Resources. She has authority under the Section 106 process to determine whether or not historic resources have been adversely affected. Section 106 compliance is required when federal funds are used in a project. She advised that it would be helpful to discover the fill prism. The fill prism is that area that may be safely disturbed as part of a memorial installation.

Mr. Boisvert indicated that he needed to hear from the African American community, which is the likely descendant community for these newly discovered remains. He clarified that the African Burying Ground Committee has responsibility for the design of the memorial. Dr. Boisvert indicated that, as the State Archaeologist, he would recognize

the African-American members of the Committee as speaking on behalf of the descendant community.

The discussion then turned to how the descendant community prefers to handle the recovered remains. It was noted that the remains could be reinterred in place or placed in the vault planned as part of the memorial.

Mr. Boisvert indicated that returning the remains to the area found is the conventional option if there is no public necessity to remove the remains for construction purposes. A collateral question is whether to try to recover any additional remains so as to do a complete reburial. Mr. Boisvert is seeking input from the descendant community with regard to these questions. The descendant community is welcome to comment.

There was discussion between and among Mr. McGee, Ms. Cunningham and Mr. Boisvert regarding the constituents of the descendant community.

Mr. McGee provided a map from the 1800s and brought to the Committee's attention a monument shown on that map. He suggested that the monument might have marked a boundary to the cemetery. Mr. McGee expressed his preference to have additional remains exhumed and comprehensively analyzed and tested so that the stories of the individuals buried there could be told.

Mr. Boisvert indicated that such additional exhuming of remains would require the support of the descendant community and would require permits, research plans and the engagement of qualified professionals. That intensive investigative effort would cost tens of thousands of dollars. He reiterated that it is the descendant community and any next-of-kin that would have to support further exhumations and such intensive analysis, before he would be supportive of that suggestion.

The City Manager expressed the importance of hearing from the descendent community with regard to the treatment of the recently discovered remains, any potential intensive analysis of those remains and re-burial preferences. The City Manager also wanted to give the Committee an opportunity at a future meeting to examine how the City might, in coordination with the engineers, possibly redesign and reconsider certain elements of the memorial.

Councilor Dwyer concurred with the City Manager's comments and recommended that time is important and the project should not be unduly delayed.

Ms. Cunningham indicated she was contacted by someone from Strawberry Banke regarding excavation and investigation of the remains. Ms. Cunningham indicated that there was a strong preference back in 2003 not to disturb the remains on Chestnut Street any further.

Mr. McGee indicated that he was envisioning the exhumation of just one set of the remains. Ms. Marlatt indicated that a portion of an intact skull from burial 16 was removed and the remaining skeleton is likely in fairly good condition.

Ms. Bailey indicated a preference for the reburial of the remains back where they were all found.

Mr. McGee asked what could be learned from the skull alone. Mr. Boisvert responded that we can learn some information from the skull alone, but it will take time, coordination with a specialist and soil samples. Mr. Boisvert further indicated that what we don't know about the early African community is enormous but investigation of these remains may not further our knowledge. Mr. Boisvert would need to be persuaded by the descendant community to do testing beyond the minimum necessary under statutory regulations for confirming that the remains are of African ancestry.

Ms. Feighner indicated that if the City did more exhumations it would be an adverse affect on an historic resource and would require the involvement of the Federal Advisory Council as part of the 106 process.

Ms. Hayden indicated that it was her understanding that the descendant community did not want to disturb the remains on Chestnut Street further and that the City wanted to move forward with the design and construction of a memorial at the site.

Ms. Jackson agreed with Ms. Hayden but indicated some interest in limited testing.

Mr. Boisvert indicated that the process to examine the remains is two fold. There is minimal testing of limited intrusiveness required by the State regulations to determine ancestry that can be done parallel to other developments. This is the type of testing which is used to identify the next-of-kin and/or the descendant community. The more intensive testing and investigation that Mr. McGee mentioned, such as done at Jamestown in Virginia, is of a more intrusive nature which is more costly, likely to slow the project, and create an adverse impact for the purposes of the 106 process.

Ms. Cunningham reiterated her opinion that the remains discovered on November 12th and November 13th are effectively no different than those found in 2003. In 2003, the descendant community indicated its preference that the remains be left at rest to the maximum extent possible.

In response to a question from Ms. Hayden seeking clarification and input from the descendant community, Ms. Cunningham reiterated that from her perspective the remains should be returned to the locations from which they came. Ms. Bailey concurred that the remains should be put back gently and the City should continue with its memorial project. Ms. Bailey indicated that it would be up to our engineers to help the Committee move forward with design. There was an exchange among Committee members and Mr. Boisvert with regard to the type of testing that could be done.

From the discussions there arose a consensus among representatives of the City and most members of the African Burying Ground Committee including those members of the Committee from the descendant community (Vernis Jackson, Valerie Cunningham and Mary Bailey) that: there would be no more excavations of remains; there would be limited testing of the remains sufficient to meet state regulations for identification of the descendant community; and the remains would be reinterred at the site in some manner. The preference of the members of the African Burying Ground Committee who are of the descendant community was to rebury the remains in the approximate location in which they were found. Mr. Boisvert suggested that the descendant community has time to further consider how it would like to handle the reburial of these new remains and he would welcome hearing from the descendant community further. There was also a general consensus to try to move forward with the memorial project, with any necessary modifications, without undue delay.

The City Manager indicated that some of the design questions and possible solutions could come at a later meeting after the engineers have had an opportunity to review the options and could advise the Committee of those options.

Mr. Parkinson indicated that the Court Street end of Chestnut Street is probably sufficiently clear of remains that originally anticipated design elements could be installed in that end. In addition, there is an area at the top of Chestnut Street near the State Street intersection, which area served as the former Fire Station, which may be sufficiently clear of remains such that the originally designed artistic element could be constructed. The larger structures and design elements in between the two ends of Chestnut Street need to be reconsidered. Test trenching at the State Street end of Chestnut Street may be appropriate at some future date to determine the fill prism for the “entry-piece” sculptural component.

There were some additional questions with regard to drainage and curbing. Those design elements will need to be reconsidered because it is difficult to identify the fill prism.

The City Manager indicated his preference that the Committee reconsider the design to keep all or most of the elements above-grade; such consideration to occur at a later meeting after the design team and engineers evaluated options.

There was additional discussion among Committee members and the Division of Historical Resources representatives regarding the possibility of additional trenching to assist the engineers/design team in their design. It was concluded that further trenching would not take place during this season as the weather is getting too cold and the asphalt plants will be closing shortly. Further consideration of design ramifications can be considered at another meeting.

The meeting was adjourned at 8:35 p.m.

Submitted by: Assistant City Attorney Suzanne Woodland

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