

HOUSE No. 01803

The Commonwealth of Massachusetts

PRESENTED BY:

Aaron Michlewitz

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the Rose Kennedy Greenway.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

.....
Aaron Michlewitz

.....
3rd Suffolk

.....
Anthony W. Petrucci

.....
First Suffolk and Middlesex

HOUSE No. 01803

By Mr. Aaron Michlewitz of Boston, petition (accompanied by bill, House, No. 01803) of Anthony Petruccelli and Aaron Michlewitz relative to the Rose Kennedy Greenway. Joint Committee on Transportation.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the Rose Kennedy Greenway.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 306 of the Acts of 2008 is hereby amended by adding after subsection

2 (b)(6) of Section 3 the following new subsection:-

3 (6A) The Board shall submit to the Leadership Council all said contracts and agreements for

4 review and approval.

5 SECTION 2. Chapter 306 of the Acts of 2008 is hereby amended by adding the following

6 section:-

7 SECTION 8A. All meetings of the board of directors shall be open to the public and any person

8 shall be permitted to attend any meeting except as otherwise provided by this section.

9 No quorum of directors shall meet in private for the purpose of deciding on or deliberating

10 toward a decision on any matter except as provided by this section.

11 Nothing except the limitations contained in this section shall be construed to prevent the board of
12 directors from holding a private meeting after an open meeting has convened and after a
13 recorded vote has been taken to hold a private meeting. Private meetings may be held only for
14 the following purposes:

15 (1) To discuss the reputation, character, physical condition or mental health rather than the
16 professional competence of an individual, provided that the board of director to be discussed in
17 such private meeting has been notified in writing by the board of directors, at least forty-eight
18 hours prior to the proposed private meeting. Notification may be waived upon agreement of the
19 parties.

20 The board of directors shall hold an open meeting if the individual involved requests that the
21 meeting be open. If a private meeting is held, such individual shall have the following rights:

22 (a) to be present at such private meeting during discussions or consideration which involve the
23 individual.

24 (b) to have counsel or a representative of his own choosing present and attending for the purpose
25 of advising said individual and not for the purpose of active participation in said private meeting.

26 (c) to speak on his own behalf.

27 (2) To consider the discipline or dismissal of, or to hear complaints or charges brought against a
28 member of the board of directors provided that the individual involved in such private meeting
29 has been notified in writing by the board of directors at least forty-right hours prior to the
30 proposed private meeting. Notification may be waived upon agreement of the parties. The board

31 of directors shall hold and open meeting if the individual involved requests that the meeting be
32 open. If a private meeting is held, such individual shall have the following rights:

33 (a) to be present at such private meeting during discussion or considerations which involve that
34 individual.

35 (b) to have counsel or a representative of his own choosing present and attending for the purpose
36 of advising said individual and not for the purpose of active participation in said private meeting.

37 (c) to speak on his own behalf

38 (3) To investigate charges of criminal conduct or discuss the filing of criminal complaints.

39 (4) To comply with the provisions of any general or special law or federal grant-in aid
40 requirements.

41 This section does not apply to any chance meeting or social meeting at which matters relating to
42 official business are discussed so long as no final agreement is reached. No chance meeting or
43 social meeting shall be used in circumvention of the spirit or requirements of this section to
44 discuss or act upon a matter over which the board of directors has supervision, control,
45 jurisdiction, or advisory power.

46 Except in an emergency, a notice of every meeting of the board of directors subject to this
47 section shall be filed with the secretary of state, and a copy thereof posted in the office of the
48 executive officer for administration and finance at least forty-eight hours, including Saturdays
49 but not Sundays and legal holidays, prior to the time of such meeting. The notice shall be printed
50 in easily readable type and shall include the date, time, and place of such meeting. Such filing
51 and posting shall be the responsibility of the officer calling such meeting.

52 The board of directors shall maintain accurate records of its meeting, setting forth the date, time,
53 place, and members present or absent and action taken at each meeting, including private
54 meetings. The records of each meeting shall become a public record and be available to the
55 public; provided, however, that the record of any private meeting may remain secret so long as
56 publication may defeat the lawful purposes of the private session, but no longer. All votes taken in
57 private meetings shall become a part of the record of said private meeting. No votes taken in
58 open meetings shall be by secret ballot.

59 A meeting of the board of directors may be recorded by any person in attendance by means of a
60 tape recorder or any other means of sonic reproduction except when a meeting is held in private
61 provided, that in such recording there is no active interference with the conduct of the meeting.

62 The attorney general shall enforce the provisions of this section.

63 Upon proof of failure by the board of directors thereof to carry out any of the provisions of this
64 section, any justice of the supreme judicial court or any justice of the superior court sitting in the
65 county in which the board of directors customarily meets or in the absence of such sitting court
66 then any justice of the superior court in Suffolk County shall issue an appropriate order requiring
67 the board of directors to carry out such provisions at future meetings. Any such order may be
68 sought by complaint of three or more registered voters, by the attorney general, or by the district
69 attorney in Suffolk County. The order of notice on the complaint shall be heard no later than ten
70 days after the filing thereof on such day thereafter as the court shall fix, having regard to the
71 speediest possible determination of the cause consistent with the rights of the parties; provided,
72 however, that orders with respect to any of the matter referred to in this section may be issued at
73 any time on or after the filing of complaint without notice when such order is necessary to fulfill

74 the purposes of this section. In the hearing of such complaint the burden shall be on the
75 respondent to show by preponderance of the evidence that the actions claimed of in such
76 complaint were in accordance with and authorized by this section. All processes may be issued
77 from the clerk's office in Suffolk County and, except as aforesaid, shall be returnable as court
78 orders.

79 Such order may invalidate any action taken at any meeting which any provision of this section
80 has been violated, provided that such complaint is filed within twenty-one days of the date when
81 such action is made public.

82 Any such order may also, when appropriate, require the records of any such meeting to be made
83 public unless it shall have been determined by such justice that the maintenance of secrecy with
84 respect to such records is authorized. The remedy hereby created is not exclusive, but shall be in
85 addition to every other available remedy.

86 Upon proof of failure by the board of directors thereof to carry out any of the provisions of this
87 section, funds from the Central Artery and Statewide Road and Bridge Infrastructure Fund may
88 be withheld until proof of compliance.

89 Such order may also include a civil fine against the board of directors in an amount no greater
90 than one thousand dollars for each meeting held in violation of this section.

91 SECTION 3. Chapter 306 of the Acts of 2008 is hereby further amended by adding at the end of
92 Section 9 the following new section:-

93 SECTION 9A. The council shall review contracts and agreements submitted by the board and
94 shall vote to approve or disapprove said contracts by a majority vote.

95 x. The board of directors shall submit the annual budget to the council no later than May 1st
96 before the beginning of each fiscal year. The council shall have until the third Friday of May to
97 review the budget and shall vote to approve or disapprove the budget in its entirety by a majority
98 vote of said council. The Council shall have no authority to amend said budget. If the council
99 rejects the budget the board of directors shall resubmit an amended budget by the last Friday of
100 May with their reasons in writing for any changes for approval of the council. The council shall
101 have one week from the date of resubmission to review and approve or disapprove said budget
102 by majority vote.

103 The board shall supply documentation upon request of the council.

104 Upon rejection of said budget the Council may/shall submit in writing to board the reasons for its
105 rejection and any recommendations that they feel necessary.

106 Upon resubmitting the budget to the Council the Board shall respond to the Council's written
107 objections in writing.

108 If upon the beginning of the fiscal year a final budget has not been approved the conservancy
109 shall be funded at the previous fiscal year's budgetary level.

110 SECTION 3. Chapter 306 of the Acts of 2008 in Section 12 is hereby amended by striking out the
111 figures "\$5,500,000" and inserting in place thereof the figures "\$4,000,000".

112 SECTION 4. Chapter 306 of the Acts of 2008 is hereby amended in Section 14 by striking out the
113 figures "2012" and inserting in place thereof the figures "2017".

114 DRAFT BEING WORKED ON BY HOUSE COUNSEL.