

HOUSE No. 1803

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 adoption of the accompanying bill:

An Act relative to the Rose Kennedy Greenway.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Aaron Michlewitz

3rd Suffolk

Anthony W. Petrucci

HOUSE No. 1803

By Mr. Michlewitz of Boston, a petition (accompanied by bill, House, No. 1803) of Aaron Michlewitz and Anthony W. Petruccelli relative to the Rose Kennedy Greenway. 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
2 subsection (b)(6) of Section 3 the following new subsection:-

3 (6A) The Board shall submit to the Leadership Council all said contracts and agreements
4 for 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
8 person 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
10 deliberating 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
12 board of 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
16 the professional competence of an individual, provided that the board of director to be discussed
17 in 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
21 the 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
23 involve the individual.

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

27 (c) to speak on his own behalf.

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

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

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

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

39 (c) to speak on his own behalf

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

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

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

49 Except in an emergency, a notice of every meeting of the board of directors subject to
50 this section shall be filed with the secretary of state, and a copy thereof posted in the office of the
51 executive officer for administration and finance at least forty-eight hours, including Saturdays
52 but not Sundays and legal holidays, prior to the time of such meeting. The notice shall be printed

53 in easily readable type and shall include the date, time, and place of such meeting. Such filing
54 and posting shall be the responsibility of the officer calling such meeting.

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

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

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

67 Upon proof of failure by the board of directors thereof to carry out any of the provisions
68 of this section, any justice of the supreme judicial court or any justice of the superior court sitting
69 in the county in which the board of directors customarily meets or in the absence of such sitting
70 court then any justice of the superior court in Suffolk County shall issue an appropriate order
71 requiring the board of directors to carry out such provisions at future meetings. Any such order
72 may be sought by complaint of three or more registered voters, by the attorney general, or by the
73 district attorney in Suffolk County. The order of notice on the complaint shall be heard no later
74 than ten days after the filing thereof on such day thereafter as the court shall fix, having regard to

75 the speediest possible determination of the cause consistent with the rights of the parties;
76 provided, however, that orders with respect to any of the matter referred to in this section may be
77 issued at any time on or after the filing of complaint without notice when such order is necessary
78 to fulfill the purposes of this section. In the hearing of such complaint the burden shall be on the
79 respondent to show by preponderance of the evidence that the actions claimed of in such
80 complaint were in accordance with and authorized by this section. All processes may be issued
81 from the clerk's office in Suffolk County and, except as aforesaid, shall be returnable as court
82 orders.

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

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

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

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

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

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

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

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

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

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

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

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

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