



Town of Barnstable COMMUNITY PRESERVATION COMMITTEE

www.town.barnstable.ma.us/CommunityPreservation
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Committee Members

Lindsey B. Counsell – Chair • Laura F. Shufelt – Vice Chair • Marilyn Fifield – Historical Commission • Terry Duenas – At Large • Sue Rohrbach – At Large
Vacant – Planning Board • Tom Lee – Conservation Commission • Richard Sawyer – Recreation Commission • Deborah Converse – Housing Authority
Will Crocker – Town Council Liaison

2016 SEP 30 AM 10:33

BARNSTABLE TOWN CLERK

Monday, August 22, 2016
Regular Public Hearing – APPROVED Minutes
367 Main Street, Hyannis, MA - 2nd Floor – Hearing Room
5:30 PM

Lindsey Counsell – Chair	Present
Laura Shufelt – Vice Chair	Present
Marilyn Fifield – Clerk	Present
Terry Duenas	Present
Tom Lee	Present
Sue Rohrbach	Present
Richard Sawyer	Present
Deborah Converse	Present
William Crocker, Town Council Liaison	Present

Call to Order

With a quorum present, Chair Lindsey Counsell called the meeting to order at 5:30 pm. Chair Counsell then read into record: "Please note that tonight's meeting is recorded and broadcast on Channel 18 and, in accordance with MGL Chapter 30A, s.20, I must inquire whether anyone is taping this meeting and to please make their presence known." No one present was recording the meeting.

Minutes

A motion was made by Richard Sawyer and seconded by Tom Lee to approve the draft Community Preservation Committee meeting minutes of July 25, 2016. Motion passed with Laura Shufelt abstaining.

CPC Financial Reports

Mark Milne, Director of Finance, went over the Community Preservation Fund reports for FY 16 and FY 17 including: Schedule of Unreserved Fund Balances By Program Area; Schedule of Continuing Appropriations As of June 30, 2016; Statement of Revenues, Expenditures and Changes in Fund Balances For the Year Ending June 30, 2016; Balance Sheet (Program Areas) for CPFund On June 30, 2016; and, a listing of all Community Preservation Fund Appropriations and Expenditures from inception in 2005 to August 18, 2016.

Mr. Milne stated that as of August 18, 2016, \$21,106,502 has been appropriated under the CPA program since its inception, with \$3.4M appropriated for Community Housing; \$9.7M for Historic Preservation; and \$7.9 M for Open Space/Recreation. He summarized the beginning and ending balances for each program area of CP Funds for FY 2016, as well as the FY 17 actions taken at the last Town Council meeting, noting

that the total funds available are \$7,209,348.00 for all CPA program areas as of August 22, 2016 for future projects.

Mr. Milne went over the list of approximately 25 active projects where funds were appropriated but not fully expended. He also explained the Statement of Revenues, Expenditures and Changes in the Fund Balance for FY 16 with a resulting amount of \$9,826,306 for the Community Preservation Fund which is distributed among the program areas, with \$4.3M received in revenues for FY 16 from surtaxes, State matching funds and investment earnings. CP spent about \$4.3M which is about the same amount received in total, with revenues exceeding expenditures by \$8,000.00.

Mr. Milne went over the balance sheet of CPA funds as of June 30, 2016 and explained that most of the \$14.2M in bonds payable represent land acquisitions under the old Land Bank Program prior to converting to the Community Preservation Fund, with part representing debt to renovate the Town Hall exterior. He noted a total of \$9.8M in funds balance distributed among 3 different fund balances: reserved for encumbrances, which are outstanding commitments under contracts that were in place at the end of the fiscal year; reserved for continuing appropriations where the money that has already been set aside and appropriated by the Town Council for specific projects but remains unexpended at the end of last fiscal year; and, reserved for future appropriations, which is the \$6.2M carried forward into FY 17 and available for funding projects this year.

In answer to Richard Sawyer's inquiry, Mr. Milne explained that \$62,597 was transferred from administrative funds because they were unexpended. Richard Sawyer requested that a report be provided regarding the status of continuing appropriations, specifically: TC 2007-008; TC 2008-022; TC 2014-008; TC 2014-030; and TC 2014-141. Sue Rochrbach inquired when the Land Bank debt will be paid off, and Mr. Milne replied that he anticipates that debt to be paid off in 2025, referring to financial documents available on the Town website regarding Land Bank bond amortizations.

Matter Unanticipated by Chair

Approval of Subordination of Affordable Housing Restriction – POAH Founder's Court

Laura Shufelt recused herself from sitting on this item and left the room.

Attorney David Houghton explained that this item arises from an appropriation that the Town Council made on September 3, 2015 upon recommendation of the CPC for \$500,000 for the preservation of affordable housing at Founder's Court. He said the typical process is for the Legal Office to prepare the affordable housing restriction and review the documents with POAH, the entity that was granted CPA funding, but this project, which is identical to Cromwell Court, involves financing by the Massachusetts Financing Housing Agency and other sub-financiers. As with Cromwell Court, he said, the MFHA financing requires that affordable housing restrictions be subordinate to the mortgage. He further explained that only in the event of a full foreclosure by Mass Housing would the housing restriction not survive. With the closing scheduled for next month, he said this matter needs to be resolved soon, adding that the matter will be on the Town Council agenda for September 15, 2016, so he recommended that the CPC approve and recommend the subordination to the Town Council. In response to Sue Rohrbach's question, Attorney Houghton explained that the Community Preservation Act

does require the affordable housing restriction to be permanent, and he further explained that the restriction is perpetual and meets the CPAct requirements. He said the form used meets the requirement of Section 32 of Chapter 184 as an approved form by its term as perpetual, but because it will have to be subordinate in order to meet the financing requirements, it is necessary to make the CPC aware that there is the possibility, although remote, that the affordability could be lost in the event of full foreclosure. In response to Terry Duenas' question, Attorney Houghton explained that every restriction is subject to the same affordable housing restriction criteria, but foreclosure could potentially erase the affordable housing restriction. He explained CPC approved a similar subordination previously for Cromwell Court, adding that CPC acknowledgement is required, recognizing that the affordability restriction could be lost in the event of foreclosure, and the property could then be sold at market rate. While the restriction is a perpetual restriction in its term, he said it must be made subordinate to the MFHA mortgage.

Julie Creamer, Vice President of POAH for Planning and Construction, was present from Boston to answer any questions the Committee may have, and she noted that there is also a comprehensive permit on Founder's Court that, regardless of the financing, would stay in place with an affordable restriction already built in. She called the affordable housing restrictions subsequently placed on the property slightly deeper than the comprehensive permit requires, and she reminded the Committee of the very strong track record of Mass Housing in resisting foreclosure on any type of affordable housing. She said POAH is one of Mass Housing's largest borrowers and reserves are kept with Mass Housing in the event that POAH had trouble meeting a debt service. Ms. Creamer explained that Mass Housing can only get back the funds that they have lent and the value is calculated on the affordable rate. She said the subordination is a requirement of their funding as it is a HUD necessity, with every other lender also subordinate to Mass Housing, as Mass Housing sells bonds and some of the mortgages are HUD- insured. In response to Richard Sawyer's query, Ms. Creamer said that 27 of the 32 units will be available to households at 60% Area Median Income with this project.

Richard Sawyer stated that he would be voting in the negative because he felt this would be precedent-setting, leaving him uncomfortable about it.

Motion was made by Sue Rohrbach and seconded by Tom Lee to recommend to the Town Council that the Town Manager be authorized to accept an affordable housing restriction which may not survive foreclosure by and is subordinate to a mortgage granted to the Massachusetts Housing Financing Agency in exchange for additional financing for the preservation of affordable housing by Preservation of Affordable Housing, Inc. and related entities at Founder's Court, 979 Falmouth Road, Hyannis following the recommendation of this Committee and the appropriation of \$500,000 from the Community Preservation Fund for preservation of affordable housing on September 3, 2015, per Town Council Agenda Item 2016-016. Motion passed with Richard Sawyer opposed.

Laura Shufelt returned to the meeting.

Letters of Intent

Letter of Intent from the Town Manager requesting \$404,000 Open Space/Recreation CP Funds for the acquisition of 755 Independence Drive, Hyannis (a/k/a 0 Independence Drive); Map 332, Parcel 010-002.

CPC Chair, Lindsey Counsell, explained that this same project was before the CPC in 2008 when \$321,000 was appropriated by Town Council Order 2008-112 for a Conservation Restriction, and the original agreement was with the previous Trustee for the Cobb Trust, David Cole. Recently, however, he said the new Trustee for the Cobb Trust felt that the previously-approved acquisition of a Conservation Restriction placed too many encumbrances on the property, so he decided that he would only consider selling the property in its entirety for the negotiated price of \$725,000 for fee-simple acquisition of the parcel for all CPA uses. Chair Counsell explained that fee-simple acquisition of the entire 12-acre parcel would require \$404,000 in additional funding. He said acquisition of the front 3 acres is required as direct mitigation in support of the bike pathway extension that is being coordinated with the Commonwealth, Town of Barnstable, Town of Yarmouth and CCC and can be used for all other CPA options such as affordable housing, as well as a planned parking area to access the bikeway. He said the back 9 acres will be used for open space/recreation, and Mass Fisheries will be granted a Conservation Restriction, which is part of the original arrangement and provides protection of the groundwater and wildlife. In response to Richard Sawyer's inquiry, Chair Counsell explained that the bikeway extension total budget for construction is greater than \$8,000,000 for the segment between Peter Homer Park in Yarmouth and Mary Dunn Road in Barnstable. In the end, he said the Town will have provided about 10% of that amount as the agreement requires the Town of Barnstable is to provide the Right of Way and planning funds. He said this funding request is the last piece of the Town's share of the bikeway project, with \$52,000 previously spent on acquisition of two other parcels for this project. He said the Town will have spent around \$775,000 for land in support of the bikeway extension project and \$450,000 on planning. Tom Lee requested that a drinking water restriction area be considered, if possible, within the 9 acres of open space.

Motion was made, by Richard Sawyer and seconded by Terry Duenas to advance the Letter of Intent seeking \$404,000 in CPA Open Space/Recreation funds for the acquisition of 755 Independence Drive, Hyannis, Map 332, Parcel 010-002 to the full Application stage. Motion carried with a unanimous vote.

Applications/Presentations

Application from the Historical Society of Santuit and Cotuit requesting \$16,810 in CPA Historic Preservation funds representing a portion of the amount required for restoration of the 1790 Samuel Dottridge Homestead.

Beth Johnson, Vice President of the Cotuit Historical Society was present, along with Administrator Samantha Silva. Ms. Johnson explained that the application is for Phase 2 of the Dottridge Homestead preservation project. She said the Homestead is one of three museums on the property and is the centerpiece of the Historical Society. She said the Homestead offers a classic example of 19th century architecture that reflects life in coastal Massachusetts during that era. She called preservation of the Homestead an

investment in the legacy of early Cotuit, assisting the Society in educating future generations of Cotuit's rich historical heritage.

Ms. Johnson explained that Phase 1 was completed last year and included a new roof and new entry door which were in need of immediate repair and funded by the Society and its fundraising efforts. She said Phase 2 is a continuation of the restoration and includes the following exterior replacements: the Homestead's sidewall cedar shingles that have not been replaced since 1962; the corner boards which have rotted at the base; a replica back entry door which is rotted and split at the bottom; the original lock with a deadbolt lock for security; and, the rotted bulkhead door leading to the basement. Inside the Homestead, she said, the main fireplace in the Keeping Room requires replacement of back and sidewalls and sealing, as the bricks and mortar are crumbling and the fireplace is no longer safe to use. She detailed additional preservation measures including securing the panes of all windows, and replacing a rotted and warped split rail fence surrounding the property. She said the fence would be replaced in the same design as the current one, as it originally appeared in front of the Homestead in a photo from 1810. She estimated total Phase 2 work at \$26,450, with \$9,640 raised through the Society's annual fundraising appeal, leaving the remainder of \$16,810 as the amount of this funding request. Ms. Johnson added that this estimate is based upon contractors' estimates and is considered realistic, with the goal to have everything done next year with the fireplace repair as a top priority.

Chair Counsell explained that the Legal Department usually does not approve fencing and asked that a copy of the Power Point presentation be provided for review. He further noted that in the past, the Massachusetts Historical Commission has declined Historic Preservation Restrictions, that are required for CPA funding, on structures that have been moved. Ms. Johnson stated that she does not believe that there presently is an historic restriction on the property.

A motion was made by Richard Sawyer and seconded by Marilyn Fifield to recommend the Historical Society of Santuit and Cotuit's Application to the Town Council. Request is for \$16,810 from the CPA Historic Preservation fund, representing a portion of the funds required for restoration/preservation of the 1790 Samuel Dottridge Homestead. Motion carried with a unanimous vote.

General Discussion

Letter from Growth Management Department requesting \$20,000 in Community Preservation Act Administration funds to procure the services of a qualified consultant to update the Town's Open Space and Recreation Plan (OSRP).

Chair Counsell explained that CP Administration funds are used for general administration, however, CPC may vote to fund this request with those funds instead of requiring the full application process. Laura Shufelt said that the OSRP is a document that is produced every 5 years and guides CPC decisions, although a consultant has not been used to update the last 2 Open Space and Recreation Plans. Ms. Shufelt added that open space funds are intended to be used to acquire open space land and not for an open space plan.

A motion was made by Laura Shufelt and seconded by Terry Duenas to use CP Administration funds to procure the services of a qualified consultant to update the Town's Open Space and Recreation Plan. Motion carried with Richard Sawyer opposed.

Adjournment

A motion was made by Richard Sawyer and seconded by Tom Lee to adjourn the meeting at 6:44 p.m. So voted unanimously.

Next Regularly Scheduled CPC Meeting – September 26, 2016

List of documents/exhibits used by the Committee at the meeting

- Exhibit #1 - Draft CPC Meeting Minutes – July 25, 2016
- Exhibit #2 – Letter of Intent – Town Manager – Acquisition of 0 Independence Drive
- Exhibit #3 – Application - Historical Society of Santuit and Cotuit
- Exhibit #4 – Power Point Presentation – HSSC – Dottridge Preservation Project
- Exhibit #5 – Letter – Growth Management - \$20,000 CP Admin Funds for OSRP
- Exhibit #6 - CPF – Schedule of Unreserved Fund Balances by Program Area
- Exhibit #7 - CPF – Schedule of Continuing Appropriations as of 6/30/16
- Exhibit #8 - CPF – Statement for Year Ending 6/30/16
- Exhibit #9 - CPF – Balance Sheet – 6/30/16
- Exhibit #10- CPF Appropriations History 2006 to 8/18/16

Respectfully submitted,

Ellen M. Swiniarski
Administrative Assistant
Community Preservation Committee
and edited by CPC Clerk Marilyn Fifield

Please Note: The list of matters are those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Committee may go into executive session. The Committee may also act on items in an order other than they appear on this agenda.

* Public files are available for viewing during normal business hours at the Community Preservation office located at 367 Main Street, Hyannis, MA