

CPC/CPA Public Meeting and Hearing (CPC)

City of Waltham, Massachusetts

CPC/CPA Office, 11 Carter Street, Waltham, MA 02452

DATE: October 26, 2011

FROM: Kevin Dwyer, Clerk, Community Preservation Committee (CPC)

SUBJECT: Minutes of October 18, 2011 CPA Meeting and Hearing

A. CALL TO ORDER AT 7:00PM

Chairman Barrett calls meeting to order at 7:00PM

Chairman Barrett notes that meeting is being recorded by the Waltham Channel.

B. ROLL CALL

Roll Call by the Clerk, Kevin Dwyer.

Present: Chairman Barrett, Member Dwyer, Member Dufromont, Member Fowler, Member Craig, Member Melnechuk, Member Young, and Program Manager William Durkee.

Absent: Vice-Chairman Zinnell and Member Hovsepian.

C. MINUTES OF THE AUGUST 16, 2011 CPC MEETING

Motion to accept minutes as written made by Member Dufromont, Second by Member Fowler, minutes accepted unanimously.

Member Melnechuk moves to add items to CPC agenda for 10-18-11 meeting. Melnechuk asks CPC to add an item on the evening's agenda to discuss his request that the CPC follow its own rules and create an application period with a deadline.

Member Dufromont requests to see what item Melnechuk is adding to agenda before it is voted on by CPC.

Member Melnechuk wants to address aspect of CPC plan at 10-18-11 meeting, an application period with a deadline.

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Chairman Barrett has no issue with Member Melnechuk's item being added under "New Business" on the agenda for 10-18-11. Melnechuk's item added to agenda as 1C under "New Business."

D. INTRODUCTION OF STUART SAGINOR OF THE COALITION OF PRESERVATION COMMUNITIES

Manager Durkee introduced Stuart Saginor, Executive Director of the Coalition of Preservation Communities to the Waltham CPC. Saginor assists all 148 CPA communities in Massachusetts. Saginor will introduce CPA to those less familiar with it on the Waltham CPC.

Stuart Saginor addresses the CPC.

Coalition of Preservation Communities. A non-profit helping CPA communities made up of seven other organizations on the Coalition's Steering Committee.

The Coalition provides a hotline regarding the CPA, has a newsletter, performs legislative advocacy, holds a regional conference, holds trainings at CPA communities, and has a new website with information regarding CPA.

No cities or towns have voted to discontinue the CPA locally.

Throughout the 10 year history of CPA, 15,000 acres of open space, 5,000 housing units have been supported or created, and 2,400 different historic projects (by far the most number of projects), 725 recreation projects (smallest category) have been created.

Public input hearing must be held once each year to discuss CPC Plan with public. It can be combined with a regular meeting. Completely up to Waltham CPC on how to accomplish this.

Four or five different plans on website for Coalition of Preservation Communities and website has links to each CPA community's website.

CPA plans vary throughout the Commonwealth, some are large ones done by professionals, some are simple and basic. No right or wrong way to draft a plan.

Plan must be updated each year, but does not have to be done from scratch each year.

CPC's main job is to recommend projects to the City Council.

Very few CPC's in the State use an entire 5% allowed maximum for administrative purposes. More than half of the CPC's in the Commonwealth are appropriated the full 5%, but most don't use all of it in a given year. At the end of the year, unspent administrative funds are swept back into CPC funds. No carry over on administrative funds.

Staff and due diligence are the main expenditures of the administrative account. The 5% is based on total surcharge, miscellaneous revenue and matching funds. Newton is the only community that comes close to spending an entire 5% of their administrative account each year.

CPC must submit a budget each year to the City Council. Budget must be based on local collection of funds and trust fund match.

Administrative account. This Account is for expenses of CPC only. The City of Waltham has not usually approved the total 5% for the Waltham CPC's administrative Budget.

Common uses of CPA administrative funds - administrative help, on-staff members, appraisals, consultants, and special counsel hired to work on a particular project.

The most common use of the 5% administrative account is funding to do due diligence on projects. Once the City Council approves a project and budget, the administrative account cannot be used to fund that particular project. It is no longer an expense of the CPC, and must go back to legislative body for additional funding.

The CPC can only bond against CPA surcharge stream. Can bond against only what is collected locally, not against matching funds. Bonding requires a 2/3 vote of the City Council.

Allowable uses chart showed to Waltham CPC and hard copies passed out to members (attached). Project must be placed somewhere in one of the boxes on this chart.

DOR has no regulatory or enforcement authority under CPA. Final decisions on interpretations of CPA are with City Solicitor, DOR acts in an advisory capacity only.

Pending legislation with regard to recreational assets would allow CPA funding for projects involving recreational assets already held by a city or town. This is not the current status of CPA.

Matching revenue from DOR has been down for years.

House Bill 765 "An Act to Sustain Community Preservation" is currently pending at the State House. If passed, the Bill:

- 1) will change how deeds fees will be calculated and deposited into the matching trust fund;
- 2) will fix language in Recreation area of CPA to allow funding of existing recreational facilities.

Every square inch of an acquisition using CPA funds must be deed restricted to one of CPA's four uses.

When an asset is purchased with CPA funds, the fee and restrictions are bought at the same time. The same entity cannot own both the fee and deed restriction. Restrictions must be held by a third party, for example the Waltham Land Trust.

According to CPA, Section 12a- Placing a restriction on a deed is not enough under CPA to make a deed restriction permanent. This only lasts for 30 years. In order to make a deed restriction permanent, the requirements of G.L c. 184 must be met. This is the only way to get a permanent deed restriction as required under CPA.

Chairman Barrett would like to discuss the subject of the FY 2012 Plan at the November 2011 meeting which will be focused on the CPC Plan.

Member Melnechuk passes out two documents to CPC members (attached). One lists a section of Roberts Rules and the other states that the CPC is not following its plan and CPC should be held to current plan. He wants to create an application period with a deadline. And he has a motion for the CPC that would

stop any applications currently before the CPC. He Moves to create an open application period with a deadline.

Member Melnechuk's motion is discussed.

Chairman Barrett states that currently, the Waltham CPC accepts applications at any time.

Member Fowler states that he is considering a motion to close application period to clean up existing projects that have not been taken care of before the CPC accepts new ones.

Chairman Barrett states that the Waltham CPC does not have enough applications to set a deadline and does not need an application period.

Member Fowler is concerned that a project approved by the City Council in June (Christ Church) is still not under contract and the building season has been missed.

Chairman Barrett wants the City Law Department to meet with Members Dwyer, Craig, and Young to try to streamline process.

Member Fowler suggests closing application process temporarily until the CPC can get its process in place.

Chairman Barrett does not want to temporarily stop current applications because it would not be fair to potential upcoming applicants.

Chairman Barrett states that it is an extremely frustrating process and is trying to streamline process. Suggests Members Young, Craig, and Dwyer meet with City's Law Department and the three members agree to do so.

Chairman Barrett does not want to stop the process at this time.

According to Manager Durkee, the Law Department has created a template using the Christ Church application. Manager Durkee would like an attorney to look three other pending projects using the Christ Church template and needs some outside assistance to get things moving.

Member Melnechuk cites that the current plan calls for a deadline for applications, which is not being followed.

Member Young would like to discuss issue at next CPC meeting. "Front end" of the process needs fixing. Member Young would like to see exactly how much money is currently available to the Waltham CPC. Member Young would like to have a discussion on the CPC's goals. Suggests a deadline for filing applications may help the process.

Motion by Member Melnechuk who again suggests that Waltham CPC is acting in violation of its own plan. Chairman Barrett disagrees that CPC is acting in violation of its own plan.

Manager Durkee cites the pros and cons of an application period with a deadline. A deadline would tie the CPC's hands for supplemental funding of a project if needed in a timely manner.

Motion of Member Melnechuk to set an application deadline is put forth before the CPC. No member seconds his motion. Motion denied.

E. NEW BUSINESS

1) Allocation of CPC Revenues - Must allocate CPC funds pursuant to the surcharge prior to the tax rate being set. City Council must pass our allocation.

a) State Matching Funds for FY 2011- Member Young makes motion to accept state matching funds with 10% (\$61,947.20) going into each CPC area, 5% (\$30,973.60) to CPC administrative account with remainder 65% (\$402,656.80) to the budget reserve. Second by Member Dufromont. Motion passes unanimously (attached).

b) Anticipation of FY 2012 Surcharge-

Chairman Barrett suggests placing 10% (\$220,000.00) in each of the three CPC reserve areas and 5% (\$110,000.00) to the CPC administrative reserve, with the rest going to the CPC Budget reserve fund (\$1,483,010.00).

Member Melnechuk makes motion to pass this city surcharge allocation, second by Member Fowler, motion passes unanimously.

2) New Applications

Fire suppression system for Bright School for \$259,000. City Clerk, Mr. Russ Malone is present.

Mr. Malone distributed a one page list of information requested in the Application form and described each of the items(attached) .

Member Craig inquires of City Clerk as to type of fire suppression system being installed. City Clerk states that this request is for the wet system to protect the building that holds these historic records.

Chairman Barrett suggests that this supplement is for the preservation of the documents important to the history of the City, not preservation of an historic structure.

Mr. Malone states that this fire suppression system completes the Bright School archives project.

Member Melnechuk asks Mr. Fowler if the price of system is reasonable. Mr. Malone states that he has done some research and believes the price is fair and reasonable for this expenditure of \$259,000.00. Member Melnechuk inquires as to why all of the funding for this fire suppression system must come out of CPC funds.

Member Young asks if the Secretary of State has funds to go toward this project. Mr. Malone says the state may have funding to help the City move or "Pdf" its files that are housed in City Hall, but this is not a large amount of money.

Member Dufromont asks the status of 1.4 million already allocated to Bright School project. Mr. Malone states that the project has already been approved by City Council and the Law Department.

Mr. Malone states that building is entirely covered by fire suppression system under this proposal.

Member Fowler makes motion to approve the request for \$259,000.00 for Bright School fire suppression system.

Member Melnechuk moves to amend the motion to approve, to approve one-half of the \$259,000.00 and ask the City Council to approve the other half.

Mr. Malone indicates that Mr. Melnechuk's amended motion would hold the project up. Member Dufromont reminds the CPC that the fire suppression system idea was initiated by the CPC and the CPC asked Mr. Malone to obtain a price for the system and bring that price back to the CPC. Member Dufromont wants the CPC to approve all of the funding for the fire suppression system.

Member Melnechuk's amended motion seconded by Member Young for the purposes of a vote. Motion does not carry. The original motion to approve \$259,000.00 for the preservation of documents at the Bright School is second by Member Dufromont. Member Melnechuk abstains, all other members vote yes. Motion passed.

F. Old Business

1) Extensions of time to spend CPC grants.

It is now the understanding of the Waltham CPC that a CPC grant can be spent at any time up to the end of the next calendar year. Chairman Barrett asks Members Craig, Dwyer, and Young to follow up with the Law Department on this issue.

2) Update on the status of appropriated projects to include Open Space.

Manager Durkee went through the list of appropriated projects to see where they stand as usual for the Monthly report to the Historical Commission, then for expedience added the Open Space projects (attached).

(1) Fernald. Open Space project in the near future may be the Fernald. Some on the City Council want to use CPA money to purchase the Fernald. Manager Durkee distributed a Waltham News Tribune story on the status of the Fernald (attached).

The specifics of the two Fernald listed projects were discussed by the previous Chairman of the CPC with the Council President and the existing CPC grant for \$3,000,000 for a "down payment to acquire the Fernald" was rescinded, but the amount of \$3,000,000 was to be encumbered, less the two grants for a Fernald title search and site hazards assessment. The idea was to allow the CPC to approve any future requests for spending from the grant and to receive Council approval as well.

Member Young volunteered to create a spreadsheet to show updates on appropriated CPC projects. The Chairman asked the Program Manager to use the format of a previous spreadsheet which did not include the verbiage.

(2) 385 Trapelo Road. This is the lot and building across from the National Archives. \$390,000.00. Chairman Barrett wants to rescind a previous vote on this project. He suggested that this project should be classified only as an Open Space project. The Historic description of the project is currently in the wrong CPA category.

Member Melnechuk states that a 2/3 vote is needed by the CPC to rescind a vote. Motion to rescind the previous Recommendation is made by Member Craig, second by Member Dufromont. Motion to rescind passed unanimously.

(3) Lot#81 Arcadia Avenue- This Open Space project approved by the City Council for \$100,000.00. Chairman Barrett noted that the CPC needs to send a request to the Law Department to complete the purchase (i.e. They need the deed to effectuate the purchase of the property) at Lot#81 Arcadia Avenue. Member Fowler made a Motion to send this request from the CPC to the Law Department to complete the purchase of 81 Arcadia Avenue. Second by Member Young. "No" vote by Member Dufromont. The Motion passed.

G&H. Announcements and Correspondence

Manager Durkee- Listed a request from the City Council regarding meetings from the past year; a document making CPC members Special Municipal Employees; and an inquiry concerning the building on the corner of Alder St. and Moody St. with regard to a possible historic project. He thanked Member Melnechuk for providing a fix for a problem sending CPC e-mails.

I. FOR THE GOOD OF THE COMMITTEE

1.) MIS. The Chairman noted that the cable channels will be able to provide streaming information to the Internet as of November 1. The Manager noted that MIS previously announced a new city website would be launched with improved capabilities

possible for the CPA website. Member Melnechuk noted his conversation with MIS and desire to receive information and training as soon as it is available.

2.) CPC Meetings. Next regularly scheduled CPC/CPA Meeting November 15, 2011

2a.) PLAN input hearing. Member Melnechuk noted that the CPA listed a wide number of planning documents in Section 2.c and requested copies or links to these. The Manager stated that the Waltham Community Development Plan was on the City website and was used as a reference, but the other plans only existed within that document. That is the reason the CPC attempted to create similar plans.

J. ADJOURN

Member Fowler made a Motion to adjourn. Motion passed unanimously. Meeting ended at 10:49 PM.