

Date: October 28, 2008

From: Joseph T. Maguire, Chairman
Community Preservation Committee (CPC)

Cc: William W. Durkee Jr.
CPA Program Manager

Subject: Minutes of October 28, 2008 CPC Meeting

A. Called to Order 6:30PM Chairman.

B. Roll Call

Present: Joseph Salvo (Clerk of the CPC), Joseph T. Maguire, Scott Hovsepian, Carl Zinnell (absent), Richard Pizzi, Jr. (absent).

C. Minutes of CPC Meetings.

1. CPC July 29 Public Meeting and Hearing. A motion was made by Joseph Salvo, second by Scott Hovsepian to approve the July 29 minutes, and passed unanimously.

D. Annual Statutory Review and Adoption of the 2008 (FY 2009) Annual PLAN

1. Chairman. Copies of the former 2007-'08 PLAN and Applications were distributed to the Members prior to this meeting. No changes were suggested at the July 29 Public Hearing. Chairman Maguire noted that suggestions for improvement were welcome from the public. At the request of the Program Manager, a Motion was made by Scott Hovsepian, second by Joseph Salvo to defer discussion to the next regular Meeting, and passed unanimously.

Old Business (Program Manager Durkee).

E. Old Business

1. Announcements.

1a. CPA Funds Draft Spreadsheet Status. The Spreadsheet updated July 28 has not changed. Law Review will be discussed later.

2. Correspondence. A lot of correspondence has been received including several "early" grant requests. List:

a. Lot #1 (Mayor)

b. 385 Trapelo Rd. An Application is pending for a parcel next to Elsie Turner Park.

c. St. Mary's has entered an Application for energy saving windows. This is the first Application from a religious body for an historic building. No other ideas have come before us.

d. Keach Terrace. There was an indication that either a Conservation Restriction or CPA Acquisition was wanted.

e. WATCH

e1. 2 Jackson St. WATCH now has a Purchase & Sale Agreement and will be coming before us for the funds we indicated they were eligible to request.

e2. WATCH has a new Purchase & Sale Agreement for a second parcel and asked for a letter from the CPA as they did for Jackson St. This testimony from the CPA simply announces that WATCH is an eligible Applicant. There is a shorter time limit in this Application.

f. 81 Arcadia Ave. Moved through the City Council which accepted the gift of the Appraisal and hazardous site assessment. The CPC will be informed as to the dollar amount of the purchase when these are complete.

g. Bemis Spur. Parties making inquiries were informed that CPA funds are not allowed based on the ongoing status of the project.

h. Wellington House. The Historical Commission through Archie Bennett has requested that funds previously approved be granted now as the construction phase has moved faster than anticipated. The grant would be increased from \$100,000/year to the total of \$300,000 at once. Chairman Maguire will not recommend any additional funds until the required sign is approved and installed. The Manager will meet with Mr. Bennett to request immediate compliance with our CPA signage requirements.

i. Newton. There is interest in meeting to discuss CPA projects which appear of value to both Cities.

j. Fernald. It appears there are movements underway which will open the property to various users and possibly resolve the surplus land questions.

k. Senator Susan Fargo's Environmental Bond earmarks list for Waltham (attached). The Waltham earmarks overlap projects requested by Applicants or interested parties previously before the CPA. Chairman Maguire noted that typically Bond issues are "illusory" as there is no money provided until the legislature appropriates it.

Incidentally, a similar delayed Housing Bond Bill took ten years to provide the funds requested for the three Waltham elderly housing energy and safety updates. When it was finally granted the State only allowed the money for two of the three complexes. This opened the way for the Orange St. CPA Application approved and completed with Waltham CPA funds. As understood, the Housing Authority recently spoke at a conference and received an award based on their first of a kind successful application for CPA funds.

1. Waltham Rail Trail. \$500,000, and another \$250,000 for the Wayside Rail Trail. The reason for two earmarks is unclear.

2. Prospect Hill Park. \$250,000

3. Hardy Pond. \$100,000 Weed control was mentioned but the

grant may also cover other needs.

4. Connors Pool. \$630,000

F. New Business

1. Lot#1 – Parcel B – 775R Trapelo Rd. Application of the Mayor. (Chairman)
No Applications were to be accepted, but there is a time certain requirement on this. A Motion was made by Joseph Salvo, second by Scott Hovsepian to suspend the Rules to hear the Applicant., and passed unanimously. There was no representative available this night to discuss the Application. A Motion was made to hold a site view. The meeting place would be at the Kennedy Middle school for the purpose of visiting the site to see and hear about its “topography and hydrology”, and other reasons of the Mayor. Per the Program Manager, the State passed a Special Legislative Act which bypasses all of the normal rules for acquisition under the Waltham Charter and Statutes. A Motion was made on behalf of Joseph Salvo, second by Scott Hovsepian to meet Wednesday, November 5 at the Our Lady’s parking lot and passed unanimously. The Manager will notify the Mayor and request a representative be present.

The Mayor indicated that the Division of Capital Asset Management (DCAM)’s Special Act had a short time for Waltham’s acceptance. On answer to Member Salvo’s question, there is no Open Period for another Round of new Applications, and the delays for existing Applications may be able to be modified as conditions require. A Public Meeting on November 5, 4:30 PM was requested for the Manager to post for the Public and to arrange the Meeting location.

(During the New Business portion of the meeting, the Mayor arrived and was asked to discuss the matter of her Application for acquisition of Lot #1. Her testimony is added here for continuity of the above. The Chairman noted that the Application had been accepted and a meeting time and date for a site view determined.)

Mayor Jeannette McCarthy. Early in her term as Mayor the State Representatives called her to a meeting in the Governor’s office to note that there was interest in preservation of Lot#1, and it was on a “fast track”. DCAM in a meeting then declared they would preserve Lot #1. Many years later, Lexington through DCAM received a deed for their portion from the Department of Conservation and Recreation (DCR). The Mayor wants to preserve the Waltham portion to prevent traffic and access to Waltham streets including Trapelo Rd. from Lot #1 in Lexington. It was indicated in the ensuing years that DCAM wanted to include “rights” in the deed similar to what they did in the Gaebler Lot, which allowed access through the Lot. Therefore the City needs more than a Conservation Restriction as granted to Lexington. The City should get an actual “fee” with the deed to prevent “rights” on this parcel. The parcel is part of the Greenway and should be kept intact.

2. Announcements.

2a. Legal Review of Recommendations. (Chairman). About a week prior, the Mayor sent a communication to the CPA notifying it that in the future the CPA should

hire its own attorney to review its Recommendations instead of sending them to the Law Department. Because the grants obligate the city for sizeable sums of money the CPA Recommendations should be legally correct. The Law Department is backlogged with City work which leaves the CPA without a review for about 13 existing approved Recommendations and more in the Law Department that cannot proceed without legal research. Until this time, the work of the Law Department was done on an "as available" basis without cost to the CPA. The Chairman stated that the Recommendations written by the Manager are thorough but the Manager has an MBA, and is not an attorney. The CPA has appealed to the Council for the ability to budget legal reviews and was denied by the Council. Only the Council can authorize CPA spending and the previously approved Administrative funds cannot be spent without their approval. Perhaps a Special Act to allow the CPA to utilize its Administrative funds would be possible. With the new direction from the Mayor, the Applications will be sent to the Council with the request for legal review. Applicants want to know where there approved Recommendations stand. Unlike other communities, the Waltham CPA has not had any legal problems because the Applications are properly prepared. The CPC has questioned the Applications and Applicants with hard work, CPA Coalition advice, and legal reviews. The Council has \$15,000 for attorneys in their "C Account", which could include CPA work. The CPC could Recommend transfer of some of its Administrative funds for legal reviews of CPC Recommendations and place it in the Council Account under the auspices of the Law Department for oversight. The Chairman will go to the Law Department and carry the physical Recommendations to the CPA office "tomorrow".

Manager Durkee noted that a Recommendation for the expenditure of \$12,000 was sent to the Council on October 1, and the Manager appeared before the Finance Committee on November 3. The Finance Committee, chaired by Councillor David Marcou then requested a reply from the Law Department as to why the CPA work was not being done. A response is expected November 3. This should resolve the issue since the Council already has a budget for legal reviews and the CPA funds set aside for CPA purposes as Administrative purposes do not affect the current City Budget.

2b. CPC/CPA Informational Presentations. (Chairman). The CPA requires that for educational purposes the CPC advertise and describe the work and process of the CPC regarding the funding it raises. The projector was purchased along with needed attachments. Presentations will begin as soon as possible to the Public. About 40 Applicants are interested in this information. The Manager could also use some assistance when the presentations are made.

3b. WATCH. Steve LaFerriere.

i. 2 Jackson St. The owner has completed their division of the property through the Board of Survey and the Purchase & Sales Agreement is in hand. WATCH is proceeding with its due diligence to test the site for hazards, and the lawyers are drawing up the needed documents. A closing date of February 26 is planned.

ii. 462 Main St. A Purchase & Sales Agreement was concluded today. A closing is planned about mid-April.

4b. Waltham Historical Society. Wayne McCarthy, co-President. The Society has a Purchase & Sales Agreement. Since the Building Department now is the Applicant for 92 Felton St., does the Society receive the funds or the Building Department? The Society will pay rent, therefore, can the Society receive the funds for making the building habitable? Per the Chairman, those details are in the legal review. Per the Manager, since it is a city Building, it would be better to leave the Building Department to do what is necessary as they know the rules and regulations for bidding and spending CPA funds. Per Mr. McCarthy, the Society has contractors prepared to respond to RFP's for the work. Since the lease requires City review of any work will those responses need to be done again? Should the Society sign the lease? It was suggested that the Society meet with the Building Department and the Mayor. The Manager noted he would be pleased to join the discussions.

5b. Waltham Historical Society (WHS). Mr. Archie Bennett. In answer to the Manager a visit to the Wellington House would be possible November or another time soon. The Chairman asked whether the mandatory sign was installed. Mr. Bennett will prepare proposed language and design as there is a new sign for the donor of the grant to the WHS for the funds used on the Wellington House. The Mayor and others must sign-off on any language even if the CPC approves some wording. Per the Manager, the recent bid for Conservation Department signs is the "brand" by look and design that is to be used for all public lands. The CPC will defer to the WHS for questions of historical impact but a sign is needed.

3. Mandatory Revenue Allocations (Manager). The Manager met with the Auditor today to confirm that the numbers on the following Recommendations were accurate.

3a. Allocation of the State Matching Grant based on the FY 2008 Surcharge. The CPC Recommendation to the Mayor was read in its entirety (Attached). The Chairman noted that this year the Match was different from the Estimated Surcharge as the formula used only matched 65% versus 100% in previous years. A motion was made by Joseph Salvo for Approval of the amount of \$1,306,958 and in the Allocations as stated, and passed without dissent.

The Chairman pointed out that the matching of Waltham taxpayers funds at 75% or more as occurred in the CPA is unique. And, that it would be hard to believe that the taxpayers would ever want to turn down the CPA for that reason. The Manager concurred and noted that the funds which are used for the Match are from a document surcharge imposed at the Registry of Deeds. Therefore the City taxpayer funds are mostly matched by others outside the City who file documents there. And our City taxpayers are grateful for their contributions.

3b. Allocation of the Estimated FY 2009 CPA Surcharge. The CPC Recommendation to the Mayor was read in its entirety (Attached). The Allocations must be accepted by the City Council prior to setting the FY2009 tax rate which is scheduled for November 24. A

motion was made by Joseph Salvo for Approval of the amount of \$1,932,790 in the Allocations as stated, and passed without dissent.

G. For the Good of the Committee. (Chairman) At the next meeting an Open Period for acceptance of new Applications will be considered. It would likely be after the holidays.

Adjourn. A Motion was made by Scott Hovsepian, second by Joseph Salvo to adjourn, and passed unanimously at 7:25 PM.

Joseph T. Maguire, Chairman
For the Community Preservation Committee