



Community Preservation Committee

Date: July 13, 2010

CITY of
WALTHAM

COMMUNITY
PRESERVATION
COMMITTEE

M. Justin Barrett, Jr.
Chairman

Carl Zinnell
Vice Chairman

Joseph Salvo
Clerk

Scott A. Hovsepian

Jerry Dufromont

William W. Durkee, Jr.
CPA Program Manager

From: Ellie Muter, Community Preservation Committee Intern
Edited: William W. Durkee Jr., Community Preservation Act Program Manager

Cc: M. Justin Barrett Jr., Chairman, Community Preservation Committee (CPC)
William W. Durkee Jr., Community Preservation Act Program Manager

Subject: Minutes of July 13, 2010 CPC/CPA Public Meeting

A. Call to Order 7:00pm –Vice-Chairman M. Justin Barrett Jr. noted the presence of a quorum. He requested the Clerk call the meeting to order.

1. Roll Call (Joseph Salvo - Clerk) Present: M. Justin Barrett Jr., Carl Zinnell, Joseph Salvo, and Jerry Dufromont. Scott Hovsepian was absent. CPA Program Manager, Bill Durkee was present.

2. Vice Chairman Barrett mentioned the departure of former Chairman Joseph Maguire and thanked him for his long and hard service on the CPC over the years in a thankless job.

3. Jerry Dufromont: Vice-Chairman Barrett introduced Mr. Maguire's replacement from the Conservation Committee, Jerry Dufromont. Mr. Barrett described Member Dufromont's history in Waltham. Jerry was born in Waltham, a Waltham High School (WHS) graduate, his children are WHS graduates, his wife a teacher at the Stanley School, a former baseball coach, and a Conservation Commission Member since 2009.

4. Annual Organization of the CPC-Election of Officers for 2011 (Clerk)
a. Chairman. Member Zinnell made the motion to elect M. Justin Barrett the Chairman of the CPC, Joseph Salvo second the motion. The Motion passed unanimously by the Members present, without Member Barrett. M. Justin Barrett was elected as Chairman of the CPC.

b. Clerk. Chairman Barrett made the motion to elect Joseph Salvo the Clerk of the CPC, Jerry Dufromont second the motion. The Motion passed unanimously by the Members present, without Member Dufromont. Joseph Salvo was elected Clerk of the CPC.

c. Vice-Chairman. Member Salvo made the motion to elect Carl Zinnell the Vice-Chairman of the CPC, Joseph Salvo second the motion. The Motion passed unanimously by the Members present, without Member Zinnell. Carl Zinnell was elected as Vice-Chairman of the CPC.

- B. A Motion By Clerk Salvo, second by Member Dufromont, was made to suspend the order of the Agenda in order to conduct the business of the CPC until the time of the Annual Public Hearing, and passed unanimously by vote of the Members present.
- C. Minutes: (Clerk)
1. Minutes of April 6, 2010 CPC Meeting. A Motion was made by Member Zinnell, second by Member Dufromont to accept the Minutes which had been received in the Members meeting packet. The Motion passed unanimously by vote of the Members present.
 2. Minutes of February 23, 2010 CPC Meeting. The Program Manager noted that the Minutes of the February 23, 2010 meeting had not been accepted at the April 6 Meeting and were in the packet for that meeting. After time for review, Member Zinnell, second by Member Dufromont to accept the Minutes which had also been received again in the Members Meeting packet, the Motion passed unanimously by vote of the Members present.
- D. Old Business. CPA Program Manager Bill Durkee provided the status of CPC Projects in Law Department. To avoid duplication, the item listed in the Agenda as Old Business would be covered within the items listed in New Business.
- E. New Business. CPA Program Manager Bill Durkee described the lists received in the Meeting packet by the CPC.
1. The "LeBlanc Report" dated May 26, 2010. This included the "Fund balance" as of May 26 as a cover sheet. This is the Report sent to Councillor LeBlanc discussed in the April 6 CPC Meeting. CPC Program This Report, produced by Intern Ellie Muter, contains the status of every project since the inception of the CPC, including all of the Applications to be discussed at this Meeting.
 2. Status of CPC Projects in Law Department. In this first list Titled "Status of Projects Waiting for Council, Law, and CPC Actions Noted as "Status of Applications" on the July 13, 2010 Agenda" Applications.
 - 2a. CPC Recommendations/Council Appropriations - Agreements
 - 2a1. Historic - St. Mary Parish – Rectory Windows. This is the first private project to reach the final step of the CPC Recommendation, Council Appropriation, City-private organization Agreement, completion of the

work, and payment. The check is in the mail! It will serve as a “model” for future projects.

2a2. Historic - St. Charles Church – Exterior Restoration. This Agreement is waiting for some updated documents from the Church to satisfy the Agreement conditions, but also nearing completion.

2a3. Historic - Gore Place – Fire Suppression. **A request was sent to the Law Department May 11, 2010 to prepare a draft of an Agreement between the Gore Place Society and the City.**

2b. CPC Recommendations – Awaiting Law Department Action

2b1. Housing – WATCH - 2 Jackson St. **Sent to the Law Department for a draft Recommendation on April 12.**

2b2. Historic – Waltham Housing Authority – 101 Prospect St. (historic Newhall School & Winchester Crane Apartments). **A revised Recommendation was sent to the Law Department for a legal review for form on May 13, 2010.**

2b3. Historic – City Hall Roof. The situation facing this project changed over the past weekend when the heavy rains caused more leakage and more of the expensive plaster ceiling frescoes in the Council Chambers fell on the floor which could place anyone there to be endangered during a rainstorm. The Opinion received from the Law Department did not have some of the language previously written to assist the CPC to avoid previous problems. However, they needed a formal request for any new question to be sent to it if any changes were to be made. As another review of the Law Department could take an uncertain time, the Program Manager asserted that the risks of waiting for an improved Recommendation were less important than sending the Recommendation received in the Law Department Opinion to the Council to be heard at the mid-Summer Council Meeting August 2. The intention is to place verbatim the Recommendation received from the Law Department. The CPC March 23, 2010 minutes would show the action of the CPC. A portion of the Recommendation as written by the Law Department was read by the Clerk to show that the sum of \$27,000 was approved this evening by the CPC to be transferred to the Waltham Building Department for the purposes shown in its Application dated September 15, 2009 regarding the City Hall roof of 6000 sq ft and ornamental features. The Motion was made by Mr. Salvo to accept the Recommendation for presentation to the Council on August 2, second by Mr. Dufromont and passed unanimously by vote of the Members present.

2b4. Historic – Trinity Church. This is another project with a leaky roof. The CPC is waiting for additional information from the applicant before a vote of the CPC. The Church did receive assistance from the Waltham Historical Commission (WHC) which recognized the historical significance of the Church and supported its Application. Additionally the WHC assisted the Church to write a specification for the work needed. The Church has now received five bids for variations of the materials and construction of the roof and needs to select one, perhaps with the assistance again of the WHC, before returning to the CPC. **The CPC has sent a request to the Law Department for a draft Recommendation for form on April 7, 2010 but has not received a reply.**

2c. Council Appropriations – Awaiting CPC Action.

2c1. Charles River Museum of Industry and Innovation (CRMII). This Phase I project received approval in the CPC and Appropriation in the City Council, and the Law Department wrote an Agreement. Due to misunderstanding of both the CPA Program Manager and the applicant, there was a question whether the work was completed before the Agreement was signed and whether the time to spend deadline expired. The contractor has not been paid but the work was done. The Law Department advised the applicant and the CPC during 2009 that the issues were solvable but in two attempts CPC Recommendations failed to receive Law Department support in the Council and were filed without prejudice. The CPC must send a formal request to the Law Department for form of a new Recommendation. The Chairman asked that this be done as soon as possible.

3. CPC/CPA Open Space Initiative. This list includes a collection of CPA Open Space and Open Space Recreation projects which are either ideas, Applications, Recommendations, or Appropriations. A CPC Meeting with the Recreation Department is planned for the Fall.

3a. Open Space and Open Space Recreation - 67 Crescent St. This project passed the CPC, and the Council and was Appropriated, but not spent. A previous request for a draft Recommendation to extend the time to spend was not answered. **A new request to the Law Department was made on June 9, 2010.** Member Dufromont questioned how the problem occurred to which the Program Manager noted that this type of problem lead to an added step in each Recommendation to leave the option of extending the time to spend within the CPC at the end of each year for a few years. The cost was noted as \$385,000 by the Clerk. The Program Manager was uncertain of the acreage, but said it was a River front parcel next to Cronin's Landing, and could become part of the DCR Riverwalk eventually. Mr. Dufromont asked whether the price was "locked in " since the application was received in 2008. Program Manager Durkee explained that the process of acquisition is written into the State Law for Waltham and

requires an appraisal, title search, and hazards site assessment. At the time of the Application, the value was estimated from the City Assessment, but many land values have decreased since that time. The grant could not be spent for other purposes. Chairman Barrett noted that the time has expired for this Appropriation and requested the Program Manager estimate a reasonable time for the extension. Manager Durkee said the recent provision which would leave the option of extending the time at the end of each year would suggest one or two years beyond the end of this calendar year based on past experience. Chairman Barrett noted that his intention was to meet with the Law Department after the CPC backlog was cleared. He would invite the Manager and all CPC Members to join him to know what each the CPC and Law Department required. As an example of the situation at the Law Department, Manager Durkee explained that the Assistant Solicitor that ruled on the leaky City Hall Roof Recommendation had explained that he had 76 rulings to make. From the Law Department solicitors and the Mayor, it has been explained that they are not acting as the CPC lawyer, but just make legal opinions. Then the CPC simply accepts the opinion, or formally asks another question and gets in line again for another Opinion. There is no time for "chit-chat". Therefore, if the CPC takes it on itself to change or add anything in the Opinion, the Law Department will not support it in the Council. Even for a simple change of the Recommendation it is wise to get the stamp of approval as an unadulterated opinion from the Law Department before sending any document to the Council. The Chairman would send its Recommendations to the Council for a time certain. **Member Salvo made a Motion to send the 67 Crescent St. Recommendation to the Council for approval with a time for spending of July 13, 2011, second by Mr. Zinnell, and passed unanimously by the vote of the members present.** The Chairman preferred to meet with the Law Department if it appears the time to spend will expire rather than add the option of the CPC to extend the time after July 13, 2010. If the time to spend appears to be a problem in the Law Department he would go to the City Council to request spending for legal assistance. His experience is that the Law Department has been very accommodating.

3b. Open Space Recreation – 1433R Trapelo Rd.

A request was sent to the Law Department June 23, 2010 for a draft Motion to prepare a Recommendation to go to the Council.

3c. Open Space and Open Space Recreation - Hardy Pond Lands I

This Application was approved by the CPC and an Appropriation made by the council, but the time to spend the money expired. **A draft Motion for a Recommendation to extend the time to spend was requested from the Law Department on June 23, 2010.** The \$367,000 included acquisition of a parcel of property and the assembly of numerous other properties under ownership of the City into a contiguous property for Open Space and Open Space Recreation. The Chairman preferred to send the Recommendation for the extension directly to the

Council rather than wait for the Law Department to issue an opinion. Member Zinnell made the Motion to send a Recommendation for extension to the Council with a time to spend deadline of July 13, 2011, second by Mr. Dufromont, which passed unanimously by vote of the Members present.

3.d CPC/CPA Open Space Initiative - Awaiting Applicant Actions. None of these require CPC action. Some Applicants are not familiar with the details of filing a complete and legal Application which was the reason for requesting planning and legal assistance in the 2011 CPC Budget, but was denied.

3d1. Historic - Paine Estate – Landscape Plan. Withdrawn, no action pending.

3d2. Open Space – 81 Arcadia Ave. The applicant visited the office this week. He will review the Law Department Opinion and his Application and will decide whether to ask for assistance or to write the new Application himself.

3d3. Open Space & Historic. – 385 Trapelo Rd. Applicant George Darcy is reviewing the Opinion of the Law Department to provide the answers to questions raised.

3d4. Open Space & Open Space Recreation – Elm St. RR Spur. The original Application was tabled in the CPC on request of the Applicant. There have been two potential applicants recently but no action yet.

3d5. Open Space & Open Space Recreation – 462-472 Main St. There have been two potential applicants recently but no action yet.

3d6. Open Space & Open Space Recreation – 133-151 Moody St. The “enthusiastic” Applicant did find a parcel that was available at the time but didn’t complete all the steps that were needed. The CPC Intern, Ellie Muter, was asked to assist the Applicant to write the new Application with all the stages of a complete Application to determine whether that would improve the process for approval. The work is nearing completion and should be finished before the next CPC meeting.

Ellie Muter was asked to speak by the Chairman. She stated that Open space applications are complicated, complex and need a budget. The budget is questioned in the Long Term Debt Committee and may stall there if answers are not apparent. Even in the CPC as for example in reviewing the Wellington House the future costs were requested. For Sally Collura’s Application, it should include the costs for acquisition and demolition. The Chairman asked whether Sally had not done included those. Ellie responded that she should have the assistance of

Planning or another City Department to do this. In the absence of that, Ellie called a demolition company for an estimate. Although Sally only applied for the cost of the land, Ellie believes the follow up questions should be what the costs are of the demolition and environmental survey. Then the questions would be what the costs are for landscaping and maintenance. Ellie contacted the Conservation Commission, the Program Manager and Ellie met with the Recreation Department, and hopefully will meet with the Planning Department and perhaps the Public Works Department. Public Works is responsible for the maintenance and could be a co-applicant if not the Recreation Department. Waltham is fortunate to have Open Space land to acquire. A budget is also a tool to seek grants from other organizations such as the Department of Conservation and Recreation (DCR). Although Ellie likes to do the work of project management, and willing to get the information, there should be a City Department willing to be a co-applicant which she believes will be either Planning or Public Works. The Chairman noted that only the Applicant is responsible for what is put into the Application. Member Dufromont received clarification regarding the process of the applicant who happens to be a Councillor who has applied for CPA funds to purchase a privately owned parcel for ownership by the City. Ellie added that she believes each such application should include a City Department as co-applicant as eventually there needs to be an Agreement and the funds must go to a City Department. Further that past applicants have failed to do this. The Chairman agreed that this was what put the CPC in its current position. Member Dufromont then asked whether the applicant was seeking funds to do the planning for this project. Ellie stated it was the situation. In response he asked why the CPC was providing this advice or information as the CPC is not a lawyer, accountant, nor contractor. The CPC is just able to rule on whether the information provided on the application is sufficient to grant the request for money. The Chairman noted he believes the CPC does have a Law Department guideline which required that a budget be included. The Program Manager noted that the CPC PLAN does have two applications, one for housing, and the other for all remaining CPA categories. When the Application goes before the Council the Law Department advises what other information is necessary. The "checklist" is more complete and basically follows the housing application. Every application has a budget before it is received.

3d7. Open Space & Open Space Recreation – Woerd Avenue landfill (aka 901 Moody St.)

A new, updated Application has been requested.

3d8. Open Space & Open Space Recreation – Fernald Center
Future CPC grants will await the Applicants.

3.e CPC/CPA Open Space Initiative - Awaiting CPC Actions.
Open Space & Open Space Recreation – Hardy Pond Lands II

Future CPC action is needed.

F. Annual Public Hearing (8:00 PM) Called to Order – Chairman Justin Barrett Jr.

Program Manager Durkee. Mr. Durkee explained that one of the statutory duties of the CPC was to hold an Annual Hearing as spelled out in the State Law that established the CPC, and again in Waltham Ordinance #30452 June 2006. “As part of its study, the CPC shall hold one or more informational hearings on the needs, possibilities and resources of the City regarding Community Preservation possibilities and resources.” Notices must be published. The purpose of this nights Hearing is to collect information for adoption of the CPC 2010-2011 PLAN. The existing PLAN, including the two forms, was in the meeting packets of the Members. Following the input received during the Hearing, the Program Manager will prepare a list along with previous suggestions for consideration at the next CPC Meeting.

The Chairman sought any Member input, and upon hearing none, opened the Hearing to the audience. Thos in favor and opposed to the PLAN were invited to speak. A short recess occurred to determine whether the Mayor who had been in attendance wished to be heard, but she had left the building. Member Salvo made a motion to table the adoption of the PLAN until the next meeting, second by Mr. Zinnell, and passed unanimously by those in attendance. The Hearing then was suspended until the next meeting.

G. Announcements.

1. Chairman M. Justin Barrett noted the CPC Budget was level funded again as it had been for FY 2010.

2. CPA Program Manager.

a. CPC Presentations. An invitation has been extended to make a presentation to the Recreation Board in the Fall.

b. The Charles River Museum of Industry and Innovation (CRMII) has also extended an invitation to make a presentation to their officers and Board. All CPC Members, but specially including the Historic Commission representative Carl Zinnell, should be in attendance. The date will be announced. Representatives of the CRMII were in attendance and the Chairman invited them to speak.

Marcia Folsom, Trustee of the CRMII. A well done architectural plan for renovation of the CRMII was produced by Paul Dumas which would greatly improve the way the story of the site would be presented. The two floods in March created great problems. The landlord has reported that its insurance will not assist the CRMII in repair of the casualty of the floods. After the floods, the entire roof of the Mill needed to have its roof examined by structural engineers and roofing contractors. The entire roof of the

Mill suffered significant damage, including the roof over the boiler house where the Museum is located. Although the CRMII offered to pay for the rubber membrane on the roof, there is structural damage. The wild guess estimate is \$70-80,000. The very active Board and several significant donors will try hard to save the Museum, but the damage is beyond what these sources can provide. Unfortunately, even the original CPA Application grant and study which was completed by a small vendor, is beyond what the CRMII has been able to pay. Now, it would be instructive for the CPC to visit. The flood brought 13 inches of water into the entire Museum space. Both the walls and the artifacts were exposed and damaged. The previous small entranceway, with the office behind it has changed as the office was demolished leaving an empty concrete platform. The new plan would be a dramatic change to create a lobby where the office stood, with three windows open to the River. The Reception area would lie beneath the windows, with the diorama and signage to explain the Mill history. The damage to the Boiler House roof has stalled the new design. Although FEMA money has been sought, first an application had to be made for a small business loan. Once the realization was made that the CRMII could not repay a loan, the application was rejected. After this, it was possible to apply for FEMA money, and that FEMA application is nearly complete. The CRMII wants the City to assist the Museum to preserve this significant beginning of the Industrial Revolution in the United States. Ellen Hagney, the CRMII Director was also in attendance.

Member Zinnell asked whether there was someone who could prepare a grant Application with the details of the need and the costs. In response, Ms. Folsom said the first estimate to restore the Museum to its original state was \$30,000. To rebuild it to a much better state would cost \$60,000. The roof membrane would cost \$37,500. The structural damage "guesstimate" would be as high as \$80,000. The Mill landlord is unwilling to proceed unless the CRMII pays the entire amount for the roof. It is hoped that in the negotiation phase, the landlord will read the lease to pay not only the casualty loss, but also the repair of the structure.

Member Zinnell asked whether the dispute was in litigation, and suggested it would be desirable to get action before added rain worsens the situation. The resolution of the facts in litigation would then allow the CPC to act. Ms. Folsom acknowledged the "good advice". Arthur Nelson, and his lawyer and director of all of his non-profit organizations have said the next step is to direct to the landlords of the Mill a letter stating that the CRMII believes the lease is not being correctly read and are not doing their part to restore the CRMII.

Member Dufromont recalled that in his experience, leases read that the landlord was responsible for all "units" on the roof and suggested that a lawyer review the lease.

Ellen Hagney, Director of the CRMII. The CRMII will get someone to work on the CPC grant Application. FEMA and MEMA will only provide 75% of the cost of repair. At some point, the CRMII will need to request more of its donors. To date the

CRMII have raised about \$11,000 in four weeks for the restoration. The Chairman stated that a properly prepared Application will expedite the grant.

Member Salvo. Mr. Salvo recommended that the Application be for the total amount as the CPC can always reduce the amount as the need become more clear.

Ellie Muter. Ellie suggested that the CRMII become familiar with the grant as the CPA would likely not cover all aspects. The Historical Commission and the Program Manager can provide advice on what can and cannot be granted.

c. CPC FY 2011 Budget. Bill Durkee explained that the FY 2011 Budget. The overall request was made for the amount allowed as 5% Administrative cost or about \$105,000. The amount approved allowed only the Program Manager's salary, the dues to the Coalition of Preservation Communities, and some supplies. No temporary help, but a small amount of \$2500 for consultants was allowed. The CPC Budget was not supported by the Council. By ordinance the CPC Budget is required on March 1 and was delivered on request of the Mayor on March 11. The Budget and its justification were submitted o that date, but the CPC was not heard until the last week before the Summer Council break, on June 21, effectively the end of the FY, as the Council met for its final meeting on June 28. There was no apparent regard for why the CPC requested planning, legal, website assistance and a grant writer. The program Manager expressed his disappointment and noted the previous Chairman was also disappointed. If it is decided by the CPC to go before the Council to request that it be allowed to spend some of the allocated funds it should be noted that these funds derive from a small surtax on property taxpayers with exemptions and exceptions built into the ordinance by the Council. it amounts to about \$60 on the Manager's annual property tax bill. Yet, the Budget was cut in half leaving the Manager as a "one man act", while the remaining 98.5% of the budget was handled in a more logical way.

H. Correspondence. None.

I. FOR THE GOOD OF THE COMMITTEE. Per the Program Manager next meeting will depend on receipt of information from Applicants. The Chairman will establish a date for a meeting with the CPC after speaking with solicitor Cervone this week.

J. ADJOURN

The motion to adjourn was made by Chairman M. Justin Barrett, second by Member Dufromont, and passed unanimously.