



## COMMUNITY PRESERVATION COMMITTEE

### MINUTES OF REGULAR MEETING

**Thursday, November 12, 2015**

Chairman William D. Raus called the meeting to order at 7:10 p.m. with, Tim Gillespie, Elizabeth Collins, Richard Lambert, James Coyne, Janet Jones, Anne Brum and Betty Slade present. Hugh Morton was absent.

#### **Presentation:**

**Stuart Saginor, Director, Community Preservation Coalition. Presentation on CPA issues.**

#### Background and Funding

Mr. Saginor noted that there are 160 communities that have adopted CPA in the Commonwealth. He noted that there have been about 8,000 total projects for 1.5 billion dollars with half of the projects being historic preservation projects. He said 23,471 acres have been placed in open space preservation. Funds originate from the fees charged for real estate transactions. The State Budget has also allocated funds from their surplus. House Bill 2587 will raise the \$20 fee to \$25 which will help the funding. Bob Grillo asked how the funds are allocated among the communities. Mr. Saginor stated that it is based on the percentage each community collects. Those communities that have adopted 3% will receive a 2nd allocation. Some communities get 100% matching funds from the state.

#### Restrictions

Historical and/or preservation restrictions are required in order that the purpose of the initiative is maintained. This requirement applies when property is acquired with CPA funding. Ms. Slade asked if it were possible to put a restriction on land even if it was purchased with CPA funds 10 years ago. Yes, because the CPA did not place a time limitation on when it should be done. Mr. Saginor stated that the State has begun to look closely and withhold funds from certain grants it provides if restrictions are not recorded. Usually a restriction does not happen at the time of the transaction, but more likely within the first year. Such restrictions are complicated and take some time. When the property is owned by the town the restriction must be held by a 3rd party to ensure the restriction is managed correctly. The town can also be the holder of the restriction if someone else owns the property. Ms. Slade asked if there is any cost to this. If a conservation restriction is imposed, the holder of the restriction has an associated cost and may ask for a one-time payment from CPA funds approved at Town Meeting. Mr. Saginor noted that the administrative account can be used for anything related to due diligence and its operations. Ms. Slade asked if Conservation and APRs restrictions are in themselves evidence of a public benefit - for APRs the public purpose is saving of the farm, for example. The answer was yes. Mr. Raus asked about how agricultural restrictions are drafted - who puts in the content - does it require the farmer to continue

farming? Mr. Saginor suggested asking the state about answers to such questions. The land cannot be used for other than farming activities, but it is not required that it is farmed yearly.

Preservation restrictions may be required for private historic buildings that benefit from CPA funding. CPA requires a permanent historical restriction when a historic property is purchased. In other cases, a grant agreement should be drawn up which stipulates the conditions the CPC and the town wish to impose. He noted it is not mandated by law and that there may also be term restrictions and/or requirements. Permanent restrictions are costly and time consuming and in some cases are not the best solutions. If it is to rehabilitate, Mr. Saginor recommended that it be best to use a term restriction.

#### Role of the Historical Commission

The local Historical Commission must make a determination in some way that the resource is significant in the history, archeology, architecture or culture of the community in order that it is eligible for CPA funds. Rehabilitation of a historic resource must follow the guidance from the Secretary of the interior Standards. Rehabilitation is defined as to restore the asset to the use it is intended. If the resource is not on the state register, the Historical Commission will need to vote to determine that it is historic; otherwise CPA funds cannot be used for that project. However, the Historical Commission does not have to "approve" the historic project itself for the CPC to recommend the project to Town Meeting. It is up to the particular CPC to make that decision.

#### Private Projects

The so-called Anti-Aid amendment stipulates that it is illegal to give public money to private organizations for private purposes. Public money can, however, be given to a private institution for public purposes. In return for the CPA investment, a restriction or requirement of some sort would ensure that a building, farm land, etc. will remain for public use. Some towns are not doing anything at all and some are using a "clawback" covenant: i.e., if the use changes or the building is sold within a certain number of years the owners must give the money back to CPA and there are also other methods. Mr. Saginor urged getting Town Counsel assistance when in doubt. As long as CPC initiates the request, the CPA administrative budget will cover the cost of Town Counsel inquiries. He again urged that a grant agreement be used with the BOS and CPC cosigning the documents.

For municipal projects, an award letter is commonly used that describes the funds approved for the stated purpose, and terms of the award..

#### Studies.

Studies may or may not be funded depending upon the situation. The overall purpose of the project will determine if the study is required to fulfil the stated goal. A study alone may not be funded.

#### Housing

No CPA funds can be used for the rehabilitation of existing housing.

Preservation is allowed and is defined by DHCD as "protection of personal or real property from injury, harm or destruction". The aim of CPA is to develop new housing opportunities.

### **Project Applications:**

#### **Historic Preservation: Restoration of Powder House at Head of Westport. \$6,917.**

Presenter and project manager, John Bell. Submitter: Westport Historical Commission. Mr. Bell read a letter from 1970 by Mr. Brownell who documented the historic value of the structure at the time. It is on the state register of historic places. The WHC has reviewed and recommended the project. Mr. Bell reviewed the scope of work to restore the building. He estimates the cost to be \$6,917.00 total for materials and labor. It is only one of 6 in the state that is made of wood and there are a total of 54 left in the state.

Ms. Slade motioned to put on the January public hearing agenda. Mr. Coyne seconded the motion. Discussion ensued over the need for 3 bids. The vote was all in favor.

#### **Historic Preservation: Preservation of Stonework at Head of Westport.**

Presenter and project manager, Tony Millham. Submitter: Westport Landing Commission.

Mr. Millham described the project for the historic preservation of the head landing stonework lining the river. The Head area is on the state register of historic places. The WHC has reviewed and recommended the project. The amount requested is \$89,000. The stones are in danger of deteriorating into the water and also a danger to the public. The request is for two phases over FY17 & 18.

Ms. Slade moved that the full amount should be considered for FY17. Ms. Collins seconded the motion. The vote was unanimous.

Ms. Slade moved that the application be placed on the January public hearing agenda. Mr. Gillespie seconded the motion. The vote was unanimous.

#### **Historic Preservation: Restoration of Fence at Linden and Maple Grove Cemetery. \$55,139.93**

Presenter and project manager, Andy Motta. Submitter: Westport Cemetery Department.

Mr. Motta displayed the quality of several examples and reviewed his cost estimate for materials for \$55,139.93. Ms. Brum noted tax was included and she asked to make sure it is removed. Discussion ensued over the specifications being exactly the same when soliciting bids. Mr. Gillespie suggested he look for additional information regarding the type of stain from Liberty Lumber and that the cost estimate seems reasonable for this project. This project was reviewed and recommended by the WHC.

Mr. Coyne motioned to place this on the January public hearing agenda. Seconded by Ms. Jones. The vote was unanimous.

#### **Historic Preservation: Town Records Preservation, Phase V. \$15,000**

Presenter and project manager, Betty Slade. Submitter: Westport Town Clerk's Office. The amount requested is \$15,000 for microfilming and scanning of remaining documents in the basement vault and organization of the documents that have been

digitized in the past phases for placement on the town website. She will have a contract with Hudson Microimaging as was done in the past phases Mr. Gillespie motioned to place this on the January public hearing agenda. Seconded by Mr. Coyne. The vote was seven in favor with Ms. Slade abstaining.

**Open Space and Recreation: Beach Avenue Dune Restoration and Handicapped Access walkway and road. \$56,200**

Presenter and project manager, Sarah Quintal. Submitter: Westport Board of Selectmen.

The funding will be used for projects in the eastern third of Beach Avenue. Ms. Quintal provided a detailed explanation of the project which is designed to increase the resiliency of the barrier beach and its inhabitant species. Private funds have been provided for the underlying studies and more private funds will be provided if the project gets underway. In addition a turnaround will be possible for Beach Avenue which at the present does not exist. The BOS is asking that CPA funds be used for a boardwalk on top of the newly constructed dune and a driveway for handicapped and emergency accessibility be constructed for a total of \$56,200.

Ms. Slade expressed an opinion that this is the most complex project that has come before CPC in her time and a decision on its qualification for CPA funding is a question in her mind which needed to be resolved by Town Counsel. She had contacted DOR and been given a negative response to an earlier understanding of the project details, but upon receiving the application sent another email to DOR which has not been answered. She had also spoken with Mr. Saginor who suggested that the ultimate authority on these matters is town counsel. In addition there will be a public hearing and a vote at Town Meeting before the CPC December meeting on transfer of the property

Mr. Gillespie noted that the boardwalk falls under the recreation criteria - not under open space - and it gives accessibility and provides access to a recreational area. Ms. Slade stated that CPA does not allow funding of boardwalks on roads but the affirmative vote at Town Meeting will change that road to another category. Mr. Sullivan stated it would be "a beach" In response to a question, it was stated that the Beach Committee will oversee management and maintenance, whatever the decision is at Town Meeting. It was noted that, if the Commission on Disability abandons the construction of the dune crossing, this would not impact the project.

Ms. Collins motioned to move this project to the January public hearing subject to Town Counsel opinion and an affirmative vote of Town Meeting. Ms. Slade seconded the motion with a request that it be amended that the applicant return to the December CPC meeting first even with affirmative Town Counsel opinion and Special Town meeting results. No vote was taken.

Mr. Gillespie motioned to place the application on the January public hearing agenda contingent on a positive vote at Special Town Meeting and an affirmation from Town Counsel that it qualifies under CPA as a valid project.

Discussion ensued.

Ms. Slade requested Mr. Gillespie amend his motion to place the application on the December 10, meeting at which time the CPC could review material and actions to date, and then vote to place it on the January public hearing agenda.

Mr. Sullivan requested that the application be placed on the January public hearing agenda at this meeting. He asked if there were issues or questions regarding the application itself that had not been answered.

Mr. Gillespie agreed to change the motion and make the date December 10, 2015 and Ms. Collins seconded the motion.

Mr. Bull from the Beach Committee stated that both the Beach Committee and Commission on Disability have voted against this project. The Beach committee does not have the ability to maintain the new project. The committees do not support taking away current access to handicapped parking – it goes against the rights of persons who have enjoyed this access. He said that moving it forward sounds like the CPC likes this idea and is concerned that people will not understand why CPC has moved it forward other than to support the project.

Ms. Brum stated that the CPC would move it forward in order to look at it again after which CPC would move it to Town meeting for final approval if it were the case. Moving it forward is not a final decision and there are questions that still need to be vetted in the meantime.

Constance Gee asked to move the project tonight to the January public hearing.

Ms. Slade stated that the two issues are to obtain Town Counsel's opinion on the qualification of the project and to review any decision made at the upcoming December 1, 2015 Special Town Meeting. Once CPC has both of these pieces of information, then it can make the decision on what to do next.

The vote was unanimous with all in favor.

#### **Approval of grant agreement with Acoaxet Chapel Association.**

Mr. Lambert motioned for Ms. Slade to oversee sending the document to the BOS for review and approval. Mr. Gillespie seconded the motion and the vote was unanimous.

#### **Approval on account closings:**

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|--------------------------------------|----------|
| · FY05 Affordable Housing Plan       | 3,000.00 |
| · FY08 Historic Photo Collection     | 536.44   |
| · FY14 Phase II Bread & Cheese Brook | 24.00    |

Discussion was tabled to the next meeting.

**Any other business that may come before the committee.** None.

**Correspondence.** None.

**Minutes.**

October 8, 2015. Tabled to the next meeting

**Invoices.**

Signature Signs \$ 445.00

CLE Engineering \$ 2,973.95

**Next meeting.**

Regular Meeting – December 10, 2015 at 7:00 p.m. at Town Hall

**Adjournment.**

Members unanimously voted to adjourn at 9:15p.m. Was it that early?

Submitted by Lucy R. Tabit