



Ruthanne Fuller,
Mayor

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Community Preservation Committee

MINUTES

10 October 2019

The meeting was held on Thursday, 10 October 2019 starting at 7:00 pm in the City Council Chamber (also called City Hall Room 207).

Community Preservation Committee (CPC below) members present chair Mark Armstrong, vice chair Dan Brody, and members Byron Dunker, Beryl Gilfix, Rick Kronish (arr. 7:05 pm), Susan Lunin, Robert Maloney, Jennifer Molinsky and Peter Sargent.

Community Preservation Program Manager Alice Ingerson served as recorder.

[Blue, underlined phrases](#) below are links to additional information online.

Elected officials attending: Mayor Ruthanne Fuller, City Councilor Vicki Danberg, City Councilor Allison Leary.

Proposals & Projects

[300 Hammond Pond Parkway](#) (“Webster Woods”) (open space preservation, Newton Centre/Chestnut Hill) – announcement by Mayor Ruthanne Fuller

The Mayor explained that the preservation of Webster Woods had long been on her mind, both when she was serving on the City Council and now as Mayor. She was glad to be moving forward with a formal funding request. Boston College purchased the former Congregation Mishkan Tefila property at 300 Hammond Pond Parkway in 2016. In response, soon after her inauguration as Mayor in January 2018, she appointed a Webster Woods Advisory Panel, chaired by Beth Wilkinson, then President of the Newton Conservators. The Mayor listed and thanked other members of this panel, including Ken Kimmell, City Councilor Lisle Baker, CPC Vice Chair Dan Brody, Peter Barrer, Kathryn Cade, Suzanne Carleo, Jeff Goldman, Eric Olson, Richard Primack, and Stephen Small ([click here for full list and members’ backgrounds](#)). She also introduced the City staff on the panel, including City Solicitor Ali Giuliani, former acting City Solicitor Ouida Young, Planning & Development Director Barney Heath, Chief Environmental Planner Jennifer Steel, and Chief Operating Officer Jonathan Yeo.

The Mayor acknowledged that Boston College was an important part of the Newton community, an institution of excellence, and one of Newton’s two largest employers. She very much wanted to continue the College’s strong and important relationship with the City. The City had hoped the College would be willing to preserve the woods permanently and had met with the College multiple times over many months, seeking a cooperative solution. In the absence of any commitment by the College to open space conservation on the property, the City had begun exploring exactly what land the City needed to preserve, and when, as well as the possible use of eminent domain to acquire that land, what the use of eminent domain would mean, and what it might cost. The City remains open to talking further with the College.

Through this process, it became clear that preserving the woods was not just desirable or optional but was essential and critical for the sake of the wildlife and plant communities that live on the site, for public recreation, and to mitigate climate change. [Referring to the maps in the proposal](#), the Mayor explained that she was proposing to acquire both the wooded, westernmost portion of the property and the wooded, upland “knoll” between the developed portion of the property fronting on Hammond Pond Parkway and the smaller,

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rear parking lot to its west. Public ownership of the knoll would limit the intensity of development on the portions of the property that would still be owned by Boston College.

The Mayor realized that the City's \$15,740,000 funding request to the CPC was substantial. Acquiring this large amount of land would require a large amount of funding. She also recognized that the CPC shared with her the basic challenges of deciding how to allocate finite public funds among multiple, competing public needs, both current and future. She asked for the CPC's support in saving Webster Woods, which she believed was the right thing to do both for Newton now and for future generations, over decades and centuries.

In conclusion, the Mayor thanked all members of the CPC members for their public service and extended special recognition to member Beryl Gilfix, who was reaching the current 6-year limit for service on the CPC. The Mayor also introduced architect and Auburndale resident Martin Smargiassi as her new nominee for historic resources on the CPC. Smargiassi will succeed Gilfix once the City Council confirms his appointment.

Dan Brody thanked the Mayor for her leadership on this project.

Ingerson announced the CPC's schedule for this proposal: public hearing Wednesday, November 6; letters for forwarding to the CPC ahead of that hearing due by October 25; CPC working session and possible funding votes beginning on Tuesday, November 12. She also explained that although a portion of the CPC's November 12 deliberations might occur in an executive session, which would be closed to the public, that meeting would begin as a public session, and the CPC would return to public session for any funding vote(s). A stack of handouts with these deadlines and dates was available at the podium.

PUBLIC HEARING [Riverside Greenway – Pigeon Hill Trail](#) (Charles River, Auburndale) recreation land rehabilitation/improvements - \$50,000 requested toward \$212,000 cost of 100% design

Ted Chapman summarized this proposal on behalf of his fellow volunteers in the Riverside Greenway Working Group ([click here to see the presentation](#)). The group originally formed to look at two bridges connecting Newton Lower Falls to Riverside but had then expanded to cover the restoration and creation of trails all along the Charles River to connect the Auburndale, Riverside and Lower Falls neighborhoods of Newton with each other and with trails in Weston and Wellesley. The Solomon Foundation, based in Wellesley, funded conceptual design work for this entire trail system. Many of these connections had existed in the late 19th century, when this part of the Charles River hosted up to 5,000 canoes but were then "buried" when Interstate Routes 128/95 and 90 were built along and over the river in the 1950s and 1960s.

The Pigeon Hill Trail follows the route of a former City street in Auburndale for approximately 1,000 feet from Evergreen Street, under the Massachusetts Turnpike to the Charles River and along the Dept. of Conservation and Recreation (DCR) property on Charles Street. Most of the trail's route is within the right-of-way for the Mass Turnpike. According to letters and emails attached to the proposal received by the CPC, formal agreements will eventually be executed to transfer the "care and custody" of the Pigeon Hill Trail from the state Dept. of Transportation, which will still be the owner of the land, to the state Dept. of Conservation and Recreation for permanent, public recreational use.

Most of the \$212,000 cost to design the Pigeon Hill Trail will be covered by state grants awarded to the Riverside Greenway Working Group in 2018 and 2019. The requested \$50,000 in Newton CPA funding, together with an additional \$10,000 from the Solomon Foundation, would meet the requirement in these state grants for a 20% local match. The design should be complete by spring 2020. Bringing the trail to 100% design will qualify it for approximately \$1 million in state and federal construction funding as part of the state Dept. of Transportation's project to replace the Recreation Road Bridge in 2021.

Other potentially connecting segments of the Riverside Greenway system include the City of Newton's Commonwealth Avenue Carriageway project (north of the Pigeon Hill segment) and the Two Bridges Trail and Pony Truss Trail (both south of the Pigeon Hill segment). The Carriageway project will create safe pedestrian and bicycle routes from Lyons Field and the Commonwealth Avenue bridge over Route 95, and also create safer options for pedestrians and cyclists to cross Commonwealth Avenue to the residential streets in

Auburndale that could be used to reach the Pigeon Hill Trail. That City project, which is receiving additional support from the Solomon Foundation, is using the same engineering and design team as the Pigeon Hill Trail project. The Two Bridges trail is at the 25% design stage. Construction of the Pony Truss Trail has been funded by the state, and the Riverside Greenway Working Group is finalizing the contract for that construction, which must be completed by the fall of 2020.

No members of the public requested to speak about this proposal at the hearing. In advance of the hearing, the CPC had received one public letter in support of the proposal.

CPC comments & discussion

Gilfix was glad that the requested CPA funding would leverage so much state funding. Chapman thanked Newton's State Senator Kay Khan, the Governor's office, and others in state government for joining this 30-year effort to create and restore recreational access along the Charles River in Newton.

Jennifer Molinsky and Robert Maloney both asked about the project's hoped-for construction funding from state and federal sources. Chapman explained that both the Recreation Road bridge project and the Route 30/Commonwealth Avenue bridge over Route 95 will be eligible for federal funds through the Transportation Improvement Project (TIP) program. He acknowledged that construction funding could not yet be confirmed but said the state's project manager for the Recreation Road bridge has stated that it is a top state priority. To fit into that project's construction schedule, that manager had redirected the 2019 Mass Trails state grant to the Riverside Greenway Working Group, originally requested to bring several segments of the trail system to 25% design, to focus instead on getting just the Pigeon Hill Trail to 100% design.

In response to Peter Sargent, Alice Ingerson explained that for a past proposal involving land owned by DCR, Newton had learned that state agencies would not grant conservation restrictions on state-owned land to local governments or other organizations. Since these restrictions are the usual way of ensuring that a property improved with CPA funding will remain permanently in its CPA-eligible use, Newton's CPC needs to find another way ensure that permanence for projects on state land. The Newton Law Dept. was consulting the state Dept. of Revenue about this. However, Ingerson noted that conservation restrictions achieved permanence primarily by dividing rights in land between at least two owners, so neither owner could transfer the land or change its use unilaterally. For the Pigeon Hill Trail, the documents in the proposal suggested this division of interests would be accomplished through the future "care and custody" agreements between the state's Dept. of Transportation and its Dept. of Conservation & Recreation. Though these agreements would not be created until after the trail was designed, Ingerson felt the assurances in the proposal were adequate for the CPC to consider the requested design funding.

Buzz Dunker was concerned about potential future CPA funding requests for this project. Chapman said the Riverside Greenway Working Group had no current plans for further CPA requests related to the Pigeon Hill Trail but might submit future CPA requests for other segments of the system, for which it would also plan to leverage Mass Trails state grants. Ingerson noted that the Community Preservation Act specifically encouraged inter-municipal projects. Now that most communities along the Charles River have adopted the CPA, there might be important opportunities for such collaboration.

Prior to the funding vote, Ingerson summarized the funding conditions she had recommended, including that:

- All recommended CPA funds should be appropriated within 6 months, and the project should be completed within 18 months, after the date of any CPC recommendation; or by any extension of these deadlines requested from/granted by the CPC.
- Any CPA grant agreement must be executed with the Newton Conservators as the fiscal agent for the Riverside Greenway Working Group.
- Any CPA grant agreement should require sharing with the CPC both any interim plans shared with other government bodies and the results of those bodies' reviews.

- Finally, the final project report, which must be submitted and presented to the CPC for the final 10% of any CPA grant to be released, should be required to include an update on the status, committed funding, potential funding, and completion schedule for all segments of the Riverside Greenway system.

VOTE Sargent moved, and Gilfix seconded, a motion to recommend the requested \$50,000 funding, subject to the conditions listed above. The motion was adopted by a vote of 9-0.

Committee Business

Ingerson reviewed the basic assumptions she had used in her proposed, updated 5- and 10-year funding forecast for Newton's CPA program. In contrast to past forecasts, the new forecast assumed some growth in local surcharge revenue due to new development, above the 2.5% annual limit for annual growth in the local real estate tax levy under Massachusetts Proposition 2½. These "new development" assumptions were taken from the City's general financial forecast, which assumes additional tax revenue from new development only during the forecast's first 5 years.

Ingerson's updated forecast for state revenue began from a level of 35% for Fy21 and declined slowly from there. She considered this starting Fy21 percentage optimistic, but she also thought it was an appropriate way to reflect the possibility – however limited – that Newton will receive in that year state funding from two sources authorized by the state legislature and the governor in August 2019: one-time funding from the state's Fy19 budget surplus and an increase in the Registry of Deeds fees dedicated to the state's CPA Trust Fund.

In response to Brody, Ingerson clarified that Newton's CPA funding forecast was strictly a planning tool for the CPC and potential grant applicants and was not binding in any way. After a brief discussion, the Committee approved publication of the revised forecast by sense of the meeting.

The Committee also discussed briefly the updated City of Newton ordinance (7-80 through 7-83) establishing the CPC, which had been adopted by the City Council (24-0) on Monday, October 7, following deliberations by the Council's Zoning and Planning Committee. Armstrong noted that these deliberations had focused in large part on defining the reporting relationship and hiring process for staff positions funded with Newton CPA funds, as part of the CPC's administrative and operating budget. The revised ordinance requires the Planning Dept. to forward to the Mayor for consideration only hiring candidates who are acceptable to two representatives of the CPC. In response to Rick Kronish, Planning Director Barney Heath confirmed that the existing CPC staff position would remain in the Planning & Development Department and would report to him as Director. Sargent was particularly glad that the revised ordinance eliminated the previous ward residency requirements for the Mayor's 4 CPC appointments and instead asked that these appointments be used to ensure that the Committee as a whole reflected the diversity of Newton's residents and neighborhoods. He thanked everyone who had worked on the ordinance, both CPC members and City Councilors.

In response to a motion by Maloney, seconded by Molinsky, the minutes of the 10 September 2019 CPC meeting were approved by a vote of 7-0. Sargent abstained because he had not attended that meeting. Kronish also abstained because he had participated in that meeting only by telephone, and only for the executive session.

Proposals & Projects – Executive Session

[300 Hammond Pond Parkway](#) ("Webster Woods")

Following instructions from the City of Newton Law Dept., Armstrong declared that in accordance with the provisions of Massachusetts Chapter 30A, sec. 21(a) (3) and (6), an open meeting might have a detrimental effect on the negotiating or litigating position of the City of Newton regarding acquisition of Webster Woods by eminent domain and requested a roll call vote of the CPC to enter into an Executive Session for the purpose of considering the purchase, exchange, lease or value of real property at Webster Woods and strategy with regard to litigation.

At 8:01 pm, the following roll call vote was held to begin an executive session as the final item of business for this meeting, without returning to public session:

ROLL CALL VOTE to begin executive session	Yes	No
Armstrong	1	
Brody	1	
Dunker	1	
Gilfix	1	
Kronish	1	
Lunin	1	
Maloney	1	
Molinsky	1	
Sargent	1	
TOTALS	9	0

As executive sessions are closed to the public., the public was asked to leave the meeting after this vote.