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Community Preservation Committee

MINUTES

13 September 2018

The meeting was held on Thursday, 13 September 2018 starting at 7:00 pm in Newton City Hall Room 204.

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

Community Preservation Program Manager Alice Ingerson served as recorder.

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

Peter Sargent started the meeting by welcoming Jennifer Molinsky as the CPC's newest member, representing the Planning & Development Board.

Projects & Proposals

[New Art Center final report](#)

This report was presented by the Center's Executive Director Dan Elias and Owner's Project Manager (OPM) Michael Kaufman. President of the Board Kim Spencer also attended. Elias thanked the CPC for recommending this preservation planning grant.

Kaufman explained the project's process and goals. Bidding for both the OPM and architectural services contracts was done through the City of Newton Purchasing Dept. The center hired Durkee Brown Viveiros and Werenfels (DBVW), based in Providence, Rhode Island, as the project architect, based in part on the firm's deep experience with historic preservation and adaptive re-use. Goals for the conceptual plans included comfort, efficiency, safety and utility for the Center's programs and participants, as well as historical appropriateness and meeting all applicable accessibility requirements. The architect met with the center's building committee multiple times, developed alternate schemes and ultimately recommended the preferred scheme summarized in the written final report to the CPC.

The building has about 9 different levels. To create accessibility both stairs and an elevator were needed. The architect and board ultimately decided these could best be accommodated through partial demolition and rebuilding of the central portion of the building, which connects the historical sanctuary on Washington Place with the original parsonage closer to Madison Avenue. The space lost to additional stairs and circulation improvements also required an addition on the Madison Ave. side, which would not be visible from historic front on Washington Park. The final plan called for restoring the building's masonry, gutters and flashing, wood doors, replacing deteriorated windows with exact replicas, and restoring the building's stained glass.

Elias said the \$5.76 million construction cost estimate for this plan included a year of construction inflation but did not include the cost of additional architectural services to create 100% plans. In response to a question from Sargent, Elias said this sobering estimate had brought the project and the center's board to a "fork in the road." They would now have to decide to seek funding to implement this plan or instead seek other space in Newton, for all or some New Art Center programs. For example, one option might be to keep exhibits and

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some other programs in the current building but move educational programs to a different site.

Sargent and Beryl Gilfix thought the presented conceptual plan and estimate had been a good use of the granted CPA funds, even if that plan could not be fully implemented. Mark Armstrong said the center now needed to test the feasibility of the plan.

VOTE Based on a motion by Armstrong, seconded by Rick Kronish, the CPC accepted this final report and authorized the final release of funds for the New Art Center's CPA grant by a vote of 9-0.

300 Hammond Pond Parkway / Webster Woods proposal requesting \$100,000 in CPA funds for professional services related to the preservation of open space

The proposal was summarized by Jennifer Steel, Chief Environmental Planner and staff for the Conservation Commission, as the project coordinator. She also introduced Planning & Development Director Barney Heath, Jeff Honig of Newton Law Dept., Beth Wilkinson as Chair of the Mayor's Webster Woods Advisory Panel and four members of that panel: Steven Small, Jeff Goldman, Peter Barrer, and Richard Primack.

Steel summarized the history and landscape of 300 Hammond Pond Parkway, which had been sold in 1954 by Boston's Metropolitan District Commission to Congregation Mishkan Tefila, which then sold it in 2015 to currently owned by Boston College. This parcel was the inner core of a large open space with high ecological and recreational value. A long history of both donations by private owners and City of Newton eminent domain acquisitions had protected the outer parts of this open space through City and state ownership. The entire area is connected by miles of trails, some of which are broad and open, and some of which are narrower and more secluded. The entire woodland area is surprisingly pristine, with diverse topography and hydrology, a mature canopy and a healthy understory, and very little presence of invasive species. 300 Hammond Pond Parkway contains a dynamic wetland system and Newton's largest vernal pool, Bare Pond.

In response to a later question from Rory Altman, a founding member of the Friends of Webster Woods, Steel said that if Boston College were to develop to the full extent of their current rights, presumably on all parts of the parcel except right around the vernal pool, that overall woodlands would eventually no longer function as one system ecologically. She explained that vernal pools depend on the surrounding upland habitat, because wildlife relies on both the pool and the uplands at different life-cycle stages and in different seasons. Development of the core area would eliminate important recreational connections and would create a long new "edge habitat" within the woods, offering much greater opportunity to invasive species and undermining ecological viability of the overall protected area. Steel felt the City had both a tremendous opportunity and an obligation to protect this area.

Steel said the both the boundaries of the land to be protected and the method of protection have yet to be determined. The requested CPA funds will be used for the work of a team of professional consultants assembled by the City's outside counsel, who was chosen by Acting City Solicitor Ouida Young in consultation with other City staff. The team will include any form of expertise necessary to recommend actions that will achieve the best possible "ecological and recreational result for the larger Webster and Hammond Pond conservation areas," and to estimate the costs of those actions.

In addition to many hours of staff time, the City has committed to match any CPA funding with \$5,000 from the City Law Department budget and has already spent \$13,500 of non-CPA funds for an appraisal of the property by Avery Associates. A newer appraisal will be designed specifically for the protection process.

If the City acquires real estate rights, either land in fee or a conservation restriction, either through a willing sale or by eminent domain, it will pay Boston College fair market value for those rights. Mayor Fuller will rely on both the work of the professional team and advice from her Advisory Panel, but the final decision about City actions rests with her.

CPC QUESTIONS

In response to questions from Sargent and from Dan Brody, Steel said that outside counsel Jeffery Tocchio was an expert in permitting, complex real estate transactions and eminent domain. He sits on a Conservation Commission and has experience working with designers and others to determine the highest and best use of a given site. He has already met with City staff and has become familiar with 300 Hammond Pond Parkway. JS read qualifications from firm website. Steel noted that there was a small pool of attorneys qualified to work on this project, and that Boston College was seeking similar qualifications to those needed by the City of Newton. The City's selection process had to avoid conflicts of interest and prior commitments.

In response to questions from Bob Maloney, Steel said that no one representing the City had suggested City protection or acquisition of the developed/improved portion of 300 Hammond Pond Parkway, which contains the buildings constructed by Congregation Mishkan Tefila, surrounding by parking areas fronting on the Parkway. Everyone agreed the back, wooded portion closer to Elgin and Warren Streets was the highest priority for protection, but it was not yet clear where the boundary should be drawn between that portion and the developed portion of the property. The City's decisions will need to balance costs and risks.

In response to questions from Rick Kronish, Steel said there had been very preliminary contacts between the City and Boston College, which had no master plan for the property and had not been able to tell the City how they might use it in the future. The college had not expressed to the City interest in any transaction related to this property, willing or otherwise.

Also in response to Kronish, Steel said the possibility of combining CPA with non-CPA funds to protect open space at 300 Hammond Pond Parkway depended partly on the cost of the recommended protection strategy. There are some plans for private fundraising. If a new appraisal supports the relatively low costs suggested by the previous appraisal, a higher share or larger amount of non-CPA funding might be possible.

Kronish asked whether a CPC member could be included on the team that negotiates the final protection strategy, to ensure that the property is permanently restricted as open space and cannot be resold for other uses. Sargent noted that Brody was already a member of the Mayor's Advisory Panel for Webster Woods. Ingerson explained that the state CPA statute, MGL Ch. 44B, requires the municipality to own any real estate acquired with CPA funds, but also requires permanent restrictions on such acquisitions. Newton's local conservation land trust, the Newton Conservators, holds or is in the process of agreeing to hold such restrictions for all past CPA-funded land acquisitions in Newton. She was confident the Conservators would agree to hold such a permanent restriction on any land acquired with CPA funds at 300 Hammond Pond Parkway, which the City would therefore be unable to resell in the future for non-open-space uses.

In response to Sargent, Steel noted that an estimated timeline for the project's consulting work and City decisions was included in the proposal. The Mayor would like to ensure protection of the parcel by the end of 2019. In general, the assessment and appraisal would be completed quickly, but the analysis and recommendations based on the appraisal and assessment would then take some time. After that, any City use of eminent domain must meet tight time limits but might then be followed by a court case.

PUBLIC COMMENTS

Sargent asked speakers to focus on the current request for professional services and to state their support for, rather than repeat, points made by prior speakers.

Sue Flicop, speaking on behalf of the League of Women Voters of Newton, said the letter based on the reports of 3 League readers had been approved by their board the night before the hearing. She had submitted the full letter to Ingerson for posting on the CPC webpage for this proposal. In short, the League supported the current funding request as an appropriate use of CPA funds to protect important open space values. The League encouraged balancing CPA with other funding for the project, in light of other anticipated large CPA requests. Finally, the League was concerned about Boston College's current plan to use the parking lot at the rear of the

existing buildings on the site for salt storage. The League wondered what the timeline was for that project, and whether there were any opportunities for land exchanges between the City and Boston College.

David Hruska, 250 Hammond Pond Parkway, strongly supported the proposal. He felt the City should protect this great piece of land.

Chris Hepburn, 132 Stanley Road, spoke as Vice President of the Newton Conservators, who strongly support the proposal to use CPA funds to acquire the wooded portion of this property. The conservators consider Webster Woods a critical area for biodiversity and have long used this area for their nature programs.

Jeff Goldman, 24 Warren Street, noted that Boston College had paid about \$20 million for the entire 300 Hammond Pond Parkway parcel. The City was interested in the back two-thirds of the parcel. The prior appraisal said the economically highest and best use of the front one-third is institutional ownership. He felt that Boston College's plan to use the parking lot to the rear of the existing buildings for salt storage would have an adverse effect on the nearby wetlands, groundwater, and streams.

In response to Jonathan Landman, 17 Garner Street, Steel explained that in response to City concerns about Boston College's planned new uses of the rear parking lot, the College had made quite a few concessions, including new stormwater management installations. However, the City does not have any legal or regulatory means to stop or require revisions to that immediately proposed project, which does not require any new buildings other than a small shed. As the project is not in any designated wetland or buffer, the Conservation Commission has no jurisdiction over it.

Steve Small, 412 Parker Street, emphasized that open space was shrinking quickly in eastern Massachusetts. He felt the City had a unique opportunity for protection through acquisition at 300 Hammond Pond Parkway because the property is still subject to a 99-year, state-held restriction imposed at the 1954 sale to Mishkan Tefila, limiting the site's use to religious and educational uses, or related recreational uses. Without that restriction, the parcel's value would greatly increase.

Richard Primack, 16 Stiles Terrace, is a professor of plant ecology at Boston University and has done botanical work in this area for almost 50 years. This parcel is the center of biodiversity for the surrounding woods and provides habitat for plants, insects, and fungi that are rarely seen anywhere else in Newton. These species depend on the surrounding buffers of undeveloped land. A peninsula of developed land in the center of the woods would dry out the woods and would have an adverse impact on recreation.

Josh Fried, 48 Warren Street, said he lived in the house in which he had grown up and used these woods regularly. He had always experienced the woods as a single parcel. He saw lots of people on the site's many trails, of different ages, with and without dogs. If the Boston College parcel were developed, people would not be able to continue using those trails. He considered this the most amazing space for its size in Newton for this kind of recreation.

Rory Altman, 180 Elgin Street, spoke in support of the project and the requested CPA funding.

VOTE After brief additional discussion, Brody moved and Armstrong seconded recommending the full \$100,000 of CPA DB funding requested, for appropriation to the control of the Newton Law Department. The motion was adopted 9-0.

Committee Business

Based on a motion by A, seconded by Maloney, the combined annual report for fiscal years 2017 and 2018 was approved as submitted by Ingerson, by a vote of 9-0. However, Maloney hoped Ingerson might find another photo to substitute for the one showing crabgrass growing on one of the playing fields at the rehabilitated Newton Highlands Playground.

Based on a motion by Gilfix, seconded by Kronish, the minutes for 10 July 2018 were approved by a vote of 8-1, with Molinsky abstaining because she had not been a member of the CPC as of July.

In response to Sargent, Ingerson said a foundry had been chosen to restore and as necessary reconstruct the decorative cast iron fence around the Whipple-Beal lot in the Newton Cemetery. She noted that this project's CPA grant agreement required that if the work would be done within a reasonable driving distance of Newton, the Cemetery and its restorers should allow Newton Housing Rehabilitation/Construction Manager Doug Desmarais to visit the workshop and take photos of the work in progress. Desmarais supports the management of many CPA grant projects by providing on-site verification of completed construction work.

Ingerson briefly reviewed her [Currently Available Funds](#) report for the CPA program. Although the currently available total is over \$16 million, \$6.25 million of that was being requested by two affordable housing projects, including the \$3 million the CPC had already recommended for the Housing Authority's Haywood House project off Jackson Road and the \$3.25 million request for the Golda Meir House Expansion project on Stanton Avenue. Approximately \$726,000 of the currently available funds were restricted to historic resources.

All other currently available funds could be available for the potential cost of acquiring real estate rights at 300 Hammond Pond Parkway. For that purpose, the CPC must recommend not only an amount but also a funding method: cash, debt backed by Newton's future local CPA revenue, or a combination of both. Communities may not borrow against their future state CPA revenue. Ingerson suggested considering mostly debt financing for this project, with the term of the debt dependent on its total amount. Debt financing could maximize the program's ability both to fund other projects and to respond to any court-awarded supplemental payments related to eminent domain. However, Ingerson also recommended aiming to keep the annual cost of debt-service well below one-third of the program's annual new revenues.

RESUME EDITING HERE

Sargent's motion to adjourn, seconded by Armstrong, was approved unanimously. The meeting adjourned at 8:25 pm.