City of Newton

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## Community Preservation Committee

MINUTES

11 December 2018

The meeting was held on Tuesday, 11 December 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, Susan Lunin, and Jennifer Molinsky. Members Beryl Gilfix, Rick Kronish and Robert Maloney were absent.

Community Preservation Program Manager Alice Ingerson served as recorder.

Blue, underlined phrases below are links to additional information online.

**PUBLIC HEARINGS**

**Newton Conservators Conservation Restrictions** – $30,000 requested for costs associated with accepting restrictions required by the state CPA statute on two properties previously acquired with CPA funds: $5,000 for monitoring of 30 Wabasso Street, Flowed Meadow (Auburndale) (0.12 acres), $15,000 for monitoring of 20 Rogers Street (Crystal Lake) (1.02 acres), and a $10,000 enforcement fund

Beth Wilkinson, President of Newton Conservators, explained that acceptance of these restrictions committed the Conservators to a robust monitoring program in perpetuity. The Conservators will invest the requested CPA funds and aim to spend only the income these funds generate. Currently volunteer Conservators members monitor restricted properties two out of every three years, but it is hard to be sure that volunteers will be available far into the future. Every three years, the Conservators have been paying for professional monitoring: originally by the Massachusetts Audubon Society and more recently by the New England Wildflower Society, which is less expensive. Currently these professional organizations charge the same amount for each property monitored, regardless of its size.

The requested enforcement fund is to provide initial legal costs in the unlikely event that the Conservators must take the City of Newton to court to correct a violation by the City itself of a Conservators-held conservation restriction on City property. The restrictions typically make the City responsible for reimbursing the Conservators' legal costs if the court agrees there has been a violation that the City failed to correct.

PUBLIC COMMENTS

Peter Barrer and Annamarie Abernathy, both of the Newton Conservators Board, supported the proposal.

On behalf of the League of Women Voters of Newton, Sue Flicop supported the proposal and recommended that future CPA funding requests for land acquisition include these costs.

CPC QUESTIONS and COMMENTS

In response to Jen Molinsky, Wilkinson said the Conservators have in the past received funding separately for each individual restriction, and that these funds were held in third-party escrow accounts. Examples include the Waban Hill Reservoir, for which the CPA acquisition appropriation included $30,000 for the Newton Conservators, and the Newton Commonwealth Golf Course, which did not involve CPA funding. CPA funding for the still-outstanding conservation restriction for Kesseler Woods will be requested separately.



*Minutes continue on next page.*

In response to Byron Dunker, Wilkinson explained what monitoring was primarily for issues such as encroachment of structures or prohibited activities, usually by abutters. The Conservators expect that water quality will be part of their conservation restriction monitoring for 20 Rogers Street at Crystal Lake.

In response to Peter Sargent, Wilkinson confirmed that the CPA funds associated with each conservation restriction and the enforcement account would be tracked as separate, restricted funds within the Conservators' investment account.

Susan Lunin saw the requested funding as a small investment for the protection of Newton's rapidly shrinking open space. She agreed that monitoring should include activities that might affect water quality.

Alice Ingerson noted that permanent restrictions are required to preserve the CPA-eligible use of any real estate interest the City itself acquires with CPA funds. She felt Newton was fortunate to have a local organization that both meets the state's requirements for holding these restrictions and is willing to accept the associated monitoring responsibilities. Without the Newton Conservators, Newton would have to seek an organization outside Newton to hold these restrictions.

VOTE As a member of the Newton Conservators Board of Directors, CPC member Dan Brody abstained from this vote. A motion by Mark Armstrong, seconded by Lunin seconded, recommending appropriation of the requested $30,000 of funding for a grant to the Newton Conservators for the costs described in the funding request, was approved 5-0.

**Allen House Historic Rehabilitation, Phase 3 –** $600,000 CPA funding request, to supplement $2.3 million of CPA funding previously appropriated for this project

Adrienne Hartzell, Managing Director of the Newton Cultural Alliance (NCA), Dan Kolodner as the attorney advising NCA on historic tax credits, and Ted Hess-Mahan as a member of the NCA board, all presented and answered questions. Hartzell explained that NCA was asking for supplemental funding of $600,000 in response to a combination of higher than anticipated construction costs, reflecting the current very competitive market for contractors but also recent tariff changes, and lower than anticipated values for the project's federal historic tax credits, due partly to recent federal tax changes. The presentation included historic photographs of the home when it was occupied by educator Nathaniel Allen, photographs of repairs and improvements completed to date and of the portion of the building not yet fully repaired or rehabilitated, and an artist's rendering of the "black box theater" envisioned for the barn, which served as a gymnasium when the building was a school. In 2017 the exterior of the house was painted a historic yellow color, found under many other layers of paint on the barn.

Hartzell noted the parking areas that the Newton Historical Commission had approved on three sides of the building, an outdoor gathering area, and the landscape open to the public. Floor plans in the presentation were color-coded as either public spaces, including first-floor and basement spaces for performances, exhibits, and classes, as well as the elevator lobbies and restrooms; second-floor spaces for nonprofit offices and storage; and a small third-floor apartment for a live-in caretaker.

Hartzell summarized the project timeline, from initial acquisition of the property in 2012, through the anticipated full opening of the building for community use in fall 2019. She also summarized the project's currently anticipated development costs, funding sources and operating budget. Estimated total development costs have risen from $5.9 million in the 2016 proposal to $7.5 million currently. To compensate for these increases and reduced expectations for some funding sources, increased funding is being sought from other sources, including bank debt, the capital campaign, and CPA. The operating budget now reflects more conservative assumptions for some income streams and some increased costs, particularly for debt service.

In conclusion, Hartzell said she and the other NCA representatives had come straight to this meeting from an event at Allen House to encourage donors, also attended by the Mayor. There is great enthusiasm among creative individuals as well as arts and community groups in the spaces the project will make available. As an example, she had been approached by a Newton author about how writers could use the space.

PUBLIC COMMENTS

As a preface to her comments on the proposal on behalf of the League of Women Voters, Flicop acknowledged that NCA had allowed the League to use the Allen House for a fundraiser in spring 2018. Though NCA had not charged for the space, the League had made a voluntary contribution representing what they would have had to pay for equivalent space.

The League was inclined to recommend the supplemental funding requested for the Allen House project. One League reader wondered whether the theater space would generate enough revenue to help fund the remaining renovations and had suggested a more formal needs assessment to confirm NCA's revenue projections. League readers had also suggested renting space to nonprofits and small businesses.

In response to the League comments, Ingerson explained that the already funded $2 million 2016 Allen House CPA proposal had included an independent review of the project's operating budget, as urged by the CPC.

Hartzell said two community theater groups were interested in renting the theater, and that other rooms at Allen House could be rented for afterschool, children's activities, arts education or other programming. Hess-Mahan agreed that there was very strong interest in the theater, which will be a critical revenue contributor, and that NCA had projected that revenue very conservatively. Kolodner noted that the Village Bank had vetted NCA's income projections in determining the size of loan it could offer for the project. Mark Armstrong pointed out that the theater space was entirely open and therefore flexible.

CPC COMMENTS

Jennifer Molinsky saw the project as exciting. Mark Armstrong, Susan Lunin, and Sargent were not surprised that costs have escalated over time. Armstrong and Lunin felt that, having supported the project so far, the CPC should help it reach completion.

Sargent had several questions about the 10-year operating budget. He was glad to see it assumed modest revenue growth but was concerned that it assumed no change in utilities costs, which usually increase over time, including City water and sewer charges. He was glad to see this version included contributions to a replacement reserve, as the CPC had urged during its prior pre-proposal discussion, but the more standard assumption of 3% annual increases in utilities costs would virtually eliminate those contributions by the end of 10 years. Hartzell was confident the revenue projections would prove to be too low. The building's utilities costs had been low so far, and the geothermal system would keep energy costs low once it is installed. She also confirmed that the Village Bank was converting the project's initial line of credit to a permanent mortgage, lowering the interest rate in the process.

Lunin and Ingerson asked about the building's projected rental revenue. Ingerson was concerned about whether NCA would be able to raise rents over time, since most of its tenants would also be its member organizations. Hartzell said once the inconveniences of construction were over, leases would include an automatic escalator.

Sargent emphasized that the CPC would like to maximize the non-CPA funding leveraged by any additional CPA funding, since CPA would be covering 40% of total project costs. Brody and Dunker asked whether portions of the remaining work could be deferred while additional funds were sought from non-CPA sources. Hartzell said currently committed funds could cover all planned work, including the elevator shaft and drilling for the geothermal system, but that three items could be deferred if necessary: installing the geothermal system and the elevator and finishing the basement support spaces for the theater, In response to Molinsky, Hartzell confirmed that the project would still comply with the Americans with Disabilities Act without the elevator, as all first-floor public spaces are already accessible.

Dunker was not aware of any other Newton examples showing that the geothermal system would be cost-effective, given its high installation cost. Hartzell said she had been told that alternative heating and cooling systems had roughly comparable installation costs. She and Kolodner also said the cooling towers required by other systems were unlikely to receive the National Park Service approval required by the project's historic preservation funding sources, including both tax credits and CPA. Kolodner also noted that the cost of the geothermal system could count toward the federal tax credits.

Sargent explained that to access its federal historic tax credits, NCA must set up an ownership structure with a general partner who had a clear profit motive for investing in the project. At the end of the minimal 5-year period required by the tax credit program, the nonprofit could buy that general partner out. Occasionally the private investor might reduce or even donate that exit payment. In response to Ingerson, Kolodner explained that NCA would meet these requirements by negotiating a ground lease with the private, for-profit partnership, but that the private general partner would not have to sign any amendments to the existing CPA grant agreement, or any new CPA grant agreement. The ground lease would ensure that the use of the property complied with the conditions in the CPA grant agreements.

Molinsky asked about the developer fee ($600,000) and "management and staff" costs ($250,000) listed in the development budget. Kolodner said these costs would help to access the federal tax credits but could also be deferred or paid over time. Sargent clarified that the federal tax credits would require a clear, plausible plan to pay any deferred costs through the project's already fairly tight operating budget.

In response to Sargent's further questions about tax credits, Kolodner explained that although he would encourage NCA to continue applying for additional state credits in each round, the state rarely allocated the theoretical maximum to any project. He believed NCA could easily sell the state credits and would receive 91-92 cents per dollar of allocated credits. The Village Bank would bridge these credits until that sale.

Kolodner estimated that NCA would receive a net 65 cents per dollar of the federal credits allocated, after buying out its private partner. Small projects such as this one usually had to choose a single time to sell all these credits; phasing the credits was very difficult. Typical private investors were family wealth management offices or individual real estate investors. His legal services, provided pro bono, would allow NCA to customize financial and other benefits as needed to appeal to particular investors. Hartzell and Kolodner said NCA had started conversations with possible private investors. Hess-Mahan and Kolodner suggested that NCA might provide the CPC with a signed letter of intent from an investor, as extra reassurance that the project could access this projected funding.

Brody, Molinsky and Sargent asked about the timing of project costs versus fundraising. Sargent noted that NCA hoped to spend the CPA funds without necessarily waiting for all other sources to be committed. Ingerson noted that NCA had already documented the commitment of all non-CPA funds required to release the previously appropriated CPA funds, but she also hoped there was a way to ensure that these CPA funds would not be spent without completing the full project the CPC and City Council thought they were funding as of 2016, especially if the capital campaign fell short of its $920,000 target. She noted that if the additional CPA funds were appropriated, this project would receive more CPA funding than Newton's previous most expensive CPA-funded private historic rehabilitation project, the Durant-Kenrick Homestead. For that project, the Newton Historical Society had met the minimal requirements for matching funds quite early but had then chosen not to request the release of CPA funds until they had raised what proved to be the full amount of non-CPA funding required to complete the project.

On behalf of NCA, Hess-Mahan appreciated that public money must be allocated responsibly. However, he hoped the CPC would not implement the phased funding conditions Ingerson had suggested in her notes to the CPC, including modifying the final phases in the existing CPA grant agreement. The Village Bank's agreement to the mortgage, which would be closing soon, was based on existing commitments from other funders, including the existing CPA grant agreement. NCA had recently signed the construction contract after lengthy negotiations; understandably, the contractor was somewhat reluctant to make time or price commitments to work that was contingent on future fundraising. Finally, in response to Sargent, Hess-Mahan and Hartzell both said visible demolition and construction, particularly for the theater, were critical for starting the flow of donations to the capital campaign. Though NCA had projected revenue from the theater conservatively, starting that revenue stream as quickly as possible was also critical to meeting its mortgage obligations. Hess-Mahan thought making the 18th-century barn's post-and-beam construction visible would get potential donors excited. In response to Molinsky, Hartzell confirmed that the capital campaign was strictly for this property.

Hartzell explained that prior to this supplemental request, NCA had planned to use its already confirmed funding to complete all project features other than those she had previously mentioned as deferrable. If the requested supplemental CPA funds were appropriated, they would be applied to the geothermal system, and other funds would be used as they were raised, for the other deferrable work. If the CPC imposed extreme requirements for the release of the CPA supplemental funding, NCA would defer the geothermal system.

Sargent thought the phasing in the current CPA grant agreement should be retained, so NCA could use that already committed funding while working to raise additional non-CPA funds. He suggested requiring NCA to report back to the CPC on its progress in raising those non-CPA funds. Rather than defer judgment about what constituted satisfactory fundraising progress, Ingerson hoped the CPC would set clear conditions now for the future release of any supplemental CPA funding it recommended.

VOTE Sargent suggested earmarking the $600,000 of supplemental CPA funding for the purchase and installation of the geothermal system, to be released only when most other work has been completed, on budget and using other funds – including the previously appropriated CPA funds. Armstrong moved, and Sargent seconded, recommending the requested $600,000 of supplemental funding for the Allen House, based on a final recommendation reflecting that requirement. The motion was approved 6-0.

Ingerson asked that Sargent and one or two other members of the CPC agree to review any new grant agreement with her to be sure it reflected the committee's intentions.

Hess-Mahan offered to approach the City Council with Hartzell's question about whether the Council committees reviewing this CPC recommendation might meet simultaneously, to shorten the funding process. Ingerson asked that such an approach be deferred until she had docketed and submitted the CPC funding recommendation.

**PROPOSALS & PROJECTS**

**Stanton Avenue Senior Housing / Golda Meir House Expansion** -- project description & CPC vote update (2Life Communities, formerly Jewish Community Housing for the Elderly)

To date, the CPC had voted on 9 October 2018 to recommend $3.25 million in CPA funding for this project and on 13 November 2018 to accept minor revisions to the project's unit mix, with no change in CPA funding.

Lizbeth Heyer of 2Life Communities updated the CPC on the latest changes. In response to questions raised about traffic and other impacts at the project's initial Comprehensive Permit hearing with Newton's Zoning Board of Appeals (ZBA), 2Life had removed the previously proposed wellness center from the project. The ZBA had awarded the permit to the revised project at its second hearing, on 10 December 2018.

The wellness center had originally been intended to serve the community at large as well as Golda Meir residents. In the revised plan, wellness support and care coordination would be provided only for Golda Meir residents, using existing spaces. One market-rate unit had been eliminated by converting a stack of 5 units in the proposed northern addition into 4 units in the portion of the southern addition previously intended for the wellness center. The total number of income-restricted units had not changed. In response to Armstrong, Heyer confirmed that the building's total square footage had decreased slightly.

The project's total development cost had changed from $30,700,000 to $32,320,000. 2Life had updated development costs, based on the more current construction estimates used in their pre-application to the state for low-income housing tax credits, and had also updated the list of funding sources. Based partly on Heyer's presentation the previous evening to the City Council's Finance Committee, Sargent explained that the new "private philanthropy" funding of $2,550,000 was expected to come from a private foundation that preferred to be "last in" but had supported other 2Life Communities projects in the past. He also noted that the listed developer fee was on the low end of the standard scale for such fees.

VOTES Armstrong's motion to accept the most recent project changes and update the CPC recommendation to the City Council accordingly was seconded by Molinsky and adopted 6-0.

At Ingerson's request, Sargent also moved to accept any future restoration of the wellness center to the project's design and budgets, as long as this change did not affect the plan for income-restricted units or the project's CPA request. Armstrong seconded this motion, which was also approved 6-0.

**COMMITTEE BUSINESS**

At Ingerson's suggestion, the discussion of project site signage was deferred to a future meeting.

Based on a motion by Armstrong, seconded by Molinsky, the Committee approved the minutes for 13 November 2018 with corrections as noted, by a vote of 6-0.

The Committee adjourned by consensus at 8:40 pm.