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Community Preservation Committee

MINUTES

11 December 2014

James Freas
Acting Director

The meeting was held on Thursday 11 December 2014 at 7:00 pm in Room 209 of Newton City Hall.

Community Preservation Committee (CPC below) members present: chair Joel Feinberg, vice chair Jim Robertson, Laura Fitzmaurice, Jane Sender, Beryl Gilfix, Don Fishman, Rick Kronish. Member Mike Clarke was absent.

Community Preservation Program Manager Alice Ingerson served as recorder.

Joel Feinberg welcomed Rick Kronish as the Newton Housing Authority's new appointee to the CPC, succeeding Tom Turner, whose appointment recently reached the 6-year term limit set in Newton's CPA ordinance.

Newton Highlands Playground (\$200,000, already funded) –
change of funding conditions requested by Commissioner of Parks & Recreation

Commissioner DeRubeis asked the CPC to waive the request in its original funding recommendation for this project, not to begin using appropriated CPA funds until all other needed funds were in hand to complete the project's design and construction documents. Although the original proposal had promised \$120,000 of private donations, primarily from sports leagues, for this design phase, the Commissioner said that to date, these private donors had been reluctant to provide those funds. He felt that private donations for construction would be forthcoming once design documents had been produced with CPA funds.

In response to Jim Robertson, the Commissioner clarified that he would simply reduce the scope of work for the design phase by the \$120,000 that would not be covered by donations. To keep the project CPA-eligible, he would omit completely any work on the originally proposed synthetic turf field.

Robertson supported the Commissioner's request and agreed with the prediction that private donations would be provided to cover some construction costs. In response to Rick Kronish, the Commissioner explained that if no private funds were donated for construction, the proposed synthetic turf field would instead be designed and installed as natural turf. He believed the leagues would contribute to avoid that outcome, because a synthetic turf field would provide them with significantly greater playing time.

Joel Feinberg and Robertson agreed that the CPC's previous enthusiasm for this project was in large measure due to the promised private donations. Feinberg felt other members shared his concern about the similarities between the current request for Newton Highlands and the recent experience with Farlow Park, in which private fundraising included in the original proposal, and assumed by the Committee in its funding recommendation, had been partly converted to public funding from non-CPA sources after that recommendation was forwarded to the Board of Aldermen. The Commissioner agreed that it was troubling to have to withdraw the promise of private donations for the Newton Highlands Playground project.

Don Fishman supported the Commissioner's request for the Newton Highlands site, on the grounds that this field is crucial and in very bad shape. Otherwise, he would have opposed the request.

VOTE Robertson moved and Rick Kronish seconded accepting the Commissioner's request as submitted. The motion was adopted by a vote of 7-0.

Minutes continue on following page.

website www.newtonma.gov/cpa

contact Alice E. Ingerson, Community Preservation Program Manager

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Staff review of program finances: Ingerson provided a brief overview of current program finances and the 5-year funding forecast (attached to these minutes). She emphasized that the program's currently large balance of uncommitted funds reflected unusual circumstances over the past few years and would not be repeated in the future.

PUBLIC HEARING on full proposal for Waban Hill Reservoir
(Chestnut Hill, \$1,116,946 request, recreation)

Commissioner DeRubeis explained that if acquired, this property would come under Parks & Recreation jurisdiction. The proposal was written primarily by senior planner Katy Holmes from the Planning Dept., with assistance from Carol Schein, Open Space Coordinator in Parks & Recreation and was shaped by multiple meetings with the Ward 7 Aldermen (Aldermen Lisle Baker, Ruthann Fuller, Marc Laredo) and representatives of the City-appointed Waban Hill Reservoir Advisory Group (WHRAG).

During his slide presentation, the Commissioner noted that the City of Newton built the reservoir for its brand-new city water system in the 1870s, then sold it to metropolitan Boston's water board in 1900. When the Metropolitan Water Resources Authority recently decided to decommission it, the state identified the City of Newton as the preferred buyer, on the condition that site uses be restricted to open space and passive or active recreation, and that the state Division of Capital Asset Management and Maintenance set the purchase price through an independent appraisal. The appraised value of the site as restricted was \$404,800.

The rammed-earth dam is 22 feet tall at its highest point. The steep, inner side of the reservoir is lined with granite blocks. The WHRAG's vision for the site emphasizes preserving its high sight lines and reflective water. Suggested amenities include a 4-foot, ornamental safety fence along the water's edge; a walking path about 8 feet wide around the rim of the reservoir, with an at-grade entrance from the northeast corner (Reservoir Drive and Manet Road); a play structure, half basketball court, apple orchard or other attractive features on the small street-grade flat area at the northwest corner; and an amphitheater on the steeply sloped southeast corner, for viewing the Boston Marathon along Commonwealth Avenue. The water is currently about 9 feet deep; if anything, Parks & Recreation would decrease rather than increase that depth. There are no current plans for new uses of the gatehouse at the southwest corner, but it could become an entrance to the walking path for those that can climb stairs.

The Commissioner then reviewed the proposal's capital budget, including site acquisition, a \$30,000 fund to assist the Newton Conservators in monitoring and enforcing the conservation restriction they have agreed to hold on the site; removing the woody vegetation growing between the granite blocks, which the City's consulting engineers (Stantec) characterized as compromising the dam; replacing the gatehouse roof and filling voids under the gatehouse stairs; and repairing the slide gate used to release excess water. Some of this work is required by the state's Office of Dam Safety and must be repeated or re-inspected on a regular schedule.

Public Comments

Robertson thanked the public for attending and noted that it was unusual to have this many people at a CPC public hearing. Ingerson estimated hearing attendance at 35 people.

Alderman Lisle Baker, Ward Alderman for Ward 7, characterized the project as an opportunity that must be seized quickly. In response to a question from CPC member Laura Fitzmaurice, Baker said he was concerned that incoming Governor Baker might rescind the offer to sell the reservoir to Newton. Though the details of the conservation restriction remain to be worked out, he felt the restriction used for the conversion of Brookline's Fisher Hill Reservoir to a public park could serve as a model.

Andrea Kelley reported that the League of Women Voters of Newton supported acquisition of the site but would like to see its future uses established more clearly through a real master plan involving all City neighborhoods. For example, perhaps the water could be used for active recreation. The League was not comfortable with the proposal's exclusive reliance on CPA funds. Finally, the League wondered about

tradeoffs for the Parks & Recreation Dept.: what other work might have to be deferred or eliminated to provide the resources and staff needed to maintain this site.

Newton Conservators President Beth Wilkinson read a letter from her Board supporting funds for the acquisition, site stabilization and safety improvements. The Conservators were willing to hold the required conservation restriction on the site but felt that it might make sense to defer funding for additional site improvements until further planning could identify those more clearly.

Ken Lyons reported that the Chestnut Hill Neighborhood Association (CHNA), representing 500 households, saw this acquisition as an extraordinary opportunity for Newton to preserve green space, so much of which has recently been or is being developed. CHNA feels this project will benefit the entire City.

On behalf of the WHRAG, co-chair Gail Silberstein described the site as a unique resource for the City as a whole, an opportunity to escape the noise of busy streets, enjoy fresh air and views of the Marathon from the top of Heartbreak Hill, and build community around water and nature. The WHRAG's many hours of meetings and multiple subcommittees set aside issues such as liability and costs and focused instead on creating a broad vision for the site's future. The Green Decade Coalition and Newton Community Farm both visited the site. The final vision placed particular emphasis on underserved populations such as the elderly, small children, and those with limited mobility. The \$1.1 million current request will not create the tot lot, apple orchard, public art or ice skating touched on in that vision but will take the critical first step by acquiring the site and making it basically accessible, for a relatively low cost. She was confident that many people would contribute time to the project if and after these initial CPA funds were awarded.

Susan Servais spoke as co-chair of the new Friends of Waban Hill Reservoir, a group created in response to the expectations the CPC had articulated about community financial support when discussing the project pre-proposal in June 2013. The Friends have received over \$5,000 in pledges from all over the City, even before any commitment of public funds to the project. Neighbors will contribute sweat equity, plantings, and community building activities. They support purchasing the site for the whole city, not just the neighborhood.

Richard Tucker spoke as a 27-year resident of Ward 7 and vice chair of the Parks & Recreation Commission. He saw the site as having great potential benefits for both Newton residents and visitors, as a place to sit, walk, play, and read. However, he also felt that the site's steep slopes, both down to the street and down to the water, were potentially unsafe for children, even with a fence. Students from the neighboring Mt. Alvernia High School and Boston College might climb even a 4-foot fence, leading to a tragic accident. He hoped a City-wide planning effort for the 5-acre site would consider lowering the water level, from the current 9 feet to no more than 3-4 feet, and expanding the site's safely usable land area to more than the current 2 acres.

Nancy Brandeis, as a resident of Newton Centre, supported the project as a once-in-a-century opportunity.

Julia Malakie, as a resident of West Newton, has planted trees on Manet Road and saw this site as a great location. She felt Newton needed to preserve its remaining open space.

Kathleen Grieser, as a resident of Newtonville, commended the hard work of Chestnut Hill residents on this project. She felt open space anywhere in Newton benefited all residents, and she plans to visit this park. She could not speak officially on behalf of the Bullough's Pond Association Board, but as a member of that Board she believed that their longstanding success in raising community funds and organizing cleanup days for maintenance and improvements would be repeated at the Waban Hill Reservoir. She also felt that proximity to water should be seen not as a threat but as a way to reduce stress, and noted that the fence had been successfully removed along the lower edges of Bullough's Pond.

Rebecca Nurko who lives south of Route 9, near Newton South High School, also spoke in support of the project. Her family would definitely plan to visit and use this park.

Alderman Ruthanne Fuller (At Large, Ward 7) felt this project illustrated why Newton should be glad to have the CPA and a CPC. The group that prepared the proposal worked very hard to identify the minimal costs other than acquisition that were critical to cover immediately, though the project's supporters also intend to

submit an additional request beyond the initial \$1.1 million for further improvements, once the site's Master Plan has been completed. One possibility might be a spray park for small children, for example.

Alderman Marc Laredo (At Large, Ward 7) felt the project was appropriate for CPA-only funding for several reasons. It is unheard-of to find 5 acres of open space in Newton available for a cost of only \$404,800. He considered the current \$1.1 million request relatively modest for creating a truly City-wide resource a few steps away from a main thoroughfare used by runners, walkers, bicyclists. He suggested that in the future, a recreational route might link the Chestnut Hill Reservoir to the Waban Hill Reservoir, Bullough's Pond, and Norumbega Park on the Charles River in Auburndale.

At this point, the public hearing was closed.

CPC Comments & Questions

In response to Robertson, Alderman Baker and Newton Conservators President Beth Wilkinson explained that the \$30,000 requested for the conservation restriction was for monitoring and legal costs, if the Conservators as the restriction holder ever needed to take enforcement action against the City. For a similar fund associated with the Newton Commonwealth Golf Course, an escrow agent holds the funds. Conservators president Beth Wilkinson noted that it was difficult to estimate monitoring costs, since the changes that would be made to the property are not yet known. The Conservators will work with a pro bono attorney to review the proposed restriction, so they are not requesting reimbursement for those costs.

Ingerson explained that such restrictions are required for all CPA-funded land acquisitions, that the Conservators already hold several such restrictions, and that a few others are still in preparation (for Dolan Pond Conservation Area, Rogers Street at Crystal Lake, Wabasso Street at Flowed Meadow, and Kessler Woods). She thought it might be most efficient to capitalize a single monitoring and enforcement fund for all of these restrictions. Monitoring costs vary depending on the uses allowed at each site, but enforcement might be an actuarial calculation: more than one legal action at a time seemed unlikely, and the City would probably have to reimburse the Conservators' costs for any successful action. Alderman Baker felt that such a combined approach would imperil the acquisition of the reservoir by delaying the recording of this particular restriction. Wilkinson agreed, noting that the Conservators Board was unwilling to accept this restriction without at least \$25,000 in hand for monitoring and enforcement.

Kronish and Feinberg were concerned that some items listed in the project's capital budget were actually CPA-ineligible maintenance, particularly mowing and vegetation removal. Robertson noted the CPC had appreciated Historic Newton's efforts to resolve similar questions about their recent proposal for the Historic Burying Grounds by revising the budget to distinguish tree work needed only once, to allow for repairs to historic tombs, from vegetation removal that would have to be repeated periodically. WHRAG co-chair Peter Clote noted that the trees growing on the inside of the Waban Hill reservoir are now so large that they cannot be removed with the same methods or equipment used for routine maintenance.

In response to the public comments generally, Feinberg thought most members of the CPC would probably support funds to acquire the reservoir and establish the conservation restriction fund. Robertson agreed that the acquisition was a bargain. Both felt that the CPC's working discussion should therefore focus primarily on whether all other costs listed in the proposal budget were truly required to make the site usable, and how much of those costs should be covered by CPA funds.

Ingerson noted that she had drawn the sponsors' attention to the CPC's published preference to consider construction funding requests only on the basis of completed plans and professional cost estimates, but that it was up to the CPC to decide whether and when to enforce this preference. Feinberg and Robertson recalled that this preference reflected the CPC's hope of not repeating past experiences with projects that received combined funding for both design and construction, then submitted supplemental construction requests when completed plans showed that their original construction estimates had been too low.

Robertson felt that the requested contingency, listed in the proposal budget as 20% of total costs including acquisition but actually a higher percentage of the proposal's estimated design and construction costs, reflected the significant uncertainty about these costs that was inevitable without a completed master plan and design documents. A normal design and construction contingency would be closer to 10%.

Feinberg noted that for some past projects, such as the Angino Farm barn, private fundraising had been committed to cover any gap between initial CPA funding and final, confirmed costs. The Waban Hill Reservoir proposal included only CPA funding, and he felt this project would probably request additional CPA funding in the future, whether or not the initial CPA funding was phased. Robertson noted that if the initial cost estimates proved to be too high, any unspent funds would have to be returned to Newton's Community Preservation Fund. Alderman Baker assured the CPC that if these estimates proved too low, the Parks & Recreation Dept. would not request additional CPA funds. Robertson felt the CPC could not and should not hold the department to such a commitment.

Jane Sender, Rick Kronish, Laura Fitzmaurice and Beryl Gilfix all agreed with Robertson that the absence of a full plan and specifications made it difficult to judge whether the amount requested was enough to create a safe, openable public park. Fitzmaurice particularly felt that there should be more in-depth study of the best way to address the site's safety issues before spending funds on construction. Gilfix applauded the time that both volunteers and City staff had invested in the current proposal, but felt that a funding decision about some of the proposed improvements should be based on detailed, site-specific plans. For example, she shared the League of Women Voters' questions about whether to make the proposed repairs to the gatehouse, or instead to protect the slide gate with a smaller, simpler structure that would be less costly to maintain.

Robertson preferred to vote at this meeting only on funding for the acquisition, conservation restriction, site stabilization, and a full master plan; then to consider one or more future funding requests for final design and construction. Feinberg also felt uncomfortable about accepting the entire submitted budget, and was inclined to buy time to develop a final plan.

In response to Feinberg's request for a straw vote, all members except Fishman supported a phased approach to initial CPA funding for this project. Fishman abstained because he opposed straw votes in general.

In response to the CPC's questions, Commissioner DeRubeis, Schein, Aldermen Baker and Fuller, Silberstein and Tucker characterized the submitted budget as the minimum needed to make the site usable and justify its acquisition. Silberstein felt that the submitted budget was in effect already a master plan for the site, because it addressed the key priorities identified by the WHRAG's community survey. Additional funds might be requested for further improvements five years from now, but those improvements could not be determined now and were not included in the current request.

Silberstein felt that the CPC itself lacked the technical expertise required to evaluate the cost estimates submitted through the proposal budget. Robertson, Feinberg and Gilfix agreed that the budget was based on best guesses by qualified professionals but still felt that it might be significantly revised through a full planning and design process. For example, the budget necessarily made some assumptions about the type, size and location of fences; if any of these changed, project costs would change as well.

In response to questions from Alderman Fuller and from Ingerson, DeRubeis, Schein and Robertson agreed that the best backup would be a master plan. Schein agreed that once the scope of work for a master plan was finalized, it might cost up to \$50,000 rather than the \$30,000 estimated in the proposal budget. Although the Parks & Recreation Dept. was committed to completing a master plan, Commissioner DeRubeis could not estimate how long that would take. He was concerned that attempting to provide more detailed, site-specific backup for the submitted budget would delay a funding decision for the acquisition itself.

Similarly, Aldermen Baker, Fuller and Laredo believed that the Board of Aldermen might hesitate to approve a CPC recommendation that included funding only for site acquisition, the conservation restriction and a master plan, without the full funding requested for site improvements. Laredo and Ingerson noted that as real property acquisition, approval of this project will require a 2/3 vote of the Board, rather than the simple

majority required to approve most CPC recommendations. Baker emphasized that the City would assume full responsibility for the site as soon as it was acquired. He felt that fully funding the proposal as submitted was critical for reassuring both the Board of Aldermen and the Mayor that this acquisition would be more of an asset than a liability.

Feinberg summarized project supporters' conviction that a recommendation for a larger amount, with less detailed backup, was more likely to be approved than a recommendation to fund only those costs that already had detailed backup. Although he thought the opposite might also be true, he outlined three basic options for a CPC vote: deny the request outright; recommend funding of about \$500,000 for only site acquisition, the conservation restriction fund, and a master plan; or recommend a larger amount that was still less than the full request.

In response to a question from Alderman Baker, Ingerson described an additional option of voting to support the total request but forwarding to the Board of Aldermen an initial recommendation for only a portion of that total. Ingerson noted that the Board itself can also vote to appropriate only a portion of the funding recommended by the CPC, as it has done occasionally in the past.

After further discussion about whether specific line items in the budget as submitted should be included in the CPC's funding recommendation,

VOTE Feinberg moved and Robertson seconded recommending \$980,000 in CPA funding toward the costs of site acquisition, a monitoring and enforcement fund for the required conservation restriction, a master plan, key public safety improvements, and state-required dam compliance at the Waban Hill Reservoir.

The motion was adopted by a vote of 6-1, with Gilfix opposed on the grounds that she would have preferred to defer more of the requested funding until a full master plan was completed for the site.

Committee Business

By consensus, the Committee deferred any discussion of the staff-submitted draft *Community Preservation Plan* (reformatted *Funding Guidelines*) to a later meeting.

Based on a motion by Kronish, seconded by Gilfix, the minutes for 20 November 2014 were approved as submitted by a vote of 7-0.

The meeting was adjourned by Committee consensus at 9:58 pm.