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**Community Preservation Committee**

**MINUTES**

14 March 2013

The meeting was held on Thursday 14 March 2013 at 7:10 pm in Newton City Hall, Room 222.

Community Preservation Committee (CPC) members present: Leslie Burg, Thomas Turner, Jim Robertson, Don Fishman, Michael Clarke, Nancy Grissom, Dan Green (arrived: 7:20 pm). Absent: Joel Feinberg.

Program manager Alice Ingerson served as recorder.

**PROGRAM PLANNING & EVALUATION**

**Update from the statewide Community Preservation Coalition**

discussion with Executive Director Stuart Saginor (presentation attached to these minutes)

Saginor's presentation summarized the full range of services the Coalition provides to its member CPA communities. The most popular service is technical assistance, provided via the Coalition's website, email newsletters, conferences, and training such as his presentation to the Newton CPC this evening. The Coalition also assists local communities with ballot measures for CPA adoption, revision, or revocation. As the previous CPC minutes noted, technical assistance may be most valuable to smaller CPA communities, whose Community Preservation Committees often manage their programs without paid staff.

However, even communities with their own staff, such as Newton, clearly benefit from the Coalition's continuing legislative and advocacy work. Much of this work goes on behind the scenes, because the Coalition's future access to legislators depends partly on keeping past conversations confidential. This legislative work has included defeating attempts to tap the state CPA trust fund for other purposes and lobbying against proposed amendments to the CPA that would not be consistent with its main purposes or with what most CPA communities want, as well as supporting amendments to the CPA that would benefit CPA communities. Past examples of desirable amendments to the CPA include the early one allowing for the restoration and rehabilitation of historic resources not created or acquired with CPA funds, and a later one allowing CPA funds to be used specifically to preserve documents and artifacts as well as buildings or landscapes. Past examples of undesirable amendments included using the state CPA trust fund to help stabilize the price of milk in Massachusetts to keep dairy farms from going out of business; and adding some amount from state casino licensing fees and gaming revenues to the state CPA trust fund, an idea that many CPA communities opposed and that the Coalition therefore declined.

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The most recent amendments supported by the Coalition and adopted in 2012 originated in 2005 with concerns about the declining state match. In 2007, the option to rehabilitate recreation land not created or acquired with CPA fund was added in response to a lawsuit filed against Newton in 2007. The Supreme Judicial Court's ruling against Newton's appeal of a lower court ruling made passage of an amendment allowing for the rehabilitation of existing recreation land a high priority for all CPA communities. Some of the amendment's language about recreation uses was written by the City of Newton Law Dept., and Newton's State Senator Cynthia Creem indicated that Newton would support the amendment. This change was particularly difficult to accomplish, given the legislature's sense that CPA funding should be dedicated to new initiatives and that allowing the application of CPA funds to existing public assets could make it appear that the CPA was simply a way around the constraints created by Proposition 2½.

The Coalition worked for a series of amendments, including the one about recreation land, for about five years. The proposal to increase state funding by raising the \$20 deeds fee was not accepted. The state House of Representatives did propose adding an extra \$25 million to the state CPA trust fund each year, if that amount was available in the state budget surplus into CPA state trust fund every year. This was revised to a confirmed extra \$25 million only in fy13, with an optional extra contribution in future years, based on the state comptroller's advice that the current legislature could not bind future legislatures to such an annual contribution. Working on this additional state contribution will be an annual task for the Coalition, though they are also working to re-start the proposal for a permanent increase in state funding. Saginor estimated that if the revenues from deeds fees stay on their current track, and the state budget surplus allows for adding the promised \$25 million to the state CPA trust fund, Newton could receive about \$364,000 more of state CPA funding in the fall of 2013 than it received a year earlier.

The Coalition and legislature spent about a year discussing whether artificial turf should be made eligible by the proposed amendments. The version of the bill that was finally enacted rules out using CPA funds to purchase artificial turf, but everything else about a project that involves artificial turf is generally CPA-eligible. In response to a question from Mike Clarke about the eligibility of swimming pools, Saginor explained that CPA funds are still for outdoor recreation only, and principally for land. The only new buildings eligible for CPA funding are housing or small, ancillary structures that directly support outdoor recreation. Within those constraints, however, Belmont and Conway are using CPA funds to build or rehabilitate outdoor community swimming pools.

Other important changes made in the Act when it was amended include newly clarified and explicit definitions of "capital improvements," the essential CPA-eligible category, and "maintenance," which remains ineligible. "Operating costs" are also not CPA-eligible, with the exceptions of the maximum 5% for program administration and for the "support" for affordable housing. In addition, in response to strong lobbying by the Newton League of Women Voters, the CPA now requires local Community Preservation Committees to include regional projects in their required study of CPA-eligible needs, possibilities and resources.

As an organization, the Coalition itself was initially supported by a 5-year major grant from an anonymous foundation. After that, it became a membership organization, based on the model of the various associations of municipal bodies, such as the Massachusetts Association of Conservation Commissions (MACC). Membership dues are based solely on member communities' local surcharge revenue, which is reliable and predictable. The Coalition met initially with 6 communities of all sizes to get feedback on how dues should be assessed. Newton was the community chosen to represent higher-revenue communities, and helped to determine the \$7500 dues level for that membership

tier. The Coalition's Steering Committee is considering raising dues for fy14, for the first time in the organization's history. Saginor noted that former Newton CPC Chair Jeff Sacks was a very valuable member of the Steering Committee.

Mike Clarke commented that it seemed a big risk to add new allowable uses to the CPA without increasing the state funding. In Newton, city parks need many millions of dollars of deferred maintenance, and those requests will put a big strain on the CPC's resources without additional state funds. The Coalition agreed in theory, but in the end had decided that they should not hold up the amended uses for another 2-year legislative session in what had so far been a vain attempt to get the additional state funding.

In response to a question from Jim Robertson, Saginor explained that the Coalition's own annual budget is \$328,000, for a staff of 2.31 full-time equivalents. In the Coalition's first year, a staff of 2 full-time employees worked with 36 CPA communities. Now 2.31 employees work with 155 CPA communities.

In response to Alice Ingerson's question about the CPA eligibility of ecological restoration, such as the daylighting of formerly culverted urban streams, Saginor advised each community to consult its town counsel or city solicitor, but the answer is probably no unless a case could be made that the asset was recreational.

Dan Green and Leslie Burg commented that it had been helpful to hear about the Coalition's legislative work, which was important for Newton.

## **PROGRAM PLANNING**

### **Criteria & Priorities for CPA-Eligible Projects in Newton City Parks**

discussion with City of Newton Parks & Recreation Commissioner Bob DeRubeis and Open Space Coordinator Carol Schein

Commissioner DeRubeis began by explaining that although the Parks and Recreation Dept. still feels that the proposed restoration of the historic pond and bridge in Farlow Park is a valid project, it is essentially a historic project. However, with the recent changes in the CPA, other projects are now higher priorities for the Dept.

The list of principles and priorities submitted by the Dept. at the CPC's request is attached to these minutes. Commissioner DeRubeis briefly reviewed the principles, and highlighted maintenance funding as a constraint. The Dept. only wants to seek CPA capital funding for improvements for which the Dept. can ensure maintenance funding through the general fund budget.

In addition, DeRubeis feels that safety surfacing and play structures should not use CPA funds. Instead, the City should continue to rely on rotating BAA/Marathon funds among schools as "seed money." Individual groups/PTOs have raised a lot of money to match those seed funds, although play structures can now cost up to \$250,000.

Newton Highlands Playground is the top priority for the Department at this point, especially seeking design funds through the CPC. DeRubeis believes the Dept. can find some private funding for this project overall. Having a design completed will help raise private funds. The Upper Falls Playground was a higher priority in the past but is now being done one piece at a time with regular City funds. Some private funding sources have an interest in this site as well as the Highlands.

Alice Ingerson pointed out that the specific projects on the Parks and Recreation Dept. list must still go through whatever interdepartmental process is created to prioritize CPA-eligible projects on the City's *Capital Improvement Plan*. The CPC's intention in asking for this list from a single department was not to exempt that department from the overall process or rules that the Mayor sets for all departments.

In response to Burg's question about how long it might take for Parks and Recreation proposals to come to the CPC through the CIP process, DeRubeis noted that the CIP process is continually evolving. He also noted that Parks projects need to be reviewed and prioritized by the Parks and Recreation Commission, which had agreed that the Newton Highlands Playground should be a top priority.

In response to a question from Nancy Grissom, DeRubeis clarified that the Dept. knew that they could not request CPA funds for maintenance, and in fact expected to seek private funding for maintenance as often as possible. As an example, he cited funds contributed by private youth soccer groups to maintain the new playing fields at Newton South High School. Jim Robertson noted that, while CPA funds could not be used for maintenance per se, they could be used for designs intended to minimize future maintenance costs.

Robertson noted that the Parks and Recreation Dept.'s project list included a total of about \$20 million in funding. Burg hoped that funding requests would not come to the CPC for that total. DeRubeis said he thought the Dept. would probably request CPA funding for design and construction documents, which could often be about 10 percent of the project's total cost.

Robertson noted that to recommend CPA funding for design, the CPC would want clear evidence that the City and private sources actually supported the project through construction. DeRubeis agreed that design documents should not just sit on the shelf. Newton Highlands Playground would be a priority partly because the private sports leagues already funded a feasibility study for that site, and private daycare and other groups are already raising funds for new playground equipment, since the old equipment had to be removed as unsafe. In response to Burg, DeRubeis believed that the Executive Office would approve submitting that project soon to the CPC.

Grissom noted that past CPA-funded City projects had not been completed as quickly as originally hoped due to insufficient management time and resources. DeRubeis agreed that staffing was critical.

Don Fishman felt that a new Gath Pool was an absolute necessity for the community, though a feasibility study there should not be done too far in advance of the actual construction. DeRubeis agreed. He noted that \$125,000 of City CIP funds would be spent this year for short-term improvements, but the basic structure needs to be replaced. In response to Mike Clarke, DeRubeis noted that there had been discussion of keeping a new pool CPA-eligible by making it an outdoor pool, but finding non-CPA funds for a 3-season cover or "bubble" so the pool could be used year-round. He was troubled by the idea of spending \$7-8 million on a facility that could only be used for 3 months a year. Ingerson said she had passed a one-page description of this project to the Law Dept. and requested their opinion on its CPA eligibility. DeRubeis said the City Solicitor had told him by phone that she did not feel a year-round pool was CPA-eligible, for the same reasons suggested by Stuart Saginor earlier in the evening.

Burg explained that this discussion was not a public hearing, but that since there was time, she would allow public comments or questions.

Jay Walter spoke on behalf of the Friends of Farlow Park, who have been in close communication with and partners with the Parks and Recreation Dept. He noted that the neighborhood strongly

supported that project and had been working for it for a very long time. The City's *Capital Improvement Plan* does not set that community group's priorities.

Duane Hillis spoke on behalf of the Friends of Kennard Park, which he thought could come to the CPC for funding to restore or rehabilitate the historic house and the grounds for birding as recreation. DeRubeis says the Parks Dept. has begun meeting with this group to explore private funding options. Hillis felt the Town of Brookline or residents of Brookline would support improvements in Kennard Park, even though they do not have the CPA. In response to Nancy Grissom, Hillis noted that Kennard wrote a lot about landscape designs to attract birds, and that the house's interior historic features need to be restored. Mike Clarke agreed that the landscape around the house was designed to attract birds, but that 16 acres of the park are under the jurisdiction of the Parks and Recreation Dept. and 32 acres under the jurisdiction of the Conservation Commission.

## **COMMITTEE BUSINESS**

### **Community Preservation Coalition Dues**

After a very brief discussion, the sense of the meeting was that they had been persuaded of the value of these dues by Stuart Saginor's presentation and answers. After a motion by Dan Green, seconded by Jim Robertson, the committee voted 7-0 to pay the assessed 2013 dues.

### **Fy14 program budget**

Ingerson quickly summarized the assumptions behind the budget provided in the packet, including a 2.5% increase in local revenue and a steady state match of 26%. She pointed out the three 10% reserves for open space, housing, and historic resources, and that the administrative budget, as in past years, allocated as much as possible to the consulting line, which could easily not be spent to keep program administration under the maximum 5% if total revenue fell short of the budgeted amount. Burg and Robertson thought the consulting funds were useful to have in each year's budget, even if they were not always spent.

After a motion by Mike Clarke, seconded by Tom Turner, the proposed budget was approved by a vote of 7-0.

In response to Ingerson's request for suggested specific program goals for fy14, Mike Clarke proposed ruling out funding anything that seemed to be deferred maintenance. Burg thought this had to be determined case by case. Robertson felt it was difficult to draw the line between deferred maintenance and rehabilitation, given the sheer age of many City facilities. The sense of the meeting was that Ingerson should state the fy14 goals as continuing to respond to proposals as submitted, using the new *Funding Guidelines*.

Fishman questioned why the Parks and Recreation Dept. had submitted a list of priorities on which the CPC could not act because they had not been screened through the CIP process, and that included Gath Pool, which he agreed with Mike Clarke really was not CPA-eligible if it had a year-round cover. Burg explained that the CPC had asked the Dept. last summer, just after the CPA amendments were signed into law, to outline its basic principles for prioritizing what the Committee felt might be an avalanche of new recreation funding requests, so the Committee could offer feedback on the that overall list, rather than simply wait for individual proposals. Clarke pointed out that the Parks and Recreation Commission, rather than the Dept., controls the land. Both Clarke and

Fishman noted that the list presented should have been vetted by the Commission but was not - because the CPC had not asked the Commission to submit the list.

In response to Committee questions about why the CIP process was involved in determining which proposals came to the CPC and when, Ingerson noted that the CPC's new *Funding Guidelines* did not require any proposal to be highly ranked in the CIP, only to be included in it. The CPC had originally supported the City's efforts to create a clearly prioritized CIP in the hope that such a CIP would clearly identify those projects the City was committed to completing efficiently. She recognized that some people felt the CIP should have no bearing on CPA funding decisions. However, she hoped that if the already minimal reference to the CIP in the new *Funding Guidelines* were reduced even further or removed altogether, the CPA program would not simply go back to the prior system for reviewing City projects, under which many if not most City projects had gotten "stuck" once the funds were appropriated; some City projects had used CPA funds in ways other than those anticipated and supported by the projects' original neighborhood or nonprofit advocates; and several City projects had required supplemental funding. She noted that the CPA program and the Community Preservation Committee had often been blamed for these problems, which she hoped it would be possible to prevent in the future.

Burg, Robertson and Grissom all recognized these project management issues but also felt the new *Funding Guidelines* did, and should, give the Community Preservation Committee the flexibility to consider City projects that are not and will never be ranked highly in the CIP, given the CIP's emphasis on risk assessment.

### **Minutes for 24 January 2013**

By a show of hands, the committee unanimously approved the minutes of this meeting as submitted.

### **Fy11-12 combined annual reports**

After a brief discussion, Dan Green seconded Nancy Grissom's motion to approve this document as submitted. The motion was approved by a vote of 7-0.

The committee adjourned by consensus at 9:10 pm.

### **Attachment:**

Slide presentation prepared by Community Preservation Coalition Executive Director Stuart Saginor. At the CPC's request, only about the first 17 slides were presented, followed by question-and-answer.





What's new with  
the Community  
Preservation Act?



**Community  
Preservation Coalition**

*Preserving our past. Building our future.*

## Coalition Partners



Citizens' Housing And Planning Association





# The Community Preservation Coalition

- Technical assistance
- Website
- Email newsletter & bulletins
- CPA advocacy and legislation
- Regional CPA conferences
- Ballot measures (adoption, changes)
- Training webinars, presentations, publications, workshops
- And more...

## What has Coalition advocacy meant for Newton?

- All attempts to tap CPA Trust Fund defeated
- Historic amendment to CPA allowed for all of your projects requiring rehabilitation work on existing historic structures





## What has Coalition advocacy meant for Newton?

- Document and artifact amendment allowed for preservation work on your city archives
- Procurement amendment allowed for land purchases at market value rather than assessed value



## What has Coalition advocacy meant for Newton?

Defended the Act from proposed legislative amendments not in the best interest of existing CPA communities



## Other CPA Bills Filed 2007 Legislative Session

HB31	HB3147	HB1263
HB2931	HB3407	HB1834
HB3905	HB3756	HB2351
HB151	SB157	HB2847
HB163	SB751	HB2931
HB177	SB1193	HB3060
HB655	SB1196	HB3106
HB776	SB1708	HB3131

## Other CPA Bills Filed 2009 Legislative Session

HB584	HB2896	SB104
HB707	HB2912	SB622
HB709	HB2939	SB625
HB1062	HB3095	SB634
HB1228	HB3604	SB658
HB1984	HB3606	SB783
HB2762	HB3799	SB1240
HB2840	SB94	SB1301



## Other CPA Bills Filed 2011 Legislative Session

HB220	HB2571
HB797	HB2788
HB805	HB3299
HB816	HB3376
HB997	SB78
HB1304	SB588
HB2062	SB616
HB2352	SB896

## What has Coalition advocacy meant for Newton?

“An Act to Sustain  
Community  
Preservation”

- More trust fund \$
- Recreation category
- Greater flexibility



# Bill History



- Began gathering support in 2005
- Newton Lawsuit 2006
- Filed first in 2007

# CPA Trust Fund

## Overview

- Why not deeds fee?
- \$25M in budget surplus funds – Fall 2013
- What does this mean for Newton?
- What about the future?





# Recreation



CPA funds can now be used to **rehabilitate** and **restore** land for recreational use

# Recreation

## Revised Allowable Uses Chart

	Open Space	Historic	Recreation	Housing
<b>Acquire</b>	Yes	Yes	Yes	Yes
<b>Create</b>	Yes	-	Yes	Yes
<b>Preserve</b>	Yes	Yes	Yes	Yes
<b>Support</b>	-	-	-	Yes
<b>Rehabilitate and/or Restore</b>	Yes – if acquired or created w/CPA \$\$	Yes	Yes	Yes – if acquired or created w/CPA \$\$



# Recreation

## Artificial Turf



Section 5(b)2:

“With respect to recreational use, the acquisition of artificial turf for athletic fields shall be prohibited.”

# Recreation

## 10% Open Space Reserve Account

- Open space reserve account may now be used for open space **and** recreation projects
- Doesn't mean you **have** to...





# Recreation

## Things that haven't changed



- Outdoor recreational facilities only
- No horse or dog racing, stadiums, gymnasiums or similar structures

# “Capital Improvement”

## New Definition

Reconstruction or alteration of real property that:

- (1) materially adds to the value of the real property, or appreciably prolongs the useful life of the real property,
- (2) becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself and
- (3) is intended to become a permanent installation or is intended to remain there for an indefinite period of time.



# “Maintenance”

## New Definition

...incidental repairs which neither materially add to the value of the property or appreciably prolong the property's life, but keep the property in a condition of fitness, efficiency or readiness.



# CPC Annual Plan

## New topic to include in plan

- CPC must study the needs, possibilities & resources of “regional projects for community preservation”





# Community Housing

## Guidance on meaning of “support”

	Open Space	Historic	Recreation	Housing
Acquire	Yes	Yes	Yes	Yes
Create	Yes	-	Yes	Yes
Preserve	Yes	Yes	Yes	Yes
Support	-	-	-	Yes
Rehabilitate and/or Restore	Yes – if acquired or created w/CPA \$\$	Yes	Yes	Yes – if acquired or created w/CPA \$\$

# Community Housing

## Definition for “support”

...shall include, but not be limited to, programs that provide grants, loans, rental assistance, security deposits, interest-rate write downs or other forms of assistance directly to individuals and families who are eligible for community housing, or to an entity that owns, operates or manages such housing, for the purpose of making housing affordable.



# “Historic Resources”

## Clarification



“...a building, structure, vessel, real property, document or artifact that is listed ~~or eligible for listing~~ on the state register of historic places or has been determined by the local historic preservation commission to be significant in the history, archaeology, architecture or culture of a city or town.”

# “Historic Resources”

## Clarification

...with respect to historic resources, “rehabilitation” shall ~~have the additional meaning of work to~~ comply with the Standards for Rehabilitation...



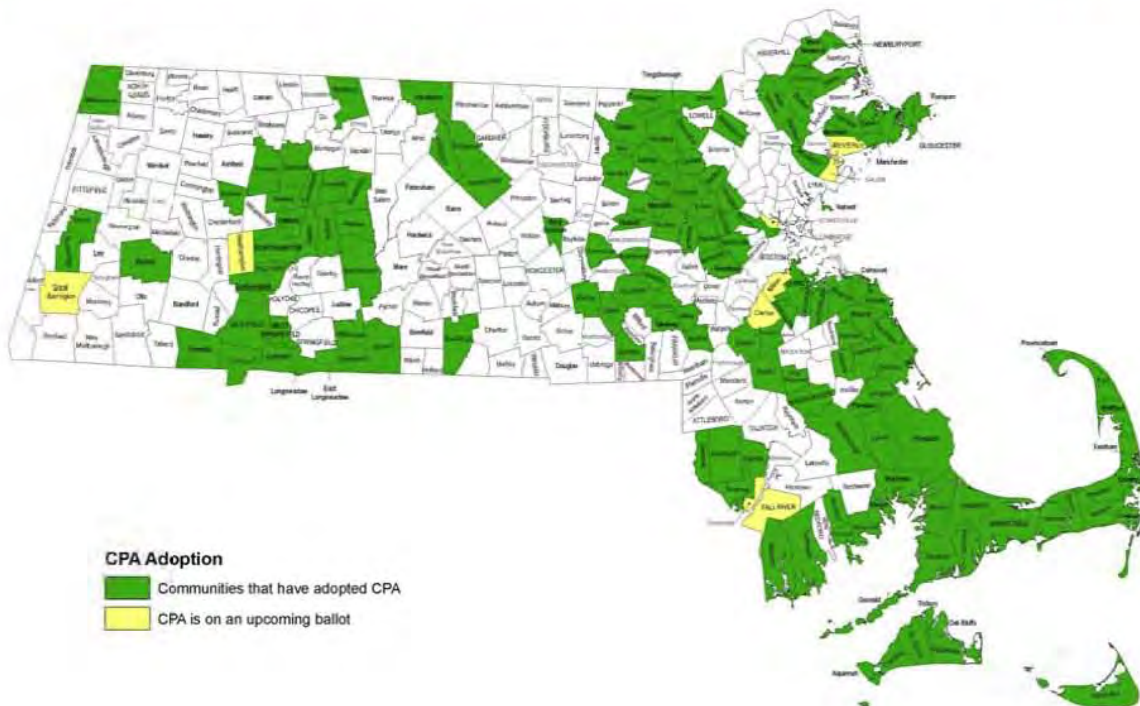


# Open Space Clarifications



- Clarify procedure for issuing restrictions on land acquired with CPA funds
- OK to appropriate funds to non-profits to hold restrictions

## 155 CPA Communities



# The future is bright!



## Contact Us

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