



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
[www.newtonma.gov](http://www.newtonma.gov)

Candace Havens  
Director

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## Community Preservation Committee

### MINUTES of PUBLIC MEETING

16 March 2011

The meeting was held on Wednesday 16 March 2011 at the Newton Senior Center, 345 Walnut Street, Newtonville. Attending members of the Community Preservation Committee (CPC): Nancy Grissom, Zack Blake, Joel Feinberg, Jim Robertson, Michael Clarke, Wally Bernheimer (arr. 7:10 pm), Leslie Burg (arr. 7:15 pm).

Program manager Alice Ingerson served as recorder.

Committee Chair Nancy Grissom opened the meeting at 7:05 pm.

#### CURRENT PROPOSAL WORKING SESSION

##### **112-116 DEDHAM STREET (community housing)**

Grissom introduced consultant Dan Gaulin, who had analyzed the project budget and assumptions for the CPC. He felt the revised budgets presented by the sponsor, SEB, were fair and accurate. The 12-13% developer fee or profit proposed was modest -- 15-20% is more typical for projects of this size. The developer will also be paid for marketing the affordable units through a lottery or other method; that fee is truly justified, given the amount of work involved.

Gaulin noted that the developer proposed to set condo fees by square footage to reduce the discrepancy between the fees paid by the owners of the affordable vs. market-rate units. In contrast, basing fees on value would reduce the fees paid by the affordable-unit owners and could be seen as making their ownership more sustainable. Gaulin reported that staff had provided some anecdotal evidence about the potential negative impact of special (one-time) assessments on the owners of affordable units in mixed-income developments, but this concern could not be quantified.

Alice Ingerson noted that Elizabeth Dromey, Newton's Director of Assessment Administration, had confirmed that the City did not consider affordable housing restrictions per se when assessing properties for tax purposes. However, housing staff in the Planning Dept. had found that the assessments of owner-occupied units with such restrictions were in line with their initial, restricted sales prices. The housing staff would be meeting with assessing staff to confirm this, but the tax costs assumed by the proposal's budgets appeared to be realistic.

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website [www.newtonma.gov/cpa](http://www.newtonma.gov/cpa)

contact Alice E. Ingerson, Community Preservation Program Manager

email [aingerson@newtonma.gov](mailto:aingerson@newtonma.gov) phone 617.796.1144

Gaulin felt the developer's estimated number of school-age children for this development was reasonable, but that the developer might have underestimated the vehicle trips by a factor of up to 4, because the estimate assumed the development would be age-restricted to seniors.

Gaulin recommended using the tiered model of revenue-sharing that the CPC had applied to 33 Comm/Covenant Residences (developed by B'nai B'rith). Revenue was shared based on specified absolute dollar thresholds, rather than on a percentage basis. Gaulin felt this was appropriate, because a project twice the size is not twice the work, but he suggested the developer should receive a minimum return that ensures the project's economic feasibility, probably around 15%.

Gaulin identified the following uses of this property as economically viable alternatives to the proposed project: (a) a 20-unit, comprehensive permit (chapter 40B) project that includes 5 affordable units and receives no subsidy from the CP Fund; (b) a single-family large estate; or (c) a by-right subdivision for 4 large single-family homes. All alternatives involved demolition of the existing buildings. Compared to the current proposal, (a) might add 1 more child and 8-12 more vehicle trips per day, plus more tax revenue for the City; (b) would add fewer children and trips; and (c) would probably have more children, in 4-bedroom houses that might sell for around \$2 million each.

In response to questions from Joel Feinberg and Wally Bernheimer, Gaulin noted that the biggest difference among these options would be in the subsidy. The overall development cost per unit in the proposed project is over \$600,000 per unit, so the affordable units would be subsidized not only by CP funding but also by the revenue from selling the market-rate units.

Grissom noted that in Newton, similar single-level units in elevator-served buildings have sold for \$1 million or more. Leslie Burg felt that this type of housing was needed in Newton, regardless of price. Aging residents who want to stay in the City are being forced to move for lack of this option.

Gaulin noted that Newton's Zoning Board of Appeals could deny a comprehensive permit for either a 16-unit or 20-unit project on this site. The state Housing Appeals Committee might overrule such a denial and has approved similar projects in the past. However, that committee is more likely to uphold decisions by local boards that have approved past 40B projects, as Newton's has.

Finally, Gaulin noted that the updated project budgets correctly reflected a lower acquisition price for the property, which could be subdivided by right into only 4 house lots rather than the 5 initially assumed. The revised operating budget for the condominium association now included previously omitted costs for the elevator, but the only significant change was removing costs for maintaining the site's existing stone barn as common space.

Geoff Engler explained that project developer SEB had reduced its request for CP funding from \$1,400,000 to \$1,100,000. They did not expect CP funds to cover the cost of demolishing the barn, though the original request had included costs for retaining and rehabilitating the barn.

Bob Engler noted that the proposed project posed no threat to human health, safety, or the environment, which are the primary legal bases for denying a comprehensive permit. Community impacts and character may also be considered, but he believes the state would not uphold local denial of a permit for this project on that basis. In addition, the developer may appeal any local requirement that makes the project uneconomic. The state usually considers a 15% return to the developer the minimum required to make a project economically viable. The return to the developer in the project as proposed is only 13%.

Finally, the Englers reiterated their preference for basing condo fees on unit size rather than value. Although value-based fees would allow SEB to sell units at higher prices, they felt the owners of

market-rate units would resent the much lower fees paid by the owners of affordable units. They noted that this policy choice is typically reviewed by the Zoning Board of Appeals, not by funders.

Wally Bernheimer and Mike Clarke were concerned about whether this proposal was the best use of the requested \$1.1 million. Clarke felt it might be better to reserve these funds for a future open space acquisition opportunity.

The Committee discussed the barn on the site at some length. Jim Robertson wondered if the option of preserving the barn could be left open until it was clear whether it could be financed from higher-than-anticipated profits. The Englers explained that overall project design and condo documents required making this decision early. They also noted that unusual amenities that appealed to buyers were later resented when those people became residents and faced these amenities' ongoing costs. Nancy Grissom and Leslie Burg felt the barn would not be useful enough to residents to justify its long-term costs. Zack Blake regretted the loss of the barn but felt the CPC could not fund the preservation of a historic building that would not be open to the public.

Jim Robertson and Joel Feinberg noted that most neighborhood concerns expressed about the project had been about land use issues that the ZBA would consider, and felt the CPC should focus strictly on project economics. Robertson saw the choice before the CPC as between a grant of \$1.1 million to create 4 units of affordable housing and no grant at all, in the hope that SEB could build a 20-unit comprehensive-permit project with 5 affordable units. He preferred the second option.

Bernheimer and Burg disagreed and felt that the CPC's mandate was not to maximize affordable units but to increase affordable housing while considering a sense of community.

The Englers said that if they did not receive CP funding for the 16-unit development, they would probably propose a by-right, 4-unit subdivision with 4,000-square-foot homes and no affordable housing, because this would be more profitable than a 20-unit development that required a long, contentious permitting and appeals process. Geoff Engler noted that the requested per-unit subsidy was lower than for most recent housing projects brought to the CPC; that the scarce supply of developable land in Newton might mean that another, similar opportunity might not appear for some time; and finally, that the proposed project would locate affordable units in a neighborhood that has few such units now. He felt it was an important to disperse affordable housing around the City.

The Committee discussed profit or revenue-sharing at length. Wally Bernheimer urged the Committee to make the developer's initial projected profit of 13% the starting threshold for profit-sharing. The developer proposed a threshold of 16%. Blake, Grissom, and Burg favored 14%. After significant discussion, the majority of CPC members agreed to require profits above 14% to be shared equally between the developer and the CP Fund, with the 14% "locked in" as an absolute number after all required permits and construction contracts were in hand.

VOTE Leslie Burg moved to recommend total funding for the project of \$1,103,500, including

- ♦ \$1,100,000 for project development costs
- ♦ \$500 for a CPC-required site sign
- ♦ \$3,000 for grant management and oversight from housing staff in the Planning Department

with all conditions normally imposed on CP grants for housing projects, plus the additional condition that the grant agreement:

1. allocate to the developer a 14 percent initial profit, converted to a fixed amount “locked in” once all required permits have been granted and construction contracts have been signed;
2. require that profits between 14 percent and 20 percent be shared equally between the developer and Newton’s Community Preservation Fund.

Joel Feinberg seconded the motion and conditions.

The recommended funding and conditions were approved by a vote of

- ♦ 5 in favor
- ♦ 1 opposed (Bernheimer)
- ♦ 1 abstaining (Robertson)

#### CURRENT PROPOSAL WORKING SESSION

##### **HISTORIC BURYPING GROUNDS (historic resources)**

Laura Costello, project manager for Historic Newton, presented with assistance from consulting engineer John Wathne of Structures North and City of Newton CPA Engineer Frank Nichols. Costello showed photos of existing conditions at South and East Parish Burying Grounds and explained that the total funding request had been reduced from \$614,461 to \$602,049 by removing staff time and volunteer training from the basis on which the construction contingency was calculated as a percentage. In response to a question by Alice Ingerson about total funding required to complete all phases of the original master plan for the burying grounds, Costello said Historic Newton had not recently reviewed or updated that total.

Costello explained that the current funding request included replacing existing, deteriorated fences with more attractive “wrought iron” or black steel fencing along the street front of each site, and with black chain link along the other sides. Premier Fencing had provided an updated estimate of \$287,000-\$306,000 for this. Wally Bernheimer suggested that the preservation and restoration of historic headstones and tombs was exactly the sort of work the Community Preservation Fund should support, but that fences should be part of the City’s capital budgeting process. Nancy Grissom pointed out that this project was not a priority in the City’s current Capital Improvements Plan.

Costello also distributed a letter stating the City of Newton Parks & Recreation Dept.’s commitment to mowing these sites appropriately and to picking up trash collected by volunteers. The proposal included the cost of maintenance training for volunteers by the National Center for Preservation Technology and Training. Jim Robertson, Nancy Grissom, and Leslie Burg urged Historic Newton to “train the trainers,” so these local volunteers can train others at no additional future cost.

As requested by the CPC, Costello explained that, based on the last bid received in June 2010, plus a contingency and the consulting engineers’ additional fee to re-bid the remaining work, Historic Newton needed at least an additional \$84,946.33 before it could begin spending the \$182,527 it has in hand from prior project appropriations. She summarized the minimum scope of work as repairing or enclosing/stabilizing collapsed tombs at South Burying Ground and eliminating immediate safety hazards at East Parish Burying Ground. John Wathne described these hazards as one open tomb and leaning headstones, which he felt should be corrected as soon as possible.

Alice Ingerson noted that the project had lost an entire construction season because the June 2010 base scope of work had not been structured as recommended by CPA Engineer Frank Nichols, so that the only base bid received had been for more than the funding already available. She worried that

this could happen again if more funds were appropriated. Jim Robertson asked whether Historic Newton could re-bid this work, or break the scope down into smaller minimum units, to confirm actual minimum costs and allow work to begin with the funds already available. Bernheimer agreed. He felt that appropriating funds first would allow bidders to adjust their bids to the available funds, and suggesting first breaking the scope of work down into smaller sets of tasks, re-bidding all work, and only then requesting the minimal additional funds needed, based on current bids. Wathne acknowledged that the previous base scope of work could be broken down further. Costello and Wathne expected that the only bidder from June 2010 would hold its price, but they also hoped that rebidding might reduce costs. The Newton Purchasing Dept. would require rebidding in any case.

Without a formal vote, the Committee unanimously urged Historic Newton to adopt the procedure recommended by Bernheimer and Robertson and return with a revised, minimum funding request only if necessary and supported by current bids.

#### CURRENT PROJECT UPDATE

##### **JACKSON HOMESTEAD EXTERIOR**

The Public Buildings Department had found a way to make the Museum's basement space once more available for public programs by moving the electrical box currently blocking the egress, without spending any remaining funds from the prior Museum Exterior appropriation. Public Buildings had also provided an additional breakdown of costs for the proposed rear gutter. However, Historic Newton Director Cindy Stone had informed Alice Ingerson by phone that chemical cleaning for the exterior fence might need to be added back into the requested change of scope, though the fence had been removed entirely from that request in a previous update. The potential cost of this cleaning was not yet known. The Committee agreed to postpone discussion of this item to its April meeting. Nancy Grissom also requested a detailed, contractor estimate for the proposed gutter.

#### CURRENT PROJECT UPDATE

##### **MUSEUM ARCHIVES**

Alice Ingerson explained that Historic Newton now expected to update the Committee on the status of this project at its April meeting. The Board of Aldermen had recently voted "no action necessary" on remaining unappropriated funds from the Committee's previous recommendation for this project, so Historic Newton's next request to the CPC should be for all construction funds needed.

#### CURRENT PROJECT UPDATE

##### **DURANT-KENRICK HOMESTEAD**

Alice Ingerson summarized the key outcomes from the 2007 funding votes of the CPC and Board of Aldermen for this complex, \$2.71 million project as an 18<sup>th</sup>-century house and its surrounding historic landscape, preserved inside and out; with an attached education center providing program space and wheelchair access to the second floor of the historic homestead; appropriately maintained and actively interpreted for the public at no continuing cost to the City. She noted that the detailed preservation restriction and grant agreement had been under discussion for over a year. She was concerned that staff, including herself, might be trying to follow through on expectations from the original 2007 process that the CPC or Board of Aldermen might now be willing to modify. She had therefore suggested that Historic Newton update the CPC on how the project had evolved and on any remaining unresolved issues. As examples, she cited:

- ♦ the possibility that in return for a requested \$100,000 in funding, the Massachusetts Historical Commission might wish to hold a preservation restriction on the property that would supersede the restriction to be held by the Newton Historical Commission in return for the \$2.71 million in committed CP funding
- ♦ a suggestion that, if the 18<sup>th</sup>-century house on the property were ever totally destroyed, Historic Newton would use proceeds from any insurance settlement and the sale of the property to reimburse only a portion of the CP funding invested in the project
- ♦ Historic Newton's shift from the original use of the \$1.27 million of CP funds received in return for a preservation restriction on the property's historic landscape as an "endowment" to treating those funds as an "operating reserve"; the endowment had been a key selling point for the project in 2007, but the CPC could not truly insist on its creation because it would be used for both programming and maintenance, and maintenance is not an allowable use of CP funds

Newton Historical Society President Anne Lerner assured the Committee that the insurance issue had now been resolved, and that all CP funding would be repaid in the unlikely event of the homestead's total destruction. She described the difference between an endowment and an operating reserve as a technical change in language, with no change in intent. Historic Newton in fact intended to restrict for use on this property more than the \$1.27 million originally proposed for the endowment.

The Committee accepted a recommendation by Ingerson and Grissom to defer this discussion to the start of its next meeting, when members would be fresh and better able to understand Historic Newton's current approach to the key outcomes identified in 2007.

#### CURRENT PROJECT UPDATE

##### **FARLOW PARK POND**

Alice Ingerson distributed a letter received that morning from project manager Stephanie Lap ham in the Parks & Recreation Department, asking to use the remaining unencumbered funds from this project appropriation (less than \$1,500) for a well yield test, which the contracted engineers felt was needed to complete their design of an irrigation system.

Zack Blake generally opposed such extra requests as a form of "scope creep," and felt the Committee should reject them on principle. Leslie Burg and Jim Robertson agreed in principle, but also felt that this request should be granted, because it was for a small amount and because using a well rather than treated MWRA water for irrigation made environmental and fiscal sense. Bernheimer noted that the option of redirecting City funds from MWRA water bills to irrigation & maintenance had been part of the original proposal to study the feasibility of restoring the park's historic pond.

**VOTE** Zack Blake moved approval of the request, and Mike Clarke seconded the motion.

The motion was adopted unanimously, 7-0.

#### PENDING PROPOSAL UPDATE

##### **MUSEUM COLLECTIONS STORAGE**

Nancy Grissom suggested that the Committee rescind its prior vote to recommend a \$30,000 grant to plan a storage facility for Historic Newton's objects collection at the Crafts Street Stable, operated by the Dept. of Public Works. At the request of the City's Chief Operating Officer, the CPC had never forwarded this recommendation to the Board of Aldermen but had instead held it in committee since March 2010, waiting to see if it would be a priority in the City's new Capital Improvements Plan.

VOTE Michael Clarke moved to rescind this prior recommendation vote. Zack Blake seconded the motion.

The motion was unanimously approved, 8-0.

#### PENDING PROPOSAL UPDATE

##### **OPEN SPACE PLAN**

The Committee briefly discussed a letter from Planning and Development Director Candace Havens, expressing her intention to request minimal off-cycle funding for completion of Newton's new *Open Space Plan*. Ingerson pointed out that the \$4,000 estimated cost could be covered by the Committee's administrative budget, but wondered if the Committee might prefer to treat this as a regular project, to bring it more directly to the attention of the Board of Aldermen. Based on information submitted to date, the latter approach would not delay the start of work on the project. The sense of the meeting was to treat this as a regular project. The Committee asked Ingerson to invite the Planning Dept. to submit a pre-proposal for discussion at the CPC's 6 April 2011 meeting.

#### MINUTES

Leslie Burg moved, and Mike Clarke seconded approval of the minutes for the 16 February 2011 meeting, subject to several corrections noted by Nancy Grissom. The minutes were approved unanimously, with Bernheimer, Feinberg, and Blake not voting due to their absence from the February meeting.

After a motion by Bernheimer, seconded by Clarke, Nancy Grissom adjourned the meeting by unanimous consent at 10:00 pm.

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#### PRE-MEETING PACKET & MEETING HANDOUTS

Available online:

- Updates to current proposals & funded projects from [www.newtonma.gov/cpa/projects.htm](http://www.newtonma.gov/cpa/projects.htm).
- Future meeting schedule, from [www.newtonma.gov/cpa](http://www.newtonma.gov/cpa), click on "Calendar."
- Full meeting agendas & minutes, from [www.newtonma.gov/cpa/committee.htm](http://www.newtonma.gov/cpa/committee.htm).