

**MINUTES OF MEETING
COMMUNITY PRESERVATION COMMITTEE
February 10, 2020
Location: Weston Town Hall**

The Community Preservation Committee (the “CPC” or the “Committee”) convened a regular meeting, duly noticed, on Monday, February 10, 2020 at 7:00 p.m. in the Lower Level Conference Room at Weston Town Hall. CPC members present were Stephen Ober, Chair; Barry Tubman; Ken Newberg; Nina Danforth; Nathalie Thompson; Sue Zacharias; Marcy Dorna; and Steve Wagner. Weston Affordable Housing Trust (“HT”) Chair Sarah Rhatigan and Regional Housing Services Office (“RHSO”) employee Liz Valenta were present. Weston Media Center Videographer Brian Muldoon and CPC Administrator Tracey Lembo were also present.

Steve Ober noted that the meeting was being videotaped and invited public comment.

Public Comment

None.

Support for Community Housing

Since Sarah Rhatigan was presenting information on the first 2 items on the agenda and had not yet arrived at the meeting, Mr. Ober described an issue which had recently come to his attention relating to the 2 proposals which Ms. Rhatigan would present. Mr. Ober referred to a MA Department of Revenue (“DOR”), Division of Local Services (“DLS”) Informational Guideline Release (“IGR”) issued in December 2019 which provided guidance on changes enacted in 2012 to the Community Preservation Act (“CPA”). Mr. Ober referred to language in the CPA’s definition of support of community housing (i.e., “for the purpose of making housing affordable”) and DLS’ interpretation of this language, which is that “the housing asset itself must be made affordable by the expenditure.” Mr. Ober also reported DLS’ guidance that expenditures that did not support a particular housing asset, such as a Housing Production Plan (“HPP” or “Plan”), while not eligible project expenses, could be funded through the CPC’s administrative budget if they assisted the CPC in performing its statutory duties.

Mr. Ober indicated that though neither of the housing requests under consideration related to a particular housing asset, the Community Preservation Coalition (“Coalition”) vehemently disagreed with DLS’ interpretation of support of community housing and that Town Counsel had provided similar, if not dispositive, guidance. The CPC discussed whether the IGR was an opinion or a regulation with the force of law. Mr. Ober referenced Coalition Executive Director Stuart Saginor’s email that “among the CPA and housing world, they [DLS] are all alone in their very narrow interpretation of the meaning of ‘support’ in the CPA legislation.” In response to Barry Tubman’s question, Tracey Lembo reported that at least 14 communities in addition to Weston had used CPA project appropriations to hire housing staff and/or consultants. Mr. Ober noted that these appropriations had occurred before the December 2019 IGR and that any administrative appropriation for the RHSO/Staff Support Project would have to be made in FY21. Mr. Ober also reported Mr. Saginor’s contention that most communities would not have a CPA administrative budget large enough to create an HPP or hire housing staff.

Applications for May Town Meeting:

- **Regional Housing Services Office (“RHSO”) & Community Housing Staff Support (\$32,000)**

Ms. Rhatigan indicated that both requests she was presenting were jointly sponsored by the HT and the Select Board (“SB”). Ms. Rhatigan noted that funding for participation in the RHSO, which was staffed with housing specialists, and staff support for the HT was an annual request to secure consultant housing hours on an as needed basis and, for the past 4 years, to have RHSO employee Liz Valenta provide consulting support to the HT. Ms. Rhatigan reported that the RHSO helped the Town to comply with State laws affecting deed restricted units (e.g., monitoring). Ms. Rhatigan also reported that funding for this request had traditionally been approved at Town Meeting and noted that the Town and the HT’s need for support had increased because of the number and complexity of proposed 40B projects.

- **Housing Production Plan (\$30,000)**

Ms. Rhatigan reported that the Town currently has an HPP for which the planning process had begun in 2015. Ms. Rhatigan recalled that a Steering Committee had been formed and tasked with developing a Plan to be certified by the State, a process that had taken approximately 6-8 months with the help of a consultant. Ms. Rhatigan referred to the HPP as a planning tool similar to the Recreation Master Plan. Ms. Rhatigan described elements of the Plan including identifying existing resident characteristics, such as income levels and housing needs, and determining where affordable housing can be built. Ms. Rhatigan noted that Weston’s Plan, which expires in June 2021, had been vetted by the Planning Board and the SB and approved by the State in June 2016. Ms. Rhatigan explained that if a town’s housing stock is less than 10% affordable and if it does not have an HPP recognized by the State, it has no ability to shape or deny 40B projects. Mr. Rhatigan reported that since Weston had an approved Plan, it could achieve “safe harbor” if it created 20 affordable units in any one year but that this safe harbor would disappear when Weston’s HPP expired. In response to Sue Zacharias’ question, Ms. Rhatigan explained the difference between temporary safe harbor, resulting from meeting affordable housing unit production targets in a given year, and permanent exemption from MGL Chapter 40B developments, resulting from obtaining and maintaining a housing stock which is at least 10% affordable. Ms. Rhatigan suggested that it would be unwise to scrap the HPP planning process while 3 large 40B projects were planned.

Ms. Zacharias noted that although the Plan was an update, current research was required. Ms. Rhatigan suggested that conditions were very different now than during the development of the last Plan in 2015 since several potential housing sites were now protected as conservation land, 3 or 4 large 40B projects were currently proposed, and the HT and the former Housing Partnership had merged. Ms. Rhatigan expressed a desire for the HPP consultant to give more specific advice regarding affirmatively changing zoning (e.g., adopting greater density zones or enacting an inclusionary housing law). In response to Nina Danforth’s questions, Ms. Rhatigan and Ms. Valenta indicated that the HPP would have to be bid and that Karen Sunnarborg had been the consultant on the last HPP.

Mr. Ober asked about the project’s timeline. Ms. Rhatigan reported that, assuming a May Town Meeting approval, she expected the SB to create a Steering Committee over the summer to begin a 4-5- month process in September. Ms. Valenta reported that the State had 120 days to review an HPP. Mr. Ober noted that if the Town approved the HPP at May Town Meeting, funding would not be available until July 1st. Ms. Rhatigan expressed surprise that the CPC

was willing to entertain such a large administrative fund request and noted that community outreach during the summer months was not ideal. Ms. Rhatigan stated that she and Ms. Valenta would consult with Jim Polando, who had chaired the last HPP Steering Committee, about timing.

Drawing on her experience with the Rail Trail, Marcy Dorna advocated for approving administrative funds so that the HPP process could begin sooner and a good consultant could be engaged. Ms. Zacharias noted that the HT did not intend to let the Plan lapse. Mr. Ober suggested treating the HPP as an administrative request and the RHSO/Staff Support Project, which could more readily be tied to specific properties, as a Town Meeting request as usual. Ms. Rhatigan worried that work evaluating properties and opportunities would not be covered under a Town Meeting approval of the RHSO/Staff Support Project. Steve Wagner suggested that a small amount of General Funds could augment CPC funding for what little work was not property specific. Mr. Ober was not troubled by a small amount of work not being property specific. In response to Mr. Tubman's question, Ms. Lembo reported that Weston's last HPP had been funded through a Town Meeting appropriation for a housing consultant which had not been used. Mr. Ober noted that the CPC's next meeting was on March 9th. Ms. Rhatigan indicated that the HT would be involved but would not take the lead in the HPP process and that she would consult with the Town Manager about timing. In response to Mr. Tubman's questions, Ms. Rhatigan explained that the SB would appoint an HPP Steering Committee ("Steering Committee") and engage a consultant and that the Steering Committee would work with the consultant and advise the SB.

Mr. Ober asked for an update on Trust activities. Ms. Rhatigan reported that the Trust had not seen a final presentation nor given formal comments on the Weston Affordable Housing Foundation, Inc. ("WAHFI") Birch Lane Project because it was evolving in response to Historical Commission ("HC") and neighborhood concerns. Ms. Rhatigan expressed her personal excitement about the project, noting that WAHFI was trying hard to preserve deteriorated buildings that were important to the HC and that WAHFI's challenge would be to present numbers that were understandable (i.e., identifying the historic preservation premium). Mr. Wagner stated that WAHFI was presenting to the HC on March 4th; Ms. Rhatigan indicated that it would make sense for the Trust to review WAHFI's proposal thereafter and make a recommendation to the CPC. In response to Ms. Zacharias' question, Mr. Wagner reported that the HC had agreed in concept to co-sponsor the Birch Lane Project.

Ms. Rhatigan noted the Trust's vetting of the planned 751 Boston Post Rd. and South Ave. 40B projects from a housing perspective and suggested that if multiple projects with many units were built, there would be an increased need for social services in the community. Ms. Rhatigan indicated that a Request for Proposals for 0 Wellesley St. would likely be sent to nonprofit developers in the spring and noted that the HT had not wanted to rush the project in the midst of widespread opposition to the other 40B projects. Ms. Rhatigan also noted that the Trust had spent time on budget and tenant issues at Warren Ave., which was performing well, and that the Trust was running a small Home Repair Grant Program with non-CPA money for which it would like to seek annual Town funding. The Committee discussed the permissible use of CPA funds for preservation, but not rehabilitation, of community housing unless the housing was acquired or created using CPA funds.

Mr. Ober asked about the Home Ownership Opportunity Program. Ms. Rhatigan reported that funds from this appropriation would be used to support the eventual development of 0

Wellesley St. Ms. Dorna asked if the Council on Aging (“COA”) Director was aware of the Trust’s Home Repair Grant Program. Ms. Rhatigan explained that the program was only available to income eligible owners of deed restricted units, all of whom had received a mailing about the program, and noted that the COA and the Trust were discussing holding a housing summit in the spring. Ms. Rhatigan agreed to do some homework and report back to the Committee.

CPA Fund Financial Information:

- **CPA Fund Projections**

Mr. Ober stated that he intended to highlight meaningful information but not get into granular detail when discussing financial projections. Mr. Ober reminded Committee members that when they discussed the Josiah Smith Tavern (“JST”) in the fall, they had been focused on not letting the CPA Fund balance dip too low. Mr. Ober noted that the current projected June 30, 2022 CPA Fund balance was less than \$1 million as compared to \$1.5 million projected in the fall. Mr. Ober indicated that the FYE20 and FYE21 projected Fund balance was approximately \$3 million and then identified some of the larger items pushing the Fund balance down including previously contemplated projects such as Case Estates preservation restrictions (“PRs”), Recreation Paths, Memorial Pool, and the Elderly Housing Committee’s project along with the new Birch Lane project. Mr. Wagner noted that the Town would be paying itself for Case Estates PRs and suggested that it could sell the properties with PRs in place as an alternative.

Mr. Ober reminded the CPC that the SB had met with an individual in January who was proposing a citizen’s petition to reduce the CPA surcharge. Though Mr. Ober now thought that such a petition was unlikely for May Town Meeting, he reminded the Committee that similar proposals had been made in the past and indicated that the CPC should always be mindful of the future of the CPA Fund, particularly in light of the recent JST appropriation. Mr. Ober suggested comparing surcharge revenue only to existing debt service on Case Estates, the Old Library, the JST, Brook School, and 500 Wellesley St. Mr. Ober reported that if the surcharge were reduced to 1%, surcharge alone [the only revenue stream against which the CPA Fund can legally borrow] could not cover existing debt service over the next 10 years. Mr. Ober also reported that if the surcharge were reduced to 2%, surcharge alone would barely cover debt service at certain points over the next 10 years, leaving the CPA Fund with the ability to cash fund only some very small additional projects.

Mr. Ober reminded the Committee that both Michael Harity and the Finance Committee had suggested a surcharge reduction in the past and reiterated that the CPC had to be constantly aware of where the CPA Fund balance was headed. Mr. Ober again expressed the opinion that he had voiced at the last CPC meeting that, as long as there were worthy CPA projects, it made more sense to reduce the General Fund budget than the CPA surcharge since the General Fund had no associated state match. In response to Ken Newberg’s question about whether General funds could be used to repay CPA Fund debt in the event of a reduction or revocation of the CPA surcharge, Ms. Lembo read the applicable sections in the CPA which indicate that the surcharge must remain in effect until all contractual obligations incurred by the CPA Fund are fully discharged.

- **CPA Fund Existing Project Status**

Mr. Ober reminded the CPC that it reviewed existing projects each cycle, and Ms. Lembo noted that appropriations on which a draw had not been made in the previous year were flagged. Mr. Wagner thought that the appropriation for 71 Lexington St. might be returned, since neither the original nor subsequent owner of the property was interested in a PR, and agreed to follow up. In response to Mr. Ober's question, Ms. Danforth reported that the Case Park Project had been delayed because of the loss of a DPW employee and the death of the project's designer and that the Tree Advisory Group intended to begin the project in the spring.

- **CPA Administrative Expenses**

Mr. Ober reported that current projections showed approximately \$83,000 of the CPC's \$123,000 FY20 administrative budget unspent at year end, which would seem to suggest that the CPC could fund the \$30,000 HPP administratively. In response to Mr. Ober's question, CPC members indicated their comfort with funding the HPP administratively and the RHSO/Staff Support as a project request presented to Town Meeting as usual. Mr. Ober suggested that, following DOR's logic, there was a better argument for treating the RHSO/Staff Support request as a project expenditure than the HPP. Mr. Tubman suggested there were 2 reasons to fund the HPP administratively: 1) DLS guidance and 2) timing. Mr. Wagner thought the Town should have a say in staffing decisions. Mr. Ober asked what should be done if the Trust determined that it could not use HPP funding until July. Ms. Dorna suggested that it would be the Committee's obligation to advise the Trust to start the project sooner.

Approve Minutes of the CPC Meeting on January 27, 2020

VOTE: Mr. Ober entertained a motion to approve the minutes of the CPC meeting on January 27, 2020 as amended. Nathalie Thompson made the motion, which was seconded by Ms. Danforth. The motion passed unanimously.

The meeting adjourned at 8:30 p.m.

Respectfully submitted,

Tracey A. Lembo
CPC Administrator

Appendix A

CPC Meeting February 10, 2020 Document List

- 1) Support for Community Housing:
 - a. Excerpt from Massachusetts Department of Revenue, Division of Local Services, Informational Guideline Release, December 2019
 - b. Community Housing Support Emails
- 2) CPA Applications for May Town Meeting:
 - a. Housing Production Plan Application
 - b. Regional Housing Services Office Participation/Staff Support for Community Housing Application
- 3) CPA Fund Financial Information:
 - a. 2-4-20 – Draft FY21 CPC Spreadsheet
 - b. Document Explaining Changes from 10-10-19 Spreadsheet
 - c. February 5, 2019 Existing CPA Fund Project Status Spreadsheet
 - d. 2-3-20-FY20 CPC Administrative Expenses Spreadsheet
 - e. Massachusetts General Law Chapter 44B
- 4) Draft Minutes of the January 27, 2019 CPC Meeting