

COMMUNITY PRESERVATION COMMITTEE  
MINUTES  
January 30, 2020

A meeting of the Community Preservation Committee (CPC) was held on Thursday, January 30, 2020 at 6:00 pm at 98 Washington Street, Salem, MA. Present were Chair Bart Hoskins, Ed Moriarty, Chris Burke, Carole Hamilton, John Boris, Mickey Northcutt and Mark Pattison. Also present was Jane Guy of the City of Salem Department of Planning & Community Development.

Mr. Hoskins asked if any members of the public wish to make a video recording of the meeting.

Steve Kapantais stated that he will be recording the meeting.

Public Comment

Mr. Hoskins read a letter from Steve Kapantais concerning whether the CPC may make a determination of eligibility of a loan program for construction of accessory dwelling units that are not, at this time, allowed under the City Zoning Ordinance; and whether CPC members John Boris and Mickey Northcutt must recuse themselves from voting on this determination of eligibility or any matter referred to the CPC by the City's Affordable Housing Trust Fund Board.

Mr. Hoskins read a memorandum from Elizabeth Rennard, City Solicitor, regarding the two issues raised.

Mr. Northcutt and Mr. Boris made public disclosures that they are members of the Affordable Housing Trust Fund Board. Both have submitted written Disclosures of Appearance of Conflict of Interest, which have been filed with the appointing authority, which is the Mayor's office.

Mr. Kapantais of Wisteria Street thanked the Committee for requesting the getting legal opinions.

Review and Vote on Determination of Eligibility Applications Received

The CPC reviewed 7 applications. Ms. Guy reminded the CPC that in determining eligibility, the amount of funding requested is irrelevant, as is the merits of the application and that members must vote only on whether the application is eligible under the Community Preservation Act regulations.

*Affordable Accessory Dwelling Unit Loan Program – City of Salem, DPCD*

The application is for a loan program to provide gap funding for homeowners who want to create an accessory dwelling unit on their property under Community Housing Creation.

Mr. Northcutt questioned if the Community Preservation Coalition was asked for their point of view.

Ms. Guy stated that she conducted some research, including a search with the keyword "accessory" in the Coalition database with the words and that there are a number of communities

that have provided funding for accessory dwelling units – some for the planning stages, some for construction and some for loan programs.

Mr. Moriarty stated that if he understands the City Solicitor's opinion, it was indicated that the parameters of the application are not clear and further inquiry from the applicant was suggested.

**MOTION:** Mr. Moriarty made a motion that the application be tabled unless and until that portion of the City Solicitor's opinion is addressed to refine the extent to which the application seeks funding for that which is already permissible under the ordinance and that which would be conditional on a change in the ordinance by way of special permit variance or amendment.

Ms. Guy stated that Amanda Chiancola from the Department of Planning and Community Development is present and is able to address questions from the Committee.

Mr. Moriarty stated that it was not a question, but is his opinion of what is expressly required by the City Solicitor.

Mr. Burke asked if the application were tabled, how many months are left for them to come in with a more specific application and still qualify.

Ms. Guy stated that current application is for eligibility. She stated that if and when the activity is determined to be eligible, then the deadline for funding applications is March 27, 2020.

Mr. Burke asked if there is a deadline for eligibility applications and if the application were tabled, could it be taken up at the next meeting.

Mr. Northcutt asked what the CPC would want to get between now and then that they don't currently have. He stated that they have received an opinion from the City Solicitor and he is a lot more confident knowing that multiple communities have done similar. He noted that it is addressed by the application that any funds that would be distributed by the Affordable Housing Trust Fund board would require an affordable deed restriction. He stated that for him, it checks the box of eligibility, not necessarily of priority or amount. He stated that he was somewhat skeptical himself in the use of CPA, but the opinion certainly helps.

Mr. Burke notes that the City Solicitor letter says it would be currently eligible for certain accessory dwelling units that are allowed in city. He believed Mr. Moriarty was referring to last year when there was vote for a different type that was turned down by City Council. He asked if we did rule it eligible tonight, would it be just for what is eligible.

Mr. Hoskins stated that he looks at the eligibility application and at the chart, to see if it fits the parameters of the chart for: Community Housing - housing for low and moderate income and families, including low and moderate seniors and the support that is allowed, which is to provide, grants, loans, rental assistance, security deposits and a whole category of things. He stated that he felt that tonight's vote is to determine if it is, broadly speaking, eligible. He stated that all our projects that we fund have the inherent assumption that they are going to go through the appropriate boards, commissions, approvals, etc., and confirm with the existing ordinances and zoning. He stated that this application just gets the ball rolling so someone knows whether to take the time to put together a funding application, which is the purpose of this two-part application.

He stated that he did not see the harm in advancing it to the point of having a funding application to come. He noted that there would need to be an expectation for the application coming in that it needs to address specific parameters about what the loans could and could not fund.

Mr. Burke was in agreement, but wondered if it were tabled as Mr. Moriarty motioned, would it be a problem. He stated that the program seems to be eligible, noting that certain accessory dwelling units would not currently be eligible for funding. He stated that he was leaning towards saying it is eligible tonight and not delaying it.

Mr. Hoskins stated that, if it were tabled, we would need to indicate what we want to know for the next meeting and it would set this application behind the others, as far as preparing the application submission. He noted that if there are specific questions we would like addressed, we can send that message back with eligibility determination.

Mr. Moriarty stated that for this particular application, there is an indication in the opinion of the city solicitor that the reason this may be considered eligible is because it is subject to being read as requesting funding for that which is permissible under a portion of the zoning statute, despite the fact that it is also consistent with being read with that which is not permitted under the zoning statute and is in fact expressly prohibited. He felt it needs to be addressed whether or not there is authority for the Committee to take action on this without express indication from the City Solicitor. He stated that he felt it should be clarified before a determination is made as to whether it is eligible for funding. He felt it doesn't put anyone behind.

Mr. Hoskins stated that he understood that the eligibility application is extremely broad. He added that he finds it difficult to imagine a scenario where an application would be submitted for something that is not permitted under the current City Ordinance in the hopes that between the time of submission and the time the CPC votes on it, it will suddenly become eligible. He assumed the application would have to conform to existing Ordinances, noting it may need to be tabled at that time for an additional opinion. He felt tabling it now would delay their ability to work on it.

Mr. Northcutt stated that it is similar to an application for an affordable housing project, where we do not require them to already have full permits in order for them to get an award. He stated that, in fact, he did not believe any of the projects awarded have had full permits. They are subject to some sort of zoning relief, where the applicant is realistically pursuing parallel to the funding application. There is a process after we vote to recommend funding and the council affirms it. There is still a CPA grant agreement with the city.

Ms. Amanda Chiancola stated that if it is determined eligible, and the funding is awarded, the money would be transferred to the Affordable Housing Trust Fund Board, which would require an agreement between the CPC and the Affordable Housing Trust Fund Board. She noted that all the CPA requirements would get tied in and that agreement would not occur until it is legal to create the units that are being proposed.

Mr. Moriarty stated that his motion is that this matter be tabled because there is an expressed provision contained in the opinion provided by the City Solicitor that she could not determine whether or not the application was seeking benefits that are beyond the current zoning ordinance. The City Solicitor has expressly indicated that further inquiry from the applicant is needed to

clarify this scenario. His stated that his motion is that applicant work with city solicitor to reframe the application to be consistent with existing zoning law, so that the CPC may make a determination on eligibility. He felt that absent that clarification, it is ineligible.

There was no second.

**VOTE: Mr. Northcutt made a motion to find the proposed project is eligible, to be submitted under a CPA funding application under Community Housing: Creation. Ms. Hamilton seconded the motion. Mr. Hoskins, Mr. Burke, Ms. Hamilton, Mr. Boris, Mr. Northcutt and Mr. Pattison voted in favor. Mr. Moriarty voted in opposition. The motion so carried.**

*Mack Park Food Farm – Salem Board of Health*

The application is to build a hybrid of a community food forest and urban farm at Mack Park under Recreational Land: Rehabilitation/Restoration.

**VOTE: Ms. Hamilton made a motion to find the proposed project is eligible, to be submitted under a CPA funding application under Recreational Land: Rehabilitation/Restoration. Mr. Northcutt seconded the motion; all were in favor and the motion so carried.**

*Salem Community Garden Improvements – Salem Community Gardens*

The application is to restore Splaine Park Community Garden, as well as make minor improvements to the Pickman park and Mack Park Gardens under **Recreational Land: Rehabilitation/Restoration**.

**VOTE: Mr. Northcutt made a motion to find the proposed project is eligible, to be submitted under a CPA funding application under Recreational Land: Rehabilitation/Restoration. Mr. Boris seconded the motion; all were in favor and the motion so carried.**

*Phillips House Building Envelope Preservation – Salem Housing Authority*

The application is to preserve the building envelope at 86 Essex/50 Washington Square South to stop water infiltration through the brick exterior and louvers in the tower under Historic Resources: Preservation or Community Housing: Preservation.

Ms. Guy noted that the work will require approval from the Salem Historical Commission.

**VOTE: Ms. Hamilton made a motion to find the proposed project is eligible, to be submitted under a CPA funding application under Community Housing: Preservation. Mr. Pattison seconded the motion; all were in favor and the motion so carried.**

*Stephen Zisson Building Trim & Moulding Restoration – Salem Housing Authority*

The application is to preserve the detailed molding work on the upper level of 292 Essex Street (YMCA Building) under Historic Resources: Preservation or Community Housing: Preservation.

**VOTE: Mr. Moriarty made a motion to find the proposed project is not eligible, on the grounds that it is maintenance. Mr. Northcutt seconded the motion; all were in favor and the motion so carried.**

*Station 2 Improvements – Salem Fire Department*

The application is for brick repointing, roof restoration and window replacement/restoration under Historic Resources: Preservation or Rehabilitation/Restoration.

Mr. Moriarty made a motion that it be deemed ineligible, because the firehouse is not a historic resource. He stated that although it is listed on the State Register of Historic Places, he felt it does not have the condition, history, tradition or patina that is generally associated with historic resources that are provided CPA funding from the organization or other CPC's across the Commonwealth. He stated that he felt it was stretching it beyond the definition of historic to suggest that this fire station or the other fire station is a historic resource. He noted it is an important building and an old building and that the fire department provides essential services to our community, but he stated that he felt it would be a misappropriation to use hard earned CPA funds to be utilized for what comes down to a common sense definition of a historic resource. He did not feel it was historic by age or use, just that it is an important structure that needs to be funded under public safety.

There was no second.

Mr. Pattison stated that it is historic by age.

Ms. Hamilton stated that the date of construction is 1881 and wondered how we would determine it is not an historic resource when it is listed on the State Register.

Mr. Moriarty stated that he conceded that it is on the historic register and he conceded it is old, but he does not concede it is an historic structure by virtue of it being a firehouse that should be funded under public safety.

Mr. Northcutt stated that he did not feel there was a choice if it listed on the National Register, but felt if eligible, Mr. Moriarty's argument is that it is a low priority, which is perfectly fine. He stated that it must be found eligible under historic resource.

Mr. Hoskins stated that the work described is roof leaks, which the CPC has previously determined is protection of the structure.

**VOTE: Mr. Pattison made a motion to find the proposed project is eligible, to be submitted under a CPA funding application under Historic Resources: Preservation or Rehabilitation/Restoration. Mr. Burke seconded the motion. Mr. Hoskins, Mr. Burke, Ms. Hamilton, Mr. Boris, Mr. Northcutt and Mr. Pattison voted in favor. Mr. Moriarty voted in opposition. The motion so carried.**

*Station 4 Improvements – Salem Fire Department*

The application is window replacement and repair/repainting of the parapet under Historic Resources: Preservation or Rehabilitation/Restoration.

Mr. Hoskins stated that the CPC has provided funding for window replacement for other historic buildings, but felt the parapet work for fresh paint and caulking is maintenance.

Mr. Northcutt stated that with the library, the CPC received an application every year for a new burning problem and every year would make a decision not knowing there were other burning problems. He stated that he would like to see a copy of the assessment that was completed, so that we don't throw money at it if it is just 5% of an overall problem, and there is not plan.

**VOTE: Ms. Hamilton made a motion to find the window portion of the proposed project is eligible, to be submitted under a CPA funding application under Historic Resources: Preservation or Rehabilitation/Restoration and to find the parapet painting and caulking to be found ineligible. The motion is also to request copies of the assessments for both Station 2 and 4. Mr. Boris seconded the motion. Mr. Hoskins, Mr. Burke, Ms. Hamilton, Mr. Boris, Mr. Northcutt and Mr. Pattison voted in favor. Mr. Moriarty voted in opposition. The motion so carried.**

Other Business

*Approval of minutes – 11/12/19*

**VOTE: Mr. Boris made a motion to approve the minutes of 11/12/19. Ms. Hamilton seconded the motion, all were in favor and the motion so carried.**

*Funding Status*

Ms. Guy stated that the funding status changed slightly since the last meeting and that \$171,821.29 is currently available until the FY21 funding surcharge revenues and estimated State match funds are determined in March or April, 2020. The extra \$3,750 is due to the way the Footprint funding is calculated in the budget. Of the total, the submission to the City Council for \$100,000 for Bertram Field will likely be made in June after bids are received.

Ms. Guy stated that notification came from the State that Salem got \$75,385 more in State match funds for FY20 than had been estimated. These funds won't be available until November.

*Other*

Mr. Burke asked how we determine who is the chair and when and if the chair turns over.

Ms. Guy stated that, in the past, it has been done when someone has left, the last being Kevin Cornacchio.

Ms. Guy stated that she could put it on the agenda at whatever time interval the committee prefers.

Mr. Northcutt suggested putting at start of each season, when the plan is adopted.

Ms. Guy stated that she could put it on the agenda in the first meeting in the fall.

Ms. Hamilton stated that it sounded reasonable.

Mr. Northcutt wondered how other boards do it.

Ms. Guy will look into it.

Mr. Moriarty stated that Ms. Guy does an outstanding job, with difficult issues, tremendous amount of paperwork, conflicting viewpoints, large crowds, and documents to send out are just part of her job description. He stated he was proud to have put forward an adjustment in Ms. Guy's salary a couple years ago and noted he did not do that last year. He stated that he feels she is entitled to an adjustment due to cost of living and the increase of work each year, as we become more well-known in the community and the money we have available to award. He suggested at least \$750.

Mr. Northcutt asked where we are relative to what we are allowed to spend on admin.

Ms. Guy stated that we budget 5% each year, and that unspent admin last year was \$25,000.

Mr. Northcutt asked if all boards come with a stipend.

Ms. Guy stated that all boards are different.

Mr. Burke suggested putting discussion on the next agenda.

Mr. Northcutt asked if it was possible to get information on what boards pay stipends.

Mr. Burke also asked to get information on what other CPC's pay around the state.

Ms. Guy stated that CPA cannot pay toward a position that already exists, but can pay for a position it creates or for extra work, such as meeting attendance. An existing position's salary cannot be split, so work that is done during the day on behalf of the CPC is funded by the City.

Ms. Guy noted that there are some city employees who staff an assigned board as part of their job and it is built into their salary, but there is a stipend for the person who takes the minutes.

Next Meeting Date

Ms. Guy stated that the next meeting date is tentatively scheduled for Tuesday, February 11, 2020.

**There being no further business, Mr. Boris made a motion to adjourn. Mr. Burke seconded the motion; all were in favor, and the motion so carried.**

Respectfully submitted,

Jane A. Guy  
Administrator