

COMMUNITY PRESERVATION COMMITTEE
MINUTES
January 9, 2018

A Public Hearing and regular meeting of the Community Preservation Committee (CPC) was held on Tuesday, January 9, 2018 at 6:00 pm at 120 Washington Street, Salem, MA. Present were Chair Kevin Cornacchio, Ed Moriarty, Chris Burke, Carole Hamilton and John Boris. Also present was Jane Guy of the City of Salem Department of Planning & Community Development.

Mr. Northcutt and Mr. Hoskins arrived later in the meeting.

Mr. Cornacchio stated that the applications to be viewed tonight are only for the purpose of determining eligibility under the CPA statute and that the CPC will not be making recommendations on funding at this time.

Public Comment

Meg and Wendy Biggs stated they were in favor of the Salem Athenaeum project.

Review and Vote on Determination of Eligibility Applications Received

The following 11 applications were reviewed. Ms. Guy stated that Mr. Shea provided her with emails with his opinion on each of the applications, noting that these are opinions without the benefit of group discussion or public input. She added that for several of the applications, she reviewed the Community Preservation Coalition's database for similar projects as information only, citing a prior email from Stuart Saginor of the Community Preservation Coalition, that said, "the data from other communities shouldn't be used as a guide to determine if your project is eligible for CPA funding.... it's like saying 'I see people parking in no-parking zones all the time, so it must be ok to do that.' " The CPC may consider or disregard this information in its determinations of eligibility.

Ms. Guy asked if any members had any appearances of conflict of interest to disclose. There were none.

Lighthouse 34– North Shore Community Development Coalition

The application is for new construction of 21 units of affordable housing at 34 Peabody Street.

VOTE: Mr. Moriarty made a motion to find the proposed project is eligible, and for a CPA funding application to be submitted under Community Housing: Creation. Mr. Boris seconded the motion; all were in favor and the motion so carried.

Hamilton Hall Facade Preservation – Hamilton Hall

The application is for restoration and preservation of doors, trim, sill and windows on the South facade.

Ms. Guy read Mr. Shea's email with his opinion that it "appears to be maintenance thus not eligible".

Ms. Guy stated that maintenance has a slightly different connotation with historic properties. She agreed that painting or cutting down overgrown brush would certainly be maintenance and not eligible. However, repair/replacement of existing wood features on an historic building would be rehabilitation/restoration, which is allowed and which this board has funded several similar projects.

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

Upgrading the Fire Detection System at Phillips House – Historic New England

The application is for upgrading the current fire detection system.

Ms. Guy read Mr. Shea's email with his opinion that this is not eligible.

Ms. Guy stated that she checked the Community Preservation Coalition's database and found that fire alarm systems have been done in Acton, Cambridge, Concord, Easthampton, Gloucester, Kingston, Lexington, Plympton and Westford with CPA funds.

Mr. Cornacchio stated that he felt it was eligible.

Mr. Moriarty was in agreement with Mr. Shea. He stated that, as Ms. Guy pointed out, these are databases and each community has to do what is in its own best interest, under its own guidelines. He noted that the proposed is an upgrade to an existing system, so he felt the argument of eligibility could be lessened because there is a system in place. He stated the system was likely put in place for multiple reasons, including insurance. He did not believe it is eligible, because it is not sufficiently distinguishable from fire alarm systems that are now required under relevant state and/or local building codes or best practices. He noted that he could also see understand opposite argument.

Mr. Burke stated that he would lean toward a liberal interpretation and probably vote for it to be eligible, but then when grading the funding applications the CPC can further deliberate.

VOTE: Ms. Hamilton made a motion to find the proposed project is eligible, and for a CPA funding application to be submitted under Historic Resources: Preservation. Mr. Burke seconded the motion; Ms. Hamilton, Mr. Burke and Mr. Cornacchio voted in favor. Mr. Boris and Mr. Moriarty voted in opposition. The motion so carried.

Mr. Northcutt joined the meeting.

De-humidifier System to Protect the Salem Athenaeum's Collections – The Salem Athenaeum

The application is for replacing the current de-humidifier system.

Ms. Guy read Mr. Shea's email with his opinion that his is not eligible. Ms. Guy stated that she checked the Community Preservation Coalition's database and found that de-humidifiers have been purchased in Littleton and Pembroke with CPA funds.

Mr. Moriarty agreed with Mr. Shea that it is not eligible. He stated that he understood the argument for protecting the historic resource, but noted that this is an upgrade of a system already there, which he felt was a compelling argument that this is maintenance. He stated that technology changes, so one would get a new system, but the problem was addressed 10-12 years ago and now a new system is needed, which is the heart of maintenance. He acknowledged there is not an exclusion to the concept of maintenance to an historic structure and that everything, per se, that is put into an historic structure can possibly not be maintenance – but it isn't necessarily preservation. He stated that he would err on side of conservatism.

Mr. Northcutt agreed that it was grey, but that it may not be necessarily ineligible. He noted that it may not be prioritized as high.

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

Mr. Hoskins entered the meeting.

McIntire Carvings Restoration – Salem Common Neighborhood Association

The application is to create carvings from a digital image of the original carvings that are currently in possession at the PEM.

Mr. Northcutt questioned if the CPC talked about this in a prior year and that these were determined to not be old enough.

Mr. Cornacchio stated that it was from the 1970's.

Mr. Northcutt stated he did not think it was eligible.

Ms. Guy read Mr. Shea's email with his opinion that his is not eligible and "appears to be a request for something 'new'".

Ms. Guy stated that this is similar to the application in 2014 where they asked for work on the arch, which was denied because it was not over 50 years old. She noted that after the vote in 2014, she got concurrence that Stuart Saginor at the Community Preservation Coalition that it was not eligible. Ms. Guy noted that she also forwarded the current application to Mr. Saginor and read his response dated 1/9/18:

“First, let’s talk about precedent. If you look at the CPA allowable uses chart, “precedent” is not one of words listed that can be used to justify a project. So you can never justify an application’s eligibility by merely citing a completely different CPA project from the past, such as the Salem Common Fence project. Rehabilitation of an existing historic fence is clearly an allowable use of CPA funds, even if it does mean that you have to create new sections out of the same material to replace pieces that are too far deteriorated to be restored.

In addition, a mere listing in MACRIS is not enough to qualify a project for CPA funding. It has to meet this definition:

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

Even if you did get MHC to list the 1975 replica on the state register of historic places, or if the Salem Historic Commission deemed the 1976 replica significant in the history of the city, you still don’t have a verb on the allowable uses chart to justify the project. The legislature was pretty clear that you cannot “create” something new in the historic category. CPA cannot pay for mere replicas, even if they are really well done. It’s certainly a great project related to history, but CPA cannot pay for every project related to history. The project has to be justified by one of three verbs – acquire, preserve or rehabilitate. The project described in the application does not do any of those things, but rather it sits squarely in the “create” box on the allowable uses chart.

If the legislature had chosen to allow projects such as this one, they would have added the verb “replicate” to the allowable uses chart. But you can see how they would never consider doing that. Folks would be using CPA funds to build brand new buildings that were replicas of ones that were gone. In fact, any important historic item would be OK to replicate – clocks, clothing, tools, wagons, boats, etc. There have to be four walls somewhere around CPA funding, or else the CPA would be no different than the city’s general fund.

Please see the attached from DOR that illustrates how to determine allowable use in the case of replicas.

Although CPA isn’t for replicas, the existing wood carvings in the museum archives are clearly an historic resource, and you could certainly take steps to preserve or rehabilitate those. Stockbridge completed such a project, rehabilitating the original sign that hung outside the first Norman Rockwell Museum. Rockwell himself painted the wood sign, and it is now stored in the archives of the museum. Had the museum applied to create a replica to hang outside the new museum however, it would not have been approved for CPA funding.”

Ms. Guy clarified one item on the application, noting that while the DPCD does various historic preservation projects, it is never the responsible authority for authorization of projects within parks. She stated that she believed that the reason the application states to refer her was because there was some confusion on the part of the Park and Recreation Department, with an assumption that because the arch and carvings are not a recreational resource, that they did not have to provide authorization.

Mr. Moriarty stated that in the application, there is a misstatement or potential mischaracterization of the law. He stated that he felt the applicant is imaginative, creative and historically passionate, but is ill-advised when he suggests that this must be understood to be eligible as a matter of law. He noted that there is no such argument that can be made by the

applicant. He disagreed with the statement by the applicant that said eligibility was already established by precedent, explaining that the CPC makes the determination on a case by case basis, takes all the facts into consideration and exercises its best judgement consistent with the statute. He agreed with Mr. Shea and Mr. Saginor that the proposal is not restoration, but is creation.

Mr. Cornacchio stated that he was in agreement with Mr. Moriarty.

VOTE: Mr. Moriarty made a motion to find the proposed project is not eligible, and for a CPA funding. Ms. Hamilton seconded the motion; all were in favor and the motion so carried.

Leslie Retreat Monument Beautification – Salem Beautification Committee

The application is for improving signage, adding seating, soil amendments, plant installation and mulch.

Ms. Guy read Mr. Shea's email with his opinion that this is eligible. Ms. Guy stated that she did not feel that cleaning litter and overgrowth, mulching or planting annuals would be eligible. She stated that as far as the rest, including perennials, the question is whether this is a historic resource and what would a sign, a bench or plantings have to do with preserving or restoring the resource. It does not appear to be listed on the National Register and the Historical Commission has not provided an opinion, however, there is an account of dedication of a memorial stone installed in 1886. However, this may not be the actual stone or plaque. Therefore, there is question if it is over 50 years, as well as how is a bench, sign and plantings would be considered historic preservation or restoration. It seems more like these are enhancements of the experience or what would be done in a park, but this is not a park and therefore not recreational. If they were restoring the monument, it would likely be eligible, but she did not feel the proposed was unfortunately not eligible under historic preservation.

Mr. Moriarty felt Leslie's Retreat is of historic significance with regard to Revolutionary or pre-Revolutionary times, but agreed it is not eligible.

VOTE: Mr. Boris made a motion to find the proposed project is not eligible, and for a CPA funding application. Mr. Northcutt seconded the motion; all were in favor and the motion so carried.

Olde Salem Greens Golf Cart Paths – City of Salem (also submitted by Maureen Keefe)

The application is for restoring and/or relocating cart paths.

Ms. Guy read Mr. Shea's email which stated, "While the original application needs a few corrections, I believe the cart paths to be eligible under both historical resources and recreational land categories. The rehabilitation and restoration of the paths will help to preserve the golf course as a whole. The impact this recreational land has on the residents of Salem is tremendous with thousands playing golf and hundreds more walking the course during the off season. Our

committee has previously approved funding for similar projects that involved path/trail improvements - Winter Island comes to mind - so I would vote in the affirmative that this project is eligible.”

Ms. Guy stated that she checked the Community Preservation Coalition’s database but could not find anything related to paths on a golf course, but she did find some for improvement of holes and/or tees on golf courses.

Mr. Cornacchio stated that he felt it was a stretch.

Mr. Burke stated that he would vote in favor. He stated that it is a historic resource, built in 1933 and is certainly a recreational improvement. There are some sections with no paths and some with paths that have been washed away; therefore this is an important upgrade of a recreational resources. This golf course is less expensive than any other in the area, so it provides an important recreation resource for the people in Salem.

Mr. Hoskins stated that it is analogues to the walking path we funded at Winter Island.

Mr. Moriarty agreed and noted it was also analogues to providing improved equipment on an existing playground, because one wants the maximum use of the recreational space and for the greatest number and the best equipment for fun and for safety. He stated that golf carts are integral to many people that use the golf course and would provide the maximum recreation value for the most number of people, which he assumed would make the course more accessible.

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

Retaining Wall Splaine Hillside – Splaine Park

The application is for installing a retaining wall to eliminate erosion and protect recently completed work.

Ms. Guy read Mr. Shea’s email with his opinion that his is eligible. Ms. Guy stated that she checked the Community Preservation Coalition’s database and found that in Beverly a retaining wall had been completed as part of a project to also replace tennis courts and install new fencing.

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

Furlong Park Irrigation – City of Salem

The application is for installation an irrigation system at the ball field.

Ms. Guy read Mr. Shea's email with his opinion that his is eligible. Ms. Guy stated that she checked the Community Preservation Coalition's database and found 53 irrigation projects on recreational land funded with CPA funds in other communities.

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

Irzyk Park (Memorial Park Field) – City of Salem

The application is for regrading of field for proper drainage and install new sprinkler system.

Ms. Guy read Mr. Shea's email with his opinion that his is eligible. Ms. Guy stated that she checked the Community Preservation Coalition's database and found sprinkler systems funded with CPA funds in Bourne and Maynard.

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

Bertram Field Phase 2 – City of Salem

The application is for completion of upgrades outlined in the feasibility study including accessible Press Box, a storage facility for maintenance and sports equipment, Athletic building (lockers, first aid, office), and public amenities (concession, ticketing, restrooms). A summary presentation was provided.

Ms. Guy read Mr. Shea's email with his opinion that this is eligible, but noted that the email sent to CPC members did not include the presentation. Ms. Guy stated that she checked the Community Preservation Coalition's database and found no mention of lockers but 5 projects for concessions stands with restrooms and/or storage of equipment at an athletic field. Ms. Guy suggested that if the CPC finds this eligible, they specify what parts of the project they would consider funding (i.e. concession stand, bathrooms, storage) and that a press box would not be eligible, nor anything for inside use. The project would need to be related to the field.

Mr. Moriarty noted that this would likely provide greater use to greater numbers in the community than the Forest River project, for which the CPC had problems with the pressbox, but this is the same issue on a grander scale. He did not have a problem supporting what is clearly necessary and incidental to the use of the athletic field, but noted that the farther removed physically and spatially from the field and its activities, the more remote it is to what the CPC should be involved.

MOTION: Mr. Moriarty made a motion to find the proposed project is not eligible for a CPA funding due to the application being too comprehensive in scope and is not reflective of the limitations on CPA funding based on the language found in the Community

Preservation Coalitions technical assistance bulletin on CPA Recreational Projects: *Why Can't CPA Funds Be Spent on Stadiums and Structures?* that relate to the land or necessary and incidental use of the land and the distinction between an athletic field ,where there are some temporary or small stands, versus a stadium that is a permanent structure used for multiple sports .

Mr. Cornacchio noted it has a bit of a commercial component, because they do raise funds with this.

Mr. Moriarty stated that emphasis on the research that has been done is on the simplicity of the incidental and ancillary structures and that this is far from incidental and ancillary. He stated that the CPC does not want to confuse the importance of the project with whether it qualifies for funding.

Mr. Burke stated that from the research provided, it seems that stadiums of this type are not eligible overall.

Ms. Guy stated that stated the CPC would need to decide if the bathrooms and/or concession stand is or isn't eligible depending on whether it is considered an athletic field or stadium in size.

Mr. Burke stated that he is inclined to vote against.

Mr. Cornacchio was in agreement.

Mr. Moriarty stated that they have an ability to resubmit with a more limited scope for more finite uses that are clearly more modest.

VOTE: Mr. Boris seconded the motion; all were in favor and the motion so carried.

Other Business

Available Funds Update

Ms. Guy stated that the funds available remains at \$37,247.97 in the Fund Balance and \$63,250 in the Housing Reserve. The FY19 budget process will begin in March, prior to review of the next round of funding applications.

Approval of Minutes

VOTE: Mr. Northcutt made a motion to approve the minutes of October 10, 2017 and November 14, 2017. Mr. Hoskins seconded the motion, all were in favor and the motion so carried.

Next Meeting Date

Ms. Guy stated that the next meeting date is tentatively scheduled for Tuesday, February 13, 2018, which would be to review any additional Determination of Eligibility application received. If none are received, there will not be a meeting until the budget numbers are received – either March 13th or April 10th. There will likely be a second meeting in April. Ms. Guy will send out a Doodle poll.

VOTE: There being no further business, Mr. Hoskins made a motion to adjourn. Mr. Moriarty seconded the motion; all were in favor, and the motion so carried.

Respectfully submitted,

Jane A. Guy
Administrator