

**TOWN COUNCIL MINUTES
BUDGET/MANAGEMENT COMMITTEE
Town Hall Council Chambers
June 16, 2011 - Thursday**

Present: Kenneth DiFazio, Chairperson
Arthur Mathews, Council President
Michael Molisse, Councilor
Michael Smart, Councilor

Not Present: Patrick O'Connor, Vice Chairperson

Also Present: Richard Swanson, Town Auditor
Susan Kay, Mayor
Walter Flynn, Chairman, Community Preservation Comm.
James Clarke, Director, Planning & Development

Recording Secretary: Mary Barker

Chairman Kenneth DiFazio called the Budget/Management Committee meeting to order at 6:45PM

11 096-Community Preservation Fund Land Purchase

Jim Clarke presented the request in conjunction with the Mayor via a power point presentation, along with the background regarding the offer to purchase the Emery Estate. In early May, the owner's representative, Land Vest, contacted the town to see if there was interest from the town purchasing the property. A tour of the property was conducted by Land Vest with the Mayor and other town representatives and an offer sheet was received. The Emery Estate is located on the top of King Oak Hill off of Commercial Street; approximately 24 acres in three parcels; with a house, carriage house, garage and playhouse and much open space with views to the Boston skyline and beyond. There are two access points; from Emery Lane which is a private way from Commercial Street and from Vernon Street. He reviewed the dwellings on the property including the house, which is a replica of Mt. Vernon and built in 1903, the carriage house, garage and playhouse. An appraisal was done by Tobursky Associates of Hingham at the direction of the CPC once the town expressed interest in the acquisition.

The Town's assessed value on the property is \$987,700 based on the current use of the property. With build-out of homes based on minimum of 25,000 square feet and keeping a portion open space, the assessed value will be different. The property is zoned R-1 residential. Land Vest has shown a proposed 28-lot subdivision can fit by demolishing the house on the property. The planning office did an overview and also found it feasible. Based on land use with a development approach, and with sales comparisons, the cost to develop including roads and utilities, the Town and subtracting out profit, the town appraisal would be about \$1.97 million.

Councilor Mathews asked if the property could potentially support greater development given the minimum sized required by ordinance. Mr. Clarke responded that there are factors in the topography of the site that could make development less suitable; steep slopes could make road construction difficult. The Planned Unit Development (PUD) bylaw also exists in Weymouth, which requires a minimum of twenty five acres. Adjacent property acquisition could be done by a developer.

The CPC discussed negotiation parameters on May 20, 2011; the town then met with the sellers to put in an offer, which was accepted. The Mayor then put forward the measure on the CPC's recommendation with an offer of \$1.85 million.

Walter Flynn, Chair of the CPC, reviewed the acceptable uses by which CPC funds may be used. He noted that not everyone is comfortable with the way the CPC fund is structured, nor the permissible uses. Funds may be used for open space, community housing, historic resources, and recreation. The first three categories are mandatory funding sources; recreation is discretionary. Of the total CPC budget, 5% is allowable for administrative costs, a minimum of 10% must be allocated to the three mandatory funds and the town has historically funded recreation 10% as well. The remaining funds are placed in the general reserve funds. Funds remaining in any of the allocation categories are rolled year to year and funds in the mandatory categories must be rolled into those same funds. Unexpended funds in a fiscal year in the discretionary category rolls into the unrestricted fund balance. There will be another category funded (debt) if this measure is acted on favorably. Mr. Clarke also noted that funds cannot be used for recreation on properties that the town already owns, he noted that this restriction has caused controversy statewide. The town is restricted from using funds for Legion Memorial and other town owned fields.

Mr. Clarke then reviewed the bonding options available and provided the committee with a spreadsheet to review. The town is leaning towards a ten year bond of \$1.9 million. In the first year of paying back principal and interest the payment will be about \$253,000. Actual payment for FY12 will be \$33,000 (interest only). The town's portion will be \$536,000 and the total budget will be \$686,450, including the \$33,000 payment. In FY13 the principal will start to be paid off. The figures provided were estimated based on current fund balances which he reviewed for the committee.

Chairman DiFazio asked if the numbers will be added to the FY12 budget. Mr. Clarke responded in the affirmative. Only the general reserve funds will be used to pay the bonding. Debt service will be included in the annual presentation of the CPC budget; it has been indicated in the past at zero balance.

Mr. Clarke reviewed options for five and fifteen year bonding also.

The Mayor signed a Purchase and Sale Agreement which the state is now reviewing, and with requirements such as due diligence to be met, the town is looking at close of escrow in early August. The Mayor has had meetings with key staff people. Cost of upkeep, security, and other measures are under review with the intent to have a plan in place by

the closing date. The future of the estate will be determined; the intent is to maintain open space and scenic views. Public access and use plan will need to be developed for the site. The major question for the administration will be the appropriate use for the house and other buildings. The land will speak for itself over time. The administration is committed to a public process to determine the future use, which is why a reuse plan is not being presented with the purchase request. The Goody Clancy Report prepared for the CPC recommends a market study is completed determining uses for the house so the town can understand the most appropriate use. They will also want to carefully study the historic connection to nearby sites such as Legion Memorial Field, the Abigail Adams homestead, and First Church for example. The town is also committed to doing this in a timely manner and preparing a reasonable schedule to determine the use of the property, beginning in the fall.

Mr. Flynn summarized; the property is unique with scenic and historic values. The town has been offered the opportunity by the owners, with a narrow window for action. If the town is not interested the owners are ready to offer it to private development. The site was identified in the past for protection in previous plans; it clearly meets the mandates for funding under the Community Preservation Act and the purchase price is within the mandated guidelines.

Chairman DiFazio asked for confirmation that if the town were to decline the purchase and it was privately developed, the town would realize about \$6000 real estate taxes per house, the town is looking at a loss of about \$150,000 per year. Mr. Clarke responded that would be approximate but correct. He also asked the Mayor, if this is approved, how the town anticipates maintaining the property with the reduction in DPW forces over the last several years. A plan would clearly need to be in place. The Mayor responded that it can't be let go. Central maintenance and sharing of resources, and funding to support it must be developed. She also noted that the property could become revenue generating; and marketing will need to be done. She cited the PWED grant and marketing conducted for the property in Weymouth Landing shared with Braintree. Chairman DiFazio noted that temporary security measures will need to be taken to control public access -- particularly for the security of the adjacent neighbors.

Councilor Smart asked if CPC funding can continue to be used to do the maintenance on the property. Mr. Flynn responded that he can't respond yet. CPC funds can be used to continue to reclaim open space; there is room to use funding to continue to develop it as open space, such as the creation of walking trails, etc. He also touched on the possible historic nature of the property- "King" refers to a person the area is named for and that aspect will also need to be reviewed. Mr. Clarke responded that capital projects can be funded by CPC; maintenance for example cannot. Councilor Smart asked if the property could be classified under a category other than recreation which would then make it eligible for use of additional CPC funding and if it has been worked into the budget. Mr. Flynn responded that the town can use CPC funding to continue to develop the property until it is the way they want it to be. Beyond that point, it becomes an issue of maintenance. There will need to be selective work to develop the vista. Mayor Kay added that the formation of a management group or fellowship is also a possibility to oversee

the funding of property maintenance. There was a brief discussion of the management of World's End in Hingham, which is maintained by a regional preservation trust and funded in part by an admittance fee. Chairman DiFazio asked for confirmation for the record, that if the town had not passed the Community Preservation Act and given the yearly budget it would not have the funds to be able to purchase the property or sustain the bonding. Mayor Kay responded that this is certainly more secure, and what makes it a win-win is that it will not take all of the money from CPC and other projects can continue. She also believes somehow a funding source would be have been determined; the purchase is that important for the town.

Councilor Molisse asked if earnest money was required when the purchase offer was signed. Mr. Clarke responded that a deposit was not required during negotiations. With the signing of a P&S, \$30,000 must be paid on or about the 15th of July if the town approves of the purchase.

Councilor Mathews asked if the CPC has any other project before it for consideration. Mr. Flynn responded with the proposals it is reviewing, which includes Phases II and possibly III of the Legion Field restoration, cemetery repair and restoration, Back River Trail at Great Esker. Chairman DiFazio asked if the purchase of the Emery property will detrimentally affect any of the other identified projects. Mr. Flynn responded that more than one funding source category is to be used for the purchase, as is recommended in the CPC Act guidelines. Mr. Clarke responded that only debt service will be expended in this budget for the purchase in the coming fiscal year. Councilor Mathews asked if this includes the carryover from FY11. He personally is inclined to bond only \$1.5 million to keep the bond payment less each year and keeps funding free for other projects. Mr. Flynn responded that there are projects on the horizon that will be before the committee in the future, including Fogg Library. He noted that the purchase of the property is significant to the town, but it would be myopic to use all of the funding for a single item.

Chairman DiFazio noted that the financing is speculation at this point; the measure before the committee is the purchase. Mayor Kay noted that the rates discussed are conservative. Councilor Mathews noted that there are still funds from FY11; combining it with the balance from the general reserve and \$68,000 from open space would mean less bonding in the long run. Mr. Clarke responded that the purchase of land is a long term investment and is reasonable to pay by bonding over several years. The concerns are that a plan will need to be determined for use of the property and if CPC funding is more heavily relied on, it could jeopardize the availability of CPC funds for other projects the town might be considering. The difference only is about \$50,000 yearly over the ten years. Councilor Mathews noted he is a proponent of bonding less if possible. Chairman DiFazio asked if the method of financing will come before the committee in a separate measure. Mayor Kay responded that the vote on the measure is whether the town approves the purchase. Mr. Clarke responded that although the measure does not include the manner in which the purchase is financed, but the intent of the administration was to bond the price over a ten year period. They focused on the implications of the various periods of bonding. Chairman DiFazio noted then without additional language tacked on, the committee is voting on the price of \$1.9 million, and what the administration is leaning towards for the

financing aspect. Mr. Clarke responded that the administration is also under timelines for action. Any restructuring of the language of the measure will delay and could jeopardize the ability to complete the purchase.

Councilor Smart asked if there is concern regarding the conditions of the buildings brought up in the site visit; asbestos shingles, fuel tanks, Title V septic, wells, etc.. Mr. Clarke responded that the administration is aware of the issues, but that they are issues that can be dealt with. Dan McCormack has reviewed these issues as has the Building Inspector. Councilor Smart asked if there will be additional reports from various other departments available before a vote at the Council level. Mr. Clarke noted that he hopes to have a memo from the Building Inspector regarding his findings at an inspection of the property as well as an estimation of future maintenance requirements.

Mayor Kay noted there are issues and some are based on what the town determines usage of the buildings to be. Chairman DiFazio asked if the property will be used, if the town will need to run a sewer line. Mr. Clarke responded that it is already in place. Councilor Smart asked about the method of funding- he noted that with financing of the high school project, the source was identified but not the terms of the bonding. Chairman DiFazio recalls that the committee knew the terms. He noted that at the very least, bonding limits should be identified to the Council as well as the limits of the amount bonded. Councilor Mathews asked if the vote by CPC identified a specific amount or terms of bonding. Mr. Flynn responded that no vote was taken on the terms of the bonding; the price was specifically voted on the \$1.9 million. Mayor Kay noted that approved minutes may be needed quickly in order to submit a request to Bond Council. Councilor Mathews noted this will affect the possibility of a special Town Council meeting if the measure is not voted out by council on June 20, 2011, and he is leaning to scheduling it for June 21st if needed in order to work within the timeframes required to complete the purchase. They will need to be mindful of Open Meeting requirements for posting sufficiently in advance.

Councilor Mathews noted that continuation of open space walking trails could be utilized and noted the heavy presence of poison ivy that will need to be mitigated. He walked the property and noted the presence of mold in the house basement, and advised that power be kept on the property to let the sump keep this down. He also noted the presence of charred wood in the beams of the barn indicating past fire damage, and the disrepair of the stairs of the playhouse. He was impressed with the open space, and the idea of a town common should be reviewed. Legion Field is basically a bowl but this property can be more appropriately used as a common town property. Mr. Clarke noted that he inspected the property as well and noted that the charred beams appear to be structurally sound, but will have Jeff Richards respond to the question. Councilor Mathews brought it up in light of the liability issue to the town. Chairman DiFazio recommends the town not open it up to access to the public for some time, in order to get it in proper condition. It's important for the citizens of town to be aware of this as well, and he recommended it be stressed at the Town Council meeting on Monday and that the town post appropriate signage on the property.

Councilor Smart noted he would like to hear what the public has to say at the meeting Monday. Councilor Molisse agreed.

Chairman DiFazio noted that if a vote is not taken to move this forward to the Council, the timeline must be kept forefront. He is not uncomfortable with voting favorable action at this level, given the information he has been supplied with thus far and to facilitate the timeline. Councilor Smart reported that it is his policy to not decide matters before taking into consideration the comments of the public.

Councilor Mathews reported that if the matter has to come back to subcommittee before the Town Council takes action, it will necessitate another meeting of the council. Approval requires a 2/3 majority vote, and he will need to accommodate vacation schedules of the Councilors as well as the minutes to vote. Mayor Kay is concerned about delaying a vote to a time when there isn't a full complement of Councilors. She said if the matter is voted down, it should be because of the subject matter, not because there aren't enough members present to carry a vote.

Councilor Mathews noted that in addition to the public hearing on this matter, the vote on the budget will be taken, Southfield will also be on the agenda to give an update on the project.

Mr. Flynn recommended the matter can be addressed under same night action at the Town Council meeting following the public hearing. Councilor Smart asked if the deadlines can be reasonably extended. Councilor Mathews noted if the committee takes no action at this level now, the matter will have a public hearing on Monday. The Council will then vote on June 20th and vote the bond on June 21 at a Special Town Council meeting, following another Budget/Management meeting.

Councilor Mathews cautioned the committee against a vote that will go to a bond with language contingent on public hearing. Councilor Molisse asked if the Council will meet anyway on Tuesday. Councilor Mathews noted he will post a meeting tomorrow, as required under the Open Meeting law for Tuesday, if needed, if the vote of the Council requires it on Monday, but that the need for it will be determined by Monday's outcome. Councilor Smart asked if the Mayor will have the terms of the length of the bond available for Town Council on Monday. Mayor Kay responded that it is the intent to bond for ten years. Councilor Mathews noted that if the language is changed on the measure to include the time period of the bonding, it could affect the manner in which the Bond Council views the matter.

A MOTION was made by Councilor Molisse to send item 11 096 to the full Town Council with a recommendation for favorable action and read into the record as follows:

“Ordered, that the sum of \$1.9 million is appropriated to pay costs associated with purchasing King Oak Hill property, so called; consisting of a total of 23.96 acres, more or less, and more formally described on Assessor's Map 14, Lot 184-1, 23.68 acres, more or less; Lot 184-59, .26 acres, more or less, and Lot 184-76, .02 acres, more or less, and for the payment of all other costs, incidental and related thereto, and that to meet that appropriation, the Treasurer, with the approval of the Mayor is authorized to borrow said

amount under and pursuant to Chapter 44, Section 7, §3, and Chapter 44B of the General Laws or pursuant to any other enabling authority and to issue bonds or notes of this therefore. This measure requires legal notice, Public Hearing and 2/3 vote by the Town Council”

This motion was seconded by Councilor Mathews.

Councilor Mathews noted that he will schedule a tentative meeting for Tuesday, and recommend the committee do the same. Chairman DiFazio asked if any members of the committee object to him reporting out to the Council on Monday . If this vote was taken, given the information that was available to this committee and realizing that there may be more information available on Monday night. It will not be included in the measure but included for informational purposes only. **Unanimously voted.**

Councilor Mathews will have copies of supporting materials included in the Councilor packets for the Council meeting.

11 098-Planning Department Reserve Fund Transfer Request

Mr. Clarke reported that when the FY11 budget was presented it reflected a reduction in hours for the Traffic Engineer. The Mayor has now recommended the position be budgeted for the original twenty five hours and requests a transfer of \$4,200 from the reserve fund to cover part of the reinstated hours. There are additional costs to be realized by other cost savings measures within the department. Mayor Kay noted the traffic engineer has had an increase in demand for services this year due to several ongoing projects.

A motion was made by Councilor Mathews, as amended, to forward item 11 098 to the full Town Council with a recommendation for favorable action and was seconded by Councilor Molisse. **Unanimously voted.**

11 097-Non-Contributory Retirement Reserve Fund Transfer Request

Mayor Kay reported that there are three former employees who were retired prior to the contributory retirement system and their pensions are paid from this fund. The 3% increase voted by the Weymouth Retirement Board was not included with the original budget of \$32,310 and she requests a transfer of \$900 to cover the cost of the increase in FY11.

Auditor Swanson reported that he has reviewed the reserve fund today and there are adequate funds to cover items 11 098 and 11 097.

A motion was made by Councilor Mathews to forward item 11 097 to the full Town Council with a recommendation for favorable action and was seconded by Councilor Molisse. **Unanimously voted.**

Issues:

Tax Incremental Financing Agreement Between the Town of Weymouth and Sithe Energy

Chairman DiFazio reported that Irving Murstein originally brought this item forward. The

committee has heard testimony from him and Solicitor Lane, and with the current bankruptcy status of Sithe Energy, there does not appear that there is need for consideration of a new TIF agreement at this time.

There was a brief discussion whether to vote this matter tabled, or close out by action of committee. There are ten years remaining on the current agreement. No action will be taken.

Procedure for Review of Internal Audit Reports

Chairman DiFazio requested Auditor Swanson report out with his recommendation for revisions to the existing policy manual. He issued a revised policy to the administration. He has noted some things he would still like to be changed, and requested the committee table the matter until later in the summer.

Chairman DiFazio requested that this matter be reviewed and closed out at the next Budget/Management meeting it appears as an agenda item.

Accounting for Southfield Mitigation Funds

Chairman DiFazio requested that the Council President or Mayor provide an update. Councilor Mathews noted that the information received regarding the Host Community Agreement and the amended agreement, provided at previous meetings, which does not rely on the transfer of land from the Navy. He wants to be sure funds are utilized for the specific projects it was intended and not to supplement any shortfall in collections. He noted his concern with the language in the amended agreement, which does not include “for capital improvements or recreational purposes” and he feels DOR may have interpreted it to say that the money must go to free cash. His concern is if it goes to free cash, that it can be awarded in arbitration cases and asked if possible that the agreement again be amended so that the funds go where the committee that drafted the agreement intended. Mayor Kay responded that the original agreement would have required full building for the town to realize the money, and that could have been twenty years down the road. Second, funds were allowed to be dedicated only to capital and recreation only because the DOR was not yet apprised of the incident in Rockland in which mitigation funding was counted on that didn’t appear. Weymouth did not do this; Abington and Rockland did. Abington was in position to cover it but Rockland was not. DOR then got involved and prohibited future mitigation funds be applied to a structural deficit first. Weymouth was instructed to let it fall to free cash.

The Mayor is on record that she agrees with the intent of the purpose of the funds to be applied to capital and recreation and plans to move forward to that effect, not anticipating a structural deficit. She shares the concern of the committee but believes the case can be made to the unions and go to arbitrator stating this is where it was dedicated all along and have minutes supporting this. She noted this is the best she can do. The town is not allowed to earmark by DOR. Councilor Matthews noted the DOR should allow separate pots. Mayor Kay responded that the town should be in position to certify free cash fairly early; mid-September. Chairman DiFazio asked if during an arbitration hearing the Mayor would be able to say that so much of the free cash has already committed. Mayor

Kay responded that she could. Councilor Mathews noted that arbitrators review retroactive history and Mayor Kay noted that is the chance the town takes. Mayor Kay noted that going back to the first agreement which was amended, there are no conditions to the funding. Councilor Mathews noted that there was a specific agreement with a specific amount agreed upon. Mayor Kay also noted that much on the original list has already been completed. There was a brief discussion of some of the items including the Columbian Square improvements. Councilor Mathews contends that funding has already been received and the town should be able to put them toward the projects for which they were intended. When free cash is certified, \$900,000 of it is mitigation money. Chairman DiFazio asked if there was any reason the Mayor can't put forward measures once free cash is certified. Councilor Mathews contends the discussion must be ongoing. Councilor Mathews' concerns revolve around the issue of the funding not being used to augment short collections, nor in arbitration settlement. He also noted when free cash is certified, he expects some of the items to be brought before the Council in the form of measures.

Chairman DiFazio will report out to the Council that based on the information the Budget/Management Committee has received to date, this issue will remain in committee.

Adjournment

At 8:45 PM, there being no further business, Councilor O'Connor made a MOTION to ADJOURN the meeting and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

RESPECTFULLY SUBMITTED BY MARY BARKER AS RECORDING SECRETARY

APPROVED BY KENNETH DIFAZIO CHAIR OF BUDGET/MANAGEMENT