

TOWN COUNCIL
BUDGET/MANAGEMENT COMMITTEE
TOWN HALL-COUNCIL CHAMBERS
JUNE 22, 2009

Present: Kenneth DiFazio, Chairman
Patrick O'Connor
Arthur Mathews
Michael Molisse
Ed Harrington

Also Present: Maureen Duffy, Town Auditor
James Wilson, Chief Financial Officer
Michael Gallagher, Director of Administrative Services
James Clarke, Director of Planning and Community Development
Walter Flynn, Chairman of Community Preservation Committee
Council President Michael Smart
Councilor Kevin Whitaker
Councilor Robert Conlon

Recording Secretary: Diane T. Hachey

Councilor DiFazio called the Budget/Management Committee Meeting of June 22, 2009 to order at 6:55 PM.

09 088-COMMUNITY PRESERVATION FUND LAND PURCHASE
(DISCUSSION MAY NECESSITATE EXECUTIVE SESSION)

Mr. Clarke and Mr. Flynn presented to the Budget/Management Committee. Mr. Clarke stated that negotiations have proceeded since the last meeting. The purchase price has been established, and the purchase and sales agreement signed, therefore it is not necessary to discuss this in executive session. Mr. Clarke confirmed that James Comeau, from the Department of Recreation and Conservation (DCR) is in the audience, should the committee have questions.

Mr. Clarke reviewed the proposed Community Preservation Committee land purchase and noted that the property is known as the Kibby Property, located at 279 Neck Street (sheet 5, block 13, lots 6, 8, and 14) with a total acreage of 1 ½ acres. The DCR has agreed to share in both the purchase and clean-up costs involved in these three lots. The purchase price is \$507,250. The clean-up costs are estimated at \$50,000 and involve removal of debris, yard waste, cesspool and razing of a house which is currently located on the premises.

The intended use of these properties are for open space and passive recreation, namely to extend the Abigail Adams Park along the waterfront. Mr. Clarke noted that DCR would place a conservation restriction on the parcels which would ensure continued open space and restrict building. The properties would be acquired in two phases, with the initial phase purchasing a lot totaling 975 square feet for a price of \$200,000 by July 8, 2009. Subsequent to this, phase two involves purchasing lot 6 within 30 days. Mr. Clarke noted that Mr. Lane's assistance will be sought in clearing the record and title.

Clean-up efforts include removal of debris and yard waste, demolition of the house, filling a well and cesspool—all costs to be split between the town and DCR.

Mr. Clarke stated that the total request from the Community Preservation Committee is for \$253,625 for the land (represents ½ of the total price), and \$46,375 for clean-up—for a total of \$300,000. It was noted that the CPC met earlier this evening and voted favorably on the allocation of \$300,000 for this project.

Mr. Comeau noted that DCR has been looking at this property for several years and confirmed that it should be protected by the close of the calendar year.

Chairman DiFazio questioned our stance if there are issues with the title. Mr. Clarke noted that they will proceed with the purchase of the first lot and does not foresee any unresolvable issues surrounding the title.

Councilor O'Connor asked for confirmation of which account these funds would be derived. It was noted from the unreserved fund balance which would leave a remaining balance of \$1M if this measure is approved.

Chairman DiFazio asked for details concerning the original sponsor of this project. It was noted that in January of 2007 Marion Briggs (a Saltwater Creek Condominium resident) advised the CPC of the availability of this property.

A discussion ensued concerning easements to the properties. Mr. Clarke noted that he would engage the public and the abutting property owners in the process.

Councilor Mathews noted that the Council is in a more favorable position this evening, resultant from reaching of agreements by all parties. He applauds Mr. Clarke and Mr. Comeau and stated that the clean-up funds have been committed and the town is protecting this property from a developer. He additionally credits Mr. Kibby for accepting the lower bid of the town, versus that of the developer.

Councilor O'Connor would rather see these CPC funds allocated to affordable housing etc. due to the current state of the economy; therefore he will not be supporting this measure.

Councilor Whitaker voiced his concern regarding the public having sufficient time to comment on this project, given that the location was just disclosed this evening. A discussion ensued surrounding the detail of the legal advertisement and the public's availability to comment.

Councilor Whitaker additionally asked what risks the town would assume during phase one. Mr. Clarke confirmed that should the town not live up to their end of the bargain, then Mr. Kibby could potentially entertain an alternate offer.

Councilor Harrington questioned what the outcome would be should the title be tied up in probate court. Additionally, he questioned if the second lot should fall through, would the state reimburse the town for the funds expended to clean-up the first lot. He is concerned that a contingency plan is not built into the agreement. Mr. Clarke feels confident that any outstanding title issues can be resolved.

Mr. Comeau stated that he has discussed the title with the title examiner and they are confident that the issues are resolvable.

Councilor Molisse believes this is a great proposal but due to the state of the economy, does not feel comfortable expending \$300,000. Maintenance and clean-up of our current properties should be a priority. He further noted that these properties would be taken off the tax rolls, which results in a monetary loss to the town. Therefore, he will not support this project.

Councilor Mathews, in an effort to allay concerns of his fellow Councilors, noted that should this proposal not be approved, that Mr. Kibby could potentially go back to the developer and accept their offer. This would be developable property, given the proper permits from the town.

Councilor Whitaker requested copies of the purchase and sales agreements. Chairman DiFazio further requested that these documents are furnished to the Council prior to the Town Council Meeting. Mr. Clarke agreed. Mr. Whitaker requested that future purchase and sales agreements include language that the Council and the public are involved in the process.

It was noted by Mr. Wilson that if this measure does not pass prior to June 30-a new measure would need to be submitted as it would then be a new fiscal year.

Councilor Whitaker expressed his desire to purchase this property but again raised his concerns with the public having sufficient time to comment. Solicitor Lane disagreed with Councilor Whitaker and stated that the Town Council should not be involved in the negotiation aspect of the purchase and sales agreement. Councilor Whitaker stated that with all due respect to Solicitor Lane, this process should be under the purview of Council.

Councilor Mathews suggested a Special Town Council Meeting for June 29, 2009 in order to solicit further input from the public, with notice to appear in the newspaper and the town website.

Councilor O'Connor motioned to send measure number 09 098 to Town Council with negative action, motion seconded by Councilor Molisse.

Councilor Mathews made a substitute motion to continue to June 29, substitute motion seconded by Councilor DiFazio-who specified that the following are met: website announcement, newspaper announcement (inclusive of particular address) and distribution of the purchase and sales agreements to all Councilors.

Council President Smart confirmed that he is willing to call a Special Town Council Meeting as he concurs with the issue of the actual address just being disclosed tonight, and he supports the substitute motion.

The substitute motion passes 3-2 (Councilors O'Connor and Molisse voting no).

09 090-Reappointment to Elder Services-Judy MacDonald

Councilor O'Connor motioned for favorable action to Town Council, motion seconded by Councilor Mathews, voted unanimously.

At 8:02, there being no further business to conduct, Councilor Mathews motioned to adjourn, seconded by Councilor O'Connor and voted unanimously.

Respectfully submitted by: Diane T. Hachey

Approved by: Councilor Kenneth DiFazio-Chairman