

**COMMUNITY PRESERVATION COMMITTEE
RECORD OF MINUTES AND PROCEEDINGS
AUGUST 23, 2007**

PRESENT:

Walter Flynn, Chairman
Arthur Mathews, Vice Chairman
Tom Curtis
Brian O'Halloran
Stephen Ford
Christopher Hannan
Lawrence Lambros
James Cunningham

NOT PRESENT:

Adrienne Gowen, Clerk

ALSO PRESENT:

James Wilson, Chief Financial Officer
Robert Luongo, Economic Development Planner

RECORDING SECRETARY:

Christine Callbeck

Chairman Flynn called the meeting to order at 7:00PM and noted that Ms. Gowen would be absent due to her husband's illness.

REORGANIZATION

Chairman Flynn yielded the chair to Mr. Wilson to conduct the election of the Committee Chairman. Mr. Curtis nominated Mr. Flynn for Chairman which was seconded by Mr. Mathews. Mr. Cunningham nominated Mr. Mathews for Chairman. Mr. Mathews respectfully declined indicating time constraints. Mr. Cunningham withdrew his motion. Walter Flynn was UNANIMOUSLY VOTED Chairman of the Community Preservation Committee. Mr. Flynn reassumed the Chair from Mr. Wilson.

Mr. Cunningham nominated Mr. Mathews for Vice Chairman which was seconded by Mr. Lambros. Arthur Mathews was UNANIMOUSLY VOTED Vice Chairman of the Community Preservation Committee.

Mr. Ford nominated Ms. Gowen for Clerk which was seconded by Mr. Mathews. Mr. Mathews suggested holding off on the vote for Clerk until Ms. Gowen has an opportunity to accept or decline. Chairman Flynn stated that if Ms. Gowen declines the position, CPC will take another vote. Adriene Gowen was UNANIMOUSLY VOTED Clerk of the Community Preservation Committee.

Chairman Flynn read a prepared letter:

"I want to thank each of you for your efforts this past year. As a body, this Committee has been highly complimented for its thoroughness and for the excellence of its results."

We have disposed of ten of the fourteen proposals submitted to us; not a simple task. This is true in light of the fact that we had to first determine what the Town's needs were and how we would evaluate them. We had to create the mechanisms for bringing the proposals forward and the infrastructure for bringing them to fruition. Finally, we had to learn to interact effectively with each other, especially when there was a diversity of opinion. It is a tribute to your efforts that we have arrived at this point this evening.

Notwithstanding the foregoing, I believe that two issues need to be addressed.

First, we have been guilty of straying from the point during our deliberations. As we proceed into our second year, we should keep in mind that the rules of order require that our "debate must be confined to the merits of the pending question."

We need to improve in this regard. I, as one member of the Committee, will try more vigorously during the upcoming year to help us adhere to this principle. As Committee members we have limited rights to discuss the concerns, functions, or actions of any other person, committee, board or administrative or executive department of the Town.

Second, this Committee has been casually tagged with a reputation of 'speaking out of turn,' or in a manner which may be deemed inappropriate. That point has been demonstrated on two occasions. Most recently, at our last meeting, when we, almost out of control, argued an issue that was not ours to argue and in the end abused persons present. I was embarrassed by the manner in which we conducted ourselves in this instance

The second time occurred during our budget hearing before the Town Council's Budget and Management Committee. As you may recall, I was responsible for presenting our recommendations on the FY '08 budget and other project requests. During that meeting, members of our Committee gratuitously offered what amounted to differing opinions. I believe that in such a setting, the Chairman represents the views of the CPC. He provides the CPC's position as voted on. The time for debate and the voicing of differing opinions is during CPC meetings. When the Chairman represents the CPC publicly, that is the time for solidarity. If the Chairman misspeaks, we discuss the issue when next we meet. I hope that you will join with me in utilizing this approach when we present our findings to other Town entities.

When all is considered, I believe that this Committee has done an excellent job. I want to thank you for your confidence in my abilities and efforts by reelecting me as your Chairman. I look forward to a year of continued success. It is a privilege to serve you."

MINUTES

Chairman Flynn advised members that the copies of the June 14, 2007 minutes that were issued today are the most recent versions.

Mr. Mathews made a MOTION to approve the July 12, 2007 open session minutes. The MOTION was seconded by Mr. O'Halloran. Discussion:

Mr. Lambros stated that he had corrections to the minutes. He had made a statement that was not recorded in the minutes and he wants to make sure that it is included. The statement read:

Mr. Lambros informed the committee that he was an abutter, but he thought that the committee had a responsibility to protect open space especially that already owned by the town.

Chairman Flynn stated that he had stricken that statement from the record because the sale of land at Randall Avenue was not pertinent to the CPC and it is for that reason that the comments were stricken from the record.

Mr. Cunningham stated that he disagrees with the decision made by the Chairman to strike the statement from the record. Mr. Cunningham feels that Town owned open space is the purview of the CPC and that certainly the CPC should want to establish some ground rules for what open space land the town will sell.

Mr. Ford stated that he feels that Mr. Lambros is correct in his statement and that he is not represented correctly in the minutes. In particular, on July 12, 2007, Mr. Lambros was making just the simple statement that there seems to be a bit of a conflict of interest with the Town, that in one way they are selling off property and another way they are asking us to purchase additional property. Mr. Ford feels that the issue of Town owned land could be debated more by the CPC.

Mr. Curtis stated that he is in concurrence with the prior three statements from Committee members. Mr. Curtis feels that it is the CPC's responsibility to investigate the parcels of land that are deemed saleable by the Town for purposes of preserving and retaining open space. Mr. Curtis feels that open space retention is the key issue of the whole Community Preservation Act. Mr. Curtis feels that this comes within the CPC's area of responsibility and authority to investigate. Mr. Curtis stated that a legal opinion should be sought on the inclusion of Mr. Lambros' comments into the minutes.

Mr. Hannan, not having been present at the meetings where this issue came up, asked the Chairman, what is the CPC's authority? Can CPC request that the Town ask the CPC for input?

Mr. Cunningham stated that Mr. Lambros' comments should be included in the minutes.

Mr. Lambros stated that when the CPC reviews the minutes of the August 2, 2007 meeting he will again speak on this issue.

Chairman Flynn stated, from the Chair's perspective, the Committee at that time was discussing the auction of various parcels of property. He argued that the Committee had no right to discuss the auction or sale of those properties because that is the purview of other agencies of the Town. To address the issue of open space availability, if something is open and available, is within CPC's purview to address. Chairman Flynn felt that the CPC was being critical of other Town entities because those entities were putting properties up for sale that the CPC did not think should be sold. Chairman Flynn stated that he will seek a legal opinion on the matter.

Mr. Wilson stated that he is not present in a legal capacity, but he offered that there is a provision in the statute, 268A, when someone raises an issue of a possible conflict and they wish to put it in the record; it must be put into record. That is state law, and if someone wants to put on the record a conflict, it should be put on the record. This law binds the Town and the Committee.

Chairman Flynn asked the recording secretary to forward the draft July 12, 2007 minutes to him which include Mr. Lambros' comments.

Mr. Mathews made a MOTION to TABLE the July 12, 2007 Open Session Minutes until the new paragraph is added. Mr. O'Halloran seconded the MOTION. UNANIMOUSLY VOTED.

Mr. Mathews made a MOTION to APPROVE the July 12, 2007 Executive Session Minutes. Mr. Curtis seconded the MOTION. UNANIMOUSLY VOTED.

Mr. Mathews made a MOTION to APPROVE the August 2, 2007 Open Session Minutes. Mr. Curtis seconded the MOTION. Discussion:

Mr. Lambros stated that under Other Business on page 4 he offered a motion in order to create discussion. Mr. Lambros repeated the motion:

MOVED that the CPC seek to add open space for the community through the use of community funding. It encourages the Town Council and the Mayor to give serious consideration to the need to conserve existing open space owned by the Town rather than selling it off to the highest bidder in order to raise funds for budget purposes.

Mr. Lambros stated that he has no idea how this one motion was misconstrued and created an out-of-control discussion. Mr. Lambros stated that he asked the Committee to go on record and ask the Town Council and the Mayor to "give serious consideration" to the need to conserve existing open space owned by the Town. Mr. Lambros asked the Committee to see where its conscience lies with regard to open space that the town already owns.

Chairman Flynn stated that he thinks it inappropriate that the Committee be the conscience of anybody but itself. That is not our role.

Mr. Mathews raised a point of order that the Committee is currently discussing minutes and that is where the discussion should be. If someone has a problem with what is stated in the minutes, then we should discuss only that.

Mr. Lambros stated that he will offer his motion again later tonight under Other Business.

MOTION to APPROVE the August 2, 2007 Open Session Minutes was UNANIMOUSLY VOTED.

Mr. Mathews made a MOTION to APPROVE the Executive Session Minutes of August 2, 2007. Mr. Curtis seconded the MOTION. UNANIMOUSLY VOTED.

PROJECT ADMINISTRATION DISCUSSION

Mr. Luongo provided the status of the following projects:

Wessagusset Field Improvement - The project went out to bid according to the central register. Bids will be opened next week. \$137,212.50 is the amount left in the Wessagusset Drainage account. Mr. Wilson added that the Wessagusset project is a geo-technical study that has gone out to bid and was actually awarded in the amount of \$3,787.00.

Abigail Adams – The scope of services is being worked on.

Fogg Library – Jim Clarke, Bob O'Connor and the Library Director are meeting next week to go over the work to be done to the library.

Zero Pond Street – A new vote needs to be taken tonight.

OTHER BUSINESS

Zero Pond Street

Mr. Ford made a MOTION that the committee RESCIND its previous vote on the Zero Pond Street project and SUBSTITUTE in its place the following:

MOVE that the Committee APPROVE the Zero Pond Street project in the amount of \$440,000 with funding to come from the Community Housing Reserve Fund Balance in the amount of \$141,186; from the FY 08 Community Housing Reserve Fund in the amount of \$103,527 and from the General Reserve Fund Balance in the amount of \$195,287 contingent upon Department of Revenue certification of the Reserve Fund Balances in an amount sufficient to support this action. Mr. Mathews seconded the MOTION. Discussion:

Chairman Flynn stated, for clarification, that when the Committee last voted, funding from the fund balances was included. The fund balances do not yet exist until DOR certifies them. CPC must vote again in this format and add the contingent piece. In the interim, Mr. Moussally will be able to show the support of the project by the CPC. Mr. Moussally has admitted that his application is incomplete and in all probability further action may not take place until February, 2008. Chairman Flynn stated that a vote to Rescind a MOTION requires a 2/3 vote. Discussion:

Mr. Cunningham asked are they the same figures. Answer was yes. Mr. Mathews stated that he would rather use the 10% set aside from Community Housing. He doesn't know if he is in favor of a project with incomplete issues/reasoning. Mr. Wilson stated that he recently spoke with Mr. Moussally. Mr. Moussally indicated to Mr. Wilson that his issues have nothing to do with the financing, but is with some of the technical aspects of complying with the grant. Mr. Moussally will provide more information to Mr. Wilson on Friday, August 24, 2007. Mr. Curtis asked to confirm with Mr. Wilson that the issues are with operational aspects and not the financial numbers. Mr. Wilson said yes. Mr. Cunningham suggested that the Committee approve the

project because the issues pending are really a formality. Discussion continued. Mr. O'Halloran stated that it would send the wrong message if CPC voted against this motion tonight. More discussion ensued.

On a 6 to 1 vote the motion passed. Mr. Ford voted in the negative and Mr. Hannan abstained.

Mr. Cunningham made a MOTION that as the CPC seeks to add open space for the community through the use of Committee funds it encourages the Town Council and the Mayor to give serious consideration to the need to conserve existing open space owned by the Town of Weymouth rather than selling it off to the highest bidder in order to raise funds for budget spending purposes. Mr. Ford seconded the MOTION. Discussion ensued.

Chairman Flynn stated that he feels this motion is wrong and not within the purview of the CPC. Mr. Curtis would like to add to the MOTION, pending legal opinion on if the CPC has the authority to do so. Discussion ensued. Mr. Cunningham asked Chairman Flynn if he received a response from the Town Council or the Mayor to questions asked at the last meeting regarding existing open space. Mr. Mathews stated that every auction has a public hearing and they are mentioned as a line item in the budget. Mr. Mathews stated that if the Mayor will not supply information regarding these line items in the budget, he as Councilor will supply them to the CPC. Chairman Flynn stated that he does not like putting Mr. Mathews in the position of supplying the CPC with information that the Mayor doesn't want issued. Mr. Curtis stated for the record that it was he that requested a listing from Mr. Clarke regarding any parcels/open space for sale by town. Mr. Wilson gave a brief overview of how the town owned properties become items for sale. Mr. Wilson stated that first Mr. Clarke, himself, Mr. Lane the Solicitor and Mayor Madden meet regarding the sale of property. They review the items and give their opinions. At that point items are still administrative issues. When the Mayor says go forward with these certain parcels for sale it goes to the Clerk of the Town Council and at that moment it becomes public record. In the Council, it first goes to the Budget and Management Committee, then back to the Council for a vote (the process takes about 90 days). Mr. Wilson stated that there is plenty of time to review properties after the list becomes public.

Mr. Cunningham repeated his motion. On a 5 to 3 vote the motion passed. Yes votes were from Mr. Ford, Mr. Cunningham, Mr. Lambros, Mr. Curtis and Mr. Hannan. No votes were from Chairman Flynn, Mr. Mathews and Mr. O'Halloran.

Chairman Flynn read a letter from Councilor Whittaker to the CPC. The letter outlined two projects for CPC consideration; solar powered compactors and bike racks. Mr. Ford stated that what Mr. Whittaker has proposed is two projects that would be reimbursed by the Town. The Town would be refunded via grants. The cost is minimal. Mr. Cunningham asked where will the trash compactor(s) be placed and where will the bike racks be placed. Mr. Ford stated that the trash compactor location will probably be up to the DPW. The location of the bike racks will probably be decided on by the Recreation Department. Mr. Curtis suggested tabling these two projects until Mr. Whittaker and representatives from the Recreation and DPW departments can be present to answer questions.

Chairman Flynn stated that he will ask that those persons be present at the next meeting. Chairman Flynn stated that the timeline is extremely critical and asked members to be prepared to discuss/vote on the project at the next meeting. Mr. Ford provided the web sites that will help member's research additional information regarding these two projects. Chairman Flynn reminded members that the bike rack project is consistent with the Master Plan to make Weymouth a bikeable community.

Mr. Wilson handed out draft versions of the Opinion of Value for 391 Summer Street. Mr. Wilson suggested that if the Committee has any questions, it should invite the person who prepared the Opinion of Value to discuss. Mr. Wilson thought that the Opinion of Value on 391 Summer Street was a little light in comparison to others that he has seen. Mr. Wilson has requested more detail from the preparer. Mr. Wilson agrees that there is an issue with the title at Summer Street.

Chairman Flynn stated that the Summer Street property is public knowledge because it was part of the CIP for an expended period so it doesn't need to be discussed in executive session. There is an issue with the title and the owner acknowledges that issue. There is some indication that the Town of Weymouth did a taking for failure to pay taxes on 2/3 of the property. The current owners may own only 1/3 of the total lot.

Mr. Hannan asked when does a conflict of interest arise. Mr. Wilson stated that 268A says a direct financial interest or the appearance of a direct financial interest is a conflict of interest.

Chairman Flynn stated that the next meeting of the CPC will be held on September 6, 2007 at 7:00PM.

Executive Session

At 9:25PM, there being no further business, a MOTION was made by Mr. Mathews to adjourn and was SECONDED by Mr. Curtis. UNANIMOUSLY VOTED.

Approval: _____
Walter H. Flynn, Jr., Chairman

Dated: _____