

**COMMUNITY PRESERVATION COMMITTEE
RECORD OF MINUTES AND PROCEEDINGS
DECEMBER 4, 2008
MINUTES**

PRESENT:

Walter Flynn, Chairman
Arthur Mathews, Vice Chairman
Scott Coven, Clerk
Thomas Curtis
Stephen Ford
Christopher Hannan
James Cunningham
Dan Condon

NOT PRESENT:

Laura Harbottle

ALSO PRESENT:

James Clarke, Director of Planning and Community
Development
Robert Luongo, Economic Development Planner
George Lane, Solicitor

RECORDING SECRETARY:

Christine Callbeck

Chairman Flynn called the meeting to order at 7:00PM and stated that Ms. Harbottle would be absent.

MINUTES

Mr. Mathews made a MOTION to APPROVE the Open Session minutes of October 2, 2008.
Mr. Ford SECONDED the MOTION. UNANIMOUSLY VOTED.

Mr. Mathews made a MOTION to APPROVE the Executive Session minutes of October 2, 2008. Mr. Ford SECONDED the MOTION. UNANIMOUSLY VOTED.

Mr. Mathews made a MOTION to APPROVE the Open Session minutes of October 30, 2008.
Mr. Coven SECONDED the MOTION. UNANIMOUSLY VOTED.

CONSERVATION RESTRICTIONS – Discussion with George Lane

Solicitor Lane stated that Chairman Flynn has indicated an interest in creating a land trust organization that could manage the conservation restrictions for the CPC, however, he cautioned that the Commonwealth is concerned that there would be a conflict of interest. He suggested that a land trust that is already in existence should be used.

Solicitor Lane spoke with representatives of the Bra/Wey Conservation District. It is a Chapter 180 corporation and could probably meet the CPC's needs and do it at a reasonable cost.

Solicitor Lane continued to say that time has gone by and the Committee needs to be serious about setting up the conservation restrictions. Solicitor Lane handed out several documents and outlined some ideas for Committee members to review. The Committee agreed to consider them and come back with ideas at the next meeting. Solicitor Lane stated that he feels that the Committee is aware of the full uses and limitations of the property.

Mr. Clarke stated that he and Mr. Luongo were able to get the bylaws of the Bra/Wey Regional Conservation Recreation District and they have reviewed them. Solicitor Lane stated that he meet with Irene Del Bono and they put together a package with all the essential ingredients from the Bra/Wey Regional Conservation Recreation District including their articles of organization, bylaws, etc. Solicitor Lane stated that an application must be filed officially or the case cannot be reviewed at all. There are other organizations available such as Wild Lands Trust and Audubon that can also provide the services necessary.

Mr. Clarke stated that the original issue surrounding the conservation restriction was the price. Mr. Clarke stated that he has spoken with the people at the Bra/Wey Conservation Recreation District and they would provide the necessary service at a reasonable rate.

Mr. Clarke asked the Committee to authorize him to proceed with more formalized discussions with Bra/Wey. Mr. Mathews asked if Bra/Wey would still be willing to do this for the CPC even if the CPC did not purchase the piece of property proposed by Bra/Wey. Mr. Clarke answered yes.

Mr. Mathews asked Solicitor Lane would he recommend adding language to the conservation restriction that states that the conservation restriction should be reviewed or amended every 2 – 3 years. How does the Committee go about making the conservation restriction document amendable? Solicitor Lane stated that this list was made recently, and he agrees that there should be a review period but he is not prepared to tell how to do that tonight. The agreement on when to review the document and make changes should be in the agreement. Solicitor Lane will work on this and report back to the Committee. Mr. Cunningham suggested that rather than an annual review of the restrictions, have them include an “as needed” review. Chairman Flynn indicated that reviews probably need to be done annually. Mr. Luongo stated that it must be agreed to by the grantor, which would be the Town of Weymouth, and then the Secretary of Energy and Environmental Affairs. The Committee needs to understand and look carefully at the type of restrictions that are being put on the property and make sure that it agrees to them, and that they are flexible enough. Chairman Flynn asked, once the restrictions are in place, is there a legal mandate to have them reviewed within a timeframe? Mr. Luongo said no. Solicitor Lane stated that he worked with this sort of issue once before and he recalls no particular review mechanism.

Chairman Flynn reminded the Committee that the Town will make the restrictions and any amendments. Solicitor Lane suggested that the rules and regulations may not be contained within the conservation restrictions but in an independent document. This document could be a joint effort with hours and a more broad description of the restrictions. Solicitor Lane stated that the most important part of the restrictions is what is prohibited. Mr. Clarke reminded the Committee that the handout is for the Committee’s review and is a sample. Mr. Clarke will e-

mail all members a link to the conservation restriction handbook. Chairman Flynn stated that there is a bit of urgency to the matter since there has been a considerable time since acquisition.

Mr. Mathews made a MOTION to ALLOW the administration to make official contact with the Wey/Bra Commission to seek out an official application regarding the land trust on the Woodbine Road property. Mr. Coven SECONDED the MOTION. Solicitor Lane stated that he has been called by the Wey/Bra to give his legal advice to them in many instances.
UNANIMOUSLY VOTED.

PROJECT UPDATES

RECENT COURT CASE IN NEWTON

Solicitor Lane stated that Sideman and the city of Newton was a court case regarding parks and playgrounds all in different states of disrepair. The City of Newton wanted to preserve the parks and playgrounds. This brought up the discussion of preservation and what it means to land for 'recreational' use. In this particular case, the Court said only if the land is acquired with CPA funds can you "rehabilitate". Preserving the parks would mean to protect them from outside sources of decay and destruction. Solicitor Lane stated that there has been a request made to this Committee for a study of soccer fields. If this request had come down prior to this court case, it would have gotten by. However, the Court has advised us otherwise. Solicitor Lane spoke with Mayor Kay about preservation/maintenance and gave as an example the Whitman's Pond weed harvesting. The Mayor has withdrawn the application for the study of Riley Field.

Mr. Clarke stated that the project for the pavilion at O'Sullivan Park playground was approved by the Committee and the Mayor and the Town Council; however the funds have not been expended. This project falls under the same blanket as the Newton case.

Mr. Ford stated that part of the Supreme Judicial Court ruling was that property was already being used for recreational purposes. Mr. Ford asked what if the CPC takes property that is already owned by the Town of Weymouth that is not currently being used for recreational, and creates a recreation use on that parcel. Solicitor Lane stated that he would like to check on that and report back to the Committee. Mr. Ford stated that his question brings him back to the study of Riley Field, because the study was going to look at additional acreage and create new use on the other land and look at what the whole Town's needs for recreational uses were. Mr. Clarke stated that a good example of creating new use is the soccer fields at Ralph Talbot. Solicitor Lane suggested being more creative with the application.

Chairman Flynn stated that Mr. Ford has an understandable interest in pursuing the recreation questions. The Newton case has caused hurdles for the Weymouth CPC and its consideration of recreation projects. He spoke to current legislation before the General Court indicating that the proposal that was submitted has a hefty financial price. The question will be in what form it will take after committee review. The recreation piece is getting good support for a change to the language

Mr. Cunningham asked Solicitor Lane what can be done to get the ball rolling for the weed harvesting for next season.

Mr. Mathews suggested that Mr. Ford draft a letter to send to the State Representatives that represent Weymouth asking them to pass or support legislation that clarifies the recreational issue for us as a Committee because it is very conflicting

Mr. Mathews made a MOTION to RESCIND the Committees' favorable action on the Riley Field project. Mr. Cunningham SECONDED the MOTION. UNANIMOUSLY VOTED.

Mr. Mathews made a MOTION to RESCIND the Committees' favorable action on the Pavilion at O'Sullivan Park Playground. Mr. Curtis SECONDED the MOTION. MOTION PASSED on a 7 to 1 vote. Mr. Hannan voted no.

Mr. Clarke stated that the administration will review all of the projects pending.

CEMETERY COMMITTEE

Mr. Clarke reported that the committee will be submitting an application based on the study that was done.

ABIGAIL ADAMS SOCIETY

Mr. Clarke suggested that the Committee place the Abigail Adams Society on the agenda for January and have them give a report to the CPC.

HERRING RUN

Still working on the plans.

43 BICKNELL ROAD

Mr. Clarke reported no update as yet; looking at the basement and cellar walls.

FOGG LIBRARY

Chairman Flynn stated that last Monday, Town Council approved the CPC recommendation of 1.3 million for Fogg Library exterior renovations with some of the funding to come from FY10. Ms. Anne Hilbert raised the issue of whether the CPC had exceeded the mandate of the people.

EXECUTIVE SESSION

Mr. Mathews made a MOTION to go into EXECUTIVE SESSION for the purpose of considering the purchase, exchange, lease or value of real property, and to reconvene in OPEN SESSION for the purpose of adjournment. Mr. Curtis SECONDED the MOTION and on a roll call vote it was UNANIMOUSLY VOTED.

NEXT MEETING

The next meeting will be held on January 8, 2009 at 7:00PM.

Mr. Clarke stated that the Committee may need to meet again prior to January 8, 2009 for a special meeting.

ADJOURNMENT

At 9:00PM, there being no further business, a MOTION was made by Mr. Mathews to ADJOURN. SECONDED by Mr. Hannan. UNANIMOUSLY VOTED.

Approved by: _____
Walter H. Flynn, Jr., Chairman

Dated: _____