

**MINUTES OF THE SPECIAL TOWN COUNCIL MEETING**  
**Town Hall Council Chambers**  
**June 29, 2009**

**Present:** Michael Smart, President  
Arthur Mathews, Vice President  
Robert Conlon  
Kenneth DiFazio  
Ed Harrington  
Brian McDonald  
Michael Molisse  
Patrick O'Connor  
Victor Pap, III  
Kevin Whitaker

**Not Present:** Thomas Lacey

**Also Present:** Franklin Fryer, Town Clerk  
Maureen Duffy, Town Auditor  
George Lane, Town Solicitor  
Michael Gallagher, Director of Administrative Services  
Scott Bois, Financial Systems Coordinator  
James Clarke, Director of Planning  
Walter Flynn, Chair Community Preservation Committee

Recording Secretary: Diane T. Hachey

President Smart called the Town Council Meeting to order at 7:30 PM. Town Clerk, Franklin Fryer, conducted the roll call. Councilor Lacey informed him that he was unavailable to attend.

**ANNOUNCEMENTS**

Councilor Molisse announced that on Thursday, June 9, 2009 at 6:30 PM at the Tuft's Library there will be an informational meeting entitled "What's Next for Weymouth Landing". This meeting will be held in conjunction with Braintree's Mayor Sullivan.

Additionally, on Saturdays from 9-1 there will be a Farmer's Market held on Town Hall grounds-this coming Saturday, July 4 is no exception.

Councilor Pap left the meeting.

**PUBLIC HEARING**

**7:30 pm-09 088-COMMUNITY PRESERVATION FUND LAND PURCHASE**  
**279 NECK STREET-CONTINUED FROM JUNE 22**

Councilor Mathews motioned to reopen the public hearing which was published on June 5, held on June 15, continued to June 22 and again continued to this evening. Motion seconded by Councilor O'Connor and voted unanimously.

Councilor Harrington noted that as he is an employee of the Massachusetts Court system, he has been advised by the State Ethics Commission to recuse himself from this discussion since issues related to clearing of titles may appear before him. He left the meeting.

Council President Smart noted a recent article citing potential usage of Community Preservation Funds for rehabilitation of Legion Field. He cited a case in Newton which precludes using CPC funds for rehabilitation of current, town-owned properties. He spoke on behalf of the Council in stating that the Council is much in favor of rehabilitating Legion Field, but cannot do so with CPC funds. Mr. Flynn concurs with Council President Smart and further noted that CPC funds cannot be used to defray town expenses nor supplement operational budget deficits.

Council President Smart additionally noted that he received in excess of 12 emails from constituents, all in support of these purchases.

Councilor O'Connor confirmed that currently there is a bill in Committee at the State House which proposes changing the law such that CPC funds could be used for current town- owned property rehabilitation efforts.

Councilor Molisse noted that he previously spoke in favor of rehabilitating Legion Field and was referring to this proposed bill.

Mr. Clarke made a presentation with the aid of a projector to indicate the parcels under discussion.

The proposed land purchase is for the property 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 Department of Recreation and Conservation (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 purchase schedule for said properties is based on timing issues with the negotiation of the purchase and sales agreements. 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 Solicitor 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.

He noted that concerns regarding sufficient time for constituents to comment on the purchase were raised. Hopefully these concerns have been addressed by a public notice which appeared in the Patriot Ledger last Wednesday, notation on the website with an accompanying link to a map of the parcels, and communications with several Civic Associations. Mr. Clarke extended his appreciation to the Council for the additional week allowed for public comment.

Comments from the public were as follows:

**Kathleen McGovern of 26 Morningside Park**-President of Back River Watershed Association noted that it was Mary Toomey's dying wish to purchase this property as she wished to extend Webb State Park.

**Keith Stange of 50 Georgia Road**-is concerned with a flyer which was distributed indicating that \$1M is available, he is questioning what these funds represent and if they are sufficient to cover alternate CPC projects. Mr. Flynn confirmed that the funds to which he is referring represent the unreserved fund balance in which projects can be funded from any of the four qualifying categories.

**Sheila Shea-resident of Saltwater Creek Condominiums**-questioned what measures have been taken to secure an easement, as she is concerned with traffic. Mr. Clarke stated that abutting residents will be involved in this process once they are at that stage. He confirmed that automobile traffic would continue through the entrance to Abigail Adams Park. Councilor Mathews further noted that the conservation restriction (as put forth by the DCR) will be discussed at CPC meetings—which are open to the public and include a resident comment period at each meeting.

Councilor Molisse is concerned with extension of bicycle trails resulting in possible additional parking at the condominiums and feels strongly that this needs to be addressed

**Kathy Curran of 26 Babcock Avenue**-questioned that if the property is purchased if the CPC funds qualify to refurbish. It was confirmed that CPC funds could be used for rehabilitation of these properties. She further asked what are the number of available parking spaces, to which Mr. Clarke confirmed that he does not anticipate issues relative to parking. Ms. Curran requested that the Council act favorably on this land purchase.

**MaryEllen O'Brien of Saltwater Creek Condominiums**-requested that the Council support this project and stated that there are sufficient funds in the CPC budget to fund other projects.

**Donna O'Sullivan of 267 Neck Street**-has been involved with the CPC in Braintree for many years and noted that the egress issue must be addressed. She stated that this project is directly in line with the CPC's philosophy and encourages a "yes" vote.

**Marion Briggs of 267 Neck Street**-noted that there has been no mention of the Master Plan which involves the Back River Trail--this purchase is in line with that Master Plan.

Councilor Conlon announced that the state may change the law to include utilization of CPC funds to refurbish Legion Field. He concurs with the poor condition of Legion as he resides across the street. This purchase is of more importance because it is here today and could be gone tomorrow. He visited the site and feels its beauty will enhance that area. The town is fortunate that DCR is willing to fund ½ of the purchase. He realizes that there are some outstanding issues which will hopefully be resolved, and noted that a "no" vote is a "yes" vote for development.

Councilor Mathews motioned to close the public hearing, motion seconded by Councilor O'Connor and voted unanimously.

## **REPORTS OF COMMITTEES**

### **BUDGET/MANAGEMENT COMMITTEE-CHAIRMAN KENNETH DIFAZIO**

#### **09 088-Community Preservation Fund Land Purchase 279 Neck Street**

Chairman DiFazio reported that this measure was referred to the Budget/Management Committee on June 1, the committee met on June 9, 22, and 29. A legal notice appeared in the Patriot Ledger on June 5, and a public notice was posted in the Patriot Ledger on June 24. Additionally, for the benefit of the public the notice was posted on the town website inclusive of a link to a map indicating the properties. Chairman DiFazio feels that sufficient notice issues have been properly addressed.

The Budget/Management Committee vote was 2 in favor and 2 opposed.

Councilor Mathews motioned for favorable action on measure number 09 088 for the purchase of property located at 279 Neck Street, sheet 5, block 13, lots 6, 8, and 14, motion seconded by Councilor DiFazio.

Councilor O'Connor noted that this is not the time to expend funds for any reason as we are looking at exorbitant budget deficits. He is apprehensive in spending \$300k on property which is non-binding and has state funding issues and title issues involved. He further stated that originally the state matched the CPC funding by 100% and due to the

state of the economy this figure has decreased to 29%.

Councilor MacDonald said that there will always be tight budget times and feels that this is an opportunity to reclaim public land, and agrees that the site is beautiful.

Councilor Molisse feels that timing is everything and as the Chair of the Parks and Recreation Committee, is cautious that the DCR will fulfill their commitment to reimburse the town-we only have their verbal agreement and an email, nothing legal to hold them to this arrangement. He would very much like to purchase this property but views it as potentially expending \$600k , and he cannot vote favorably as much as he regrets it.

Councilor Mathews will be supporting this measure and noted that the CPC has been working diligently for more than 2 years to obtain this property. The appraisal by the state is \$586k and the town is purchasing at well below that figure. There has been an offer by a developer, thus the reason that discussions had to be conducted in executive session. Councilor Mathews expressed his appreciation to Mr. Kibby for accepting the town's offer, which is well below that of the developer, and noted that it is his hope that a plaque dedicating the property to Mr. Kibby's family is erected.

Councilor Whitaker agrees that times are tough, but this purchase would protect a rare resource. He is in favor and believes this purchase falls within the 4 qualifying categories of the CPC and noted that the act was favorably voted by the town residents.

He further noted that this is a great opportunity to obtain open space on waterfront property and cautioned that if we do not obtain this property, we would lose control over what it could potentially become. Councilor Whitaker expressed his gratitude to the CPC, Mr. Clarke, and Mayor Kay. He admitted that he had concerns last week regarding ample opportunity for the public to comment, but stated that he is now satisfied. He additionally thanked Council President Smart for scheduling a Special Town Council Meeting in order that this measure be discussed fully. He noted that he will be supporting this measure.

Councilor DiFazio stated that with a balance of \$1.03m in the unreserved fund, even if we had to expend \$600k there would still be ample funds remaining. He further stated that CPC funding cannot be applied towards the town's operating budget deficit. He will be voting in favor of this measure based on Solicitor Lane's and Mr. Clarke's confidence that the DCR will reimburse the town accordingly.

Councilor Molisse noted that the town would be losing \$5k per year as these parcels would be taken off the tax rolls.

Council President Smart appreciates everyone's comments and feels that this is a one time gem of an opportunity. He assured all that ongoing phases of the project will be communicated to the public for their input. These funds were intended for this use and he looks very much forward to the next phase of the project. He further extended his thanks to the public for their comments, the CPC and Councilor Mathews, who is the

Town Council appointee to the Community Preservation Committee.

Council President Smart restated the motion and a roll call vote was taken as follows:

Councilor Molisse-NO	Councilor Conlon-YES
Councilor Harrington-RECUSED	Councilor MacDonald-YES
Councilor Mathews-YES	Councilor Whitaker-YES
Councilor DiFazio-YES	Councilor Smart-YES
Councilor O'Connor-NO	

Motion passes 6-2-1.

Council President Smart again extended his gratitude to the public and emphasized that this is a perfect display of public input in the process.

#### **ADJOURNMENT**

With no further business to conduct, Councilor Mathews motioned to adjourn at 8:34 PM, seconded by Councilor O'Connor and voted unanimously.

Respectfully submitted by: Diane T. Hachey

Approved by:

Michael Smart-Town Council President