

CITY OF NEWTON

IN BOARD OF ALDERMEN

COMMITTEE ON COMMUNITY PRESERVATION REPORT

TUESDAY, SEPTEMBER 25, 2007

Present: Ald. Linsky (Chairman), Lennon, Hess-Mahan, Sangiolo, Yates, Parker, Vance, Lappin

Also Present: Ald. Baker, Burg, Harney

Others Present: David Wilkinson (Comptroller) Alice Ingerson (CPA Program Manager), Judi Jacobson, Charles McMillan, Nancy Grissom, Joyce Moss (CPC Members), Norm Richardson (Newton Conservation Commission) Catherine Farrell (City Solicitor's Office)

Introduction

Prior to discussion of the docketed item, the Committee heard from the Comptroller relative to the FY' 07 end of year financial report as well as the FY '08 budget update, and from the Planning Department in respect to an updated status of CPA projects as well as the proposed CPA FY '08 plan.

FY07 and FY08 Financial and Budget Update

David Wilkinson, Comptroller, said there were year end financials for the CPA fund and an update that went to the CPC about some flexibility that they ought to take advantage of before they set the tax rate for 2008.

As far as 2007 was concerned, they found that when they financed the Rogers St. land acquisition, they got the financing right in terms of the general fund and not having any impact on the free cash, but they missed the impact of the temporary financing on the CPA fund. As a consequence, there was \$1.5 million that they would otherwise have access to for fiscal 2008 that they were not going to be able to access. In 2009, it will be there. Therefore, if they had a major project late in the fiscal year, they needed to do the permanent financing before the end of the fiscal year even if that meant doing a separate bond sale and incurring a little bit extra cost. Otherwise, they'd have a situation like they had this year, where they really didn't have access to all the resources they ought to have.

What happened was that they spent the money to buy the property, but they didn't have any permanent financing to finance it. They issued temporary bond anticipation notes which didn't do anything with equity, therefore, there was a temporary deficit in the undesignated fund balance. The hope was that the Department of Revenue, who makes the rules on how these appropriations can be made, was going to be a little flexible once the bonds were sold. (That sale is scheduled for November.) That would have allowed

them to go back and recalculate the fund balance as they would with free cash. The DOR didn't feel they could be that flexible. The other option would be to ask the Mayor to approach the Commissioner of Revenue on this and it may have a different result.

Otherwise, that aside, the CPA fund was very strong at the end of the year. It ended the year \$900,000 better than it had been the prior year. A good part of that had to do with the fact that there wasn't as much spending and some of those balances were carried over. They also had another \$300,000 or so in investment income that they didn't budget. The fiscal 2008 budget update memo, dated September 7, showed another \$422,000 in appropriating authority, about \$250,000 of which was investment income that they had never anticipated for budget purposes. He said he suspected that they ought to this year, given how tight things were. Mr. Wilkinson went on to say that they would be getting out a report in the next few days on the first quarter results. He noted that Alice Ingerson had been very diligent about urging the department heads to spend some of the money they have been slow to spend. He also said it was a pleasure to work with Ms. Ingerson and she's been very effective.

CPA Update

Report and Proposal Form Changes

Ms. Ingerson reported that they decided to abolish the quarterly stats report form they had used in the past. It was sent out via mass email and only produced a response rate of about 4%. Instead, they decided to call people to find out what was going on with their projects. She said she has also revised the proposal form to try to head off some issues. It will now ask for a list of project milestones and timelines. It will also ask for names of those who can help with the project and their phone numbers. Before projects begin and the money started flowing, there will be a meeting of all those who were necessary to facilitate the project. Developing relationships with all those involved will facilitate the projects. She will also be adding deadlines so that money is not flowing into projects and not being spent in a reasonable timeframe.

The new report she has devised to track completed projects and ongoing projects has a column called "Percentage of CPA Funds Spent to Date". (Copies of the report were distributed to Committee members). She receives a quarterly report from David Wilkinson and compares that money to the original appropriation. This allows her to see if a project is taking too long, or not spending the money well. For instance, if it's a 2003 project and only 1% has been spent, or 50% has been spent and only 2% of the work has been done, she can more easily see those problems. They also want to keep track of projects long term, after they are "done", to be sure they're doing well and being used for their intended purposes. She has rearranged the chart of projects by listing them alphabetically instead of by fiscal year. She has also asked applicants to provide project managers names so they have a point person to speak to throughout the process. She told the Committee that there were many more columns on this report that can be unhidden, or if they felt they needed anything added, she could certainly add them.

Impact of MWRA Project

There is a map of projects which is attached to this report. Ms. Ingerson noted that the MWRA is about to begin a water main project to Watertown that goes through several of the projects. They will be trying to get the MWRA to put things back together better than the way they found them. She would not want to have the projects done and have the MWRA tunnel under them and have them cave in. The water main will be cutting at a right angle under Cheesecake Brook between the project that's being built and the one that hasn't been funded yet, then it's going up the entire west side of Albemarle Rd. and then it's not following the Brook to the Charles River, but going off straighter at that point. It goes under the Cheesecake Brook and back up, and under the Charles River and back up. Ann Phelps was given a map by the MWRA which was so small it was difficult to read, so Ms. Ingerson has asked the Engineering Department to correct the map and make it more readable. The advantage of the MWRA project is that there should be some mitigation so that things that need to get fixed may get fixed along the way.

There's going to be an exhibit in the library in November of photographs of Cheesecake Brook, and they're hoping to get various members of the community involved in this project to see this exhibit and talk about coordinating with each other.

Community Outreach

Ms. Ingerson said that she had proposed going from an annual report that simply covered projects for one year, to a community preservation catalog on their website where one could look up all the projects. Every year or two they would like to have a Community Preservation Day and try to have someone on site at all the projects and have a map, tour, balloons etc. She said the bus tour they did in August was a pretty big success. She was most surprised and delighted that all of these people were happy to be there and excited to be part of the tour and that there was a great community feeling amongst the people doing the projects.

Project Questions

Ald. Sangiolo asked about the Flowed Meadow III project (Design). Ald. Lennon also pointed out that this concern was referenced by Anatol Zukerman in a letter dated July 25, 2007, in which Mr. Zukerman wrote:

"4. In March of 2005 the Board of Aldermen approved the expenditure of \$30,700 for the Phase 3 of this project that would have provided a public access to this area from Lexington Street in the form of a boardwalk. But the administration failed to follow through and has never issued a request for proposals that would enable companies to bid on this project."

Ms. Ingerson said that Flowed Meadow III was a plan to design a boardwalk around the edge of the landfill and down into the flowed meadow wetlands. The question was raised as to whether it was safe to construct a boardwalk on that route because there may be methane from the natural wetlands decay or from the landfill. The plan was to do test

borings to make sure there was no methane before they put the design contract out to bid. The borings have been done and results are pending. If the results came back favorably, then there would be a contract for the design that would go out to bid. She said that she should find out the results next week and would let them know.

Joyce Moss of the CPC added that this was around the time that they were doing Angino Farms and the resources got stretched so they couldn't accomplish this at that time. She said that Michael Kruse also ran into some logistical problems at the time that caused the delay.

Ald. Yates said he was concerned that some of these projects weren't as far along as he had thought. Depending on the results of the Stearns Pellegrini lawsuit, he felt they could have some serious jeopardy in a lot of projects that were great, but they looked suspiciously like fixing up existing City land and that could be questionable, legally.

Ald. Parker said that someone could sue the City and the only action would be that the City had to reimburse the CPA. Ms. Ingerson said she was encouraging people to give them a clearer sense of which parks, playgrounds, landscapes, and conservation areas could be legitimately considered historic resources.

CPC Annual Plan

Ald. Linsky said that the CPC will be meeting to adopt their annual plan and that it was on the City's website for review. Ald. Vance said he found the plan very helpful. It had useful background about the various categories and generally useful details about housing, recreation, open space, etc. and provided an extremely good context for the development of the plan. He liked the provision that suggested areas in which the committee felt the handling of the plan had fallen short, would be looked at further. He had no major criticisms.

Ald. Yates wondered if there was a recommendation that the City explore the acquisition of easements on existing smaller homes, both for historic preservation and for housing. He explained that if there were existing smaller homes that were, because of their small size, more affordable than a monster house in the same location, it might be smart to preserve the stock by buying the home or buying an easement on it that would maintain the smaller, more affordable size. Judi Jacobsen said they have used CPA funds to support groups like Can-Do who have acquired properties with long term restrictions on them. Cambria, Falmouth and Jackson are a couple of those sites. Ald. Yates said that on one side of Ohio Ave. there were teardowns and replacements that were never going to be affordable to lower and middle income people. On the other side were houses that could be affordable for a long time to come.

Ald. Parker said that the CPC continued to do fantastic work and the plan was excellent. He said that with limited public resources available for affordable housing, he felt they should focus their efforts on helping the neediest.

**REFERRED TO COMMITTEE ON COMMUNITY PRESERVATION
AND FINANCE COMMITTEE**

#257-07 COMMUNITY PRESERVATION COMMITTEE recommending that the sum of \$358,600 be appropriated from the Community Preservation Fund for the purchase and associated legal costs of acquiring 30 Wabasso Street (assessors parcel id number 41031 0053), as an addition to the Flowed Meadow Conservation Area in Auburndale. [08-03-07 @4:55PM]

ACTION: APPROVED 6-0-2 (Ald. Linsky, Lennon abstaining)

NOTE: Joyce Moss of the CPC made the presentation to the Committee.

Description of Area

She said that the Flowed Meadow area was in the northwest corner of the City. It was about 40 acres in Newton, but was part of a larger area of open space and very interesting ecosystem which runs along the edge of the river. It straddled Waltham and Newton and ran on it's western side by Lyon's Park, Commonwealth Ave., Auburndale playground, straddled the general area of Weir's Cove, crossed Pulsifer Cove, ran into the Forest Grove DCR land, came around Purgatory Cove and encompassed the Flowed Meadow marsh land, the conservation area, the former DPW land and exited over Lexington St. and Rumsford Ave.

Description of Costs and Appraisal

What they had was an opportunity to purchase a very small (5,100 foot) parcel with a very small house on it for \$355,000 plus \$3,600 in legal fees. The original proposal also included some money for demolition (\$30,000), remediation (\$5,000), site investigation (\$6,000) and possibly some back taxes if this weren't accomplished by a certain date in October. They discussed the remediation and demolition costs and the ultimate disposition of the committee was that they felt they should be shared by the City, which she felt was always a good policy idea.

Ms. Moss said that the appraisals were low and close to the \$355,000 price. One was \$300,000 by the City's Assessor's Department and the other was \$360,000 by an independent appraiser supplied by the owner. Irrespective of the appraisal, the owner was not willing to sell the property for less than \$355,000. A discussion ensued among the Committee members and they decided it was important to act. There were septic issues on the site and an underground storage tank issue and a small house.

CPC Reasons for Supporting Project

Ms. Moss said that although the parcel was small, it was critical to the area. She described the area as spectacular and wild, and an unbelievable resource. At one time, a lot of the area of landfill (50 acres) that was capped perhaps in the mid '90s, and there was an incinerator that was unwelcome by the neighborhood. It was part of the City's strategy to reclaim this ecosystem and buy some of the properties that were dotted along Wabasso St. Wabasso St. represents the entry way from the eastern portion of the site

(Lexington Ave. area). She said it was unclear what Wabasso St. was as it is a dirt road and people were never sure. She gets a lot of questions about how it was meant to be enjoyed and that was an ongoing discussion and there was much to discuss on this topic as the area was fragile, precious and extensive.

Ms. Moss described the property as special because it was the closest to the waterline. When she first went there a month ago, she was amazed by the direct access to the view of the cove. She said that the Cove needed some restorative work which she hoped would happen at some point in the future as it has such potential. Photos were presented to the CCP to demonstrate the view and the area in general. Ms. Moss said this house was the last house in this wild area and didn't really belong there. She said it has been targeted as a potential acquisition by the City for a long time, and now that it's become available she felt they should take advantage of the opportunity. She said it was not fungible land. It is land that because it was so close to the water and was in the middle of this wild area, it could not be substituted for other land. That made it extremely valuable. The money seemed relatively short even considering their limited resources. The benefit was not in the use but in the fact that it is where it is, it represents an example of progressive city stewardship, an amenity for the neighborhood and the region, and something to be proud of.

Committee Comments

Support

Ald. Yates remembered this had been a long standing priority to complete the public acquisition of this site and turn this area from unfortunate public uses to beneficial public uses. He felt projects of this sort should be done to the maximum extent possible using CPC funds.

Ald. Parker supported the motion for approval. He said he understood the struggle the CPC was faced with balancing all the demands being placed upon them with limited resources. He said he could see how they would want some matching funds and if the City was the applicant, the city should provide those funds. He felt it shouldn't cost \$30,000 to demolish the house. He said this was acquisition of waterfront real estate, it's not a conservation restriction on a regular yard, and it's contiguous with other public land. He found this similar to 230 Lake Ave, which was also contiguous on both sides by city owned land, and it was also waterfront. He felt this was what they should be doing with CPA funds, acquiring land for public enjoyment and he was happy to vote for it.

Ald. Vance said he visited the site and found it an amazingly wild and natural site. Since the house had no history, he found demolition reasonable. The access to the water that this site provided made it particularly desirable. He approved of the project.

Ald. Hess-Mahan said that this was an area in the City that deserved the money and he was happy to support it.

Ald. Sangiolo said a foundation that she was part of did a study along these coves, a while back, to look at getting flow back into them. Ald. Harney has been in contact with Steve Rourke in Waltham and they were looking to clean up that area as well. It would be an extremely valuable resource for both Newton and Waltham.

Ald. Lennon said he would abstain until he had a chance to visit the site, but it sounded like something they should do and need to do. Ald. Lappin also said she hadn't made it to the site but was prepared to support it today.

Concerns

Ald. Linsky said he understood that if there was one thing that needed to immediately be changed on the site, it would be removal of the house. He said this, however, was not accomplished by the CPC vote and the thinking is that the City will come through, but he felt that couldn't be known for sure. He said he felt they should do as much as they can under the CPA and the law department indicated it would not be problematic to use those funds for this demolition.

Other concerns that Ald. Linsky had were what lies beneath the site and the potential liabilities to the City. He also said there might be some title questions. Catherine Farrell of the law department said there were no title issues. She said there was a very careful site investigation done which turned up no concerns aside from the underground storage tank which should cost about \$5,000.

Ald. Linsky was also concerned about the price. He said that by comparison to other projects, this was a low number, nevertheless, it had to be compared to what they were getting. He said that in an original plan, 3 properties were looked at. The City had acquired the other two already and he felt that a number of things had been accomplished by virtue of those acquisitions. City control of that major right of way (Wabasso St.) had already been accomplished. He said that access was achieved to Flowed Meadow, and in terms of the Cove, there were a number of points of access as well. He didn't think that this acquisition was critical to any access point in that area.

Joyce Moss said that she spent a lot of time with Ginny Gardner (Nightcap Corner Neighborhood Assoc) finding out what was so critical about this acquisition. What she came away with was, if they lose control of this parcel, they don't know what they're going to get and that may be worse than what was there now. Secondly, if they lose control of this parcel, they may not have contiguity of land; and thirdly, they may lose the opportunity to this wildness as intact as possible. She said that even if it was not about access of what they can do once they get in there, it was about the ecosystem and trying to steward it as well as they can. She first came in thinking about canoe launches, etc., but came away with the idea of stewardship.

Ald. Linsky said that, for example, Forte Estate, was very special because of its location but was also, inarguably, a nice piece of property. He said he was not yet convinced that this Wabasso St. lot was similar. He said that someone else who bought the property

would not be able to develop it without a special permit so he didn't feel there was a real risk of losing control of that area. Ald. Sangiolo said that someone could rebuild a house with the same square footage without a special permit and that because it's waterfront property, she felt that could happen. She said that getting under the bridge was extremely difficult in a canoe or boat so access would indeed be an issue. She said she had an issue with demolition being included in this project because she felt the amount of \$30,000 was too high considering it's the same amount that's being spent to demolish the house on Crystal Lake. She felt fairly certain that the City would come up with a better number when they had to come up with the money.

Ald. Linsky said that he wasn't concerned about the cost of demolition but he said the point was it should have been included because it was agreed upon that the house needed to be demolished. He said there were other ways that could be accomplished as well. Ald. Parker pointed out that everyone agreed that 20 Rogers St. needed to be demolished and that cost was not included either. Ald. Linsky said that was because at the time, the City had a plan which included true leverage which they don't have here.

Ms. Moss has asked what the "other ways" were of getting rid of the house. Ald. Linsky said that if the house reached a certain level of decrepitness, the City could condemn it. He said they don't need to buy it, they could condemn it. The assessment was \$259,000, the two appraisals were \$300,000 and \$365,000. He felt that the price could have been looked at more closely, but understood that the owners drew a line at \$355,000. He said it was hard to know if someone else would buy the property until it was put up for sale.

Public Comment

Ginny Gardner said that the house being on this land was extremely intrusive. Reading the report about the trees, plants and wildlife and visiting the area brings this into context. If a house were there and people chose to live in it, the effects of that in terms of cars and trash cans, recycle bins, traffic, etc., would have a large impact. She encouraged the aldermen to look at the Flowed Meadow report to get a full picture of the area.

Norm Richardson representing the Newton Conservation Commission wanted to say that they were unanimously in favor of the acquisition. There were many aspects of continuity that were valuable. It would provide opportunity for animals that were sensitive to disturbances to remain viable.

Ald. Sangiolo moved approval of the item.

The Committee voted approval of this item by a vote of 6-0-2 with Ald. Lennon and Ald. Linsky abstaining.

Respectfully Submitted,

Stephen M. Linsky, Chairman

