

CITY OF NEWTON

IN BOARD OF ALDERMEN

COMMITTEE ON COMMUNITY PRESERVATION REPORT

TUESDAY, JANUARY 29, 2008

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

Also Present: Ald. Baker, Lennon

Others Present: Dan Funk (City Solicitor), Alice Ingerson (Community Preservation Program Manager), Ken Kimmel, Judy Jacobson, Jeffrey Sacks (Community Preservation Committee Members), David Wilkinson (Comptroller), Josephine McNeill (Director, CAN-DO), Karyn Dean (Committee Clerk)

**REFERRED TO COMMITTEE ON COMMUNITY PRESERVATION**

#389-07      A GROUP PETITION requesting a public hearing regarding the Community Preservation Committee's (CPC) recommendation to the Board on February 16 and May 10, 2006, to appropriate Community Preservation Fund money for the *Stearns Park and Pellegrini Park: Year 1 Improvements*. On September 24, 2007 the Middlesex Superior Court declared the recommendation in violation of Community Preservation Act (Civ. No. 06-1868-C).

The petitioners specifically request the Board:

- (a) to consider and adopt an appropriate measure reprobving the Community Preservation Committee(CPC) as constituted on January 11, 2006, when it voted the recommendation;
- (b) to ensure, henceforth, when questions of statutory interpretation and construction are raised by a competent and articulate segment of the public, the CPC shall seek competent legal advice from sources outside of City government, which shall include, without limitation, independent outside counsel and Massachusetts Department of Revenue;
- (c) to amend City's Revised Ordinances Part 2, Article VII, §§2-350-2-352 (Div. 8), to condition the term of the members of the CPC on good behavior and otherwise to provide for suspension, leave, dismissal or other suitable reprove for cause. [11-14-07 @ 9:44 AM]

**ACTION:**      **NO ACTION NECESSARY 7-0 (Ald. Sangiolo not voting)**

**NOTE:**

Chairman's Note: A public hearing regarding item #389-07 was held in the Aldermanic Chamber. The Committee then reconvened in Room 202 to discuss the remaining agenda items.

Chairman Ald. Lappin introduced the item. She noted that the appeal filed by the City has been taken up by the Supreme Judicial Court and should be heard within the year. Ald. Lappin instructed the public on the rules of the hearing and asked that the comments be limited to this petition and then opened the public hearing.

**Public Comment**

*Guive Mirfendereski, 24 Carleton Street.* Mr. Mirfendereski said that he agreed with the issues and requests of the petition. He submitted a proposal to settle the requests of the petition by amending the CPC ordinance. His proposal is attached to this report. He said that even though legal aspects of the Stearns/Pellegrini case were being debated in the judiciary, he felt there was a political breakdown in the process itself. He hoped his proposal would be picked up by members of the Committee, docketed and properly introduced for the betterment of the procedures of the CPC. He said that if the CPC agreed to this policy, the need for legislative amendment would be obviated. This proposal would fundamentally curtail the involvement of the Law Department in the statutory interpretation of the Act in light of the Law Department's service to the CPC and payments therefore from the Community Preservation Fund, which he felt was troubling in terms of conflicts of interest.

Ald. Yates asked if the Department of Revenue had been asked about their willingness to provide statements as proposed by Mr. Mirfendereski. Mr. Mirfendereski said that under the Massachusetts Code of Regulations, Chapter 830, the Department of Revenue puts out public written statements which included rulings and advisory opinions and was there for the asking and many communities take part in that. Rulings were not given because the applications for opinions did not provide enough detailed information.

Ald. Yates asked what situations Mr. Mirfendereski would not find the municipal Law Department in conflict of interest. Mr. Mirfendereski said doing the transactional paperwork for the CPC or the projects that have been approved by the Committee would be fine. These projects would be lawful if the new mechanism were put in place and would have to have some legal viability before they could proceed. He said it was troubling for the Law Department to invent terms and then define those terms in order to control the debate and then seek the appropriations under the Act when it was a matter of statutory interpretation which would be under the purview of the Courts or the Department of Revenue as set up by the legislature. Ald. Yates asked if Mr. Mirfendereski considered that under those terms that there was the possibility that all municipal operations that required legal assistance might grind to a halt and that the courts and the DOR might be dragged to halt by legal interpretations that had previously been done at the municipal level. Mr. Mirfendereski said because this proposal was

designed to go forward not look back. The Law Department in the City of Newton has gotten a packet of opinions the DOR expressed for other towns. He said it was up to the DOR to decide how to use their resources and they were there for cities and towns to use in this way.

He said he urged the CPC and the Board of Aldermen both orally and in writing to seek some advice from outside and they didn't. He also said Ald. Sangiolo made the motion in the CPC Committee in the Board of Aldermen and it fell on deaf ears. If sweeping changes were made to the bill, it would have to go for a re-vote in the City.

*Jeff Seideman, 53 Eliot Memorial Rd.* Mr. Seideman said he was the President of the Newton Taxpayers Association but he joined this petition as an individual citizen. He said this petition was about the trust that the public ought to have in the wheels of government in Newton. He felt the Stearns/Pellegrini case was a clear case of the CPC violating the intent of the law. When he first spoke to the CPC about funding maintenance for properties that were previously owned by the City, it had to do with the NEWTURF proposal. He felt the City Solicitors office was unreliable and their interpretations were bizarre and only protected the Mayor's interests and that's why the petitioners were asking for outside advice on these matters.

Ald. Yates asked how Mr. Seideman would determine when outside counsel was appropriate. He said he could not answer that as it was beyond his scope but it was his opinion that the City Solicitors office could not be trusted to give objective advice. Mr. Seideman could give no recommendation on where the City could find this objective outside counsel.

Ald. Lennon said he spoke to some signatories of this petition and they said they were more concerned with the NEWTURF proposal than the Stearns/Pellegrini proposal. Because NEWTURF was never approved, this was the next case so they decided to use it to demonstrate to the Board and the CPC their frustrations with the process itself. Mr. Seideman said the question was the same – can CPA money be spent on property the City already owned. He said they felt the answer was clear and that it could not. He said the issue was never if Stearns/Pellegrini was a good project, it was whether CPA funds could be used to do it. Because turf had not come to completion, they filed the suit against Stearns/Pellegrini. Ald. Lennon said that Mr. Seideman has made an unfair characterization against Dan Funk and the City Solicitors Office. Ald. Lennon said he knew that the due diligence had been done and numerous iterations of the project had been considered. The Alderman voted 24-0 to approve this project. Ald. Lennon said he worked very hard on this project and he personally spent countless hours talking to the Law Department on this case and knew it was reviewed very carefully.

Ald. Vance asked if Mr. Seideman had a law degree and he said he did not. Ald. Parker said that if the City lost this case and they turned out to be wrong, he apologized as he voted for it. He didn't blame the Law Department or the CPC.

*George Foord, Winslow Rd. Waban.* A written statement by Mr. Foord is attached to this report.

Ald. Yates asked how Mr. Foord would feel about the law being changed perhaps with some of the revisions included in Senator Creem's bill. Mr. Foord said that part of that bill was drafted by the Newton Law Department. A partner in the law firm that was representing the The Community Preservation Coalition that was backing that bill was a member of the Newton CPC. He felt there was a circular conflict of interest. Ald. Yates said that if the law were changed to make it unequivocally possible to carry out the type of project that was the subject of this contention, did Mr. Foord think that would be an improvement in the law or a worsening of the law. Mr. Foord felt that if the law were changed it needed to be interpreted properly.

Ald. Vance asked if Mr. Foord if he was aware that the positions taken by the IRS in its rulings and regulations were frequently overturned in decisions by the courts. Mr. Foord said he was. Ald. Vance also said that the Department of Revenue was not the last word on the question of legal issues in Massachusetts regarding the CPA. Mr. Foord said there were special circumstances in this case. With the IRS, there was a litigation budget. In the case of the DOR and Division of Local Services, the burden of holding hearings and vetting formal regulations projects took a great deal of time and cost which the Division did not have. They choose to issue information guideline releases hoping the practitioners will take them seriously and if they don't, there's a question of how to bring about litigation to resolve any reasonable difference. He said the court seemed to be pretty clear that the interpretations were correct. The decision was on appeal with the Supreme Judicial Court but whatever that will say, that is what should be followed. Right now, the ruling that they have should be followed.

*Linda Lancaster, 17 Noble Street.* She said she was one of the petitioners. She felt it was a matter of accountability and transparency in government. The taxpayers passed this Act for certain types of projects and she felt it was important that the funds be spent in accordance with the law that was set forth.

*Sam Robbins, 300 Prince St.* He said he sensed something happened that was wrong. He said that employees of the city or elected representatives should not be allowed to do something immoral and get away with it. He said if someone has done something wrong, they should be removed from their job.

Ald. Yates asked Mr. Robbins if he thought there was a difference between wrong as immoral and wrong as incorrect. Mr. Robbins said that even if a person violated the law accidentally, they have a moral responsibility to obey the law. And if someone made a mistake and broke they law, they no longer should be in a position of public trust. It would be immoral to let them get away with it. Ald. Yates said that it seemed that Mr. Robbins position was that anyone who was not infallible in the exercise of their professional responsibilities should not be entrusted with them. Mr. Robbins said that

anybody in any job should be expected to exercise topnotch judgment in the execution of their job.

*Anatol Zuckerman, 17 Noble St.* He said he supported the petition. Mr. Zuckerman said that the Middlesex Superior Court declared the recommendation of the CPC for this project in violation of the CPA. He knew the City was appealing the decision. He said the CPC continued to act in the same vein as it did before the court's decision and he said it was illegal. He felt it was up to the Board of Aldermen to remove the entire CPC from their job if they approved them to the CPC.

Ald. Yates asked in what way the CPC was acting in violation of the court ruling. Mr. Zuckerman said 8 projects that were on a list from the CPC public hearing a few days ago, were all asking for historic preservation when clearly it was actually for maintenance. Ald. Lappin pointed out that none of those projects have been recommended or approved at this point and therefore were not in violation.

*Kathleen Heck, 32 Oldham Rd.* She said she was a very strong environmental person. One reason she moved to Newton was because of the open green space. She voted for the CPA and lobbied for support of it as well. She signed the petition because she felt she was duped. She felt they were voting for a property tax increase to preserve open space and historic structures like the fountain on Valentine St. She felt she didn't vote or the CPC to borrow \$1M and that many projects were actually embellishing open spaces not preserving them. She said the expectations ended up not matching what actually has happened in half of the cases. She suggested one of three things: modifying the CPA so peoples' expectations were realized; decide to clearly state the limitations on the Act and stick to them; or repeal the CPA.

*Curtis Betts.* He said he was in opposition to part a, in favor of part b, and had no opinion on part c of the petition. He said he has sponsored 4 or 5 projects that have been sponsored by the CPA and has seen the committee work. He said he suspected all of the projects he's been an applicant for would not be eligible under the current rules. He felt the Committee has consistently worked in good faith and within the guidance that they've been provided by the Board of Aldermen and the Executive. He felt they've been given very little guidance and the aldermen have dropped the ball in that respect.

He said the Law Department has done the City a disservice in regard to the CPA in general and by overlooking the law in the current case. He said if the flaw in the CPA language had been brought up right away, problems could have been avoided. He said the Law Department decided community sponsored projects should not be run by the community. After the funding was completed a project was turned over to the Executive and the Departments to implement the project. He said every one that he's been involved with has been a failure going for years without completion. He felt the political community other than the CPC has failed, and the CPC has done a good job.

*Ken Kimmel, 165 Elgin St.* Mr. Kimmel is a member of the CPC. He said he had mixed feelings about responding to this. He thought it was a wrongheaded move to come and seek a reprimand of CPC for making a decision which may or may not be legally incorrect, but was indisputably made in good faith. He wanted to point out that this issue of the law was not raised at the Stearns/Pellegrini hearing. They were focusing on the project and felt it was something very much needed in the community. The whole issue of restoration/preservation was raised in a subsequent case involving turf. The petitioners prevailed in Superior Court but their decisions were not binding in the Commonwealth because there was not time to look through factual records because the volume of their work was enormous. The appeal courts and the Supreme Judicial Court are there because sometimes issues needed to be looked at more extensively. They may find that some things were lawful uses of CPA funds and some were not. But the fundamental point was they were not ignoring the law, and they were acting in good faith. They thought what they were doing was correct and to bring a petition like this to seek to have them removed from office because of a legitimate good faith disagreement was absurd. Their difference of opinion was heard in court and has yet to be heard again by the Supreme Court and bringing this petition was unnecessary. This was a deterrent to public service, the idea that if you made a decision that turned out to be incorrect, not immoral, not illegal, you then had to be hauled in front of the Board of Aldermen to defend yourself. He felt it was taking things too far.

He said they have not ignored the current court ruling. They have decided to not make any more decisions about parks until they get a ruling and clarification from the Supreme Court.

*Janet Sterman, 120 Church St.* She was concerned about the accountability of the CPC to the City. She said as volunteers their time was appreciated but she was concerned that they were making decisions about how tax dollars were being spent. In the face of an override, it was a very sensitive issue. She felt anyone who made decisions in the city should be held accountable for their decisions.

Ald. Linsky said the CPC makes recommendations only and the Board of Aldermen make the determinations about money and approves any money that is spent.

#### Close of Public Hearing

Ald. Lappin closed the public hearing and the Committee reconvened to discuss the item.

#### Committee Discussion

Ald. Vance agreed with Mr. Kimmel's comments and noted that the Supreme Judicial Courts decision to hear this case indicated that it was not as clear cut as its proponents might report it to be. The CPC had no governmental decision-making power or governmental responsibility, their role was to make recommendations to the Board. He said he has always found the work of the Law Department to be careful, thorough and professional. Ald. Parker said that it was the responsibility of the Board of Aldermen to approve the appropriation of money, not the CPC or the Law Department. He said as an

Alderman, if he made a mistake, he apologized. Ald. Hess-Mahan said the CPA was an enabling act not a criminal statute where if you “break the law” you get punished for it. It’s the first time this statute has been interpreted and it’s bound to have different interpretations. This case was taken by the highest court in the state on direct appellate review, snatched right away from the appeals court so there must be a question in the mind of at least a certain number of the justices that there’s a legal issue that needs to be decided. He thought reproving these volunteers in public for possibly getting a recommendation wrong, was very wrong itself. He said it was very telling that the petitioners never raised this issue when the vote came before the CPC or the Board on Stearns/Pellegrini. Not one word was said about whether or not this was allowable at that time. Ald. Lappin said this was a new statute and was a learning process for the Board and the CPC. Asking for outside counsel would unlikely turn up anyone who has more experience in this area. If there was a decision on a case by case basis to seek outside advice from any source, that could be decided at the time, it did not need to be institutionalized. Ald. Baker wanted to thank the CPC for their time and felt they always did the best with the information they had. He also felt the Law Department did a very good job.

#### Law Department Response

Dan Funk said these issues arose during the turf discussions. It was discussed publicly and everyone aired their views. He said they went through every single letter advisory that the Department of Revenue had that was relevant to the turf issue and they spoke to the person in charge of the legal division there, Catherine Coliri. He wanted to make sure if there wasn’t clarity to the issue that at least there were reasonable positions that could be taken before he issued his opinion to his client – the CPC and the Board of Aldermen. The Ms. Coliri at DOR told Mr. Funk they had some viable positions that were defensible based upon the theories of creation of preservation.

Mr. Funk pointed out that Stearns/Pellegrini elicited no discussion about any legal issues from the public and the assumption was made that this project was within the realm of the statute. The Law Department never went to outside counsel for answers because questions were never asked. The only time any of these matters went public was on the turf issue and people have been transferring the facts about the turf case to the facts about the Stearns/Pellegrini case. They are not the same thing. The Law Department contacted the Dept of Revenue and they do not work in a vacuum.

Ald. Hess-Mahan moved No Action Necessary on this item and the Committee moved to approve that motion.

#### **REFERRED TO THE COMMITTEE ON COMMUNITY PRESERVATION AND FINANCE COMMITTEES**

#399-07 COMMUNITY PRESERVATION COMMITTEE requesting the sum of \$26,000 be reallocated from the potential subsidies for accessory apartments to program administration for the Accessory Apartment Incentive Program. The Board originally appropriated \$320,550 for this

program via Board Order #466-05 on March 6, 2006. No new appropriation is requested. This reallocation will allow the program to run for an additional year beyond its original expiration date of December 31, 2007, offering homeowners slightly modified terms as outlined in the CPC's revised recommendation to the Board.

[12-07-07 @ 2:19 PM]

**ACTION:** **APPROVED 7-0-1 (Ald. Sangiolo abstaining)**

**NOTE:**

**Introduction of Program**

Jeffrey Sacks of the Community Preservation Committee presented this item. He said it was one of the smaller but one of the more interesting projects that the CPC has recommended. It was established to try to encourage the creation of accessory apartments in the City. The creation of these apartments was probably the cheapest, most efficient, least burdensome on infrastructure in the City, mechanism to create smaller, affordable apartments. It was funded several years ago and the Community Living Network (CLN) was contacted by over 350 people about the program. There was extensive outreach and many applicants were met with but resulted in zero applications. They discovered that there were features about the program that prevented people from going forward. The money had to be expended by the end of 2007 and during 2007 CLN came back to the CPC with some changes to make the program more viable and make it more easily implemented.

A chart of the programs changes are attached to this report.

**Loans vs. Grants**

There were a number of changes in the new proposal and what they would offer the homeowner. The old program included grants and the new program offers loans. In the original program design the grant required the property to be permanently restricted. This was the single biggest deterrent to the program. Kevin McCormack of CLN said people were concerned that the restriction would be a liability when trying to sell their house. The old program also had a loan program but there were penalties if the property left the program before the 30 year term was up. An alternate loan proposal would be if the property was held restricted for 30 years, then the principal and interest are forgiven. And if after 7 years, minimum, you pay off the loan, 1/30 of the principal is forgiven for each year it's held but 3% also has to be paid for the period of time the loan was held. Ald. Linsky suggested having a restriction that can be bought out if the house were sold and the new owner did not want to have the restriction.

**Income/Residency Requirements**

The CPC increased the income level for those who could qualify as a homeowner to 150% of median income. They felt that upper income homeowners shouldn't benefit from this program. As a program using City money, the committee felt it should be targeted at homeowners with lower incomes. Ald. Parker felt anyone should be eligible if they were willing to create affordable housing and restrictions should not be put upon

homeowners in that way. They were putting money into a private home which was something they've never done before and if city funds were being used that way, they didn't think they should be used to subsidize a homeowner that would likely be able to afford to do this on their own. The CPC discussed this extensively in committee and decided this was the right policy. Ald. Baker said this was a low interest loan to a homeowner who was willing to create an accessory apartment. This was a subsidy to the homeowner, not the renter, per se. The CPC also tightened up the restrictions on who could live in the units. They have seen accessory apartments be very successful in other communities and they wanted a chance to see if it would work in Newton. Ald. Ciccone said he saw this as a way for the seniors in the city to be able to afford to stay in the city by taking part in this program.

#### Enforcement

Ald. Lappin asked about enforcement and how they could keep track of who's living in the units. The Housing Office said they were prepared to do annual reports and the homeowner would be required annually to certify that the tenant meets the requirement.

#### Zoning Problems

Ald. Parker said the zoning process caused difficulties and obstacles for people trying to legalize units and making that process easier would solve a lot of problems. He said he would get rid of all the restrictions surrounding them as well. The smallness of an accessory apartment by its very nature will make it more affordable and he didn't care if a relative lived there if they needed it. He wanted to look at the long term goal of more affordable housing in the city. He didn't think CPA funds were necessary because he felt they could manage this problem by streamlining the zoning ordinance.

#### Questionnaire

Ald. Lappin asked the CPC to have a questionnaire for prospective applicants asking them what they liked, and what they found prohibitive about the program. The Committee asked the CPC to report back their results.

Ald. Yates moved approval of this item and the Committee voted in favor.

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

#383-07      THE COMMUNITY PRESERVATION COMMITTEE recommending that the sum of \$498,500 be appropriated from the FY08 Community Preservation Fund's community housing and general reserves for development and associated legal costs of a community housing project proposed at 29 Coyne Road, Waban, by CAN-DO (Citizens for Affordable Housing in Newton Development Organization). [11-13-07 @ 5:09 PM]

**ACTION:**      **HELD 7-1-0 (Ald. Hess-Mahan opposed)**

**NOTE:** Judy Jacobson of the Community Preservation Committee presented this item. She said that 29 Coyne Road was currently a single family home on a fairly sizeable lot,

approximately 13,000 square feet. CAN-DO acquired this house at a below market price in 2004 and the property has increased in value. They paid \$570,000 and at that time there was a bank appraisal of \$738,000. It was more recently appraised for \$593,000. The house was currently being rented to a Section 8 certificate owner. The plan was to build a duplex in the yard behind the house with modular construction. One of the units would be affordable and one would be at market rate. There was about \$1.3 million in development costs for the project and the CPC funds were \$495,000 and a bit to cover the City's legal costs. They've analyzed both the development and operating costs because they wanted to be sure there would be adequate revenue to cover the expenses. There was a pretty healthy operating budget of \$10,000 per unit which, if all goes well, should throw off some cash to CAN-DO annually.

Ms. Jacobson said they heard negative and positive comments from neighbors. One comment they were most concerned about was drainage and the engineer and architect said the construction would make that condition better and would be addressed in the special permit process. Some other neighbors complained that there were already many affordable housing units in the neighborhood and they felt they've done their share.

Ald. Yates pointed out that the one existing unit was producing a loss of \$2,000 a month. The increase in the rent on that unit after this project was completed would go up by \$400 and still leave a deficit of \$1600 per month. Josephine McNeill said CAN-DO was looking at this project as a 3 unit project and that gave them different numbers to deal with. The subsidies that CAN-DO receives from the City reduce their loss by another \$500 or so a month.

Ald. Parker asked if the restrictions on affordability were permanent. Ms. Jacobson said the state had to approve permanent restrictions and that it was unlikely to be a problem. Ald. Yates asked how much of the lot will be devoted to the rehabbed front unit and to the newly constructed rear units. He was concerned that there might be a problem if the units did not have a backyard. There was onsite parking of 5 spots.

#### Neighbor Comment

Michael Lepie addressed the committee and he was concerned about the drainage. He had submitted several letters to the CPC and the Board of Aldermen with his concerns. As an abutter to this property, he was opposed to this project. He said there was a City tree that would have to be removed to accommodate this project. Ald. Lappin pointed out that if that was true, they would have to go through a process and a public hearing to apply to have a tree removed. He felt the figures didn't make sense and that they could get more housing from the money they were spending – for example buy 2 two-family houses with the same money. Josephine McNeill said there would surely be renovation costs in that scenario which would drive up the costs.

Mr. Lepie provided the Committee with documents that are attached to this report.

### Information Requests

Ald. Parker asked why they weren't making all 3 units affordable. Ms. Jacobson said there was a philosophical point of view from CAN-DO around trying to have a mixed income property. She said she would be comfortable with putting in a little more money and making it 3 affordable units. She said she would find out what it would cost to accomplish that.

Ald. Parker said he would want to see the engineering study to be sure they wouldn't be causing a hardship in the neighborhood with the drainage. He suggested waiting to see how the comp permit process went and to see what the engineering study showed. While they were waiting for the comp permit process, they could get this additional information. Ald. Lappin said she would like to see how much more money it would take to make all 3 units affordable as well.

Ald. Yates asked for an opinion from the Conservation Commission. He said that it has been asserted that there was some stream involved in the property. Ald. Parker also wanted to know about the tree that was mentioned.

The Committee voted to hold this item by a vote of 7-1-0.

Ms. Ingerson was contacted on February 8 and said she will have the requested information available in time for the next Committee on Community Preservation meeting but did not have it available to include with this report.

### **Comptroller's Financial Report of the Community Preservation Fund**

David Wilkinson reported that the financial position of the fund improved pretty dramatically in the 2<sup>nd</sup> quarter of the year primarily due to the sale of the bonds for 20 Rogers Street. At June 30, they took a \$1.5M hit because of the way that property was financed. That \$1.5M is back in the fund except they don't have the ability to access it until July 1, 2009. The only way to access it would be to have the Mayor approach the Massachusetts Department of Revenue who make the rules about how surplus is calculated in this fund. They would have to change their rules. If 230 Lake Ave was financed, the fund would take a \$1.4M hit on the fund balance at June 30, 2008. The other important factor was that there was a \$1.1M note that the City has been holding with the Newton Conservators in connection with the Forte property. The Law Department went into an agreement with the Conservators whereby the Conservators deeded over to the City about 29,500 square feet of land.

Half way through the fiscal year, on the income statements, they've met 75% of the investment incomes estimates for the year. There's \$187,000 of the \$250,000 budget estimate that's been collected. The reason that's happening is because a lot of appropriations have been made that have not been spent. Please refer to the Comptroller's Mid-Year 2008 Financial Report that was previously sent to the Board.

Ald. Lappin said maybe people should be given a time limit in which they had to spend the money. David Wilkinson said appropriations can not be conditioned by anyone. Ald. Lappin then suggested having department representatives into the committee to get a response and report on their progress. Alice Ingerson they've asked petitioners to make sure they have the personnel available to do the project if they were funded.

#### Law and Engineering Department Subsidies

Mr. Wilkinson said that in the operating budget, there were 2 subsidies for City departments: \$30,000 for the Engineering Department and another \$30,000 for the Law Department. There were no expenditures against these subsidies in the report because the rules of engagement for those two departments is they have to actually bill time and charge the CPA fund for specific projects. If they don't do it, they don't get the money and they haven't billed. Ald. Lappin asked why each item has a line item for money for the Law Department. Ald. Linsky said they have a one half FTE and another amount for which they bill on a per project basis. Ald. Lappin said they haven't gotten a detailed accounting of what was spent so far and her concern was that next year there won't be \$30,000 worth of legal work. She felt that once the \$30,000 was reached, then they could add line items to the projects. Ald. Parker said some costs are background work costs even if the project didn't happen and then there was the project costs themselves. Alice Ingerson said there ends up being a one page list of hours on the various projects.

#### CPA Projects Update

Ms. Ingerson said that the proposal handbook now tells petitioners to talk the department whose land is involved to get their input. One issue that they're trying to address is having a Community Preservation Day. They would ask the stewards of the projects to onsite for a couple of hours to answer questions and welcome visitors. She felt they would immediately discover that some projects that looked great when opened, really don't have anybody stewarded them going forward. These should be 30-50 year projects, not 1-2 year projects. They were trying to shift to a catalogue of projects.

They have the problem of giving money for projects that doesn't get spent. Ms. Ingerson referred to the chart of projects that was sent to the Board in last week's packet to indicate the progress of projects. She pointed out that some appropriations were for design or use studies and those were mostly the ones that seemed to be stuck.

#### Project Managers

She said they needed to find people to manage projects in each department. Some of those people were enthusiastic and some didn't even know they were designated as a project manager but they were requiring applicants to indicate a project manager by name and phone number. Ald. Hess-Mahan and Lappin recommended having petitioners bring a project manager with them with they come to the Committee with their item.

#### Projects to be Reviewed by Committee

Ald. Parker thought they should invite in people who were dealing with the Historic Burying Ground which was only 59% expended from 5 years ago. Phase 2 was only

12% expended from 3 years ago. Ms. Ingerson was concerned about getting Wabasso Street demolished and it hasn't been dealt with yet. She also reported that on the Gath Pool project, a sunshade had been ordered and then the company went out of business. That has caused a delay in getting the sunshade and the project completed. The projected date of completion was April 2008. Ald. Parker also suggested having the Gath Pool project people in if the project was not completed in April 2008. Wellington Park was another project that has lagged. Ald. Parker was interested in knowing the status of Kessler Wood.

Clarification of Law

Ms. Ingerson said the law states that money can not be spent restoring and rehabilitating and making functional for intended use: community housing; open space; or recreation land not acquired or created with CPA funds. Historic resources do not have that restriction.

Meeting adjourned.

Respectfully Submitted,

Cheryl Lappin, Chairman