

CITY OF NEWTON

IN BOARD OF ALDERMEN

COMMITTEE ON COMMUNITY PRESERVATION REPORT

TUESDAY, FEBRUARY 26, 2008

Present: Ald. Parker (Acting Chair), Hess-Mahan, Vance, Ciccone, Yates, Linksy, Sangiolo; Absent: Ald. Lappin

Also Present: Ald. Danberg, Baker, Harney, Mansfield, Albright

Others Present: Mayor David Cohen, Dan Funk, Carol Stapleton, Alice Ingerson, Jeff Sachs (CPC), Janice Bourque, Walter Bernheimer, Robert Fizek, Dr. Srdjan Nedeljkovic

Re-appointment by His Honor the Mayor

#91-08 STEPHEN FAUTEUX, 71 Elmhurst Road, Newton, re-appointed as a member of the Community Preservation Committee (representing Ward 1) for a term to expire on June 30, 2011. (4-19-08) [2-07-08 @3:30 PM]

ACTION: **APPROVED 6-0 (Ald. Linsky not voting)**

**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]
This item was amended to \$576,000 for a 3-unit community housing project.

ACTION: **HELD 6-0 (Ald. Linsky not voting)**

NOTE: Ald. Parker noted that this item has been amended to a dollar amount of \$576,000 for 3 units of affordable housing. He said that the Committee did not have the engineering information that was requested at the previous meeting and therefore this item would be discussed for update purposes only. Mr. Sachs, a member of the CPC, said his Committee heard that there was concern about the amount of affordable housing being created out of this project. They revisited with the proponent of the project and with a consultant determined that if they increased the amount of funding by \$77,500 they would be able to pick up the third unit so that the entire project could become community housing. All 3 units were committed to below 80% of median income.

Ald. Parker said that there had been a concern about drainage in the area. The applicant had replied that they would not be able to provide that information until they were applying for their Comp. Permit. At that time, the City would be evaluating the drainage.

Michael Lepie, 422 Chesnut St. He said he didn't believe the property was purchased at a reduced rate. He also said that the CPC requested a copy of the appraisal done for CAN-DO's original lender, Bank of America, and it hasn't been provided. Ald. Parker said he would find out the answer to that and request that any relevant information be attached to the agenda for the next discussion of this item.

Ald. Yates moved to hold this item. The Committee voted in favor by a vote of 6-0 with Ald. Linsky not voting.

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

#360-07 COMMUNITY PRESERVATION COMMITTEE recommending that the sum of \$1,400,000 and \$500,000 be appropriated, by issuance of ten-year bonds, from the Community Preservation Fund for purposes of acquiring title to 230 Lake Avenue by purchase, for public use as recreational land and open space. [10-26-07 @ 1:36 P.M.]

This item was amended with the addition of a \$500,000 appropriation.

ACTION: APPROVED 3-2-2 (Ald. Parker, Hess-Mahan in favor; Ald. Linsky, Ciccone opposed; Ald. Vance, Yates abstaining)

NOTE: This item was amended to include an additional \$500,000 from the original \$1.4M for a total of \$1.9M from the Community Preservation Fund. Item #360-07(2) which requested \$550,000 from the City was voted No Action Necessary by the full Board of Aldermen.

Description of Amended Plan

Walter Bernheimer of the CPC presented this item. He wanted to point out the differences from the original plan which was for the CPA to provide \$1.4M to buy the land, and for the City to provide \$550,000 to buy the house. This plan was returned to the CPC and they amended it to provide for the CPA to buy the entire property for \$1.9M. The plan would be to subdivide the land into two parcels, one to be added to the public park and the other, containing the house, and consisting of approximately 15 thousand square feet to be re-sold for purposes of reimbursing the Community Preservation Fund. The parcel to be retained by the City and added to the public park would be approximately 8 thousand square feet. The City would only consider razing the property if the house could not be sold but they didn't anticipate that happening.

Ald. Parker further explained that the 8,000 square foot area that was immediately adjacent to 20 Rogers Street would be the part that was retained by the City and the rest of the parcel would be resold with 3 restrictions: the front façade would have an historic preservation restriction; the rear would have an easement as well as a conservation

restriction near the water. The easement would connect the public park to Levingston Cove, allowing pedestrian access along the lake.

Historic Status

Ald. Yates wondered when the historic restriction for the front façade would become effective. Dan Funk, City Solicitor, said that upon sale of the house to a private buyer from the City, the restriction would go into effect. Ald. Yates asked if this house was historic and could be placed upon the national register and if it was upon a scenic road. Alice Ingerson said that no further research had been done but it did not had to be national register status to receive CPA funds. The research would be done to determine the home's historic relevance. Ald. Mansfield said that it was a scenic road and that primarily limits the ability to remove trees or stone walls without a public hearing or permission of the Mayor.

Mayor Cohen's Comments

Mayor Cohen noted that this new proposal was born from concerns from the Committee regarding the use of City funds. The CPC would now be funding the entire amount. There were also a number of concerns about the house being preserved and that would be addressed by the historic preservation that would be put on it. People were also concerned that the City did not have a great track record in maintaining properties and this would be another parcel that might go unattended. In this proposal, the house would be sold to a private owner.

"Friendly Taking" Advantage

Mayor Cohen explained that this property was being acquired through a taking that addressed some of the difficult concerns that would come about through a regular purchase and sale. A variety of restrictions on the City's ability to divest itself of the property would come into play through a regular purchase and sale. By using the taking mechanism, the City had some flexibility in acquiring the land and divesting itself of it without going through many of the restrictions that would otherwise be required. Mayor Cohen felt this acquisition would benefit the City and its citizens for many, many years to come. Having a City owned natural bathing and recreation area by a lake in a highly populated urban area was unique. He urged the Committee to act favorably on this item.

Mayor Cohen noted that the owner wanted to get this property on the market in the spring in the case that the City did not want to acquire it. She has been quite patient waiting for the process with the City and wants to get the property sold in one way or another.

Ald. Yates asked if the City have to go through a truncated version of the Real Property Reuse ordinance. The Mayor said the City ordinances would still be in full play but the very complicated State proceedings would not be in play.

Public Comment

Ted Kuklinski, 24 Henshaw Terrace of the Newton Conservators said that the Newton Conservators strongly supported this acquisition and think it's a good compromise. In

their last meeting they had voted the sum of \$15,000 be applied to the Master Plan for Crystal Lake, including this parcel.

Bob Beal, 73 Puritan Rd. said that the bath house had been neglected and considering the other needs in the City he felt the resources would never be there to do restore it. He was concerned that several million dollars had been spend acquiring land around Crystal Lake and thought that the City could instead use that money to address other needs in the City like hiring more teachers of fire fighters.

Ray Kurzweil, 203 Lake Ave. said the friendly taking was a manipulation of the legal requirements. He said that the owner of the property had other interested buyers but they left the scene when the City got involved. He also felt the plan was risky and there were costs that were not yet understood. This would only bring about 80 feet of a path and a few trees for the cost of \$2M. He said there was no plan for what to do with all this property and it would be a very long time before the City had any money to implement a plan.

Srdjan Nedeljkovic, 5 Bellingham St. said he strongly supported this project and couldn't think of a better use for Community Preservation funds. This was an opportunity to acquire open space, increase recreational resources in the City and an opportunity for historic preservation of an interesting house that may have otherwise been demolished and a less suitable structure built in its place. He noted that people buy properties around the City with much less interesting views and locations so there was certain to be a buyer for this home with lake views. Maintaining the house will be a non-issue once it was sold. There was some thought to having a caretaker in the home during the time it was on the market. Plans have been contemplated for a couple of years and he was sure a great plan would be forthcoming for the area.

Jerry Adams, 39 Stafford Rd. He said he wanted to commend the group for recommending the acquisition of 230 Lake Ave. He felt that if the City did not acquire this property, there would be regret. Some investigation led him to the fact that the house was built in 1921 and although it looked like an antique, it was not. He recommended that they buy the property and just get rid of the house to preserve the open space.

David Batat, 9 Village Park. He was in favor of the acquisition.

Robert Fizek, 47 Forest St. He strongly supported this project and felt it was well worth the investment.

Public Comment Closed.

Janice Bourque of the Crystal Lake Task Force said Mrs. Sciegenny saw the opportunity to be part of the development of a great resource for the City. She could have turned to the market but she was truly inspired by the opportunity her property could provide and she was very supportive of finding a way for the City to acquire it. There was an

interested private buyer but there were some issues that had nothing to do with the City's interest that led them away from the deal. She said they were in the process of speaking to many individuals about how they could be financially supportive as well as overseeing the health of the lake in general. They were still very actively working on gathering those dollars but they didn't know at this point what they would be. This acquisition strengthened the chances for them to raise money for the bath house as people were looking for a comprehensive vision for the area. The proposal for a Master Plan is before the Finance Committee and if that gets approved they can then start presenting projects for people to get behind. She said it was much easier to raise money for a final project.

Walter Bernheimer of the CPC said he'd worked on many projects in his time including Kessler Woods, Angino Farm and 20 Rogers St. among other things. He felt this project had far more significant potential for the City than any previous project, following on the heels of 20 Rogers St. He explained that this was an opportunity to create a lakeside park in roughly the center of the City that would be used by everybody across the City. He would like to see the house gone and have the open space. Even though they may not be able to do everything that needs to be done right now, the time will come and they will be glad they acquired this space. He felt the focus should not be on the house – it should be on the open space that could be created.

Committee Discussion

Ald. Mansfield said that this acquisition will serve a number of people across the City. He felt this new proposal was a good compromise that addressed many of the concerns. This was not a buyer who was willing to just sell an easement, they wanted to sell the entire property so this was a way to accomplish what they both needed and wanted.

Ald. Linsky said this was what the CPA was all about. He did have some concerns though. He thought they should look at this as an open space acquisition and leave it at that as he felt it was unlikely they could find a buyer, especially with the restrictions and easement. He was feeling like the cart was before the horse hoping they could find a buyer for the house down the road. He pointed out that usage of area was up by 59% since the acquisition of 20 Rogers St. so he wasn't sure how much more this acquisition would bring although he liked the unification of the two lots. He would feel better if they did a straight acquisition of land or they had a partner for the purchase of the house. He felt there could be future sellers that might sell a right of way so he doesn't see this as a once in a lifetime opportunity.

Alice Ingerson said the 59% increase in usage did not result in a 59% increase in impact on the neighborhood as this resource was located near two T stops. She was thinking about the school buildings that were sold off– they didn't need them and they couldn't afford them – and now all these years later the City needs more schools. She thought that if the City failed to take advantage of this opportunity, they might regret not taking this opportunity 20 years from now, which she called, “non buyer's remorse.”

Ald. Danberg said she was very much in favor of this project. While her personal preference would be to buy the property and tear down the house as they did for 20

Rogers St., she understood that there had to be some compromise to the situation and this would never be a decision that they regretted. This was an opportunity to buy back some waterfront that has been out of the public's hands and it's been 80 years since people could walk the length of the waterfront. She noted that CPC Member Charlie McMillan, who was a realtor in Newton, said that this house was very attractive to a buyer and would easily sell and the City would make the surrounding area attractive as well to that end. She felt certain the CPA would regain the money from the sale of the house. She noted that the restrictions were not placed on the back of the house which is the part of the house that is oriented towards the water. She felt this was where people would most likely want to renovate. They would be able to maintain the same look from the street, but allow a family to fashion a house that would work for a family. Mayor Cohen also felt confident that they would find a buyer for the house and that was one of the reasons why he felt this proposal would work.

Ald. Hess-Mahan said that this was their only opportunity for this property. He didn't feel that any future owners would be likely to sell the City a waterfront easement. Any private buyer buying the property would very likely take the house down and he would prefer to be in the driver's seat and keep control of the project.

Ald. Vance asked Carol Stapleton where the beach goers were coming from and were they coming from all over the City. She said she had that data in a computer program and would provide that information. [Chairman's Note: she provided the information, which is attached to this report and shows high levels of usage of the lake from every neighborhood of the City.] She also noted that they have summer camps going on with 700-800 children that come from all over the City. Those children would be accounted for in the data. She has found that the camp kids buy passes for the summer and come back at other times with their families. Ald. Vance wanted to know if, in fact, this project would be serving people all over the City. He also wanted to know what the marginal benefit would be in relation to the cost of the project.

Ald. Sangiolo said she saw a lot of value in the house and was happy with the front façade historic restriction. She was bothered by the fact that the City was considering demolishing the house if it wasn't resold. Dan Funk, City Solicitor, said that if a long period of time goes by and they can't sell the house and put the historic restriction on it, there has to be some CPA purpose for it and the only other purpose would then be open space. Ald. Sangiolo suggested that it could be used for a community center or something similar. Alice Ingerson noted that CPA funds could be used for that purpose as adaptive reuse of an historic property but there was a limit to how much money would be available for this project, and made that unlikely.

Ald. Parker said that this project was not the same as 20 Rogers Street. That project allowed the City to expand the active recreation area. The acquisition of 230 Lake Ave would allow for completion of the passive recreation area – a bench to read a book, a path to walk around the shore of the lake. This would be a different experience than any other place in the City and surrounding communities. He felt this was exactly what the CPA was for. He said Kessler Woods project did not draw the number of people that this new

project could draw. In response to Ald. Vance's concern about adequate available parking in the area, he noted that many area streets have two hour parking (no restriction on Sundays), the T was very close by, and people could also get there on foot from many public parking lots and public transportation (in addition to those who could walk from their homes). This new proposal addresses the concerns raised by the past proposal, including:

- *The house would not be well maintained by the City in the short term.* This proposal recommends a caretaker, who will live in the house and pay the utilities to make sure the house does not fall into disrepair due to being unoccupied.

- *The house should be preserved in the long term.* Preservation of the house was a concern and that was being addressed by the historic preservation on the front façade of the house. Ald. Parker quoted CPC member McMillian's estimate that the house was likely to sell for a million dollars and expressed confidence that the house would sell.

- *Tax revenue would be lost.* With the sale of the house and accompanying 15 thousand square feet, there would be tax revenue from the site and the value would continue to rise in the future.

Ald. Parker asked the Committee to continue to be part of the process, to get their questions answered, and try to make this work. The volunteer effort that has gone into this project has been huge and needed to be recognized. This was potentially an opportunity to renovate and expand the bath house with private funds. With the sale of the house putting approximately \$1M back into the CPA fund, and the fundraising leveraging this project as well, the bottom line cost was far less than what it appeared to be at this point.

Ald. Linsky asked what exclusive use a new owner would have of this property. Dan Funk answered that they would get the whole lot except for the pathway in the back. Ald. Linsky said that by using the friendly taking, the restrictions did not have to be placed on the property at the outset and that all of the property that was bought had to have a CPA use which was why they had a façade historic restriction. Dan Funk said that each part of the parcel was valued out including the land under the house. Ald. Linsky felt that was an out and out bypass of the CPA.

Ald. Mansfield noted that this project would include a park and a beach and that Carol Stapleton's data would only show the usage of the beach. His experience has been that people come from all over the City to use the beach area. He noted that the coves around the lake were also heavily used and they could be used in fall, spring, and summer. The benches were rarely empty, families fed the ducks and people fished. Adding this parcel would make it even more attractive.

Ald. Hess-Mahan moved to approve this item, which passed with Ald. Hess-Mahan, Sangiolo and Parker voting in favor. Ald. Linsky, and Ciccone were opposed and Ald. Yates and Vance abstained. Ald. Sangiolo said she still had her reservations and she still wanted the house saved even if the City kept and wanted to see every effort put forth to sell the house and/or preserve it in some way.

Meeting adjourned.

Respectfully Submitted,
Ken Parker, Acting Chair