



Town of Barnstable
COMMUNITY PRESERVATION COMMITTEE

www.town.barnstable.ma.us/CommunityPreservation
 Email: CommunityPreservationCommittee@town.barnstable.ma.us



Committee Members

Lindsey B. Counsell – Chair • Laura F. Shufelt – Vice Chair • Marilyn Fifield – Historical Commission • Terry Duenas – At Large • Katherine Garofoli – At Large
 Fred LaSelva – Planning Board • Tom Lee – Conservation Commission • James Tenaglia – Recreation Commission • Deborah Converse – Housing Authority
 Britt Beedenbender – Town Council Liaison

Monday, November 26, 2018
Regular Public Hearing APPROVED Minutes
 367 Main Street, Hyannis, MA - 2nd Floor – Hearing Room
5:30 PM

Lindsey Counsell – Chair	Present	19
Laura Shufelt – Vice Chair	Absent	
Marilyn Fifield – Clerk	Present	MAR 26
Terry Duenas	Present	
Tom Lee	Present	
Katherine Garofoli	Present	APR 27
James Tenaglia	Present	
Deborah Converse	Present	
Fred LaSelva	Present	
Britt Beedenbender	Absent	

BARNSTABLE
TOWN CLERK

Call to Order

With a quorum present, Chair Lindsey Counsell called the meeting to order at 5:30 pm and read: “Please note that tonight’s meeting is recorded and broadcast on Channel 18 and, in accordance with MGL Chapter 30A, s.20, I must inquire whether anyone is taping this meeting and to please make their presence known.” No one present was recording the meeting.

Discussion

Mark Milne, Finance Director, provided and explained several CPA financial reports he prepared for the meeting: CP Active Appropriations as of October 31, 2018; Schedule of Unreserved Fund Balances by Program Area including the FY 2019 set-asides of \$393,988 for each of the programs; Balance Sheet for CP fund at the close of the fiscal year, June 30, 2018; and Statement of Revenues, Expenditures and Changes in Fund Balance for year ending June 30, 2018; Schedule of Continuing Appropriations as of June 30, 2018; and the CP Bond Amortization Schedule as of June 30, 2018. He explained that CP funds are pooled in the general fund and invested in a diverse portfolio.

Minutes

Motion was made by Fred LaSelva and seconded by Marilyn Fifield to accept the meeting minutes of October 22, 2018, as submitted. Motion passed unanimously with James Tenaglia abstaining. [Was he absent or should that be corrected?]

Letters of Intent

None Received.

Applications

- Application from the Saint Mary's Episcopal Church, Barnstable, seeking \$147,725.20 in CPA Historic Preservation funds as a portion of the entire renovation project amount of \$1,700,000 to provide part of the cost for fire protection throughout the church, replacing exterior wood trim and restoring the stone entrance on Route 6A.

Rector Libby Gibson and Warden Peter Scarafille of Saint Mary's Episcopal Church narrated a PowerPoint presentation including photographs of the church from the 1890s. Rector Gibson explained that some of the stone used to build the church came from an old jailhouse and tavern, and she noted that the grounds and gardens are a popular place for the public to visit and photograph. They detailed how the requested funding would be allocated: \$113,242 would represent a portion of the amount needed for installation of a fire protection system required by the building code and the Fire Department, including water line, controls and hydrant; \$24,983.20 for restoration of the front entrance with its original bluestone; \$9,500 for replacing/replicating exterior doors and exterior trim work. They cited numerous public uses of the building, including as a day shelter for the surrounding community in the event of a natural disaster and as a Safe Zone for Barnstable-West Barnstable Elementary School students in the event of an evacuation. They confirmed that St. Mary's is listed as a Contributing Building in a National Register Historic District.

CPC reviewed the three questions provided by the Legal Department regarding the Caplan SJC case: 1) The purpose(s) of any CPA grant must only support an eligible CPA purpose - in this instance, historic property. The historic attributes and significance of the features must be clearly established and demonstrated. Is the purpose of the CP grant only for an eligible CPA purpose? After discussion, the Committee expressed the opinion that a grant for funding the fire suppression system in the historic portion of the building is to protect a National Register historic building that happens to be a church. The Church representatives confirmed that there is no requirement for church affiliation in order for the church to be used for community benefit.

2) Even if the historic attributes and features are clearly demonstrated, the CPA grant cannot substantially aid the church in its essential religious functions. Does St. Mary's have adequate resources for its religious functions without CP aid? Rector Gibson stated that St. Mary's is a very active and growing parish with adequate resources for its annual operating expenses. After discussion, the Committee expressed the opinion that unlike the Caplan case where the church was operating in the red, St. Mary's is not financially destitute and the CP funding request is intended to preserve and restore the historic property.

3) If the CP grant is designated for historic purposes and only minimally aids its religious functions, it still must not directly benefit a specific religious function. Would the CP grant substantially aid the church in its religious functions? After discussion, the Committee expressed the opinion that funding a fire protection system to protect a historic structure does not specifically support any religious functions, noting that the ruling in the Caplan case regarded restoration of a stained-glass window with a clear religious message. They noted that no one visiting the church would be aware of the fire suppression system and that restoration of the trim and stairs will not aid the essential religious function of the church but will protect the historic property. Chair Counsell

added that a mortgage instead of a Historic Preservation Restriction may be appropriate to secure the Town's interest in the property.

Public Comment: Mr. David Munsell, a neighbor, spoke in support of the project.

Motion was made by Fred LaSelva and seconded by Deborah Converse to approve the Application from Saint Mary's Episcopal Church, Barnstable, for \$147,725 in CPA Historic Preservation funds to fund a portion of the cost for fire protection, exterior wood trim replacement and stone entrance restoration, with an appropriate document to be executed to secure the Town's legal interest. Motion carried with a unanimous vote.

- Application from Seashore Homes, Inc. seeking \$100,000 in CPA Community Housing funds to support the creation of one deed-restricted affordable rental unit in a newly-constructed residential development containing 8 two-bedroom apartments located at 185 Ridgewood Avenue, Hyannis.

Mr. & Mrs. Dennis Mason provided background for their Application, explaining that there were unforeseen costs of \$100,000 associated with the development: \$50,000 in support of an increase of available sewer capacity; and \$50,000 in required upgrades from vinyl siding to wood to conform to the Design Infrastructure Plan. Mr. Mason added that the community housing project was permitted through the Regulatory Agreement process which included many zoning waivers. He said the development will consist of 2 townhouse-style buildings of 4 rental units each, with 1½ baths, washers and dryers as well as an enclosed patio space. As a part of the Regulatory Agreement, he said, one affordable deed-restricted unit was voluntarily provided. The Masons stated that they will own and manage the property themselves and, as a private entity, they will be paying real estate taxes to the Town annually. It was confirmed that the deed restriction would be held by the Town of Barnstable.

Motion was duly made by Fred LaSelva and seconded by Katherine Garofoli to approve the Application of Seashore Homes, Inc. for \$100,000 in CP Community Housing funds in support of the creation of one affordable rental unit, subject to a deed restriction to the Town of Barnstable, located within a newly-constructed residential development containing 8 two-bedroom apartments at 185 Ridgewood Avenue, Hyannis. Motion passed with a unanimous vote.

Correspondence Received:

Chair Counsell acknowledged receipt of the following:

- Housing Assistance Corporation – Rent 365 Program Information & “Housing on Cape Cod – The High Cost of Doing Nothing”.

Updates/Discussion:

- FORWARD at the Rock, Dennis, CPC Application – Securing legal interest for Town of Barnstable.

Mr. Robert Brennan and Ms. Cathy Ohman were present and provided an update to the Committee. They explained that the type of security that can be put into place is complicated because the land which FORWARD proposes to develop is leased.

Review of similar developments involving multiple parties and municipalities concluded that a leasehold mortgage was the instrument that would best secure the Town of Barnstable's legal interest. It was noted that, in the event of foreclosure, the order of reimbursement ordinarily is that a private lender would be paid first, then the State, and then the municipalities. Further, a subordination agreement would be deemed to be on equal footing, with the State structuring the same way and taking the lead regarding mutual agreement for a leasehold mortgage, although the State is waiting to see that all of the remaining funding is committed. In addition, it was noted that an agreement between FORWARD, the Town of Barnstable and the Town of Dennis would need to include whatever is required by the State, and that the attorneys' confirmation of this will be required. It was agreed that the Applicant for FORWARD will return to the December 17, 2018, CPC meeting for review of proposed security.

- Community Housing Committee vacancy.

It was decided that the vacancy on the Community Housing Committee will be filled by CPC member Fred LaSelva.

Public Comment:

None.

Adjournment

A motion was made by Fred LaSelva and seconded by Katherine Garofoli to adjourn. Motion passed unanimously, and the meeting adjourned at 6:50 p.m.

Next Regularly Scheduled CPC Meeting – December 17, 2018

List of documents/exhibits used by the Committee at the meeting:

- Exhibit #1 – Draft CPC Meeting Minutes – October 22, 2018.
- Exhibit #2 – CP Application - Saint Mary's Episcopal Church, Barnstable
- Exhibit #3 – Power Point Presentation – Saint Mary's Episcopal Church, Barnstable
- Exhibit #4 – “Caplan Case Guidelines from the Town Attorney's Office”
- Exhibit #5 – “Response to questions raised by the Caplan v. Town of Acton ruling”
- Exhibit #6 – CP Application – Seashore Homes Inc. – 185 Ridgewood Avenue, Hyannis
- Exhibit #7 – CP Fund Financial Reports, Fiscal Year End – Mark Milne
- Exhibit #8 – CP Fund Financial Reports, as of October 31, 2018 – Mark Milne

Respectfully submitted,
Ellen M. Swiniarski
Administrative Assistant
Community Preservation Committee
Edited by CPC Clerk Marilyn Fifield

Please Note: The list of matters are those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Committee may go into executive session. The Committee may also act on items in an order other than they appear on this agenda.

*** Public files are available for viewing during normal business hours at the Community Preservation office located at 367 Main Street, Hyannis, MA**