

TOWN OF HARWICH

Community Preservation Committee

Approved 3.11.2021

Community Preservation Committee Regular Meeting Minutes February 11, 2021

Meeting Held Remotely

1. Call to Order

Harwich Community Preservation Committee Meeting called to order per Roll Call by Chair Dave Nixon at 6:00 PM, on Thursday, February 11, 2021 via GoToMeeting.com remote. By Roll Call Present: Chair Dave Nixon – Aye; Vice-Chair Mary Maslowski – Aye; John Ketchum – Aye; Bob Doane – Aye; Donna Kalinick – Aye; Kathy Green – Aye; Elizabeth Harder – Aye; Joseph McParland III - Aye. Motion carried unanimously.

Meeting called to order.

Meeting Rules read into the record by Board Secretary Jan Moore

2. Public comment.

Harwich Town Cemetery Administrator Robbin Kelley reported she had requested a legal opinion on the cemetery projects HP1 & HP2. The Town Administrator replied the CPC Chair would have to ask for a legal opinion if that is a requirement of the CPC application. (This response was sent on to the CPC in follow up report.)

Karl Young, speaking on behalf of the Harwich United Methodist Church, reported the church does support the HP 1 Gravestone Project. The members of the church have signed a letter to the CPC showing the church supports the gravestone project.

Chair Nixon informed Robbin the CPC had voted on this year's round of projects. Any non-supported projects could be refiled for next year's round of funding.

3. Approval of Minutes: January 14, 2021

A motion was made by Elizabeth Harder, seconded by Bob Doane, to approve the CPC meeting minutes of January 14, 2021.

VOTE by Roll Call: Chair Dave Nixon – Aye; Vice-Chair Mary Maslowski – Aye; John Ketchum – Aye; Bob Doane – Aye; Donna Kalinick – Aye; Kathy Green – Aye; Elizabeth Harder – Aye; Joseph McParland III - Aye.

Motion carried unanimously.

Approval of Minutes: January 28, 2021

A motion was made by John Ketchum, seconded by Elizabeth Harder, to approve the CPC meeting minutes of January 28, 2021.

VOTE by Roll Call: Chair Dave Nixon – Aye; Vice-Chair Mary Maslowski – Aye; John Ketchum – Aye; Bob Doane – Aye; Donna Kalinick – Aye; Kathy Green – Aye; Elizabeth Harder – Aye; Joseph McParland III - Aye.

Motion carried unanimously.

4. New Business:

a) Discussion of grant agreements

Chair Nixon has discussed the projects the CPC voted to support with the Town Administrator. This year the warrant articles are going to be written by the Town Administrator, then they will go on to legal, then back to us, then on to the BOS.

Donna Kalinick reminded all that the committee didn't see last year's grant agreements (Sept. 2020). The committee authorized Chair Nixon to sign them for execution. She would like to see the grant agreements.

Last year Donna researched how other towns handle their grant agreements, creating a 118-page document with grant agreement samples. About half the towns she researched require in-house grant agreements. She had emailed her research to Dave Nixon last February, just before COVID hit.

Donna made suggestions for this year's grant agreements: - CH 6 Veteran's Home in Dennis Project: Show deed restriction. – HP 1 East Harwich Methodist Cemetery Gravestone Conservation & Preservation Project: Insurance would be required to answer the liability question of the town working on non-town owned land. OSHA Certification would be necessary from the contractor. All of what should be required may be beyond CPC capabilities and knowledge. A legal opinion and review of projects may be best. On a side note, Donna reported that in Brewster, their CPC sends every application first to the town's legal firm (KP LAW) for a review to see if it qualifies, what type of

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restrictions it would have, and if it meets the guidelines. If the Brewster CPC votes to support the project, then KP Law writes the grant agreement.

Mary Maslowski stated she agreed with Donna. There is a difference between third party CPC projects and town CPC projects where the town works on non-town owned land. Legal counsel should be involved. The committee can allocate administrative funds for legal assistance. The town can get a Certificate of Insurance on the worksite, but that doesn't spell out the breakdown of whom is responsible for injury, etc.

Dave stated that when the Rec Department built the playfields behind the Community Center, the town made the contractors have Certificate of Liability, so the town was not liable.

Mary stated there can be a Certificate of Insurance, with an additional insurance with a limit, and Certificate of Liability, and that a contract be added. We need to establish liability. Legal counsel should be telling us what should be done.

Donna stated the procurement laws will dictate what coverage will need. A contract will spell things out.

Mary stated the CPC is not the contract signing authority for Harwich The BOS is. We may want to seek help from a separate legal counsel, not the town's KP Law.

Dave stated the Harwich CPC has used standardized agreements. He asked Mary and Donna if they used standardized agreements in their towns (Yarmouth and Brewster)?

Donna stated the Brewster CPC has multiple people involved - including herself as the Assistant Town Administrator, the Town Accountant, Brewster CPC Chair, Brewster Town Administrator, and the town legal counsel – they all review the agreements before they are signed. She suggested someone needs to be involved in the projects that are not clear cut, as in third party projects or where work is done on non-town owned property. The insurance company needs to be asked directly what is covered and who is liable.

Joe McParland stated these are good points being made, but it is above his pay grade. It sounds like we need to get legal involved.

Elizabeth Harder stated it sounds like all legal requirements are needed to be met. So, whatever the grant agreements states, it needs to spell out the proper liability insurance details.

Bob Doane stated he thought a legal review of the applications, and then having the legal firm write the grant agreements was a good idea. But he questioned if the CPC would go beyond that, is the CPC deciding on grant agreement's procedures?

John Ketchum agreed with Joe that this is above his pay grade. He questioned the projects' liability issues and how the town and third-party injuries are covered?

Mary stated that anyone can sue. When looking at the two projects - the Pleasant Bay Boating ADA Dock project is a project where the town is not doing the work and it is not on town owned land. The town contributed financially to it. Compared that to the town doing the work on non-town owned land. That is a different set up. The town doesn't have a formal agreement with the churches.

It was concluded there are so many variables in projects' liabilities, that it is best to spell everything out concerning insurance coverage in the grant agreement.

Robbin agreed, even though the town is doing the work, a grant agreement should be in place, so everyone is covered. Robbin, as a department head and applicant, had asked the town for a legal opinion, but wasn't successful.

Dave stated he disagreed with the Town Administrator that the CPC should ask for the legal opinion. This project isn't a CPC project, but rather this is a town department head's project. For the project to go forward, a legal opinion is needed. He will continue to discuss this matter with the Town Administrator. Robbin doesn't have direct access to the town legal counsel; she must ask the TA first.

If the Harwich CPC requests legal assistance, who will pay the bill?

Brewster CPC has their own process; they use part of their CPC budget on legal opinions and grants agreements. Contracts and procurements go through town process. The Brewster CPC use the same legal counsel as the town.

Should the Harwich CPC seek legal counsel with the town's KP Law?

Dave stated he wasn't sure.

Mary stated the legal counsel should be reviewing the grant agreements.

Donna stated using the town's legal counsel has some good points since they already handle so many of the town's moving parts; their knowledge is valuable. Brewster has found this is important.

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Does the CPC want legal involved now?

Bob Doane asked if we have written guidelines or policies? No. Who selects which projects need grant agreements? Since Dave has been chair of the CPC, the Town Finance Director has written the grant agreements. Bob feels we need to have written policies first.

Dave asked if there were any volunteers to create grant agreement policy?

Donna stated she thought Dave should first have a discussion with the Town Administrator. We can then decide on legal counsel and what guidelines we want long-term. We are a committee for the Town of Harwich. We can decide the details, but they need to be formalized in the grant agreements, that are signed by the BOS.

Donna and Mary volunteered to create guideline bullet points for discussion with the Town Administrator.

Donna will bring back her 118-page report on grant agreement research from last February.

Elizabeth asked why does the CPC need to pay for the legal fees on the grant agreements? What is the legal opinion on these projects? She thought the Town should pay for the legal fees.

Dave stated we are in this position because a department head's request for a legal opinion was refused by the Town Administrator.

Mary stated the CPC has Admin Funds to cover the legal fees, and she feels the CPC should pay for the legal grant agreements. It is relative to the CPC. The CPC is a sub-entity of the town, but we have the funds, and it is an appropriate use of CPC funds.

John agreed with Mary.

Kathy Green stated she agreed with Elizabeth, that applicants should have things in place when they come to us. Many applicants are repeating applicants, and they should have legal issues sorted out prior to applying.

- b) Vote to continue membership with Community Preservation Coalition, annual dues: \$4,350.00

A motion was made by Mary Maslowski, seconded by Elizabeth Harder, to continue our membership with the Community Preservation Coalition and approve \$4,350.00 from FY22 Undesignated Anticipated Revenues for the annual dues.

Discussion:

Any information we need on the Community Preservation Act, we ask the Coalition. We use their services. They lobby the State Legislation in CPA matters.

The motion was amended by Mary Maslowski, seconded by Elizabeth Harder, to continue our membership with the Community Preservation Coalition and pay the annual dues of \$4,350.00 from Harwich CPC Administrative Account.

VOTE by Roll Call: Chair Dave Nixon – Aye; Vice-Chair Mary Maslowski – Aye; John Ketchum – Aye; Bob Doane – Aye; Donna Kalinick – Aye; Kathy Green – Aye; Elizabeth Harder – Aye; Joseph McParland III - Aye.

Motion carried unanimously.

5. Old Business:

- a) Website updates: What could be added?

John has sorted out the recording process of the remote meetings.

John will post the Approved Projects List (PDF) on the website.

- b) Follow up – Did all committee members submit their Certificate of Completion of the Conflict of Interest Law online training program to their represented Chairperson? What is your CPC Term Date?

All committee members reported: Bob and Mary will address this matter. They will verify their term dates. John, Joe, and Donna submitted their certificates to the CPC. Jan sent on to town. John contacted his committee chair for the term date. Joe will check with his committee chair. Donna did verify her term date with the BOS as their appointee. Elizabeth did submit to town. Her term date ends this year. She needs to contact her committee chair and let the chair verify term date with the town. Kathy did submit. Her term ends this year (she is filling in for someone else's term). Dave thanked the committee members in this matter. Committee members need to go through their committee chairs. The term dates the town records show differed from what we have. The committee members need to serve on the CPC in a staggered time-period.

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Joe McParland needed to leave the meeting, 7:10 PM

6. Other

John will email the committee his updated spreadsheet. Noting the figures are fluid, subject to change based on revenues.

7. Next meeting's Agenda points

Committee agreed to look at their calendars to be able to set the meeting calendar.

The next meeting will be Wednesday, February 24, 2021 at 6 PM. Community Preservation Coalition Executive Director Stuart Saginor will give a 30-minute presentation on "Bonding 101 for CPA Projects".

8. Adjournment

A motion was made by John Ketchum, seconded by Mary Maslowski, to adjourn.

ROLL CALL VOTE: Chair Dave Nixon – Aye; Vice-Chair Mary Maslowski – Aye; John Ketchum – Aye; Bob Doane – Aye; Kathy Green – Aye; Donna Kalinick – Aye; Elizabeth Harder – Aye. Motion carried unanimously.

Adjournment at 7:24 PM.