

# TOWN OF HARWICH

## Community Preservation Committee

*Approved 4.22.2021*

### Community Preservation Committee Regular Meeting Minutes March 11, 2021

#### *Meeting Held Remotely*

#### 1. Call to Order

Harwich Community Preservation Committee Meeting called to order per Roll Call Vote by Chair Dave Nixon at 6:00 PM, on Thursday, March 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.

Motion carried unanimously.

Meeting called to order.

Guest: Town Administrator Joe Powers

Meeting Rules read into the record by Board Secretary Jan Moore

Elizabeth Harder and Joseph McParland III joined meeting in process.

#### 2. No Public Comment.

#### 4. New Business:

##### a) Report of discussion with Town Administrator

Chair Dave Nixon explained though the CPC has a grant agreement procedure in place, he first needed to discuss the CPC requests with the new town administration. Dave discussed the access the CPC needs with the Town Administrator Joe Powers. 1) Mr. Powers agreed to access with the Town Administrator. 2) Mr. Powers agreed to access with the Town Finance Director. The CPC Chair now is confirmed to have the access.

Mr. Powers added the Finance Director doesn't report to the Town Administrator. He does not report to the Finance Director. They both report to the BOS. The FinCom is on the legislative column.

Dave stated the CPC will continue with our grant agreement procedure; the grant agreements will come from KP Law.

Donna Kalinick thought the legal questions from the previous meeting was more about policies and procedures that guide the CPC around applications that come in. We need to know when materials should be run through legal and when we should have grant agreements and/or award letters. She thought the CPC was unclear about applications where the projects would be conducted on non-town owned property. She thought that legal opinions were necessary in the cemetery applications. The committee had legal and liability concerns. Robbin Kelley was not able to get legal opinions as the CPC requested. We need to know where and when to get a legal opinion. Who can ask for a legal opinion – a Department Head or who?

Dave pointed out that the Warrant is not the CPC property, it belongs to the BOS. KP Law reviews every warrant article. They answer to the board. This is the procedure we have in place.

Mr. Powers said legal counsel will be accessible in the future. If the CPC wants to have legal counsel as part of review process, the Chair needs to ask Town Administration. The TA hasn't denied CPC legal counsel in the past.

Donna still thinks this is different from the concerns she thought the committee had discussed.

Mr. Powers said they will discuss this further. After the Town Meeting, May 8<sup>th</sup>, the administration will reach out to town committees and boards and work with their procedures regarding Capital Outlay needs and issues.

Elizabeth Harder questioned grant agreement structure.

Dave said they we will address that point in the future meetings.

Dave stated he will be meeting with Town Counsel next week. CPC members were asked to give any questions on the following projects. Committee members can also email Dave directly with legal questions.

#### CH 6 Veterans Home in Dennis

- 1) Donna asked about the Deed Restriction on this project. Is it enough for the Town of Dennis to hold the deed, or does Harwich also need to be a Deed Restriction Holder? The Time Frame - At what point are CPA funds released for this project? Before or after the securing of the deed?
- 2) Bob Doane asked if the project is almost over, would our CPA funds go into their general fund?

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- 3) Mary Maslowski asked if appropriate, if the Warrant Article can state the CPA funds will be release after the Deed Restriction is in place?

### HP 1 East Harwich Methodist Cemetery Gravestone Conservation & Preservation Project

- 1) John asked what is the Town's liability while work is being done on this cemetery? How is the Town's liability addressed now for town workers on non-town owned land, like this property?
- 2) Donna stated this is an unclear application, where she felt the legal questions should have been answered before the CPC voted on it. She wants a legal opinion on how to protect the Town in a grant agreement. She wants a grant agreement with the Cemetery Commission and the Church. Can the Town be the legal applicant at this property – the project's location?

Dave stated after the BOS and Town Meeting vote, we will address the grant agreements. We didn't have access to legal before now. On Town Meeting floor, the applicant, in this case, Cemetery Administrator Robbin Kelley, will answer any questions. She didn't have access to legal before. She didn't think she had the answers she needed. There was a change in town administration. Legal access is now allowed.

- 3) Bob asked if we have legal permission to do this project? Does this project qualify for CPA funding?
- 4) Elizabeth wants to know what we can write legally in grant agreements. When the committee voted to support this project, it was with certain understandings of this project. How specific can we get in the grant agreement?
- 5) Mary stated she feels the grant agreements are a secondary concern. But she feels we should know the legal answers before Town Meeting. Do these questionable projects qualify for CPA funding? She didn't vote in support on this project because she wanted the legal answers first.

### R 14 Sand pond Revitalization Project, Phase 2

- 1) Does the Town own the Property?
  - a. Yes. March 5, 1959 the property was taken by Eminent Domain. The Town has the deed.

### 5. Old Business:

- a) Discussion of Grant Agreements

John remarked that some Community Preservation Committee members may have little experience with town government and may not know where the land mines are in this area. He doesn't know where to look for problems or issues in this area. He offered he would feel better if we had access to the committee's own independent legal counsel to first review the submitted applications, and then be able to answer our questions throughout the process. He doesn't want to have to go the Town Administration. He stated we should have opinions upfront.

Joe agreed with John.

Mary also agreed with John. She supports the CPC setting aside funds annually that can pay for legal assistance. She supports using counsel in the first place. She added she was comfortable with using KP Law even though they also represent the Town.

Elizabeth supports legal counsel assistance. She would like to know if everything is legal before the CPC votes on projects.

Bob Doane also supported legal counsel assistance. He also suggested the committee should have the legal opinions before hand and not the battle down the road.

Donna agreed. She feels the committee should have legal counsel as part of the committee's new procedure of review. She does not favor going through the Town Administration for legal counsel every time the committee has a question. She wasn't sure if the committee received her research on other towns' procedures. She liked the Eastham CPC's checklist. She wants each committee members to know what they are voting on and are confident with it.

Kathy Green is not in favor of incurring extra expenditures where we can access legal counsel through the Town. She does want the applications automatically reviewed by legal counsel. But doesn't feel it matters if the legal counsel is the Town's or independent.

Dave stated he didn't have a preference. He believes for the past three or four years, each year different issues arise. Once the committee has voted, the Articles are sent off to the Town's legal counsel to review them. This is the first time the BOS have given the CPC access to legal. Applicants have had legal access. He doesn't know what legal

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reviews. But after legal reviews the Articles, the Town Finance Director has written the CPC Warrant Articles. Legal signs off on them. Then BOS votes on them. Then Town Meeting votes. Then grant agreements are written. The BOS signs them. The CPC Chair signs them. This committee can decide the procedure. Dave asked the committee if they wanted outside legal counsel. Based on what committee was told this week, we may need to know.

Donna offered that legal reviews the wording in the Town Meeting Warrant, not if the applications are legal. She suggested Dave ask KP Law in the upcoming meeting, if they think the CPC should seek their own legal counsel.

Mary explained it was clarified this week from a training with KP Law, there is no guarantee that the BOS have to put forward CPC Articles to the Town Meeting Warrant. Without BOS approval, CPC Articles may not be included on Town Meeting Warrant. Then the only other means to get on a Town Meeting Warrant is to create a petition article. That process was not explained this week with KP Law.

Background: The CPC came about in 2004. 2005 was the first time a CPC funded project was voted on at Town Meeting. This year could be the first time the BOS may block an CPC Article.

John reviewed what was just said. There two levels: 1) BOS can vote to not support a CPC project. 2) BOS can vote to not allow a CPC Article on the Town Meeting Warrant Article. FinCom doesn't have that power.

Prior to this week, both Dave and Mary had thought supplying the BOS and FinCom the CPC Articles was just a courtesy. But this may have changed.

Dave asked what did the CPC want to do? A special new meeting? What direction, timing, etc.?

Mary would like Town Counsel to answer the committee's questions put forth tonight, that would be a good starting point. The committee agreed.

The Selectmen usually go with the CPC recommendations. Dave offered there are a few Selectmen that read the CPC applications. We provide them.

Dave asked the committee to send their legal questions to him prior to his meeting set for Tuesday, March 16, 2021. CPC may need to set an additional meeting to go over things, to take action.

Town Meeting is scheduled for Saturday, May 8<sup>th</sup>. Rain Date, Saturday, May 15<sup>th</sup>.

*Joe McParland left the meeting at 7:03 PM.*

At Town Meeting, Legal Counsel may be able to answer questions raised on the spot.

Project applicants speak for themselves on Town Meeting floor.

Articles need a positive motion to be heard on Town Meeting floor. If FinCom or BOS don't make a positive motion, we can always make a motion. We can also make a motion to rescinded or postponed an Article.

### 3. Approval of Minutes: February 11, 2021

A motion was made by Kathy Green, seconded by Elizabeth Harder, to accept the CPC meeting minutes of February 11, 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.

Motion carried unanimously.

### Approval of Minutes: February 24, 2021

A motion was made by John Ketchum, seconded by Elizabeth Harder, to approve the CPC meeting minutes of February 24, 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.

Motion carried unanimously.

### 6. Other

The CPC Warrant Articles are part of the BOS Agenda Packet on the town website. Anyone can view them online. FinCom and BOS are going over them right now.

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Committee members thanked Dave for inviting Community Preservation Coalition Executive Director Stuart Saginor to speak at the last CPC meeting. It was agreed his presentation was very informational. It was suggested the committee would benefit from doing something like that annually.

### 7. Next meeting's Agenda points

- Update Status Reports will be presented at the April 22, 2021 CPC meeting.
- Follow up on the discussion with legal counsel.
- Grant Agreements. Discuss them. Do we get to review them first? Do we get to approve them first?

### 8. Adjournment

A motion was made by Mary Maslowski, seconded by John Ketchum, 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 7:16 PM.