



TOWN OF NORTHBOROUGH Community Preservation Committee

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Community Preservation Committee November 2, 2023 Meeting Minutes Approved December 7, 2023

This meeting was conducted in the Select Board meeting room and broadcast via Live Stream link YouTube with the link provided on the agenda.

Members Present: John Campbell, Chair; Andy Clark, Peter Martin, Andy Dowd, Sean Durkin, Todd Helwig, Millie Milton, Jeff Leland, Leslie Harrison

Members Absent: none

Others Present Laurie Connors, Town Planner; Stuart Saginor, Community Preservation Coalition; John Northgraves, Mark McMenemy, Norm Corbin.

The meeting opened at 7:05pm after an introduction by the Chair.

Presentation by Stuart Saginor, Executive Director of the Community Preservation Coalition: Update on CPA in Massachusetts and Discussion of Allowable Uses—Mr. Saginor introduced himself. He explained that the Community Preservation Coalition is a non-profit organization based in Boston which is a compilation of other nonprofit organizations that work in the areas of CPA. The CPC meets quarterly to guide the operation of the coalition as the state never established a CPA agency. The Coalition is supported largely by membership dues from CPA communities. Mr. Saginor said CPA revenue sources have declined due to the slowdown in the real estate market and lack of refinancing.

Mr. Saginor explained ongoing requirements for CPC; to hold at least one public hearing per year; to update the Community Preservation Plan; to review CPA account balances and spending to ensure compliance with the Act; to prepare and approve a CPA budget; and to make project recommendations.

Budgeting for CPA was next discussed in the categories of Housing, Open Space & Recreation, Historic and the optional administrative category. Mr. Saginor understood the administrative account was difficult to parse out as there is no regulation in what can be in that account. Typical uses suggested were assistance in doing due diligence on project recommendations and advertising of public hearings, not project expenses.

Ms. Connors asked if the administration funds could be used to hire an architect to prepare a plan for demolition of additions that would support a future application which would be the actual demolition of additions that are not historically relevant. Mr. Saginor said there was no clear answer and that it should be the decision of the local CPC.

Mr. Saginor next spoke about eligibility for CPA funding. He suggested best practices and patterns in terms of who can apply for funding, with the two big categories being the Town/Town Departments and local nonprofits; he acknowledged the difficulty in funding applications from non-profits and said those need more scrutiny due to spending money on private assets and how to guarantee public benefit. He suggested using caution in working with non-incorporated and suggested in those cases to create a

program and find an agency to accept the applications and do the associated work. More applications are being received for commercial properties in historic districts. He felt that funding façade projects contributed to the character of the historic district and was to the benefit of the public. Mr. Saginor said determining eligibility for religious institutions was tough; funding had been provided to historic religious buildings until the Town of Acton was sued about a decade ago, however the decision was not clear. Discussion turned to Northborough's funding of CPC applications for religious organizations.

Norm Corbin said his interpretation in the past was that if the work being done was improving something visible to the whole community, that was probably acceptable, but if it was being done inside and focused on the Church community itself, that would be unacceptable. Mr. Saginor said he thought most used that logic and again mentioned the Acton lawsuit where the SJC flagged that practice, because public funds could be used for exterior repairs and the Church could instead spend that money on religious mission activities, even though the repair of the exterior would be to the benefit of the public. He said his best advice is to send applications like that to Town Counsel and ask for a Helms Test, which is a complicated, obscure test that determines if the benefits are for the public benefit or private organization.

Mr. Campbell asked Mr. Saginor to explain the Acton lawsuit and how that affected CPA. Mr. Saginor explained that Acton received two applications from two different churches; one request was for a Master Plan to look at the whole building to see what was needed, the other request was for stained glass window repairs that had religious imagery. A national organization that fights for separation of church and state foundation found local taxpayers who were members of their organization and then sued Acton because they felt the applications were in violation of the state's Anti-Aid Amendment, which states you cannot give public money to a private organization, particularly a private religious organization. He said it has been interpreted by several courts to say that it is not an outright ban on public money to private organizations, it's a ban on public money going to private organizations for private purposes but public money can be given to a private organization if it fulfills a public purpose.

Mr. Saginor next shared a slide depicting CPA allowable uses. He said that while the four CPA categories are known, each have their own definitions and not everything in the entire category applies to CPA funding. A project must be justified by using one of the following verbs: ACQUIRE, CREATE, PRESERVE, SUPPORT, REHABILITATE AND/OR RESTORE; if you are not acquiring something, creating it, preserving it, supporting it, or rehabilitating it, it is not eligible for funding. He added that it was important to have budgets provided in applications to determine what the money is being spent on. While the chart was about eligibility, that is just the first step, next they need to determine if a particular project make sense, how does it compare to other applications in that cycle, is the application not really fleshed out yet. He said every project must have public benefit, if it's a public asset, it's automatic, but if it's a private asset, there needs to be a conversation with the CPC regarding how the public benefit is being protected.

Next, Mr. Saginor shared a slide entitled 'CPA & The Housing Crisis in Massachusetts'. He said they are seeing tremendous pressure from housing organizations for housing and that they are going to see some policies submitted by special interest groups interested in changing CPA to benefit their category. Their basic position is that CPA is a local program and communities should be able to do what they want with their local money especially if 80% of the money is coming from the local surcharge and only 20% is coming from the state match, but that feeling is not universally shared.

Funding for outdoor recreation was next discussed. Mr. Saginor said the recreation category has the most restrictions and referenced the Allowable Uses chart to determine eligibility.

Allowable uses of CPA for historic preservation were reviewed, which segued into discussion about White Cliffs. Mr. Saginor said a question commonly asked was if something bought with CPA funds could be sold; he said yes, assets can be sold, even conservation land, but CPA requires a deed restriction, and the property would be sold as restricted to that category. Unfortunately, a deed restriction was never done for White Cliffs. The DOR's opinion was, which the Coalition agrees with, that if the restriction wasn't done, that doesn't absolve you of the fact the law said that you should have done the restriction, you have to act as though the restriction was done and follow the same procedure as someone else who was getting a restriction released, as set forth in G.L. c. 184, §32. The property has to be sold at fair market value and is exempt from the State's procurement laws in buying but not in selling.

Mr. Campbell wanted to clarify what work could be done (to White Cliffs) that qualifies under CPA. Under the historic category, Mr. Saginor said it can be preserved, rehabilitated, restored, although restoration is not defined in CPA. He said ADA upgrades to historic buildings are generally allowed, and usually required if spending more than a certain amount of the assessed value of the building; he noted the challenges that can arise in making those improvements while keeping the historic features.

Mr. Saginor concluded his presentation, and members thanked him for his time.

CPC applications Received to Date or Expected for FY24—Mr. Campbell briefly went over the CPC applications received, which included requests for funding for the Affordable Housing Development Reserve Fund, improvements to the outdoor basketball courts at Melican Middle School, replacement of the Aqueduct Historic Marker, Conservation efforts, and renovation of the First Parish Church steeple.

Mr. Campbell suggested that the application for the steeple should be sent to Town Counsel. Mr. Helwig thought they may be constrained by that legal opinion, he believed this committee sets the community standards as to what they think should be allowable projects, Town Counsel may give a conservative opinion to save money. He didn't think they should start that process unless they felt it was necessary. Mr. Campbell agreed and said they could pause.

Mr. Campbell asked if members were aware of any other applications that may be coming. Mr. Helwig asked if an application would be submitted relating to White Cliffs. Ms. Connors said she'd reached out to an architect regarding the demolition and buttoning up of the building but that she doesn't have any quotes at this time, which is why she'd asked Mr. Saginor about the use of the administrative funds. Mr. Campbell felt Mr. Saginor's opinion was that if an application was submitted for demolishing the addition and buttoning up the building in a historic fashion, then the CPC can determine if outside resources were needed to advise on the costs involved, verify the application, or add information to the application. Discussion followed.

Old/New Business Minutes from October 5--Mr. Clark made a motion to approve the minutes from October 5. Mr. Dowd seconded the motion. Roll call vote followed, six approved with three abstaining.

The meeting adjourned at 9pm.

Respectfully submitted,

Michelle Cilley
Recording Secretary