



JOSEPH A. CURTATONE
MAYOR

Somerville CPA



**CITY OF SOMERVILLE, MASSACHUSETTS
COMMUNITY PRESERVATION COMMITTEE
MINUTES
MARCH 4, 2015**

MEMBERS
Michael A. Capuano, Chair
Dick Bauer, Vice Chair
Tanya Cafarella
Elizabeth Duclos-Orsello
Michael Fager
Arn Franzen
Ezra Glenn
Courtney Koslow
Uma Murugan

STAFF
Emily Monea

The Community Preservation Committee (CPC) held a regular meeting at 7:00pm in the third floor community room at the Visiting Nurse Association, 259 Lowell Street, Somerville, MA 02144. An audio recording of the meeting is available upon request.

- Members Present** Chair Michael Capuano, Vice Chair Dick Bauer, Tanya Cafarella (arrived late), Elizabeth Duclos-Orsello, Michael Fager, Ezra Glenn, Arn Franzen, and Courtney Koslow
- Members Absent** Uma Murugan
- Staff Present** Emily Monea
- Others Present** Nancy Bernhard, Scott Hayman, Jane Regan, and Marilyn Sager

The Chair opened the meeting at 7:05. He noted that there was press in the room. The CPC members introduced themselves. The Committee members referenced the materials listed at the end of these minutes, all of which are available upon request.

Agenda item 1: Public comment period (10 minutes)

Marilynn Sager, a member of Temple B'nai Brith, noted that she sent in additional information about the Temple's historic significance and public uses. She thanked the Committee for its consideration and careful deliberation.

Scott Hayman introduced himself as the Director of Real Estate for the Somerville Community Corporation (SCC). He noted that SCC has been working with the City on the 100 Homes program and projects like the adaptive reuse of 163 Glen Street.

Agenda item 2: Committee business

a. Approve minutes from February 18th meeting

Upon motion from Michael Fager, seconded by the Vice Chair, the Committee voted 5-0 to approve the minutes from the February 18th meeting, with Ezra Glenn and Courtney Koslow abstaining as they were not present at the meeting.

b. Materials for historic preservation plan public engagement

Emily Monea stated that the CPC voted to spend up to \$20,000 on the development of a historic preservation plan but that the contract came in at \$19,000. She requested approval to spend a portion of the \$1,000 difference on materials for public engagement around the plan.

The Chair asked for confirmation that these expenses would be paid for with CPC admin funds and therefore that approval from the Board of Aldermen is not required. He also asked for confirmation that the Armory is ADA accessible. Ms. Monea confirmed these statements.

Upon motion from the Chair, seconded by Elizabeth Duclos-Orsello, the Committee voted 7-0 to spend up to and including \$1,000 to support public engagement around the historic preservation plan.

c. Community Preservation Plan public hearing(s)

The Committee members expressed interest in holding two public hearings again if possible. Ms. Monea said she would send a doodle out to find a second date.

Agenda item 3: Discuss and evaluate FY15 applications

The Chair noted that the City had withdrawn the West Branch Library application and therefore that the CPC could recommend funding the remaining projects at the amounts discussed in previous meetings and have a surplus of about \$330,000 in flexible funds. The Chair suggested that the Committee briefly discuss each project again.

56 Bow Street: Exterior Restoration (Siding)

The Chair noted that the Committee discussed not funding this project for a few reasons, one of which is that the Historic Preservation Commission (HPC) is considering creating a program that would provide grants to projects like this. The Vice Chair noted that at the CPC's community meeting the applicant indicated that the proposed work would likely take place in 2016, so the Committee would not hold up their project by voting to not fund it in this funding cycle. Ms. Koslow requested that, if the CPC decides not to fund the project, Ms. Monea communicate to the applicant that he is welcome to apply again, regardless of whether the HPC moves forward with proposing a grant program for historic homeowners.

American Tube Works Complex National Register Nomination

The Chair noted that the Committee discussed fully funding this proposal.

City of Somerville Archives – Processing Contractor

The Chair described the project and expressed his support for it. Ms. Monea followed up on the question raised at the Committee's last meeting about using CPA funds to leverage grant opportunities for this project. She said that she spoke with the City Archivist, who told her that there are two primary organizations that provide grants for this type of work – the National Endowment for the Humanities

and the National Historic Publications and Records Commission – but that the funding is unreliable as the organizations focus on different types of institutions and projects year to year. Ms. Duclos-Orsello reaffirmed this and said that small institutions and projects like the one before the CPC are generally not at the top of the priority list for funding.

First Congregational Church of Somerville UCC Renovation Phase 2

The Chair noted that the Committee previously discussed that only one component of the project – the preservation of the stained glass window – qualifies as historic preservation. The Vice Chair stated that there was a split vote on the HPC when it voted on the historic significance of the building as some members felt the work the applicant had been doing to the building was not historically appropriate. He noted that in its letter to the CPC, the HPC recommended against funding the other two portions of the project because they felt the work was historically inappropriate.

Mr. Fager asked whether the stained glass works meets the Secretary of the Interior's Standards. Ms. Monea noted that the Church is proposing to remove the plexiglass that is currently in front of the stained glass and replace it with a clear glass safety panel. She noted that the National Park Service's Preservation Brief on the preservation and repair of stained glass windows states that a protective panel should only be used when there is a real threat of vandalism or extreme weather and provides specific instructions for how to install a protective panel if one is used. She suggested that the Committee could include a condition in the grant agreement stating that the work must comply with technical brief's guidance.

Ms. Duclos-Orsello noted that the application states that the Church is adhering to the Secretary of the Interior's Standards and provides a bulleted list of ways in which it is doing so, which she takes at face value. The Vice Chair noted that the second bullet states that the applicant is attempting to retain the historic character of the building.

The Chair asked how the Committee can ensure that the proposed work is complying with the Standards. Ms. Monea stated that she could monitor this. Mr. Fager asked what the enforcement mechanism is. Ms. Monea noted that the applicants will invoice the City for work performed and that if the work has not been done properly, the City will not pay the invoice.

Ms. Duclos-Orsello wondered how much it would cost to repair the stained glass window in such a way that it would not require a protective panel. Ms. Monea noted that it is her understanding that the stained glass window itself does not require repair; rather, the plexiglass protective panel has caused condensation to build up in between the panel and the window which can cause damage to the window and has caused the panel to weather and become opaque. Ms. Koslow asked why the Church feels they need to add a protective panel. Mr. Franzen stated that it is the Committee's responsibility to direct the applicant to adhere to the Standards and suggested that the Committee leave the discussion there.

The Committee members discussed whether the applicant can request additional funds for the project if complying with the Standards leads to a more expensive project. There was general agreement that the applicant cannot request additional funds but that they could change the nature of the proposed work in order to comply with the Standards.

The Vice Chair suggested that the Committee require a preservation restriction on the building and a public access requirement. Ms. Monea asked whether the restriction should apply to the entire building or the window. Ms. Monea also read an email from Katherine Roth at the Community Preservation Coalition addressing this issue, which stated that 1) the Coalition believes the intent of the CPA legislation was not to allow for Standards-compliant rehabilitation work on one portion of a historic building while the rest of the building is undergoing non-Standards-compliant work; and 2) it is wise to require a historic preservation restriction but that the Massachusetts Historic Commission (MHC) may refuse to sign off on the restriction given the nature of the work the Church has already undertaken.

The Committee members generally agreed that the preservation restriction should apply to the entire building. Mr. Glenn stated the Committee's proposed restrictions may outweigh the benefits of the suggested grant amount. Ms. Duclos-Orsello wondered what happens if the MHC refuses to sign off on the restriction. Mr. Fager suggested that the grant offer could be contingent on the preservation restriction being granted. Ms. Koslow noted that the Church could apply for additional CPA funds next year to perform the remaining work in a Standards-compliant manner. Ms. Duclos-Orsello emphasized that the preservation restriction issue is out of the applicant's control because it requires approval from MHC.

Milk Row Cemetery Rehabilitation & Restoration

The Chair noted that the requested funds would only cover the cost of rehabilitating one tomb but that six tombs need to be rehabilitated, three of which are particularly pressing. He also noted that there is the potential for matching funds. He stated that there are sufficient funds available to pay for the rehabilitation of all six tombs, which would cost about \$92,000. Ms. Duclos-Orsello asked whether the Committee is authorized to grant more than the requested amount. The members generally agreed that the Committee was authorized to do so.

Mr. Glenn noted the Committee's stated priority of leveraging other funds and therefore suggested funding the rehabilitation of three tombs. The Vice Chair noted that there are economies of scale to doing all of the work at once; Ms. Monea noted that the per-tomb cost is \$800 less if all of the tombs are rehabilitated at the same time rather than separately. Ms. Duclos-Orsello referenced an email from the applicant about public access to the cemetery which stated that a key restriction to this access is the fragile condition of the tombs.

Mystic WaterWorks

The Chair noted that the Trust had agreed to grant the applicant's entire request but that the Committee had discussed paying \$31,000 for the historic consultant to secure a preservation restriction.

The Vice Chair suggested the CPC could recommend paying for the windows instead of the historic consultant, which would take approximately \$200,000 from the \$330,000 surplus, but would free up affordable housing funds.

Prospect Hill Tower Renovation

The Chair noted that the Committee discussed funding this proposal in full and that they would not have to bond for the project given the current recommended funding estimates.

Somerville Museum – Capital Improvements

The Chair noted the Committee discussed giving the Museum the full request of \$168,191. Mr. Franzen asked whether the rest of the Museum is ADA compliant. Ms. Monea noted that the Museum's application indicates that the entire building will be ADA compliant by sometime in 2016.

The Vice Chair disclosed that he is a member of the Somerville Museum and Temple B'nai Brith.

Temple B'nai Brith Fire Safety and Accessibility Project

The Chair noted that the CPA legislation allows expenditures for ADA compliance and fire safety. He noted that the Committee received advice from the City's law office and Michael Fager on the issue of granting CPA funds to private organizations and referenced two relevant articles from the Community Preservation Coalition ("Using CPA For Historic Preservation Of Churches And Other Religious Institutions" and "Can CPA Fund Private Projects?"). The Chair agreed with the Assistant City Solicitor that the proposed project is a permissible use of CPA funds.

Mr. Fager stated that the proposed project does not comply with the Anti-Aid Amendment because it serves a private purpose and not a public purpose.

Ms. Koslow stated that there is a public purpose to allowing individuals to visit and enjoy beautiful historic religious structures. She noted that by requiring a preservation restriction and public access, the CPC is ensuring that individuals can visit and enjoy the historic structure. She also noted that the CPC is considering funding many private institutions and cannot be biased against funding religious institutions. Mr. Fager stated that there is not bias because he has examined each application from a private institution according to the Anti-Aid Amendment's two-part test. The Chair noted that the CPC received information from the Temple about its public uses and historic resources.

Mr. Glenn noted that the Committee had received guidance from the City's law office stating that the proposed project is a permissible use of CPA funds but that it is important to respect each Committee member's opinion.

Ms. Duclos-Orsello stated that she has no affiliation with any of the applicants. She stated that while the application primarily discusses the need for the proposed work from the perspective of the Temple's members, the applicant has since documented the Temple's public uses and historic significance and the

City's law office has opined that the proposed project is permissible. She cautioned about holding the original application against the applicant, especially because the CPC members are now analyzing the application with a detailed understanding of the Anti-Aid Amendment that most people do not have.

Mr. Fager noted that a committee of ten citizens could file suit against the City for granting funds to any private institution if they feel public funds have been misappropriated. He noted that the Assistant City Solicitor feels confident that the City could defend the decision to grant funds to the Temple for the proposed project. Mr. Fager stated that he is not so confident. The Chair argued for deferring to the Assistant City Solicitor's opinion.

Tanya Cafarella asked whether the Assistant City Solicitor read the Temple's application when developing his opinion. Ms. Monea noted that the Assistant City Solicitor read the relevant narrative from the Temple application, the new information sent by the Temple, all relevant case law and statute, and all communication from Mr. Fager on the issue.

Mr. Fager discussed the two-part test that the Anti-Aid Amendment requires, and the Committee members generally agreed that the concern is with the second part of the test: whether the Committee would be substantially aiding a private entity in carrying out its private purpose. In determining whether this is the case for the Temple, the members generally agreed that the Committee should consider all information before it, not just the application. The members generally acknowledged that the grant would aid the Temple in carrying out its private purpose but many acknowledged that there is a public purpose to the grant as well; they debated the appropriate balance of public and private purpose.

The Vice Chair noted that he spoke with the Community Preservation Coalition about this issue, and they referred him to the church cases the Committee had previously reviewed and encouraged the Committee to seek an opinion from the City Solicitor. The Vice Chair said he believes they are appropriately complying with the Anti-Aid Amendment because: 1) there is substantial public use of the building, which will be aided by making it ADA accessible and adding a fire safety system; 2) requiring a preservation restriction and public access are public benefits.

With the exception of Mr. Fager, the Committee members generally agreed to defer to the Assistant City Solicitor's opinion.

City Hall Renovation – Design and Construction Management

The Chair stated that the Committee had previously discussed paying \$200,000 for half of the design cost and leaving it to the City to pay the other half of the design cost and to pay for the owner's project manager (OPM). Ms. Koslow wondered whether the City would move forward with the City Hall project if they had to pay \$400,000 of the \$600,000 project cost. The Chair suggested making the CPC offer contingent on the City's commitment to paying the remaining portion of the project cost. Mr. Franzen stated that the City would likely see this as a grant opportunity and that most grant opportunities the City has access to have a matching requirement.

Mr. Fager said he supports giving additional money to City Hall rather than to the Water Works project; he said City Hall is an important landmark and it is important for the Committee to support the project. He supported adding a condition to the offer requiring the City to use the funds or initiate the project within a certain time period.

Mr. Glenn supported giving additional funds to the WaterWorks project rather than City Hall because 1) by paying for a portion of the design, the Committee is demonstrating support for the project, and the City is welcome to request funds to pay for the actual rehabilitation of City Hall; 2) by putting the Committee's flexible funds towards Water Works, they are supporting two CPA focus areas; and 3) the Committee expressed a preference for getting the money into the community and showing visible results, and the Water Works project is close to shovel ready. Mr. Franzen said it is important to move the City Hall project forward and \$200,000 from the Committee will serve as significant seed money for it. Ms. Duclos-Orsello stated that the Committee is proposing to devote close to \$800,000 to City projects, so it is reasonable to ask the City to contribute to the City Hall project.

With the exception of Mr. Fager, the Committee members generally agreed to recommend funding \$200,000 for the design of City Hall and \$243,000 for the Water Works windows.

The Committee members revisited the Milk Row Cemetery issue and generally agreed to recommend granting \$48,360 to fund the rehabilitation of three tombs.

The Committee members noted that there will be less than \$100,000 left in flexible funds with this plan. The Vice Chair wondered whether the Committee should put these additional funds toward City Hall. Mr. Glenn noted there were a small number of open space/rec projects during this round, none of which were acquisition. He noted that the Committee should have the capacity to take advantage of an acquisition opportunity should one arise, and the extra flexible funds would contribute to this. The members generally agreed not to spend the remaining flexible funds.

Historic Resources Projects Votes

Upon motion from the Chair, seconded by Mr. Franzen, the Committee voted 8-0 to not recommend funding the 56 Bow Street project.

Upon motion from the Chair, seconded by Ms. Duclos-Orsello, the Committee voted 8-0 to recommend appropriating \$7,500 to the American Tube Works Complex National Register Nomination project.

Upon motion from the Chair, seconded by Ms. Koslow, the Committee voted 8-0 to recommend appropriating \$200,000 for the City Hall Renovation – Design and Construction Management project with the understanding that the City shall match the remaining \$200,000 cost for design services and pay the \$200,000 cost of an owner's project manager.

Upon motion from the Chair, seconded by Ms. Cafarella, the Committee voted 8-0 to recommend appropriating \$43,000 for the City of Somerville Archives – Processing Contractor project.

Upon motion from the Chair, seconded by Mr. Glenn, the Committee voted 8-0 to recommend appropriating \$44,982 for the stained glass window portion of the First Congregational Church of Somerville UCC Renovation Phase 2 project, with the following conditions: 1) the work meets the Secretary of the Interior's Standards, as required by the CPA statute; 2) a preservation restriction; and 3) a public access requirement.

Upon motion from the Vice Chair, seconded by the Chair, the Committee voted 8-0 to amend the vote to require a review and comment session with the Historic Preservation Commission as a condition to the appropriation.

Upon motion from the Chair, seconded by Mr. Bauer, the Committee voted 8-0 to recommend appropriating \$48,360 to fund the rehabilitation of the three most-pressing tombs for the Milk Row Cemetery Rehabilitation & Restoration project, with the following conditions: 1) a preservation restriction if one does not already exist; and 2) a public access requirement.

Upon motion from the Chair, seconded by Ms. Koslow, the Committee voted 7-1, with Mr. Fager against, to recommend appropriating \$243,000 to fund the rehabilitation and restoration of the historic windows for the Mystic WaterWorks project, with the understanding that the Affordable Housing Trust will reduce its grant to the project by \$243,000 and with the following conditions: 1) a preservation restriction; and 2) a public access requirement.

Upon motion from the Vice Chair, seconded by the Chair, the Committee voted 8-0 to amend the vote to require a review and comment session with the Historic Preservation Commission as a condition to the appropriation.

Upon motion from the Chair, seconded by Mr. Fager, the Committee voted 8-0 to recommend appropriating \$500,000 to fund the Prospect Hill Tower Renovation project, with the following conditions: 1) a preservation restriction if one does not already exist; 2) a public access requirement if one does not already exist; and 3) a preventive maintenance report to be submitted to the CPC every five years.

Upon motion from the Chair, seconded by Mr. Bauer, the Committee voted 8-0 to recommend appropriating \$168,191 to fund the Somerville Museum – Capital Improvements project, with the following conditions: 1) a preservation restriction if one does not already exist; and 2) a public access requirement if one does not already exist.

Upon motion from the Chair, seconded by Ms. Cafarella, the Committee voted 6-1, with Mr. Fager against and Mr. Glenn abstaining, to recommend appropriating \$450,945 to fund the Temple B'nai Birth

Fire Safety and Accessibility project, with the following conditions: 1) a preservation restriction; and 2) a public access requirement.

Upon motion from the Vice Chair, seconded by the Chair, the Committee voted 7-0, with Mr. Glenn abstaining, to amend the vote to require a review and comment session with the Historic Preservation Commission as a condition to the appropriation.

Recreational Land Projects

The Committee took up the recreational land projects next. The Chair noted that there is a \$507,880 surplus in this category.

He questioned whether the Healey School to Mystic project can investigate acquiring state- and privately owned property and also inquired about the related MassDOT project. Mr. Franzen noted that MassDOT is pursuing a Safe Routes to School project for the Healey, and Ms. Koslow noted that the Safe Routes project is focused on the Temple Road intersection, while the Healey School to Mystic project focuses on the Shore Drive intersection, among other areas. Mr. Franzen noted that the City is planning to renovate the Healey schoolyard; if the CPC recommends granting funds to this project, they should require the applicant to coordinate with the City's Parks and Open Space department. Mr. Fager asked if the proposed project is in conflict with the City's plans or whether the work is duplicative. Mr. Franzen stated that the applicant is proposing to investigate issues that people have talked about for a long time but that there are no current plans to address. Mr. Glenn noted that the City could do this project, but the Committee has expressed a desire to fund community groups. Mr. Fager wondered how the group can work around the fact that MassDOT owns Mystic Drive, and several members noted that the purpose of the project is to study these issues.

Recreational Land Projects Votes

Upon motion from the Chair, seconded by Mr. Franzen, the Committee voted 7-0, with Mr. Fager abstaining, to recommend appropriating \$52,090 for the Community Growing Center – Upgrade Design/Community Build Planning project.

Upon motion from the Chair, seconded by Mr. Glenn, the Committee voted 8-0 to recommend appropriating \$45,000 for the Healey School to Mystic project, with the following conditions: 1) for the applicant to work collaboratively on the project with the Parks and Open Space department; 2) for the plan and materials to be public record and submitted to the CPC; and 3) for the applicant to hold at least one public meeting on the project.

Upon motion from the Chair, seconded by Mr. Fager, the Committee voted 8-0 to recommend appropriating \$85,000 for the Prospect Hill Park Design Services project, with the condition that the applicant have a review and comment session with the HPC.

Upon motion from the Chair, seconded by Ms. Cafarella, the Committee voted 8-0 to recommend appropriating \$45,373 for the School Garden Classrooms project, with the condition that the applicant submit a report to the CPC breaking down the expenditures by school.

Agenda item 4: Next meeting: Wednesday, March 25th at 7 p.m. or Wednesday, April 22nd at 7 p.m.

The Committee members agreed to meet next on April 22nd.

Meeting Adjournment

Upon motion from Ms. Duclos-Orsello, seconded by Ms. Cafarella, the Committee voted 8-0 to adjourn at approximately 9:15.

Documents and Exhibits:

1. Meeting agenda
2. Draft minutes from February 18, 2015 CPC meeting, prepared by Emily Monea
3. Summary of FY15 CPA project proposals with funding estimates based on February meetings, prepared by Emily Monea
4. Community Preservation Plan Summary, page 2, updated January 7, 2015, prepared by Emily Monea
5. Email from Marilyn Sager with additional information on Temple B'nai Brith
6. Opinions from Assistant City Solicitor David Shapiro from February 12, February 23, and March 3 regarding CPA funds and the Anti-Aid Amendment