

DARTMOUTH



MASSACHUSETTS

Community Preservation Committee

Howard Baker-Smith, Chairperson
James Bosworth
Michael Kehoe
Elaine Lancaster
Stuart MacGregor
Damon May
Kevin Shea
John Sousa

400 Slocum Road
Dartmouth, MA 02747-0985
Telephone: (508) 910-1824
Fax: (508) 910-1886

MINUTES

October 6, 2015

Members present: Howard Baker-Smith, Chair
James Bosworth
Elaine Lancaster
Margaret Latimer
Stuart MacGregor
Damon May

Members absent: Michael Kehoe
Kevin Shea
John Sousa

RECEIVED
2015 DEC 2 AM 11 13
DARTMOUTH TOWN CLERK

The meeting was called to order at 6:35 p.m.

Motion:

Ms. Latimer made a motion to table the "Disbursement Policy" topic until the November, 2015 meeting. The motion was seconded and approved by a 6-0 vote.

Motion:

Mrs. Lancaster made a motion to approve the minutes of the August 25, 2015 meeting. The motion was seconded and approved by a 6-0 vote.

An invoice from Southcoast Media Group in the amount of \$235.20 was circulated. The invoice was for advertising the public hearing.

Motion:

Ms. Latimer made a motion to approve payment of the invoice from Southcoast Media Group in the amount of \$235.20. The motion was seconded and approved by a 6-0 vote.

PROJECT UPDATES

Stone Barn Farm

Gregory Barnes was present to speak on the project. The project is complete, and the preservation restriction is in place. The final payment of \$128,000 (approximate) has not been released. A meeting had taken place in September between Mr. Barnes, David Cressman, and three representatives of the Massachusetts Audubon Society to discuss a concern of the Town's that the interior work on the tractor barn was not an eligible use of CPA funds since that space is not open to the public on a regular basis. There is little potential to substitute payments for services, and the Town has asked for a breakdown of expenditures in order to define the interior costs.

Mr. Barnes said that when there are legal disputes involving payments, the Finance Department relies on two sources: Town Counsel and the Division of Local Services (DLS). The DLS did not render an official opinion, but instead deferred the matter to Town Counsel. Mr. Barnes has contacted Attorney Savastano who has not yet formally reviewed the matter.

Gina Purtell, local Sanctuary Director, was present. She said they were completely transparent in their proposal, and it was clear they would be moving a residence in the Stone Barn to the tractor barn. It was understood and accepted. Town Counsel reviewed the proposal and approved it, and they followed the recommendations of the Historical Commission. The project took longer to complete than anticipated, and in the interim, the legal interpretation seems to have changed. Mr. Barnes said he was in total agreement with what Ms. Purtell had said. He said the problem is that the legal interpretation of today is what dictates, not that of three years ago.

Ms. Latimer said if the new legal interpretation is accepted, she does not understand how any contract is ever valid. Its acceptance will discourage others from doing business with the Town of Dartmouth. She believes Community Preservation Committees throughout the state will be in jeopardy. She said Mass. Audubon has accomplished a tremendous amount in the Town. Mr. MacGregor said that over time, the Act may change such that previous projects no longer fit. The rules should be based on the time the project is approved. It would make no sense to award grants to anyone since the Act could continue to change. The criteria for recommendations must be based on the law at the time. Judith Lund was present and said when the contract was signed, it was presumed to be binding.

Mr. Baker-Smith said the one written legal opinion on the proposal was from Attorney Savastano in 2010. He said the anti-aid amendment was considered, as was the definition of rehabilitation as it pertained to historic projects and the Department of the Interior standards. It appears there was no finding that the project could not go forward. Mr. Barnes said legal opinions on later projects led to the refinement of certain legalities. Mr. Baker-Smith said it was the opinion of the Department of Revenue that the preservation of a historic asset with a restriction is a public purpose in that a structure is not destroyed or allowed to deteriorate. The turnabout counters the due diligent, transparent process. Mass. Audubon went out in good faith and hired contractors to

carry out the project. Mr. May said he is not aware of a legal precedent being applied retroactively.

Mr. Barnes said Town Council will perform a formal review of the matter. Mr. Baker-Smith said there has been no change in the facts since 2010. Why would not Mr. Savastano's opinion stay as it was given? What would happen if, for example, Town Council's opinion changed on other matters such as the location of the new High School or that of the soccer fields?

Ms. Latimer asked where the matter originated. Mr. Barnes said with some members of management. Mr. Baker-Smith said the Coalition is concerned about the implications state-wide. If a Town Council does a turnabout on a project that has been underway for several years, resulting in the grantee not receiving a significant amount of money, Counsels' opinions, with regard to the Community Preservation Act, lose credibility. If a Town Council writes an opinion opposing his opinion of five years ago resulting in the terms of the grant agreement being dishonored, the consequences could be dire. A grantee or the public may perceive a particular project as having been singled out in a retaliatory or prejudicial manner. Mr. May said he is not in favor of asking Town Council to reissue an opinion on this matter at the CPC's expense. Other members concurred. There is no reason to revisit the original opinion.

Motion:

Ms. Latimer made a motion approve the final Project Status Report for the Stone Barn project and the final disbursement of the remaining grant funds in the amount of \$128,080.46. The motion was seconded and approved by a 6-0 vote.

Motion:

Ms. Latimer made a motion to resolve that we (the CPC) will not be asking for Town Council's opinion on this project going forward. The motion was seconded and approved by a 6-0 vote.

The Committee discussed formally stating its position on the matter. Members reiterated their concerns and disapproval. The final release of funds had not yet been denied, since CPC approval of the close-out report was necessary. The Committee was satisfied that the project had been completed and the final disbursement of funds should be released. By sending a letter to that affect to specific Town authorities, the CPC's approval is stated. If the final payment has not been released by the time of the next meeting, the CPC could formally state its position, in detail. Mr. Baker-Smith will relay the Committee's position to the Coalition.

Motion:

Mr. Baker-Smith made a motion to approve sending a letter to the Selectboard, Town Administrator, Finance Director/Treasurer and Town Accountant urging prompt payment of the final bill for the project, as approved in the project close-out. The motion was seconded and approved by a 6-0 vote.

OTHER BUSINESS

Deborah Melino-Wender had drafted a Memorandum of Understanding for the Housing Rehab Loan Program. Mr. Baker-Smith executed the agreement which incorporated all the previous grants for the program.

A brief discussion took place regarding funds recapture. A financial report from the Town Accountant dated September 30, 2015 showed several "Incidental Costs" line items that are no longer needed due to the corresponding projects having been closed.

Motion:

Mr. Baker-Smith made a motion to close out the remaining Incidental Costs items, as reported in the financial report of September 30, 2015 in the amount of \$4,000. The motion was seconded and approved by a 6-0 vote.

A brief discussion took place regarding the Annual Needs Assessment. A public hearing will be held in November to solicit comment. Approved revisions will be incorporated and the final draft posted on the Town's website in time for the next funding round. Invitations will be sent to other Town boards and some past grantees. Mr. Baker-Smith will contact the press.

Motion:

Mr. MacGregor made a motion to schedule a public hearing for the November meeting to solicit comment for the Needs Assessment. The motion was seconded and approved by a 6-0 vote.

A discussion took place regarding the schedule for the FY2017 funding rounds. Proposals will be due January 20, 2016 for June Town Meeting and June 22 for the October Town Meeting. The full schedule is incorporated herein as an attachment.

Motion:

Ms. Latimer made a motion to approve the funding schedule for FY2017. The motion was seconded and approved by a 6-0 vote.

The next meeting will be on November 4, 2015.

Motion:

Mrs. Lancaster made a motion to adjourn. The motion was seconded and approved by a 6-0 vote.

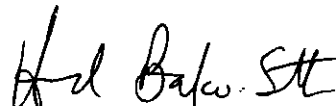
The meeting was adjourned at 8:12 p.m.

Respectfully submitted,



Susan D. Dorschied
Administrative Clerk

Approved,



Howard Baker-Smith
Chair