



Town of Bridgewater, Massachusetts

Community Preservation Committee

Meeting Minutes – 4/19/07

Community Preservation Committee

Dan Buron
Recreation Commission

Peter Colombotos,
Vice Chair/Secretary
Master Plan Implementation
Committee

Steve Elliott
Planning Board

Marilee Kenney Hunt, Chair
Citizen at large

Rick Kranes
Conservation Commission

David Moore
Housing Partnership

Max Reed
Capital Planning Committee

Bob Vazza, Treasurer
Housing Authority

Robert Wood
Historical Commission

Location: Senior Center
Recorded by: Laurie Miller

Members Present:

Peter Colombotos [x], Steve Elliott [], Rick Kranes [x], Marilee Kenney Hunt [x], David Moore [] Max Reed [], Bob Vazza [x], Robert Wood [x]

Guests:

David Hanson, Carlton Hunt, Jim Tabou.

The meeting was called to order at 6:45.

*Motion by Rick Kranes, seconded by Bob Wood to approve the minutes of the April 5, 2007 meeting with the following changes:

Page 1 – the 5% administrative money allowed for FY 2007 would be \$38,500

Page 2 – Paragraph 3, Marilee recommended the formation of **one** sub-committee.

Treasurer's Report

Bob Vazza reported that the current balance including receipts through March 23, 2007 and interest through the end of March in the amount of \$2,761.01 is \$937,429.66. The Committee was informed that the account is earning approximately 3.18% interest.

An invoice for \$1500.00 for the dues to the Community Preservation Coalition was presented for signature.

* A motion was made by Rick Kranes, seconded by Bob Wood to have Bob Vazza and Peter Colombotos appointed from the Committee to have the authority to sign for all fiscal disbursement after Committee approval. Both must sign off on all payments.

Request for Notice to Planning Board

Marilee requested that Laurie draft a letter to the Planning Board requesting them to appoint someone to the CPC in anticipation of Steve Elliott's departure from that Board.

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Presentation of Town Counsel

Town Counsel, Mel Cohen presented information regarding the Articles on the Town Warrant for the Special Town Meeting which will precede the Annual Town Meeting on May 7, 2007 – Special Meeting to take place at 7PM and the Annual to take place at 7:30.

It was explained that the Annual Town Meeting will hold the CPC's request to set aside revenues per the break-out for fiscal year '08 and that the Special Town Meeting will hold the requests for the 2007 disbursement of funds for the various projects put forth by the CPC for fiscal year '07.

Carlton Hunt raised the question as to whether the funds for any of the projects would have to be disbursed prior to the end of fiscal year '07 or just encumbered. After discussion it was determined that they would have to be encumbered only. Administrative costs dedicated to a particular fiscal year would need to be spent within that fiscal year or returned to the general pool to be reallocated the following year.

Mel expressed a concern that each project meet the requirements as set forth by Massachusetts Law and the various entities that oversee the CPA. Specifically a concern was raised regarding funds dedicated to private entities that must meet a standard to provide not only an historical significance, but a "benefit to the Town."

Mel reviewed each Article on the warrant. Each Article was discussed in brief and a larger discussion occurred regarding the imperative need for Preservation Restrictions that would run with the land in perpetuity. The CPC has the ability to negotiate those restrictions to keep the buildings from being torn down and replaced by other buildings.

Bob Vazza will present at the Town meeting and break out the administrative costs, etc. that we are voting on. Marilee will make a general presentation regarding public benefit for private entities.

The Committee watched a Power Point presentation which is incorporated in these minutes and attached hereto – outlining the "process" of the dedicated funds by the CPC. The committee discussed various aspects of the presentation to familiarize themselves with as much as possible.

Marilee asked that we post the position for the CPC Liaison in the hopes that '07 administrative monies would cover the posting and possibly a month or two of salary. The need is such that it will be a benefit to the Town to fill the position as quickly as possible.

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Murray Farm Discussion

A discussion took place regarding the Murray Farm situation. Marilee stated that she had e-mailed Peter Murray regarding the need for him to come to the Committee with a clear indication of the owner of the property and an estimate of some true money figures for the sale.

The committee tried to maneuver their way around a discussion regarding the Transfer of Development Rights (TDR) and after a lengthy discussion it was determined that we needed help in our understanding of all the intricacies of TDR.

The following link was provided for the Committee so that they can attempt to familiarize themselves with TDR, The Committee decided to hold a June 7, 2007 meeting at a place to be determined and invite as many town committees and interested parties, including the Murray's so that all parties could be educated on the TDR.

The following site is also provided to the Committee for assistance:
http://www.mass.gov/envir/smart_growth_toolkit/pages/SG-slides-tdr.html

The committees or people that the CPC anticipates being at the June 7th meeting are the Master Plan Implementation Committee, Planning Board, Open Space and Rec, Dave Matton and the Murray's.

* A motion by Rick Kranes, seconded by Peter Colombotos was made to hire a consultant for the June 7th meeting to educate us on the TDR and other open space preservation strategies.

After no further business, the meeting was adjourned at 8:45 PM.

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Preservation Restrictions and the CPA
Southeastern Massachusetts Conference for Community Preservation Committees
New Bedford, Massachusetts
November 13, 2004
Micahel Steinitz, Massachusetts Historical Commission
Adapted from a Power Point presentation

New Bedford

Historic Preservation Restrictions

- **A legal means to provide a high level of long term protection to significant historic properties.**
- **In use for over 50 years in Massachusetts.**
- **The Massachusetts Historical Commission has a statutory role in all Historic Preservation Restrictions.**

Historic Preservation Restrictions

- **Historic Preservation Restrictions assure that the intrinsic value of historic properties will be preserved through subsequent owners.**

A voluntary legal agreement

Nature and Purpose of a Preservation Restriction

- **A legal agreement between a property owner and a qualified restriction holding organization.**
- **Protects a significant historic property or site for a term of years or in perpetuity.**
- **Restricts future changes in appearance or use.**

Preservation Restriction are widely used.

- **Over 1000 Massachusetts properties protected by Preservation Restrictions.**
- **Restrictions granted to or purchased by:**
 - **Preservation organizations**
 - **Historical societies**
- **Municipalities**
- **Other Governmental agencies**

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Some uses of Preservation Restrictions.

- Donated by property owner to assure preservation beyond their tenure.
- Retained by a property owner at the time of sale to assure continued preservation.
- Purchased by a preservation organization to protect a key historic property.
- Required as a condition for a permit or variance.
- Required as a condition for the receipt of public preservation grant funds.

Donation of Preservation Restrictions.

- Donation of a Preservation Restriction to a qualified organization may be considered a charitable donation for Federal income tax purposes.
- Must be a donation, not a requirement.
- Must be granted in perpetuity.
- Must meet Section 170(h) of the IRS code.
- In Massachusetts, must also meet state statutory requirements.

Authorized by M.G.L. Chapter 184, ss. 31-33

- Preservation, Conservation, Agricultural Preservation, Watershed Preservation and Affordable Housing Restrictions are all enabled by State Law – M.G.L. Chapter 184.
- Defines scope and intent of preservation restrictions.
- Provides for their acquisition, recordation at Registry of Deeds, release, and assignment.
- All Preservation Restrictions must be approved by the Massachusetts Historical Commission.

What Properties qualify for protection by a Preservation Restriction?

- Structures or sites significant for:
 - Historic Architecture
 - Archaeology
 - Historic Associations

What defines a “significant” Property?

- Listed on or eligible for listing on the National Register of Historic Places.
- Contributing to a National Register Historic District or eligible District.
- Significance and eligibility are determined by the Massachusetts Historical Commission.

What Organizations are qualified to hold a Preservation Restriction?

- A government body.

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- A charitable corporation or trust whose purposes include preservation of significant historic buildings or sites or of a specific building or site.

Other conditions for holding a Restriction:

- Organizations must have the power to acquire interest in land.
- Restrictions held by charitable corporations or trusts must also be approved by the municipality in which the property is located.

Who may hold a Preservation Restriction for a municipally-owned property?

- A city or town may not hold a Restriction on itself!
- A local historical commission or historic district commission or any agent of town government may not hold a restriction on a town-owned property.
- The Restriction must be held by a qualified governmental body or charitable trust.

A Preservation Restriction can forbid or limit:

- Alterations to exterior or interior features of a building or structure.
- Changes in the appearance or condition of the site.
- Uses not historically appropriate.
- Field investigation without a State Archaeologist's permit.
- Other acts or uses detrimental to appropriate preservation of the structure or site.

What standards should be used to determine maintenance practices, allowable changes and, "appropriate preservation"?

- The Secretary of the Interior's Standards for the Treatment of Historic Properties provides a nationally recognized set of guidelines for preservation, rehabilitation, restoration and reconstruction.

The Baseline Documentation

- The Restriction must establish those qualities of the property that are to be protected under the restriction.
- Must adequately describe in words and depict in photographs the character-defining historic features of the property.
- Must adequately describe and depict the condition and appearance of the setting.

The Terms of the Restriction

- Should adequately protect the identified character-defining historic features of the property, buildings, structures and their setting.
- Can distinguish between major alterations and minor, routine maintenance and repair.

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Components of the Restriction

- **Recitals**
- **Grant and Purpose Statement**
- **Provisions**
- **Signatures**
- **Approvals**
- **Supplemental Attachments**

Recitals

- **Legal Description of Property**
- **Qualifications of the Grantee**
- **Significance of the Property**
- **Character Defining features (Preservation Values) of the Property to be protected**
- **Citation of Chapter 184, ss 31-33**
- **A clear Purpose Statement**

Grant

- **Grantor's statement granting Restriction to Grantee – in perpetuity or for a term of years.**
- **Clear statement of the Purpose of the Restriction.**

Provisions

- **Grantor's Covenant to Maintain; Reserved Rights**
- **Prohibited Activities – demolition, uses**
- **Activities Requiring notification of and approval by Grantee (Conditional Rights)**
- **Standards for Review; Administration**
- **Grantee's rights of inspection; Remedies**
- **Casualty damage; Insurance**
- **Assignment, recordation, extinguishment**
- **Mortgage Subordination**

Signatures and Approvals

- **Grantor and Grantee notarized signatures**
- **Municipal notarized approval if Grantee is charitable organization**
- **Massachusetts Historical Commission notarized approval**

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Supplemental Attachments

- **Legal Description of Property with Parcel Map**
- **Baseline Documentation – Photographs and written descriptions of current conditions**
- **Signed and Notarized Mortgage Subordination**
- **Restriction Guidelines – Ordinary Maintenance**

MHC Review and Approval of Preservation Restrictions

- **Get MHC significance opinion for property early on.**
- **Listed on the National Register?**
- **Usually require:**
 - **Current MHC inventory form**
 - **Current Photographs of all historic features**
 - **Annotated Parcel Map**

MHC Review and Approval of Preservation Restrictions

- **Contact MHC early in the process!**
- **Use MHC sample Restrictions and submit DRAFT Preservation Restriction for review and comment.**
- **Allow adequate time for Review and Approval process (Minimum 90 days).**

Coming soon!

- **Updated MHC Guidelines for CPA Preservation Restrictions, with sample Restrictions**

For more information go to the THE MASSACHUSETTS CONSERVATION RESTRICTION HANDBOOK
<http://www.mass.gov/envir/dcs/pdf/restrictions.pdf>.