

Present: Bob Beagan, Sherrill Cline, Christopher Morely, Bill Kneeland,
Seamus O’Kelly, Lynne Remington, Tom Friedlander and Director of Planning and
Community Development Jody Kablack

Absent: John Drobinski and Jim Hill

At 7:37 p.m., Chairman Morely called the meeting to order.

**Public Hearing: Community Preservation Act – FY15 Project Submissions –
Part 2**

At 7:37 p.m., Chairman Morely called the meeting to order. He stated the Committee heard five presentations at its November 20, 2013 meeting for requests for FY15 Community Preservation Act (CPA) funding. Chairman Morely further stated the Committee would hear the remaining presentations tonight, and it will deliberate the projects at its January 15, 2014 meeting. Chairman Morely explained the Committee evaluates the proposals for whether they are CPA-eligible, and how the project proposal fits into the Town’s short and long-term CPA budget planning.

Ms. Kablack distributed an information packet regarding tonight’s agenda items and a revised “FY15 CPC Financials” dated December 4, 2013.

Project Submission Form – FY15 Bruce Freeman Rail Trail Design – submitted by the Board of Selectmen, requesting \$150,000 of a total project cost of \$250,000 for design funds to complete the 25% design plan for the full 4.6 mile rail trail in Sudbury to Massachusetts Department of Transportation (DOT) standards. Copies of a revised CPC Project Submission Form requesting \$150,000 and a memorandum from the Board of Selectmen dated December 4, 2013 were distributed tonight by Ms. Kablack. Sudbury citizen Carol Wolfe, 637 Concord Road, also provided the Board with copies of relevant materials and meeting minutes prepared by Town staff and the Rail Trail Conversion Advisory Committee (RTCAC) Meeting Minutes of October 12, 2012.

Selectman Len Simon used a PowerPoint presentation to describe the project. He displayed pictures of people using a rail trail, and he provided information highlighting the history of votes in recent years by the Board and Sudbury citizens regarding a rail trail. Selectman Simon stated a rail trail has been discussed in Town for a long time, and citizens last year voted overwhelmingly on two questions in support of a rail trail. In the past five months, he noted the Selectmen accepted the implementation of a rail trail as one of its goals, and they accepted an offer from the Friends of the Bruce Freeman Rail Trail (FBFRT) to donate \$58,700 for the 25% design of the northernmost portion of the rail trail to be built to Massachusetts Department of Transportation (DOT) standards. Selectman Simon stated the Selectmen have submitted a proposal to do the 25% design for the entire 4.6 miles of the BRRT in Sudbury, and they have modified the request to \$150,000.

Mr. Beagan asked if the Board of Selectmen voted unanimously for this project. Selectman Simon responded affirmatively.

Selectman Simon stated a cost estimate was received from GPI, Inc. for \$250,000, of which \$58,700 will be a gift from the Friends of the Bruce Freeman Rail Trail and approximately \$50,000 is available from previously appropriated funds for rail-trail related work which has not been

spent. Thus, the Selectmen have requested \$150,000, which includes a small cushion for unexpected expenses.

Chairman Morely asked if the consultant has worked on the Concord or Acton rail trails. Sudbury citizen Dick Williamson stated GPI has worked with both towns.

Chairman Morely noted a parking study for Davis Field has been included in the project proposal, but there are no other parking studies indicated for other portions of the proposed rail trail. Selectman Simon stated parking along the remainder of the route is not anticipated to be problematic.

Mr. Friedlander stated he watched the July 30, 2013 Board of Selectmen meeting, where Town staff concluded a rail trail built to DOT standards might not be able to be permitted due to environmental factors. He further noted Town staff had recommended a greenway as a better construction option, which would also be cheaper.

Selectman Simon stated he believes building a greenway might result in the Town building a trail twice. He emphasized building to DOT standards qualifies the construction of the trail to be paid for by the State rather than Sudbury citizens. Selectman Simon stated the entire trail in Town is estimated to cost \$5 million, but by building it to DOT standards, the Town would only have to pay for \$500,000 of the costs. He noted the Town would be responsible for all design and construction costs for a greenway, and he believes it would not save time in the implementation process.

Mr. Friedlander stated he thought it was the intent of the Selectmen to comply with the local bylaws and the Wetlands Protection Act. However, as Town staff highlighted, it may be impossible to permit a DOT-standard rail trail from conservation and stormwater management standpoints. He questioned that, if this is a possible outcome, the Town would not want to unnecessarily spend \$250,000.

Selectman Simon stated the same process would need to initially occur for a greenway construction, and thus, the money would not have been wasted.

Mr. Friedlander questioned whether this is the best use of the Town's money. He asked if the cost for a greenway construction was determined for comparison. Selectman Simon stated those costs were not compiled. He stated several other towns have been able to mitigate and/or overcome any environmental concerns which have arisen.

Selectman Larry O'Brien stated the Selectmen voted unanimously to do the engineering study for the entire 4.6 miles only if the funds are received from the FBFRT. He stated the eventual surface of a rail trail has not been determined, but this initial work needs to be done.

Mr. Friedlander questioned what the consultant's price estimate would have been for a greenway construction. He believes it potentially could have been less than what has been proposed, since the study would not have to be as extensive as it is for a full DOT build-out.

Mr. Beagan asked if it is possible the rail trail would be a hybrid of surfaces. It was noted the Board of Selectmen are open to all possibilities based on the outcome of this study.

Mr. O'Kelly asked if the 25% design study is a requirement for receiving State funds, and if the study is essentially a feasibility study. Selectman Simon explained the Mass. DOT standard typical studies. He

further stated it would function as a feasibility study. Chairman Morely stated he believes actual design aspects will also be included as part of the 25% study.

Mr. O'Kelly asked how long the study would take to complete. Selectman Simon stated it could take approximately two years following an affirmative Town Meeting vote. He further stated the State has indicated it would like to fast track construction of the northernmost section of the trail from the Concord town line to Route 117 to coincide with the construction of Concord's Phase 2C portion of its trail.

Mr. Friedlander asked if the gift from the FBFRT is conditional to a Mass. DOT standard trail. Selectman Simon stated it is conditional for the 25% study, and that the amount of the gift covers the expected cost for the Route 117 portion of the trail and the parking study for Davis Field. Selectman O'Brien explained the Town would be under no further obligation than what has been described for acceptance of the gift.

Ms. Remington asked what product the Town would receive for \$250,000 and whether it would include grading plans and bridge designs, etc. Selectman Simon stated this initial work will provide the Town with enough information to determine if it wants to proceed with additional work.

Mr. Beagan asked when the 25% design would be constructed. Selectman Simon stated the project would likely go out to bid for a year, and the construction would occur over two building seasons. He estimated the northernmost section on Route 117 could be done in 2016.

Sudbury resident Carol Wolfe, 637 Concord Road, stated the Town would be responsible for 10% of the total cost, including construction, for a rail trail, which will far exceed \$500,000. Ms. Wolfe stated other towns pursuing rail trails do not have local wetlands bylaws, but Sudbury does. She referenced the packet she distributed tonight and the October 25, 2012 RTCAC minutes and the findings of Town staff following discussions with the Mass. DOT that a rail trail in Sudbury could likely not be built within the rail right-of-way. Ms. Wolfe asked if the Town will require a written guarantee that it would be the permitting applicant and that it will uphold Sudbury's wetlands and stormwater management bylaws. She emphasized it does not seem appropriate to use CPA funds for a project which would violate Sudbury's bylaws. Ms. Wolfe urged the Committee to consider her comments in its deliberation process.

Mr. Beagan asked if Selectman Simon wished to respond to Ms. Wolfe's comments. Selectman Simon stated it is not State law that the Town would have to cover 10% of the total costs. He stated a Mass DOT standard trail requires the Town to pay for the design, and the State would pay for construction.

Sudbury resident Dan DePompei, 35 Haynes Road, distributed copies to the Board of his comments for tonight. Mr. DePompei stated the rail trail is a transportation project which is not an eligible CPA-funding use. He does not see it as a recreational use, but rather a transportation project managed by DOT to boost tourism. Mr. DePompei believes other sources of funding exist for this project, and that CPA funds should not be dedicated to it. He believes Sudbury citizens did not vet or vote for a Mass. DOT-standard rail trail. Mr. DePompei noted 26% of Sudbury is wetlands, and its water supply is 100% dependent on groundwater. He does not believe any other town pursuing a rail trail has such constraints, or has faced violation of local environmental bylaws, which would be the case in Sudbury. Mr. DePompei stated the proposal does not include a greenway option which was the recommendation of Town staff. He does not believe the Town needs another paved, multi-use roadway, when Concord Road and Union Avenue already exist within 1,500 feet of the proposed rail trail for approximately 80% of the proposed length.

Selectman O'Brien emphasized the proposal is for an initial design study, which will help to answer many of the questions posed. He further emphasized that, ultimately, the citizens will decide what they want by voting at Town Meeting.

Mr. Beagan asked if other towns have used CPA funds for rail trails. Sudbury resident Dick Williamson stated they all have.

At 8:30 p.m., there were no further questions or comments from the Committee or public.

Project Submission Form – FY15 Melone Planning – a revised proposal submitted by the Board of Selectmen, requesting \$150,000 for development of high-density residential housing which counts towards the Town's 10% affordable housing goal, as well as complementary and/or accessory open space and recreational uses.

Board of Selectmen Vice-Chairman Chuck Woodard described the project proposal for development of the Melone property. He referred to his memo, noting it includes a timeline for tasks to be completed and by whom. He also highlighted the development of affordable residential rental properties is noted in the timeline because the Board believes the Town should utilize all possible resources to achieve its affordable housing 10% goal. Vice-Chairman Woodard stated the proposal would investigate how the large parcel could be disposed to a private developer, and how diverse housing could be accommodated which would have a positive impact on the Town's budget. He stated the Board wishes to optimize the benefits of this asset for the Town. Vice-Chairman Woodard summarized the proposed project timeline, which leads to a 2016 Annual Town Meeting article to be presented for zoning and land disposition with final plans, and permitting and construction to follow for the remainder of 2016 and into 2017. He stated the engineering consultants retained would also help the Town prepare a Request for Proposal (RFP) for sale of the property to commercial developers. Vice-Chairman Woodard stated the Board of Selectmen would likely manage the process and might also appoint a Steering Committee.

Mr. Friedlander asked if this same proposal would be made by the Board if the Town had already achieved the 10% affordable housing goal. Vice-Chairman Woodard stated the Board would likely have still pursued disposition of the property to a commercial developer, subject to favorable conditions for the Town.

Mr. Friedlander asked if Chapter 40B developments have been a real "thorn" in the Town's side. Many in attendance responded affirmatively.

Vice-Chairman Woodard stated the Town has been cognizant that something needs to be done with the property. The Board believes this proposal will help to address the Town's affordable housing and budget issues.

Chairman Morely stated the use of this property has been discussed for well over ten years in Town, and housing has always been discussed as a use.

Ms. Remington asked if a recreational component for the property is anticipated. Vice-Chairman Woodard stated this issue is not yet decided, and the Board is open-minded to both passive and active recreational options. It will be important to first determine how many housing units will be able to fit on the property.

Ms. Remington questioned whether this is the best location for low and moderate income housing, given there are no transportation and/or shopping options nearby. Vice-Chairman Woodard stated these are questions the consultants will need to address.

Chairman Morely clarified the housing units do not all have to be affordable to achieve the Town's objective, they just need to all be rental units.

Mr. Beagan asked if the study will evaluate what the expenses and strains on the Town will be. Vice-Chairman Woodard stated it will study these issues, because the potential budget impact for the Town is key.

Mr. Beagan stated the Park and Recreation Commission was instrumental in pursuing the feasibility study for this property. He asked if it is possible to also make recreation a priority for the parcel.

Vice-Chairman Woodard reiterated the Board's main objective is to impact the Town's Chapter 40B development issues. However, he also stated it is possible one of the finalist scenarios presented by the consultants might include a recreational field.

Chairman Morely noted the first step of the project includes a public process, where citizens can make their opinions known.

Ms. Cline emphasized the outcome of previous studies was that the best use of the property was for housing, and it has been determined that this would be the basis from which to work.

At 8:50 p.m., there were no further questions or comments from the Committee or public.

Project Submission Form – Musketaquid Village Tub Surround Replacement – submitted by the Sudbury Housing Authority (SHA), requesting \$200,000 for replacement of the failing ceramic tile tub surrounds with new fiberglass tub surrounds at Musketaquid Village.

SHA member Kaffe Kang explained the project would preserve the structural integrity of 62 units of affordable housing and assure water tightness, which is permitted according to CPA guidelines. Ms. Kang stated the development was built in 1976. She displayed slides of the failing surrounds, and rotted sheathing and exterior wall framing. Ms. Kang stated the original installation was at fault using gypsum board, and this request proposes to use cement board to avoid this problem occurring again. Ms. Kang stated it will be cheaper to bid on the project to restore all 62 units, as this proposal recommends, than to spread the project out over several years. Cost is estimated at \$200,000 for 62 units. She reviewed the other limited sources of funding which might be available. Ms. Kang stated two units were already restored on an emergency basis, using funds from the SHA extraordinary maintenance budget.

SHA Executive Director Sheila Cusolito stated the SHA has already surpassed its extraordinary maintenance budget well before the end of the fiscal year in March 2014. In response to a question from Mr. Friedlander, Ms. Cusolito stated there are a few units in critical need, but the SHA will not know until next March if any other internal funds could be diverted to attend to them.

At 9:10 p.m., there were no further questions or comments from the Committee or public.

Project Submission Form – FY15 233 Concord Road – bookmarked by the Board of Selectmen requesting \$100,000 to purchase a 2.2 acre parcel of land located at 233 Concord Road for Open Space and Historic Preservation purposes, to which \$10,000 has been added for possible legal costs.

Board of Selectman Vice-Chairman Chuck Woodard explained this property is held in Chapter 61B, and the Town has a Right of First Refusal (ROFR) upon which it must decide to exercise or not by December 19, 2013. The Board has had several discussions regarding the property and has not had unanimous votes on matters. In addition, the Board has received numerous communications from citizens. Vice-Chairman Woodard stated a Public Hearing will be held at the Board's December 17, 2013 regarding the ROFR issue.

Vice-Chairman Woodard stated the purchase price is \$325,000, and the Board submitted a project request for \$110,000 (includes legal costs) of CPA funds, and parties interested in preserving the parcel were asked to privately fund raise. He explained that, if the Board exercises the ROFR, the transaction must close within 90 days, which would require a Special Town Meeting to be called. Vice-Chairman Woodard stated the Board has decided to wait until December 17, 2013 to allow more time for fundraising efforts and for the current owner to possibly change their mind regarding extending time for the property sale until after the Annual 2014 Town Meeting. He suggested that, if money were raised before December 17, 2013 and in an escrow account, and if the seller extended the purchase date, the Board would want to know the CPC would recommend the \$110,000 before it exercised the ROFR.

Chairman Morely stated the prevailing position at Special Town Meetings is to vote no on topics. He asked what the cost is for a Special Town Meeting. Vice-Chairman Woodard stated he has been told approximately \$15,000.

Mr. O'Kelly stated he has reviewed the information provided. He asked what the Board will do on December 17, 2013, and if its decision is contingent on private funds being raised. If the requisite private funds are not raised by December 17, 2013, Vice-Chairman Woodard stated the Board would likely vote to not exercise the Town's ROFR.

Mr. O'Kelly stated that, if this is the case, he questions whether the project proposal has been submitted prematurely to the CPC.

A brief discussion ensued regarding whether the Board of Selectmen would need a vote from the CPC on the project submission prior to exercising the ROFR.

Mr. Friedlander noted it has been stated that this parcel would be primarily beneficial to abutters and the immediate neighborhood. He asked if any citizens have communicated they are willing to contribute to the purchase of the property, regardless of where they live in Town. Vice-Chairman Woodard stated he is unaware of any donation offers.

Sudbury Historic Districts Commission (HDC) Chair Linda Hawes, 38 King Phillip Road, referenced a letter she and two other HDC members, Fred Taylor and Lee Swanson, wrote on December 4, 2013. Ms. Hawes noted the 2009 Open Space Plan states a goal to preserve the Town's character. The three HDC members believe this property does this, and they support the purchase of the property being fully funded with CPA funds. She further stated the HDC has concerns it will be able to control the type of house constructed on the property, if it is developed. Ms. Hawes stated a plan has been submitted for a 6,000 square-foot home, which would be situated very close to the street, given conservation constraints on the property.

Chairman Morely stated he has been confused by contrary opinions given about the scope of the authority of the HDC to control the historic aesthetics of future developments.

Ms. Hawes stated current building codes make it very difficult to mandate homes be constructed similarly to those built hundreds of years ago. Chairman Morely stated it is possible to build new homes which complement older, historic structures, as has been done in parts of Concord, if a builder is inclined to do so. He asked Ms. Hawes if there is unanimity on the HDC to be demanding in this regard with an applicant. Ms. Hawes stated the HDC does have a unified sentiment. She further emphasized Concord Road is an important Town streetscape, and she urged the Committee to consider this.

Mr. Beagan asked for clarification regarding whether the project can be considered for the full purchase price. Chairman Morely stated the project was submitted and decided by the Board of Selectmen, and he believes the CPC does not have the authority to alter it.

Chairman Morely asked that, if the Selectmen do not exercise the ROFR, and if private funds are not raised, whether the project would be presented to Town Meeting as a debt exclusion. Vice-Chairman Woodard stated this option is not a consideration for the Board.

Vice-Chairman Woodard suggested the CPC considers scheduling a meeting on December 18, 2013, in case all the pieces fall into place and the Selectmen decide to exercise the ROFR on December 17, 2013 and a vote is needed regarding the CPA-related funds.

Mr. O'Kelly asked if the seller has indicated they are willing to extend the purchase date. Vice-Chairman Woodard stated the seller has stated he will not.

Ms. Remington asked how much private money has been raised to date. Vice-Chairman Woodard stated he believes \$11,000 has been committed.

Sudbury resident and abutter Susan Doherty, 253 Concord Road, stated deliberation of this project has been actively going on for 105 days and she hopes the Committee will make a decision tonight to fully fund the purchase of the property. Ms. Doherty stated the neighbors felt it was unfair for the Selectmen to require them to raise \$225,000 in less than 30 days. Ms. Doherty emphasized the Town must have believed the property had value and benefits everyone in Sudbury when it accepted it under Chapter 61A, when it listed the parcel on its Heritage Report, when it was included in the Historic District, which is also listed on the National Historic Register. She stated 233 Concord Road is on a scenic road, and it benefits the entire Town. Ms. Doherty said she met the prospective buyer, Michael Carney, in September, as he was walking the property. Mr. Carney told her he had intentions to build a small home, which has since turned into plans for a 6,000 square-foot house. She mentioned the Town chose to purchase 15 Hudson Road, which abuts property owned by Mr. Carney, and she questioned whether this is a coincidence. Ms. Doherty stated several Town boards voted unanimously to support purchasing the property.

Mr. O'Kelly stated he understood Ms. Doherty's concerns as an abutter. However, he stated the CPC cannot change the project submission which has been presented for deliberation. Mr. O'Kelly stated the Selectmen may decide to exercise a ROFR on December 17, 2013, but tonight, the CPC can only hear the presentation before it for \$110,000. Chairman Morely concurred, and he offered to further explore any flexibility in this following the meeting.

Ms. Doherty stated she spoke to the current owner, and he told her he would have been willing to work with the Town on an extension, but the private funding component of the deal did not seem as if it would realistically come to fruition. Thus, the seller decided to not risk losing all potential buyers. Ms. Doherty stated she has been very disappointed in how this has been handled by the Town, and she believes it could have been handled much better.

Vice-Chairman Woodard stated he respects Ms. Doherty's comments. He stated he has heard many arguments for and against purchasing the property. The property has become a controversial topic in Town. However, Vice-Chairman Woodard assured Ms. Doherty the Selectmen have thoughtfully contemplated the right thing to do for the whole Town.

Chairman Morely stated this project has stirred public reactions, and it is the first CPC project he has been personally approached about. He stated many of those reaching out to him are not in favor of the Town purchasing the property.

In response to a comment by Ms. Doherty that the Selectmen did not have the opportunity to hear from other boards and committees at a Public Hearing, Ms. Kablack stated the ROFR was duly distributed to all relevant boards and committees, and they communicated their opinions to the Selectmen early in the process. Chairman Morely clarified the Selectmen receive letters from other Town boards and committees, and they were likely not ignored as Ms. Doherty believes, but the Selectmen must have concluded they did not agree with the opinions presented to them.

Mr. O'Kelly stated he has not observed any evidence of any inappropriate handling of this matter by the Town.

Selectman Larry O'Brien stated the Board of Selectmen solicited opinions from several groups and it has discussed the issue several times at scheduled meetings. He noted the Board had varying 3-2 votes on the project, and that it has been given thoughtful consideration, particularly due to limited CPA funds available this year.

Sudbury resident Dan DePompei, 35 Haynes Road, stated that when the Selectmen first reviewed this proposal there were limited CPA funds for the year. However, he noted the Town has since received approximately \$500,000 more in CPA funds than it had expected. He asked if the process would have played out differently, if the eventual amount of CPA funds available had been known in the beginning.

Chairman Morely stated last year, a significant amount of the CPA reserves was spent and this also impacted the ability to borrow funds. He emphasized the CPC needs to work to rebuild reserve CPA funds by reviewing its entire budget and future needs.

At 9:50 p.m., there were no further questions or comments from the Committee or public. Chairman Morely thanked everyone for their input and he concluded the discussion.

Minutes

On motion duly made and seconded, it was unanimously:

VOTED: To approve the minutes of November 20, 2013.

Miscellaneous

CPC Future Meeting Schedule

The Committee's next meetings will be December 18, 2013 at 7:30 p.m., if needed, regarding the ROFR for 233 Concord Road, and on January 15, 2014 for Deliberation of Proposals, and January 29, 2014 to submit Warrant Articles. All meetings are tentatively scheduled to be held in the Silva Conference Room, on the second floor of the Flynn Building.

On motion duly made and seconded, it was unanimously:

VOTED: To adjourn the meeting at 9:55 p.m.