

Present: Christopher Morely (Chairman), Fred Floru, Lynne Remington,
Pat Brown, Elizabeth Quirk, Sherrill Cline, Thomas Friedlander,
Bob Beagan, and Director of Planning and Community Development
Meagen Donoghue

Absent: Diana Warren and Lynne Remington

At 7:35 p.m., Chairman Morely called the meeting to order.

**Public Hearing: Community Preservation Act – FY18 Project Submissions –
Part 1**

At 7:35 p.m., Chairman Morely opened the Public Hearing to hear five presentations for the project submissions received for requests for FY18 Community Preservation Act (CPA) funding. Chairman Morely explained the CPC will hold two Public Hearings this year and the Committee will hear the remaining presentations on January 4, 2017. He stated the CPA program is a popular State program, and Sudbury began participation 14 years ago. Chairman Morely provided a brief summary of where the CPA funds come from, including the Town 3% surcharge on property and the State match received each year, which is now between 15-20%. He explained the Committee will deliberate and finalize its recommendations for projects on January 18, 2017. Chairman Morely also reviewed the four eligible categories for CPA funding as open space, historic, affordable housing and recreation, noting the first three categories are required to spend or set aside 10% of the estimated revenues each year. He highlighted the CPC has a dual mission to review the funding applications received each year as to whether they meet the administrative parameters to be presented to Town Meeting and to look forward to consider potential revenues and potential pending projects. Chairman Morely stated the Committee is familiar with the projects and it has had questions answered already by some proponents. Tonight's presentations are another opportunity for Committee members and the public to ask any questions they have.

**PROJECT SUBMISSION FORM – Protect Sudbury (\$150,000 for FY18 with
private contributions of \$50,000 and \$175,000 for FY19 and \$25,000 of private
contributions)**

Present: Proponent Bill Schineller

At 7:35 p.m., Ms. Brown recused herself from this discussion, and she left her seat with the Committee for the duration of the discussion.

The Board was previously in receipt of electronic copies of a confidential opinion provided by Town Counsel Barbara Saint Andre dated December 20, 2016.

Using a Power Point presentation, proponent Bill Schineller described his proposal to protect open space and natural resources along the East-West MBTA corridor, to ensure the use of this corridor is fully consistent with the Town's Open Space Plan and to negotiate for a possible acquisition, and he read aloud his project submission description. He stated the proposal would address goals including protecting a safe water supply, providing contiguous open space, preserving natural resources, and protecting the Town's character. Mr. Schineller stated 1.7 miles of this right-of-way is in proximity to where the sole water supply is for 18,000 residents. He displayed slides of the contiguous Hop Brook Marsh, noting the objective is to help preserve approximately 60 acres and 27,000 trees. Mr. Schineller stated the area in question is also along the King Phillip and Wayside Inn Historic Districts. He summarized timelines for the proposed Eversource transmission line project, noting this makes his request more urgent. Mr. Schineller stated some State legislators and several Town groups have offered opinions in opposition to the Eversource proposal and 900 people attended a meeting to express their interest in protecting this area. He believes there is a precedent for the Town to fight for protection from unwanted transmission lines, but he acknowledged it can be a lengthy and costly process.

Chairman Morely stated the State's Community Preservation Coalition and the State's Department of Revenue have previously opined that CPA funds cannot be used to protect private property which is adjacent to currently protected land. He further stated that these offices have also opined that historic districts are not considered to be CPA assets. Thus, Chairman Morely has determined that there might only be a $\frac{3}{4}$ mile of this corridor for which some action might be CPA-eligible. In response to a comment from Mr. Schineller, Chairman Morely also reported Town Counsel Barbara Saint Andre has opined that there appears to be no precedent for anything similar to Mr. Schineller's proposal. Town Counsel further cautioned that there have been an increasing number of lawsuits in recent years related to the use of CPA funds. Chairman Morely also noted that a proposal to purchase property would be considered by the Board of Selectmen and not by the CPC.

Mr. Friedlander asked if the proponent had sought a legal opinion regarding the appropriateness of his proposal, and Mr. Schineller stated he had not.

Ms. Cline asked to whom and/or for what purpose the funds would be used. Mr. Schineller stated some funds would probably be for legal fees to fight Eversource and other monies might be used for title searches and further studies. He further stated funds could be used to investigate the purchase of this property.

Chairman Morely questioned if the property is able to be purchased. Mr. Schineller stated he has tried to contact the MBTA to obtain information. Chairman Morely stated he believes there is a Purchase and Sale Agreement in place.

Mr. Floru referred to a portion of the corridor which the MBTA deeded to the State's Department of Conservation and Recreation (DCR). He questioned if it would be a breach of the lease, if a sale were to occur. Mr. Schineller stated he is not certain of all the details, but he wants the Town to try to negotiate for the same purchase pursued by Eversource.

Mr. Friedlander stated it has been the practice of the CPC regarding applications submitted to review what other Town committees and boards have supported the proposed project, and he asked Mr. Schineller if he has received such support. Mr. Friedlander emphasized most people do not want to have transmission lines go through the Town, but he asked if other groups have actually voted to support Mr. Schineller's proposal.

Mr. Schineller stated he spoke with the Town Manager's Office and the Board of Selectmen Chair, but the Selectmen did not take a vote.

Mr. Fiedlander suggested that, if the proponent obtains a legal opinion and some form of Town support, he could approach the CPC again next year. Mr. Schineller stated he fears that next year will be too late.

If urgency is a concern, Chairman Morely stated the proponent might want to pursue a purchase option with the Selectmen.

Later in the evening, Sudbury resident Dan DePompei, 35 Haynes Road, stated he previously read an article in the *Boston Globe* regarding the purchase of a rail trail from Newton to Dover being negotiated with the MBTA. Thus, he stated he believes it is possible for towns to lease these areas.

There were no further questions or comments from the Committee or the public at this time.

**PROJECT SUBMISSION FORM - Park and Recreation Commission/Department
Pour in Place Surfacing (\$65,000)**

Ms. Brown returned to her seat with the Committee to participate in the remainder of the Hearing and meeting.

CPC member and Park and Recreation Commission member Bobby Beagan stated he would present this proposal instead of Park and Recreation Director Kayla McNamara, who was sick. Copies of a revised "Community Preservation Committee Project Submission Form" and accompanying Addendum and supporting documents and a "Town of Sudbury Capital Improvement Budget Request FY2018 Form A" were distributed to the Committee tonight.

Mr. Beagan summarized the request from Park and Recreation for the Lyons Pride/SMILE Playground at Haskell Field. He stated the proposal is to remove the remaining wood safety fiber from the Lyons Pride/SMILE Sudbury Playground and replace it with Pour in Place Surfacing. Mr. Beagan read aloud from the project submission description, stating the playground is heavily used, and it is accessible for all abilities. He explained upkeep for the wood fiber is labor-intensive to be raked and maintain a certain height. Mr. Beagan emphasized the proposed new material would result in less maintenance, be more cost-efficient and be safer for all abilities. For safety reasons, he stated this was the top priority project for the Park and Recreation Commission. Mr. Beagan stated the estimated total project cost is \$70,975, and he noted it is possible there could be some SMILE funds available to reduce this figure.

Chairman Morely asked if the actual project funding request amount would be known in January when the CPC will deliberate the projects. Mr. Beagan stated they are working to determine if there is any money from SMILE being held in a Town account. In response to a question from Mr. Friedlander, Chairman Morely stated the Warrant could be published noting “an amount up to” a certain figure.

Because CPA funds are limited, Ms. Quirk stated it is important that projects are not over- budgeted.

Mr. Brown asked what the timeframe is for fundraising. Mr. Beagan stated he would need to ask Ms. McNamara to obtain this information from SMILE.

In response to comments, Chairman Morely clarified the project would not be able to go out to bid until after the May 2017 Town Meeting.

There were no further questions or comments from the Committee or the public at this time.

PROJECT SUBMISSION FORM - Featherland Multi-sport Court Reconstruction (\$175,000)

At 8:12 p.m., Chairman Morely welcomed Park and Recreation Commission member Mara Huston to present the Featherland Multi-sport Court Reconstruction proposal.

Ms. Huston provided a summary of the history for the Featherland tennis courts. She stated the courts were built in 1961 and 1965 and they were rebuilt in 1987. In 2014-2015, Ms. Huston stated snow plows damaged the posts and fencing, and at some point and without the knowledge of the Park and Recreation Commission, the fencing, posts, nets and surrounding trees were removed. She explained a funding request was submitted last year for CPA funding, which was eventually withdrawn, and then a request was made to the Capital Improvement Advisory Committee (CIAC) to submit a capital debt request. Ms. Huston stated the article passed at last year’s Town Meeting, but it

failed at the ballot. Thus, a new proposal has been submitted this year, which is supported by the Park and Recreation Commission. Ms. Huston describe the proposal as a request to rehabilitate a Town asset, which will be used by many user groups of all ages.

Ms. Huston emphasized Featherland is centrally located in Town and is easily accessible. She highlighted that, by restoring these courts, the Junior Varsity Tennis Team will again be able to hold matches. She stated there was significant interest expressed by residents to have the courts brought back for use. Ms. Huston stated this year's proposal is for \$220,000 to support the rehabilitation of multi-sport courts, which she described, referencing the updated project submission and supporting documents, and the aerial photographs within. She emphasized the proposed multi-sport courts will provide intergenerational recreational opportunities for Sudbury.

Ms. Quirk referenced a project request for \$175,000. Ms. Huston explained the original request was for \$175,000, but the proposal has been revised with a new estimated total project cost of \$220,000.

Mr. Beagan stated Ms. Huston has reached out to the Department of Public Works (DPW) and Combined Facilities Director Jim Kelly to see if it can provide any assistance on the project, which might reduce the total project cost. Chairman Morely stated DPW assistance is worth exploring because it can usually complete work at a much lower cost than an outside contractor.

Mr. Floru stated it appears as if the lifespan of the courts is approximately 20-30 years, which Ms. Huston stated seems to be the case. Mr. Floru asked if charging a user fee has been considered to help fund future maintenance or replacement. Ms. Huston stated the Park and Recreation Commission has not discussed this, and she is not sure how it could be enforced or collected. Mr. Beagan stated he could ask Ms. McNamara to research how it is done in other communities.

Ms. Brown stated there has been concern expressed in Town that when a capital asset is created, there should also be provisions made for maintenance and for replacement costs. Mr. Beagan stated the Park and Recreation Commission is very much aware that money has not been set aside in the past to maintain recreational assets, noting an account has been established for this purpose, but it needs to be funded.

Chairman Morely reported the CPC received eight emails today from residents supporting this project request.

There were no further questions or comments from the Committee or the public at this time.

PROJECT SUBMISSION FORM - Advancing the Bruce Freeman Rail Trail (BFRT) Design (\$330,000)

Present: Sudbury's Environmental Planner Beth Suedmeyer

At 8:30 p.m., Chairman Morely welcomed Sudbury's Environmental Planner Beth Suedmeyer to make the presentation for the Bruce Freeman Rail Trail (BRFT) Design project funding request. Ms. Suedmeyer distributed copies to the CPC of the slides for her PowerPoint presentation tonight and a handout entitled "Background Information Supporting the CPA Funding Application, Advancing the Bruce Freeman Rail Trail Design, CPC Public Hearing December 21, 2016."

Ms. Suedmeyer stated she is presenting this proposal on behalf of the Board of Selectmen. She stated the request is for \$330,000 to be added to the \$150,000 already appropriated last year to continue to advance the design of the 4.4 mile rail trail in Sudbury to MassDOT standards. Ms. Suedmeyer stated the proposal is supported by the Selectmen. She explained funds previously appropriated allow for the completion of the 25% design, which is anticipated in the spring of 2017, and for the initiation of the 75% design phase. Ms. Suedmeyer displayed a slide of the 25-mile BFRT between Lowell and Framingham, noting the corridor is owned by the Massachusetts Department of Transportation (DOT) Rail Division, and she noted areas which have been completed or are in construction. Ms. Suedmeyer stated it is in Sudbury's interest to pursue this Trail because it will provide a safer recreational path for a variety of uses. She also stated it offers connections to schools, retail districts and other areas of interest without the use of vehicles. Ms. Suedmeyer displayed a map of the Sudbury project area, noting it intersects the Mass. Central Rail Trail near Route 20.

Ms. Suedmeyer summarized the progress to date on the 25% design phase, noting the Order of Resource Area Delineation (ORAD) was issued by the Conservation Commission on November 14, 2016 and there has been preliminary structural analysis and work done on a parking study and on roadway crossings traffic counts. She stated the 25% design firm is VHB. Ms. Suedmeyer briefly addressed the context sensitivity of the project, noting discussions with the Conservation Commission have been initiated to work on reducing the impact on wetlands. She emphasized every effort is being made to take all precautions to avoid environmental impacts. Ms. Suedmeyer described the proposed eventual trail as ten-foot wide, with two-foot wide shoulders on each side. She also displayed a slide reflecting an estimated project timeline and a budget breakdown. Ms. Suedmeyer stated the 75% design is estimated to take approximately six months and there will also be time built in for review by the DOT. She estimated that, by the end of 2018, the cost for 100% design may be better known. Ms. Suedmeyer stated the total construction estimate is currently \$7 million, but this could increase depending on how much work is done with boardwalks, retaining walls and cross-sections.

Mr. Floru stated the \$330,000 is to cover the 75% design. Ms. Suedmeyer stated this is true, and that another request will be needed in the future to cover the 100% design.

Ms. Brown stated Town Meetings were told twice that the 75% design would cost \$300,000, and she asked what went wrong with that estimate. Ms. Suedmeyer stated there is now a better understanding of the resource area. She also stated the cost of the structural design increased, in particular, for the Pantry Brook Crossing. Ms. Brown stated the problem with this bridge had occurred before the last Town Meeting, and thus, she believes the previous request received a lot of support based on inaccurate information. Ms. Suedmeyer stated the numbers are a bit of a moving target, and at any time, the best estimates are given on the information which is available.

Ms. Brown stated that in the VHB presentation regarding alternative alignments, one alternate alignment is to be specified in the contract. However, she got the impression that VHB did not want to identify this during the 25% design and that it would be part of the 75% design. Ms. Suedmeyer stated the investigation of alternative alignments is part of the 25% design process, and it is not part of tonight's funding request.

Sudbury resident Dan DePompei, 35 Haynes Road, circulated copies tonight to the CPC regarding his comments on this proposal. He stated that, at the November 1, 2016 Board of Selectmen's Meeting it was noted that, notwithstanding difficulties from environmental resource areas, the 25% design would be completed in March 2017. However, he further stated it is required by State law that certain resource areas be studied and compared to what is presented as a preliminary alignment. Mr. DePompei explained river fronts are a significant resource of interest in the Massachusetts Wetlands Protection Act (WPA). He believes Pantry Brook and Hop Brook qualify as river front areas, and rather than constructing through these areas, it is required that alternative alignments be sought out. He further believes the delineation performed for the 25% design contract did not include any alternative delineations in the river front areas, and it was only done for the State-owned right-of-way, and thereby, it is incomplete. Mr. DePompei stated he does not believe a fair comparison can be done against a preliminary alignment until a proper delineation is done. Given that there is still an ongoing drought, he believes it is highly optimistic to properly complete the 25% design by March 2017, and he believes the schedule and tonight's request is overly aggressive.

Sudbury resident Janie Dretler, 286 Goodman's Hill Road, stated she moved to Sudbury in 2004, and there was discussion at that time and a vote at the 2005 Town Meeting about a rail trail. She expressed her frustration that there still is not a rail trail in Town, noting the longer it takes the more costly the project will become.

Ms. Suedmeyer stated she appreciates Mr. DePompei's comments regarding the river front areas. She further stated this was discussed at the November 29, 2016 Rail Trail Forum. Ms. Suedmeyer stated the WPA, MEPA and Riverfront Act do require that alternative alignments be looked at to avoid impacts to resource areas, but they do not require that the resource areas be delineated, and it is not part of VHB's scope of services. She stated she would ask VHB to provide as much information as possible as

they look at alternatives. She noted the rail corridor is already existing through the wetlands. Ms. Suedmeyer stated VHB will present an assessment based on the information it has regarding alternative routes and resource areas at a later date.

Mr. Beagan asked if the \$330,000 is a hard number, or if there is a lesser amount which would be possible which would still be able to move the project forward. Ms. Suedmeyer stated the \$330,000 is the best estimate available from the consultant, although the number could eventually be higher depending on the maximum number of boardwalks to be included.

Chairman Morely noted the money appropriated last year, plus tonight's request, would carry the project for approximately another two years.

Ms. Brown asked for confirmation that the cost for the 75% design would not really be known until the 25% design is completed, and Ms. Suedmeyer confirmed this to be correct.

There were no further questions or comments from the Committee or the public at this time.

PROJECT SUBMISSION FORM - North Gate Farm Purchase of Development Rights (\$4,237,500)

At 9:05 p.m., Chairman Morely announced the proponent for the request for \$4,237,500 for a development restriction on approximately 34,58 acres of land owned by North Gate Farm for open space preservation and recreational opportunities has withdrawn the application, and thus there would be no discussion regarding the proposed project.

On motion duly made and seconded, it was unanimously:

VOTED: To continue the Public Hearing regarding the FY18 Community Preservation Act funding requests for proposals to January 4, 2017 at 7:30 p.m.

CPC Future Meeting Schedule

Chairman Morely reviewed the scheduled CPC Meeting schedule, with the next Meeting on January 4, 2017 (which will be the second Public Hearing to hear presentations for CPA funding requests) and a Meeting on January 18, 2017.

Administrative Funds Budget Discussion

Chairman Morely stated Ms. Brown asked for the funding for the Regional Housing Services Office (RHSO) to be removed from the CPA Administrative Funds proposed

budget. He explained Ms. Brown requested an opinion from the Community Preservation Coalition regarding the use of Administrative Funds for this purpose, and the Coalition opined that it is not the best use of Administrative Funds. He further explained the request for the RHSO funding will be presented as a separate Town Meeting article. Ms. Donoghue distributed copies to the Committee of a new "Community Preservation Committee Project Submission Form" for a request of \$30,000 to provide support for the preservation and creation of affordable housing, or act on anything relative thereto. Ms. Donoghue stated she would forward to the Committee tomorrow the email thread regarding the Coalition's opinion.

Chairman Morely stated the Committee needs to consider if it will only want to allocate the usual 10% for affordable housing, and then reduce this figure by the \$30,000 needed for the RHSO, or whether it will allocate more than the usual 10%. He stated he is inclined to recommend the Sudbury Housing Authority (SHA) proposal should still be presented for the 10% allocation and an additional \$30,000 proposal should be presented for the RHSO request. Ms. Cline concurred.

Ms. Brown stated she believes the new RHSO article puts the funding request more transparently before Town Meeting. She stated she believes the RHSO should be funded because it provides the Town with monitoring services. Ms. Brown believes it is best for the RHSO to be its own appropriation at Town Meeting. Chairman Morely stated the RHSO funding has also been more transparently explained in recent years in the Warrant.

Mr. Floru stated there is no real financial impact as a result of the change. Ms. Cline stated she believes the change does present an impact because the CPC's practice has been to fund current fiscal year projects from the CPA income for the current year.

Ms. Brown summarized the Coalition's opinion as the Administrative Funds should be used to only support the CPC and not other programs.

Chairman Morely stated the Coalition's opinion is that the Administrative Funds are to be used to support the work only of the CPC. He noted that, in the past, the CPC had considered the use of these funds for the RHSO as being for the work of the Committee to move affordable housing projects forward.

Ms. Quirk stated she would like to read the opinion because she does not see a disconnect, since affordable housing is an eligible CPA category. She also suggested \$30,000 more could be given to the overall housing budget than what had been originally planned.

In response to a comment from Mr. Beagan, Chairman Morely explained there would be two separate articles presented to Town Meeting, one for the SHA, and one for the RHSO. He also explained that, if the RHSO article is not passed at Town Meeting, the funds will be taken out of the Town's operating budget because the Town has an

agreement with the RHSO for payment. Chairman Morely stated this new project request for RHSO funding will be added to the January 4, 2017 Public Hearing agenda.

Ms. Donoghue emphasized the funding helps to support a highly-qualified housing specialist position, and the Planning Office's limited staff would be unable to quickly learn this area of expertise. She also stated that to hire a full-time person with such expertise would be a drain on the general budget.

Mr. Floru asked for how long the current RHSO contract is with the Town. He suggested that, if it is for a multi-year contract, perhaps money should be put aside to cover the contract terms. Ms. Brown stated she is uncertain of the current contract's expiration date, but she believes it commits the Town for payment for a certain number of hours of services per year.

In response to a question from Ms. Brown, Chairman Morely stated it is yet to be determined who will make the presentation for the RHSO proposal at the January 4, 2017 Public Hearing.

Ms. Cline asked when the CPC would review the entire Administrative Funds budget, and Chairman Morely responded it would be discussed at the January 18, 2017 CPC Meeting.

Minutes

The Committee was previously in receipt of a revised draft of the November 16, 2016 Meeting Minutes as edited by Ms. Brown.

On motion duly made and seconded, it was

VOTED: To approve the meeting minutes of November 16, 2016, as amended by Ms. Brown.

On motion duly made and seconded, it was also unanimously:

VOTED: To adjourn the meeting at 9:25 p.m.