

## Community Preservation Committee

March 23, 2023

Meeting called to order at 7:01PM

Present: Miriam DeFant, Rita Farrell, Henry Geddes, Allen Hanson, Matteo Pangallo, Elaine Puleo

Absent: Jake Messier

Guests: Doug Slaughter, Susan Millinger, MaryJo Johnson, Ziporah Hildebrandt, Kristen Mello, Leslie Cerier, Diana Carpinone, Amanda Alix, Walter Tibbetts, Mary Lou Conca, John Lawless, Katie Eagan, Richard Seelig, Jim Hemingway, Maria Kopicki, Diane Jacoby, Carlos Fontes, Rob Kibler

### MINUTES

1. Review and vote on minutes of February 23, 2023 meeting
  - a. Motion to approve by Farrell second by Puleo
  - b. Amended minutes to add "Absent: Jake Messier" to the list of attendees  
Aye. DeFant, Farrell, Geddes, Hanson, Pangallo, Puleo  
Motion approved.
2. Review of Guidepost project – DeFant – potential to have a preservationist group in Pittsfield that could estimate the cost of the restoration (their cost would be approx. \$500). A discussion ensued about whether to restore the current guidepost or replace it. More discussion will be had with the Selectboard concerning funding the estimate.
3. Review of current CPA applications – Chair Pangallo explained what the role of the CPC was and how funding decision are made (see addendum for written explanation)
  - a. Restoration of historic gravesites- Tibbetts explained: In 2015 there was a two part grant to remove pine trees and restore headstones that were damaged. They were restored by Historic Gravestone Services in 2020 (22 stones). The Cemetery committee desires to continue to make restorations and would use the requested funds to restore half of the remaining stones that need repair. No comments from the public were made.
  - b. ARHS track –Pangallo - The chair would like to remind everyone that the Community Preservation Committee's jurisdiction is limited to those parts of a proposed project that would use Community Preservation funding and are eligible for Community Preservation funding.

The Committee may only take action on the specific funding request that has been presented to it. Because of this, comments must address those parts of the project that would be supported by Community Preservation funds as described in the application and as limited by the CPA.

If there are comments about parts of the project other than those included in this application or allowed under the CPA, they should be directed to the funding or approving authority whose jurisdiction includes those parts of the project."

Slaughter from ARHS presented the project explaining what needed to be done and where monies for the project were to come from. Again, Chair Pangallo reiterated what the CPA funds were to be expended on and cited the 2021 Essex Superior Court case of Silverio vs. the Town of North Andover in which it was determined that funds could be spent on such projects (see attached case decision and summary judgment).

Comments:

MaryJo Johnson – voiced grave concern about artificial turf including PFAS and a vote of not supporting this project.

Response- Slaughter: current debt authorization includes artificial turf. Additional expenses would be needed for other sorts of turf

Carlos Fontes – this project does not support open space and encourages a vote against it. This is an environmental crisis.

Response – Pangallo: this application was submitted under the category of Recreation not Open Space. Because the CPA cannot fund artificial turf, the request before the Committee does not include the funding of artificial turf and so concerns about artificial turf are not relevant to the question before the Committee. ARHS is aware of the environmental regulations and requirements around the brook and sensitive area

Ziporah Hildebrandt – concern about mental and emotional health of children, also concern for chemical sensitivity and being responsible for the earth.

Amanda Alix – submitted letter with 20 fellow residents to urge denial of the project.

Response – Pangallo states: In the matter of determining the eligibility of spending CPA funds on a project that includes the use of artificial turf, the March 2021 ruling by the Essex County Superior Court in the case of Silverio et al. v. Town of North Andover establishes a clear precedent.

In that case, the court confirmed that CPA funds cannot be used for the purchase of, installation of, or site preparation for artificial turf for athletic fields. The court also ruled, however, that CPA funds can be used for other parts of a project that involves artificial turf. This includes costs such as planning and design not related to the artificial turf, making the facility ADA-compliant and fully accessible, costs associated with the track surface, costs associated with open grass fields, costs for infrastructure, and so forth. As the applicant has indicated that CPA funds would not be used for ineligible project costs, such as artificial turf, the application was determined to be eligible per the court's ruling in Silverio.

The Silverio ruling, the CPA statute, the Determination of Eligibility that was submitted by ARPS, and the testimony that the ARPS representative provided in response to this Committee's questions about that DoE establish the eligibility of the application. At the CPC's December 15 meeting, the Committee voted unanimously to find the request eligible for funding. The question of eligibility is therefore no longer relevant to the deliberations of this Committee.

Maria Kopicki – Amherst resident – cost estimates are escalating and there aren't enough funds available for the whole project and for maintenance and upkeep of the field.

Response – Puleo: this is not under the purview of the committee.

DeFant questioned what the purview of the committee was.

Pangallo reiterated the committee's role: to first determine eligibility and then to recommend or not recommend an application to Town Meeting on the basis of whether it aligns with the criteria described in the Shutesbury Community Preservation Plan.

Slaughter – project needs to move forward but will have to be done in stages, what funding do we have and what can we commit to without resources in hand

Pangallo cited the general guidelines and specific guidelines for Recreation projects outlined in the Community Preservation Plan (see attached excerpts from the Community Preservation Plan) as what the Committee is using to evaluate whether or not the application should be recommended to Town Meeting; he encouraged members of the public to address comments towards these criteria

Rob Kibler – CPC should not have any part of funding this project

Katie Eagan – environmental concerns about artificial turf.

Carlos Fontes – again, inappropriate project because of negative impacts on health and recreation.

Mary Lou Conca – agree with majority of speakers. Strongly urge the CPC to vote no. Exposing children to chemicals that cause cancer.

Kristen Mello – Westfield MA resident. Concern over stormwater management from the field.

Response: Slaughter – drain systems set up below the field are part and parcel of design and engineering of the project.

Maria Kopicki – Amherst resident. No geological technical analysis has been done for this project. This cost plus maintenance has not been budgeted. There are bills in state legislature that will block use of PFAS and thus this project going forward.

Response: Slaughter; Design work did not do a detailed analysis concerning water handling around the project as a whole. Weston and Sampson was the firm used.

Public hearing closed at 8:19PM

4. Other articles –

- a. Article to rescind CPA funds from a previously funded Lake Wyola project was approved by Town Counsel. Pangallo has notified the Lake Wyola Association Board of Directors that this article will be on the warrant at Annual Town Meeting.
- b. 2 articles concerning \$5,000 for parking at lot R15 (this was part of the 2022 CPA funding for purchase of the property)
  - i. Hanson motioned to rescind the \$5,000 from the previous year's CPA grant, Farrell second

Aye. DeFant, Farrell, Geddes, Hanson, Pangallo, Puleo

Motion approved

- ii. Appropriate \$5,00 for parking at lot R15. Farrell moved Hanson second

Aye. DeFant, Farrell, Geddes, Hanson, Pangallo, Puleo

Motion approved.

Motion to adjourn – Farrell, second Geddes

Aye: DeFant, Farrell, Geddes, Hanson, Pangallo, Puleo

Motion approved

Meeting adjourned at 8:23 P M

Next meeting scheduled for 7PM April 12<sup>th</sup>.

Minutes respectfully submitted by Elaine Puleo

Proposed Warrant articles:

**Proposed Warrant Article for 2023 Annual Town Meeting.** To see if the Town will vote to appropriate \$2,500 from the Open Space/Recreation fund balance and \$2,500 from the CPA Budgeted Reserve fund balances to the Shutesbury Conservation Commission for the development of a parking area at Lot R-15. This property was purchased by the town of Shutesbury from Kestrel Trust for preservation as open space and for passive recreational use.

**Draft of FY2023 warrant article regarding Lake Wyola North Cove project grant**

To see if the Town will vote to rescind the grant of \$5,000 to the Lake Wyola Association from the Community Preservation Fund, previously authorized by Article 3 of the May 5, 2018 Annual Town Meeting for the purposes of developing a comprehensive plan for the removal of accumulated silt in the North Cove of Lake Wyola and the restoration of the cove to its historical depths, or take any action relative thereto.

### **List of documents from March 23, 2023 Community Preservation Committee meeting**

- Minutes of February 23, 2023
- Historic Guideboard Restoration Project grant agreement
- Shutesbury Community Preservation Plan
- West Cemetery Preservation Project application
- Amherst Regional High School Track and Fields Project application
- Amherst Regional High School Track and Fields Project determination of eligibility
- Michael Silverio & others vs. Town of North Andover Memorandum of Decision and Order on Plaintiffs' Motion for Summary Judgment and Defendant's Cross-Motion for Summary Judgment, Essex Superior Court, Commonwealth of Massachusetts, Civil Action Number 1977CV00629
- Summary Judgment Mass. R. Civ. P. 56, Docket Number 1977CV00629, Silverio, Michael et al vs. Town of North Andover Massachusetts
- Written testimony (letter received via email) regarding Amherst Regional High School Track and Fields Project application received March 21, 2023 from Amanda Alix, Jon Lawless, Katherine A. Powers, Robert Groves, Michael Vinsky, Don Wakoluk, Mary Lou Conca, Michael Conca, Jim Hemingway, Rob Kibler, Diane Jacoby, E. Wayne Dorman, Katie Eagan, Jill Marland, Leslie Luchonok, MaryJo Johnson, Ziporah Hildebrandt, Judith Milbury, Peggy Reber, Dennis Shapson
- Written testimony (email with attachments) regarding Amherst Regional High School Track and Fields Project application received March 21, 2023 from Maria Kopicki
- Written testimony (email) regarding Amherst Regional High School Track and Fields Project application received March 21, 2023 from Maura Keene and Arthur Keene
- Written testimony (email with attachment) regarding Amherst Regional High School Track and Fields Project application received March 23, 2023 from Kristen Mello
- Email received from Mark Rivers regarding 2018 Lake Wyola North Cove project grant
- Draft warrant article to rescind 2018 Lake Wyola North Cove project grant
- Purchase and Recreational Development of Lot R-15 Project application
- Purchase and Recreational Development of Lot R-15 Project grant agreement
- Draft warrant article to rescind \$5,000 from Lot R-15 purchase grant
- Draft warrant article to authorize \$5,000 for parking area at Lot R-15