

**Town of Hamilton
Community Preservation Committee
Sub-Committee on Bylaw and Operating Procedures
January 15, 2015 Minutes**

Attendees

The meeting was held at Hamilton Town Hall with the following Sub-Committee members in attendance: Chair Tom Catalano, Ed Howard, Jay Butler. Community Projects Coordinator Rachel Meketon was also present.

Approve Minutes from 12/18 Sub-Committee Meeting

Rachel noted that based on her files the Community Preservation Plan was only updated in 2009, 2012, and 2013. **She will amend the minutes and post them on the website.**

Review Action Items from 12/18

- **WEBSITE UPDATE** - "Although the 2008 version of the plan is posted on the CPC website, the plan has been updated every year since the initial 2008 version. Rachel will thus post the latest version on the website."
 - Done

- **OUTREACH** - "Tom noted that we could consider other alternatives to publicize our activities and asked Rachel to investigate the cost of mailing a copy of the latest CPC Plan to all residents with the cost to be covered by our administrative reserves."
 - \$47.60 (USPS Every Door Direct Mail for Hamilton) + \$519.40 (USPS for S. Hamilton) + \$1,262.50 (Minuteman) = \$1,829.50
 - Minuteman Press quote for 3,250 mailers: five 8½x11 sheets, double-sided, black and white, stapled, folded down the middle, sealed with a sticker
 - For just one 8½x11 sheet, double-sided, etc., \$47.60 + \$519.40 + \$571.50 = \$1,138.50
 - Another option is to have the printers print the materials. Free printing, but poor quality and longer timeline. Cost of postage is \$567.
 - For FY15, the CPC has approximately \$4,000 in unallocated administrative funds
 - Other outreach: local newspapers, boards and committees, Hamilton Facebook pages and other social media, library, Community House, senior center, other community groups (Hamilton Historical Society, Hamilton Foundation), what else?

The Sub-Committee discussed other ways to engage people besides sending the CP Plan, which is 30+ pages. The group agreed that a postcard to entice people to visit the webpage or attend the public hearing would be better. **Rachel will get the cost of printing and sending a postcard to Hamilton residents.**

- **PUBLIC HEARING** - “After much discussion, all agreed we should host an all Town Boards and Committee, public meeting to solicit ideas for potential CPC grants. Tom Catalano and/or Rachel will ask Town Manager Michael Lombardo when we should host such a meeting. The full committee will then be asked to vote on this at their next meeting on January 22, 2015. Rachel will place this item on the agenda.”
 - Michael recommends that we host the meeting at the end of May or in early June – after ATM, but before summertime travel.

The group also discussed how to do both an all-boards meeting and a public hearing. Ed emphasized that it was important to do a public hearing because it is described in the CPC bylaw. Jay was concerned that more than 70 people could be in attendance and that some people would dominate the discussion. Rachel suggested that small group discussions could be used to give many more people an opportunity to share their thoughts. Ed replied that small group discussions felt childish, and Tom replied that he prefers the public hearing format in which everyone can hear what is said. It was decided that all boards would be invited to the public hearing, but it would not be an “all-boards meeting”. Tom suggested that we request Patrick Reffett’s guidance in planning the meeting since he is doing related work. The group decided that it would be helpful to have Patrick and Michael Lombardo at the next Sub-Committee meeting to help design an agenda for the public hearing. Michael might have suggestions as to how to keep a large public meeting on track. **Rachel will coordinate with Patrick and Michael to schedule the next Sub-Committee meeting, preferably at 9am on Tuesday, February 10th.** The group continued with some preliminary discussion of the agenda for the public hearing. Jay suggested that we could be creating a wish list or we could be prioritizing from a wish list. Tom expressed an interest in doing both at the hearing: creating the wish list and prioritizing. Ed previewed his wish to create a Town beach at Chebacco Lake.

- **REMOVAL OF MEMBERS** - “..... Any member may be removed with or without cause by the Appointing Committee.....’ As part of pursuing a better understanding, Rachel will query the MA CPA Coalition and Hamilton Town Counsel as to this statement and whether or not it is commonplace.”
 - Town Counsel clarified that “the Board of Selectmen can only remove members that they appoint directly. If a CPC member is appointed by another committee, say the Planning Board, then it is the Planning Board that can either appoint or remove said member.”
 - From Stuart Saginor, ED of the Community Preservation Coalition:

We collected all the CPA bylaws back in 2008 and put them on our website. That was a long time ago, so the contents of those bylaws aren't very fresh in our collective minds, unfortunately. However, they are easy to access if you want to do a little poking around. Go to this page of our website:

<http://communitypreservation.org/content/info-individual-cpa-communities>

When you click on each CPA town, the data contains a link to their bylaw.

My guess is that you will see similar phrases in a few of the towns. It's definitely not a standard clause, but we have seen it not only for appointments to CPA committees, but generally in municipalities where one committee appoints someone to another committee. I seem to recall the phrase "after a public hearing on the matter" or some such phrase being added to the end of sentences similar to yours, to ensure that folks have a chance to comment on the removal and the person being removed is given a chance to make a case for themselves.

Ed stated that he believed that this was a breach of checks and balances. Tom noted that the Board of Selectmen appoints four at-large members and one Selectman, and so, even though they can't remove the members appointed by other committees, they could control a quorum of five members.

- **SUPER MAJORITY** - "Tom suggested that perhaps we consider establishing a super majority provision for certain projects based on financial size or whether or not they would require bonding. Recognizing that this idea would require a change to the By-Laws thus entailing a Town Meeting vote, Rachel was asked to query Town Counsel for an opinion on doing this."
 - Town Counsel researched the CPC legislation and general laws and advised that neither the CPC or Town Meeting may alter the voting method; MGL 44b § 5(3)c states:

(c) The community preservation committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the community preservation committee shall constitute a quorum. The community preservation committee shall approve its actions by majority vote. Recommendations to the legislative body shall include their anticipated costs.

The group agreed that based on the state law, the local bylaw could not be changed to require a super majority.

- **MULLIN RULE** - "The subcommittee was told that this was the 'Mullin Rule', based on a legal ruling of that name. Rachel was asked to look into the rule with Town Counsel and its applicability to the CPC Committee."
 - Town Counsel clarified that the Mullin Rule applies to any Board or Committee that is holding an adjudicatory proceeding – principally the Planning Board, but also the ZBA or Board of Selectmen if they were to have such a proceeding.

Tom clarified that the CPC does not hold adjudicatory proceedings, and so CPC members can read the minutes and participate in meetings. Jay mentioned that the Planning Board has a form that members fill out to confirm that they have read the minutes and listened to the recording of missed meetings, and that allows them to participate in future meetings. The group queried whether or not the CPC meetings were recorded. They are recorded by Jane Dooley, but not saved.

- **MEETING PROTOCOLS** - “Jay also noted that while the CPC does not operate according to Roberts Rules, he wondered if there were another set of meeting protocols that we should be following, perhaps those that are used for Town Meeting. Rachel was asked to research this as well.”
 - Patrick Reffett recommended that the CPC use Robert’s Rules
 - Deborah Mena recommended that the CPC consider the Board of Selectmen’s agenda and meeting format
 - Hamilton’s Town Meeting is governed by *Town Meeting Time: A Handbook of Parliamentary Law*
 - Vermont League of Cities and Towns “model rules”

Jay described Robert’s Rules as very formalized and said that they could tie a meeting in knots. Ed added that no Hamilton boards or committees use them. Tom said that the CPC meetings are different from the Board of Selectmen’s meetings in that the CPC allows public comment between and during each agenda item. **Tom suggested that the Sub-Committee members review the Falmouth and Vermont League of Cities and Towns procedures and discuss it at the next meeting.** Jay mentioned that the finalized procedures should be included in an appendix of the CP Plan.

Discuss CPC Bylaw

The follow-up regarding the bylaw from the December meeting was already discussed, however there were still questions regarding the public hearing. One important reason to meet with Patrick is to discuss the Master Plan, which has not been updated in ten years. An update to the Master Plan would be very helpful as the CPC creates priorities for its plan. Tom said that one reason to meet with Michael is to discuss the long-term capital plan and the specific items in that plan that could be funded by the CPC, which would also be helpful in creating priorities.

Discuss Application Submission Guidelines

Rachel pointed out that the guidelines are meant for applicants, which is different from the operating procedures that would guide the CPC. The group decided to review Jay’s edited guidelines to determine which points would be better included in operating procedures. Comments from the 1/15 Sub-Committee meeting are in [blue](#).

Proposed changes in italicized red from Jay Butler 12/1/14

Proposed changes are in underlined purple (The color was Rachel’s idea.) from the December 19, 2014 Subcommittee meeting.

1. The application process for Community Preservation Funding is twofold. The Application for Community Preservation Eligibility will introduce your proposal to the Committee so that it can determine the project’s eligibility and offer guidance. ***A consultation with the Mass CPA coalition may be necessary to do establish eligibility. This is something that the CPC would do – not the applicant. The Coalition is an available resource. This could be included in the operating procedures, but also here, specifying that the CPC will consult with the Coalition if necessary. If the Committee agrees that your proposal is eligible, and that you as the petitioner is qualified to***

represent the “stakeholders” who would be affected by and/or enjoy completion of the proposed effort, an Application for Community Preservation Funding must be completed. Some stakeholders might be against the proposal, so this statement needs more clarification. The Committee will review both the application for eligibility and that for funding according to the General Criteria outlined below. For those applications petitioning for acquisition of property, there will need to be close coordination/discussions between the Town Manager and Selectmen before detailed discussion can proceed.

Delete current number 2, below, and add new one in italicized red below.

2. In order to be considered for recommendation for the spring Annual Town Meeting, you must submit an Application for Community Preservation Eligibility no later than January 2, 2014. Final Applications for Community Preservation Funding must be received no later than February 13, 2014 to be considered for recommendation at the spring Annual Town Meeting, except for urgent situations or other exceptional circumstances.

2. The CPC Committee will annually establish deadlines for receipt of both the Eligibility and Funding Applications for consideration at both the Annual Town Meeting and Special Town Meeting if applicable. The schedule can be created annually after ATM with a funding application deadline for STM approximately two months prior and a funding application deadline for ATM approximately five months prior. The schedule will also be posted on the website.

3. Each application must be submitted to the Community Preservation Committee (CPC) using the Application for Community Preservation Funding/Eligibility as a cover sheet. Applications must be filled out completely, with each question fully answered.

4. Applications should be submitted in ten (10) copies of all project materials to the attention of *Rachel Meketon*, Coordinator, Community Preservation Committee, Town Hall, P.O. Box 429, 577 Bay Road, Hamilton, MA 01936.

5. Please include any maps, diagrams, and/or photos that pertain to your project.

6. All applicants will be expected to be present at a CPC meeting to answer questions about their proposals. The CPC will set a public meeting schedule to review project proposals. *in January and February.* Applicants will be notified regarding the date of the meeting they should attend. *(Delete above phrase in red.)*

Add new instructions below in italicized red and underlined purple:

7. Large, multi-faceted proposals where initial estimates of actual costs would be difficult must be submitted in the form of a minimum of two proposal grants – one for initial engineering studies, and a later one for the actual effort based on the completion of the earlier study. Note that in the case where the applicant will fund the engineering phase, only one request will be required. When the two-request approach is used, it will be necessary to include an estimate for the entire project with the request for engineering studies.

8. Evidence must be provided that opportunities for other sources of financial support have been actively pursued, including fundraising, other grants, and government subsidies.

Ed mentioned that the CPC did not necessarily follow-up with the Legion regarding whether or not they had investigated a subsidy or rebate for their new furnace.

9. Financial quotations (Delete “Financial quotations” and replace with “Estimated implementation costs”) for the effort must show evidence that reasonable attempts to get the lowest dollar quotation for the proposed effort have been pursued.

10. Prior to approval of a grant proposal, the CPC Committee must reach agreement on how to pay for it, e.g., direct payment vs. municipal bonding.

11. There must be broad-based community support for the grant, including evidence that there is town government support, or at least no opposition to the grant, from all relevant town entities, e.g., Police, Fire, DPW, Recreation, Planning Board, Conservation Commission, Historical District Commission, etc.

Rachel pointed out that 8, 9, and 11 are covered in both the Funding Application and the General Selection Criteria. Tom asked if there was any reason not to include it here as well. Rachel replied that there might be a benefit to keeping these guidelines fairly straightforward.

12. Approval of the grant request will be determined by a vote by a simple majority of the CPC Committee at a meeting with the specified quorum, i.e., 5 members out of the current total of 9. Thus, a CPC Committee meeting with only 5 members present can decide the fate of any grant request, regardless of its complexity.

NOTE: While no one disagreed that this is how the operation of the CPC Committee is set up, there was universal concern that an important project could be prevented from being voted at Town Meeting by only 3 members of the Committee. Tom suggested that perhaps we consider establishing a super majority provision for certain projects based on financial size or whether or not they would require bonding. Recognizing that this idea would require a change to the By-Laws thus entailing a Town Meeting vote, Rachel was asked to query Town Counsel for an opinion on doing this.

NOTE: Jay brought up the question regarding the situation whereby a project application discussion might span several meetings and the case where not all members of the CPC were in attendance at all of these meetings. For some Town Boards, a Committee member must have been present for all formal discussions in order to be able to participate in the final vote. The subcommittee was told that this was the “Mullin Rule”, based on a legal ruling of that name. Rachel was asked to look into the rule with Town Counsel and its applicability to the CPC Committee.

NOTE: Jay also noted that while the CPC does not operate according to Roberts Rules, he wondered if there were another set of meeting protocols that we should be following, perhaps those that are used for Town Meeting. Rachel was asked to research this as well.

NOTE: Tom mentioned that we should develop a simple, virtual thermometer that can provide the Committee with information as to how much of a proposed project can be bonded. In this way the Committee can recognize the potential consequences of any proposed bond for a project. This visual should also contain estimated financial projections of incomes and reserves for perhaps 5 years.

Renumber the remaining items 13 - 16.

13. The CPC will discuss its project recommendations with the Selectmen and Finance Committee before preparing a Warrant Article for Town Meeting approval, including the funding format (i.e. bond)

14. If approved, project funding would be available *at a date to be established* following the *Special or Annual Town Meeting. (Note changes in italicized red.)*

15. Following approval at Town Meeting, grantees will receive a formal grant award letter informing them of quarterly reporting deadlines, billing procedures, project schedules, and the two-year deadline for which projects must be completed.

16. It will be expected that all CPA projects commence within six months of receipt of the grant award letter.

Add new criteria:

17. The CPC Committee reserves the right to cancel any grants that do not meet either the six month start date or the two year completion requirement.

Discuss Updating the Community Preservation Plan and Hosting a Public Hearing

The group discussed this earlier in the agenda. Rachel did ask if the criteria from the Plan should be reformatted for use during CPC meetings, as she had proposed at the December CPC meeting. Tom, Jay and Ed agreed that it would be useful. Tom suggested that a score guide or rubric could be even more useful. One past applicant had accused the CPC of being arbitrary in rejecting his application. A rubric would allow the CPC to be more transparent in its selection process. Tom asked if other CPC's use rubrics and particularly large communities that have many applicants. **Rachel offered to research this.** Ed expressed his support for the idea, but cautioned that complicated processes could slow implementation.

Tom also expressed the importance of knowing the CPC's budget as the Committee considers applications. The group suggested a pie chart or some other visual that shows current and reserve funds. The visual could be displayed at public meetings. Tom also suggested that a bar graph that shows how the reserves have fluctuated based on specific project allocations would be helpful. **Rachel will create a visual.** The group emphasized

that an understanding of the Master Plan, long-term capital plan, and the CPC's budget are essential to ensure that the CPC has the capacity to fund major projects like the rehabilitation of Town Hall or the preservation of open space. For open space, even more attention is needed. It would be helpful if there was a process for determining priority sites and what to do when a piece of land comes up for sale, and particularly at what point the CPC would be involved. Tom suggested that even the list of Chapter land from the Assessor's would be helpful.

The group requested that Rachel update the website with the most recent projects that the CPC has funded as well as her contact information. The CP Plan could also be updated with Rachel's name and recent projects. And it would be good to post information about how seniors can file for abatement from the CPA property surcharge. **Rachel will update the website.**

Prepare for 1/22 CPC Meeting

Tom will update the full CPC on the Sub-Committee's discussions.