

TOWN OF BARNSTABLE

NOTICE OF MEETINGS OF TOWN DEPARTMENTS AND ALL TOWN BOARDS
As Required by Chapter 28 of the Acts of 2009, amending MGL Chapter 30A

NAME OF PUBLIC BODY – COMMITTEE, BOARD OR COMMISSION:

REGULAR MEETING AGENDA COMMUNITY PRESERVATION COMMITTEE

16 MAR '23 PM 2:19
BARNSTABLE TOWN CLERK

DATE OF MEETING: Monday, March 20, 2023

TIME: 5:30 p.m.

PLACE: The Community Preservation Committee (CPC) meeting will be held by remote participation methods pursuant to the passage of legislation extending certain COVID-19 measures adopted during the state of emergency in the Commonwealth of Massachusetts.

Alternative public access to this meeting will be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed through the Channel 18 website at <https://streaming85.townofbarnstable.us/CablecastPublicSite/>
2. Real-time public comment can be addressed to the Community Preservation Committee utilizing the Zoom link or telephone number and access code for remote access below.
Link: <https://zoom.us/j/82063818593>
Or by calling the US Toll-free Telephone Number: 888-475-4499
Meeting ID: 820 6381 8593
3. Applicants, their representatives, and individuals required or entitled to appear before the Community Preservation Committee may appear remotely and are not permitted to be physically present at the meeting and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to Sarah.Beal@town.barnstable.ma.us so that they may be displayed for remote public access viewing.

Meeting materials will be available at

<https://www.townofbarnstable.us/boardscommittees/communitypreservationcommittee/> prior to the meeting.

Please note that tonight's meeting is recorded and broadcast on Channel 18 and, in accordance with MGL Chapter 30A, s. 20, the Chair must inquire whether anyone is taping this meeting and to please make their presence known

Call to Order:

Discussion:

- Discussion with Assistant Town Attorney Kathleen Connolly regarding Conservation Restrictions, Historic Restrictions, Recreation Restrictions and Housing Restrictions
- Discussion with Assistant Town Attorney Kathleen Connolly regarding options for potential Recreation Restriction on Armstrong-Kelley Park, 675 Main Street, Osterville, MA 02655, Map 141, Parcel 038

Minutes:

- Approval of the Draft Community Preservation Committee Regular Meeting Minutes from February 27, 2023.

Letters of Intent:

- None received.

Applications:

- None received.

Correspondence Received:

- Community Preservation Fund Schedule of Unreserved Fund Balances by Program Area as of March, 2023 by Finance Director, Mark Milne.
- Letter dated February 27, 2023 to Mark Ells from Ann Canedy, Chair LAPC with copy to CPC Chairman regarding unanimous vote of the LAPC to recommend consideration of a CPC funded purchase of a 18-acre vacant parcel at 2320 Meetinghouse Way, West Barnstable for water protection purposes.

Project Updates:

- The Tales of Cape Cod – Phase III funding is now available.
- Phase 3 & 4 CCRT and Unitarian Church of Barnstable CPC Applications are included on the Town Council Agenda for March 16, 2023 with public hearings scheduled for the April 6, 2023 Town Council meeting.
- Osterville Recreation Playground CPC Application is anticipated to be included on the April 6, 2023 Town Council agenda for 1st read with a public hearing anticipated to be scheduled for the April 20, 2023 Town Council meeting.

Member Discussion:

- Meeting Format for April 24, 2023 CPC meeting.
- Annual Community Preservation Committee Meeting.

Public Comment:

General Discussion:

Adjournment:

Next Regularly Scheduled CPC Meeting April 24, 2023

Please Note: The list of matters is those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the Committee may go into executive session. The Committee may also act on items in an order other than they appear on this agenda. Public files are available for viewing during normal business hours at the Community Preservation office located at 367 Main Street, Hyannis, MA

For your information the section of the M.G.L. that pertains to postings of meetings is as follows: Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain: the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. Meetings of a local public body, notice shall be filed with the municipal clerk, and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

January 23, 2023

Kathleen Connolly
Assistant Town Attorney
Town of Barnstable
367 Main Street
Hyannis, MA 02601

RE: Community Preservation Act - CPC Grant Agreement
The Trustees of Reservations / Armstrong-Kelley Park Project

Dear Attorney Connolly:

I am writing as a follow up to our prior call regarding the draft Grant Agreement for the above referenced CPA Project (a copy is attached for reference).

The grant agreement uses the term “perpetual recreation restriction” and seeks to impose a perpetual restriction on the property. It is my understanding that the only “perpetual” restrictions are those defined under M.G.L. c. 184, § 31 (i.e. Conservation Restriction, Preservation Restriction, Agricultural Preservation Restriction, Watershed Preservation Restriction, and Affordable Housing Restriction) and the only procedure for imposing a perpetual restriction is to follow the formal approval process under M.G.L. c. 184, § 32. There is nothing under c. 184 which allows for a “perpetual recreation restriction” outside of this formal approval process.

In this project, the funds are being used for improvements to the park and not for acquisition of any property. These capital improvements have a useful life but are not perpetual. The Community Preservation Act would only require a perpetual restriction (which would be a Conservation Restriction as opposed to a Recreation Restriction) if the grant funds were being used to acquire the property rather than for improvements to the park.

As presently written, even though it is labeled as “perpetual” the recreation restriction would be limited to thirty years under M.G.L. c. 184, § 23. The Trustees of Reservations is concerned about signing a document that labels the recreation restriction as perpetual even though it would not be considered perpetual under the statute.

The Trustees of Reservations appreciates the grant award and is committed to expending the CPA Funds for this project in accordance with a Grant Agreement and is willing to commit to a restriction for a period of time to ensure that the improvements are available for public use.

To that end, I am writing to request that the CPC consider a change to the draft Grant Agreement to define the recreation restriction as having a term not to exceed thirty years rather than perpetual.

In the alternative, the parties could consider a claw back provision to replace the restriction language whereby the grant funds would be repaid if the improvements are not constructed or do not comply with the Grant Agreement during a defined period of time.

Thank you for your consideration of this matter.

Bogle, DeAscentis & Coughlin, P.C.
Very truly yours,

John J. Coughlin

cc: The Trustees of Reservations



Town of Barnstable
COMMUNITY PRESERVATION COMMITTEE



www.town.barnstable.ma.us/CommunityPreservation

Email: CommunityPreservationCommittee@town.barnstable.ma.us

Committee Members

Lindsey B. Counsell – Chair • Tom Lee – Vice Chair • Marilyn Fifield – Historical Commission • Terry Duenas – At Large • Katherine Garofoli – At Large
 Stephen Robichaud– Planning Board • Tom Lee – Conservation Commission • James Tenaglia – Recreation Commission
 Deborah Converse – Housing Authority • Farley Lewis – At Large • Jessica Rapp Grassetti – Town Council Liaison

Monday, February 27, 2023
Regular CPC Meeting DRAFT Minutes
Remote Access Meeting via Zoom Link: <https://zoom.us/j/84590250313>
5:30 PM

Lindsey Counsell – Chair	Present
Marilyn Fifield – Clerk	Present
Terry Duenas	Absent
Tom Lee-Vice Chair	Present
Katherine Garofoli	Present
James Tenaglia	Present
Deborah Converse	Present
Stephen Robichaud	Present
Farley Lewis	Present
Jessica Rapp Grassetti – TC Liaison	Present

With a quorum present, Chair Lindsey Counsell called the meeting to order at 5:30 pm and read: “Please note that tonight’s meeting is recorded and broadcast on Channel 18 and, in accordance with MGL Chapter 30A, s.20, I must inquire whether anyone is taping this meeting and to please make their presence known.” No one present was recording the meeting.

Call to Order (Roll Call)

Present: Tom Lee – **yes**, Marilyn Fifield – **yes**, Katherine Garofoli – **yes**, Deb Converse – **yes**, Stephen Robichaud – **yes**, James Tenaglia – **yes**, Farley Lewis – **yes**, and Lindsey Counsell - **yes**. Absent: Terry Duenas.

Minutes

The motion of Katherine Garofoli was seconded by James Tenaglia to approve the January 23, 2023, Community Preservation Committee Meeting Minutes as amended. Motion carried with a roll call vote: **Yes – 8, No – 0.**

Letters of Intent

None received.

Applications:

- **Application from the Department of Public Works requesting \$999,755 in Community Preservation Open Space/Recreation funds for the design and installation of a new playground, sidewalks, shade structure, parking and retaining wall located at 93 West Bay Road, Osterville, Map 116, Parcel 053, with \$363,207 in Capital Improvement (CIP) funds to be provided.**

DPW Town Architect Mark Marinaccio narrated a PowerPoint presentation for the Osterville Playground project, saying that this project has been long awaited. He reviewed the improvements including a new playground that would be developed by community workshops and outreach as well as a Playground Committee. He noted that play areas would be separated into two age groups, with the 2–5-year-olds being a priority. He explained that the equipment, pathway and surfacing will be ADA-compliant, and he noted that installation of seating with a shade structure, water bottle filling stations, and landscaping are also proposed. He said that only 5 of the 11 playgrounds in Barnstable are available to the public during school hours, and only 2 of the 5 are accessible: Luke’s Love and Veteran’s Park.

Mr. Marinaccio explained that a master plan for the site was developed in coordination with the Osterville Civic Association. He listed the improvements to the site over the last five years with CPC and CIP funding, noting the completion of the tennis and pickleball courts, softball field and parking improvements. He said that the 2018 CIP-funded design of the new recreation building is nearly 80% complete, and they are now seeking funding for the design and construction of the new playground. Mr. Marinaccio said that the location of the playground is near the village center and library, shopping and restaurants, as well as other recreational elements on the site, and he noted the high level of interest in this playground.

Mr. Marinaccio reported the project budget total as \$1,362,962, with \$363,207 in CIP funds to cover the cost of sidewalks and solid surfacing, paving, solar trash compactor, expansion of the parking lot as well as project management fees, and \$999,755 in CPC funds to cover the playground design, equipment and installation.

CPC noted both the community interest in this playground and the Recreation Commission’s high priority on it because the playground was removed from this location previously, along with others on this side of town, because they were unsafe. Mr. Marinaccio also assured that DPW takes advantage of grant opportunities when they become available. There was further discussion regarding selecting a playground designer who will recommend materials that will meet all the requirements for the fall heights of the equipment, with poured-in-place surfacing considered the most versatile, although expensive. Regarding the rising cost of materials, Mr. Marinaccio noted a State contract that can allow the purchase of the equipment separately. CPC discussed the benefit of the playground’s not being located on school grounds and hoped this could become a destination playground.

PUBLIC COMMENT: None

Motion made by James Tenaglia was seconded by Stephen Robichaud to approve and recommend through the Town Manager the Department of Public Works Application for \$999,755 for the design and installation of new playground equipment at 93 West Bay Road, Osterville, with funds to come first from the remaining balance set aside for Open Space/Recreation and the remainder to come from the Undesignated Fund.

Roll Call Vote: Marilyn Fifield – yes; Deb Converse – yes; Katherine Garofoli – yes; Tom Lee – yes; Farley Lewis – yes; Stephen Robichaud – yes; James Tenaglia – yes; Lindsey Counsell – yes. Yes – 8, No – 0. Motion carried.

Restriction Review:

- Bowles Field Lot 13 Conservation Restriction
- 230 Old Colony Road Conservation Restriction

Chair Counsell requested CPC Members to review the draft Conservation Restrictions that were recently received from the State and to forward any comments they have to the CPC Coordinator for transfer to the Legal Department. He noted that the draft Restrictions will also be reviewed by the Conservation Commission and the LAPC.

Correspondence Received:

- Letter from Massachusetts Historical Commission – Cotuit Federated Church Appeal

There was brief discussion regarding the MHC denial of the Historic Preservation Restriction that is required to qualify for Community Preservation Act funding. Chair Counsell confirmed that MHC Historic Preservation Restriction review will now take place first in the CPC Application process for historic preservation applicants.

- Letter of support from West Barnstable Water Commission for purchase of an 18-acre parcel of land in West Barnstable for protection of groundwater resources.

There was discussion regarding the West Barnstable Water Commission's wanting CPC to look at this as an Open Space acquisition and what evaluations would be required. It was noted that the Chairman of LAPC also provided a letter of support for acquisition of this parcel, and Farley Lewis supported getting an appraisal of this property, noting strong LAPC support.

Town Councilor Gordon Starr said the Hyannis Water Department is doing well-drilling in the Bridge Creek area, and he explained that the acquisition of this lot would expand the required 400-ft. radius around a well and provide more locations to position a well. He said that they are drilling to see how viable the well is and that it looked very promising.

West Barnstable Water Commission Chairman Mark Wirtenen reported the Commission's unanimous vote to support acquisition of this parcel, noting that there will be a need for a future well on this property for the village of Hyannis or West Barnstable or both.

There was discussion regarding the possibility of acquiring both parcels that are for sale: one parcel for open space and one for housing. There was discussion about upgrading the need for housing to a higher priority and the frustration with how slowly housing projects move.

- Letter dated 1/23/2023 from the Trustees of Reservations Attorney John J. Caughlin to Assistant Town Attorney Kathleen Connelly, hand-delivered to CPC by the Trustees' Elizabeth Keary-Soule.

Chair Counsell noted that Attorney Connelly intended to be present tonight to explain the options in the letter, but she was unavoidably detained, and he said this will be taken up at the next CPC meeting.

Member Discussion:

- Hyannis Federated Church Burial Ground Project – Discussion of proposal for a new consultant to complete the project.

After a brief discussion, it was decided that it was appropriate to use a small portion of CPC Administrative funds to complete the project that had been abandoned by the original consultant in order to have a completed report.

- Meeting format for March 20, 2023, CPC meeting.
It was decided that the March 20, 2023, meeting will be held remotely.
- Annual Community Preservation Committee meeting date discussion.

There was brief discussion regarding annual CPC meeting dates, and Deb Converse and Katherine Garofoli reminded that they had indicated last year that they wanted to help with the agenda and presentation for this meeting.

Project Updates:

Chair Counsell provided the following updates:

- The Tales of Cape Cod CPC Application was approved at the February 2, 2023, Town Council public hearing.
- The four CPC Applications approved and recommended at the January 23, 2023, CPC meeting have been referred for inclusion on a Town Council agenda in March, 2023: DPW CCRT Phases 3 & 4; Unitarian Church of Barnstable; COMM Water Department.

Public Comment:

Roberta Mock said that she would like CPC meetings to move toward a hybrid mode to allow for participation of seniors who are not technically inclined. Sarah Beal confirmed that the provisions for remote participation will end on March 31, 2023, and there is no word yet whether there will be an extension of those provisions. She said that meetings will go back to in-person meetings if no extension is forthcoming from the State.

General Discussion:

None

Adjournment:

Motion was made by James Tenaglia and seconded by Tom Lee to adjourn. Roll Call Vote: Marilyn Fifield – yes; Deb Converse – yes; Katherine Garofoli – yes; Farley Lewis – yes; Stephen Robichaud – yes; James Tenaglia – yes; Lindsey Counsell – yes. Yes – 8, No – 0. Motion carried. Meeting adjourned at 6:21 p.m.

Next Regularly Scheduled CPC Meeting March 20, 2023

List of documents/exhibits used by the Committee at the meeting:

- Exhibit 1 –CPC Agenda, February 27, 2022.
- Exhibit 2 –Draft CPC Regular Meeting Minutes from the January 23, 2023, meeting.
- Exhibit 3 – Application – DPW – Osterville Recreation Playground design and equipment.
- Exhibit 4 - PowerPoint presentation – Osterville Recreation Playground
- Exhibit 5 - Draft Conservation Restriction – Bowles Field Lot 13.
- Exhibit 6 – Draft Conservation Restriction – 230 Old Colony Road.
- Exhibit 7 – Letter - Massachusetts Historical Commission – Cotuit Federated Church Appeal.
- Exhibit 8 - Letter of Support from West Barnstable Water Commission for purchase of 18-acre parcel in West Barnstable for protection of groundwater resources.
- Exhibit 9 - Letter dated 1/23/2023 from the Trustees of Reservations Attorney John J. Caughlin to Assistant Town Attorney Kathleen Connelly, hand-delivered to CPC.

Respectfully submitted,
Ellen M. Swiniarski
Community Preservation Coordinator
Planning & Development Department
and edited by CPC Clerk Marilyn Fifield

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*** Public files are available for viewing during normal business hours at the Community Preservation office located at 367 Main Street, Hyannis, MA**

TOWN OF BARNSTABLE
Community Preservation Fund
Schedule of Unreserved Fund Balances By Program Area
As of March 2023

	<u>Program Area</u>			<u>Budget Reserve</u>	<u>Undesignated</u>	<u>Total</u>
	<u>Community Housing</u>	<u>Historic Preservation</u>	<u>Open Space Recreation</u>			
Fund Balance Forward From FY22	\$ -	\$ 261,778	\$ 1,002,911	\$ -	\$ 6,756,243	\$ 8,020,932
FY23 Estimated Revenue					5,461,608	5,461,608
<u>FY 2023 Appropriations:</u>						
FY 2023 Set-asides	546,161	546,161	546,161	2,614,771	(4,253,254)	-
FY 2023 Administrative Budget	-	-	-	-	(200,000)	(200,000)
FY 2023 Debt Service	-	(74,675)	-	-	(1,008,354)	(1,083,029)
2023-049 Conservation Restriction - Commerce Rd			(150,000)			(150,000)
2023-064 Zion Union Historic Museum		(261,778)			(618,772)	(880,550)
2023-069 Olde Colonial Courthouse		(125,000)				(125,000)
Subtotal	546,161	84,708	396,161	2,614,771	(6,080,380)	(2,438,579)
<u>FY 2023 Contingent Appropriations:</u>						
Cape Cod Rail Trail Phase 3			(195,000)			(195,000)
Cape Cod Rail Trail Phase 4			(300,000)			(300,000)
Unitarian Church of Barnstable		(261,000)			(39,000)	(300,000)
Subtotal	-	(261,000)	(495,000)	-	(39,000)	(795,000)
Remaining Balance Available	\$ 546,161	\$ 85,486	\$ 904,072	\$ 2,614,771	\$ 6,098,471	\$ 10,248,961



Town of Barnstable
Land Acquisition and Preservation Committee

www.town.barnstable.ma.us/LandAcquisitionandPreservation



Committee Members

Ann Canedy – Chair Farley Lewis – Vice Chair

Elissa Crowley Steve Gould Elizabeth Lewis Phyllis Miller Tracey Pratt Douglas Payson Anne Rowland

Kristine Clark – Town Council Liaison

Staff Support

Rachael Toolas – Administrative Assistant – rachael.toolas@town.barnstable.ma.us

February 27, 2023

Mr. Mark Ells, Town Manager
Barnstable Town Hall

Re: Consideration of purchase of property located at 2320 Meetinghouse Way, West Barnstable

Dear Mr. Ells:

On February 13, the Hyannis Water Board Chair Sam Wilson, introduced the Land Acquisition & Preservation Committee (LAPC) to an 18 parcel of land in West Barnstable known as 2320 Meetinghouse Way.

After discussion, the Committee voted unanimously to recommend to the Town Manager, Town Council, Conservation, and Community Preservation Committee that a process move forward towards consideration of a CPC funded purchase of this property for water protection purposes. We respectfully suggest that the CPC consider acquiring an appraisal of the acreage in question.

One of the Land Acquisition & Preservation Committee's charges is to identify potential land for protection and/or purchase. One of the most important reasons for land preservation is protection of water quality and drinking water supply.

As you know, the Town is actively seeking parcels to identify water supply sources. The Hyannis Water Board has identified this parcel as a potential drilling site. This 18-acre property abuts Town Conservation Land. Part of this property may be 61A and or 61B (requiring Town right of first refusal).

In addition to its attraction as a water supply resource, this property already has horse and walking trails and is an iconic viewshed.

In conclusion, we urge all interested parties to move forward as quickly as possible towards the review of the merits of the possible acquisition of this property.

Respectfully,

Ann Canedy,
Chair, Land Acquisition and Preservation Committee