

Town of Ayer
Community Preservation Committee

Town Hall * One Main Street * Ayer, MA 01432

Notes for 9/7/2011 - Approved 2/1/12

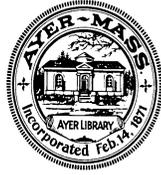
Location: Town Hall, 1st Floor

Members present: Alene Reich (AR) [Historical]- Chair, Gary Luca (GL) [BOS], Mark Fermanian (MF) [Planning Board], Scott Houde (SH) [FinCom], Janet Providakes (JP) [Housing], Beth Suedmeyer (BS) [At Large], Sarah Gibbons (SG) [Parks & Rec.], Jess Gugino (JG) [ConsCom]- Clerk

Not present: Vacancy [At Large]

APAC taped: NO

- AL announced that, because the agenda for the 9/7/11 meeting had not been posted 48 hours in advance, CPC could not conduct a regular meeting nor officially deliberate or vote on matters raised in the Public Hearings. It was, however, deemed that the Public Hearings could continue as advertised in the newspaper notices.
- **Public Hearing: Town Hall Energy Efficiency Projects**
 - The Clerk read the Public Hearing notice.
 - Town Administrator Robert Pontbriand presented CPC with the Town's application for CPA funding and an accompanying memo dated August 3, now amended to include technical specs.
 - Mr. Pontbriand originally sought funding for both a new generator and an HVAC system for Town Hall.
 - However, earlier in the day Ayer has received funding from the Green Communities program for the HVAC system.
 - The Town is therefore applying only for \$69,430 in CPA funds to replace Town Hall's emergency generator (\$40,725 for the generator, \$20,240 for installation).
 - This will be the maximum cost as the project is subject to the Massachusetts Procurement bidding process.
 - Mr. Pontbriand outlined the application's applicability under the criteria for funding Historic Resources for the purpose of *preservation*.
 - Town Hall has been determined by the local Historical Commission to be significant.
 - The Historical Commission in fact led the successful effort in 1988 to have Town Hall listed on the Massachusetts State Register of Historic Places.
 - The generator upgrade is endorsed by the Ayer Energy Committee, the Ayer Capital Planning Committee, the BOS, Fire Chief Robert Pedrazzi, Police Chief William Murray, DPW Superintendent Dan Nason, Community and Economic Development Director David Maher, Facilities Maintenance Director Daniel Sherman, and Building Commissioner Gabriel Vellante.

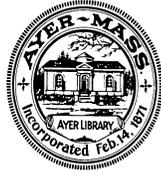


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- The current 30-year-old+ generator has the capacity to run around 5 lights in a power outage; the new generator would be capable of running lights, computers, and the heating system during a sustained outage.
 - This would enable Town Hall to function as a center of government and possible shelter during an emergency, as well as protect the structure, interior, and contents of Town Hall, including valuable historic records.
 - Chief Pedrazzi has told Mr. Pontbriand that the temperature inside Town Hall dropped 20 degrees during just a 3 hour power outage during the 2008 ice storm; longer outages during winter could result in significant damage from burst pipes.
- If CPC endorses the application and it is passed at Fall Town Meeting (10/24/11), the new generator could be installed within 60 days, by December 1st at the latest, Mr. Pontbriand said.
 - The old generator could be kept for contingency purposes or the BOS could dispose of it as excess property.
- The Warrant for Fall Town Meeting closes 10/14/11.
- JG moved to continue the Public Hearing to 10/5/11 for CPC to take a vote as to whether to endorse this application and move it onto the Warrant; GL 2nd.
 - Motion approved unanimously.
- **Public Hearing: Pond Weed Control Projects**
 - The Clerk read the Public Hearing notice.
 - GL presented a brief application on behalf of the Town for CPA funding for 1) \$10,000 to commission a long-term pond weed control management study; and 2) \$35,000 to fund Article 38, for weed treatment of Flannagan Pond, as passed at Spring Town Meeting 2011.
 - Article 38 as yet has no funding source and the Town must find such a source at Fall Town Meeting in order to bring the budget into balance.
 - GL said weed control qualified for CPA funding as preservation of Open Space.
 - Resident Patrick Hughes expressed support for the proposal, linking it to a larger issue of watershed management.
 - Mr. Hughes said Flannagan Pond was an important resource for all Ayer residents, but also spoke in support of greater public access to the pond.
 - Mr. Hughes added that while the weeds in Flannagan Pond needed to be brought under control, it was also important that the Town set up consistent funding for the long term.
 - BS noted the difference between natural ponds versus manmade ones such as Flannagan which, over a century ago, became an artificially impounded/flooded wet meadow turned into a pond.

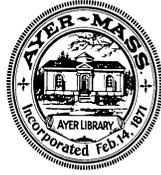


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- BS said, from an ecological perspective, Flannagan Pond was trying to revert to its original state.
- AR said it was not a question of whether weed treatment on Flannagan Pond was necessary, but rather whether CPA funds were the right ‘pot of money’ to draw from.
- Resident Warren Bell said that Flannagan Pond cannot return to its natural state, given deep swimming holes dug out in the fifties and sixties, before the Wetland Protection Act came into being.
- BS said treatment of Flannagan Pond constituted, in her view, an ongoing maintenance issue of a nonnatural system and thus was not a legitimate use for CPA funds.
 - Also, by CPA criteria, treatment of Flannagan Pond was not a worthwhile benefit for the whole town.
 - BS added she did support use of CPA funds to sponsor a longterm weed management plan for all the Town ponds.
- GL said he did not consider treatment of Flannagan Pond at this point to be simple maintenance.
- AR disagreed.
- A resident said it was irrelevant whether Flannagan Pond was natural or manmade; it was a pond now.
- Mr. Hughes agreed, saying people have to take responsibility for the ecological systems they have created.
 - He added that the Blandings turtle, which can be found in Flannagan Pond, does seem to care whether the pond is natural or manmade.
- Resident Chuck Miller, head of the Friends of Flannagan Pond group that spearheaded Article 38, said Flannagan needed to be reclaimed as Open Space, not simply maintained.
 - Public access to 85 acres of Open Space is at stake, Mr. Miller added, noting that people have long been able to put in boats from Snake Hill Road for prime fishing – when the pond, and fish, aren’t choked off by weeds.
- MF said he’d love for Flannagan to be open like Sandy Pond but BS is right, it used to be a field and is now manmade.
- A resident said that only 8 years ago, people could fish on Flannagan and that it would be a real shame not to preserve it for that purpose.
- JG, in support of the proposal, said she thought Flannagan Pond was in a crisis and needed to be brought back to a level where regular maintenance could then take over.
 - Whatever its history, it was a pond now and the Town needed to move forward from that point.
- AR said her concern was the letter of the law.

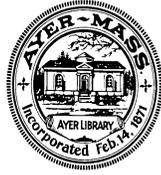


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- It would take only one person to decide treatment of Flannagan Pond was maintenance rather than preservation, then hire an attorney and sue the Town.
- BS said it was incumbent on the Town to find \$35,000 to fund Article 38, but reiterated that using CPA funds was not appropriate for what she considered to be maintenance.
- An audience member asked if it wasn't possible to fund a reclamation effort on Flannagan for a year or two, then find another pot of money to perform continued maintenance.
- BS said the verbs used were important in considering the legal use of CPA funds.
 - CPA funds can be used to 'rehabilitate' and 'restore' only property first acquired with CPA funds.
 - She disagreed with Article 38 funding being an act of 'preservation'.
- AR again said it was questionable whether this proposal fits into the legal use of CPA funds.
 - And audience member asked how the question of legality could be addressed.
 - AR said she would start by contacting Stuart Saginor, of the Community Preservation Coalition, for an opinion.
 - If questions remained, this matter could then be referred to Town Counsel.
- Resident Mike Hawes said when he bought a house across from Flannagan Pond several years ago, he saw then a beautiful pond and thought Ayer was an up-and-coming community.
 - The question of treatment here was not just about the pond but the image of the town itself.
 - Mr. Hawes suggested people will move out of Ayer if resources like Flannagan's are not kept up.
- An audience member asked what the purpose of this meeting was, given that Article 38 passed at Spring Town Meeting.
- SH reiterated that the passage of Article 38 at the end of that meeting left the budget out of balance, and Fall Town Meeting therefore needed to find funds for Article 38 one way or another.
 - The General Fund or the Stabilization Fund might be sources, although Spring Town Meeting rejected the use of the latter to fund Article 38.
 - SH expressed his view that the \$35,000 sought by the proposal was for rehabilitation of the pond, not for regular maintenance.
- Resident Jeremy Callahan asked if changing the purpose of the funding request to stress the 'creation of recreation use' would better fit into CPA criteria.
 - AR referred to the example of CPA funding for the Pleasant Street School, and how original deeds had to be examined in order to see if that land had ever been used for recreation.



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- CPA funds may only be used for the creation of recreation on CPA-purchased land.
- SH explained the sticking point as to the legal use of CPA funds has to do with the lawsuit filed against the city of Newton for using CPA funds to build a new playground on land not purchased with CPA funds.
- An audience member asked if CPA funds weren't used to improve the Town Beach several years ago.
 - AR said yes, but that that was 'pre' versus 'post' the Newton lawsuit.
- AR said the take-home message for the audience was that Article 38 would be funded by the Town somehow, just that it was not a home-run as to whether it was eligible to for CPA funding.
- MF said all seemed to agree that something needed to be done for Flannagan Pond.
- He wondered whether calling it reclamation rather than maintenance would help.
- Warren Bell pointed to how the Ayer ponds are interconnected and said that if the water in Flannagan became 'dead', this would flow into and affect Grove Pond and other aspects of Ayer's water supply.
- Chuck Miller expressed frustration on behalf of the Friends of Flannagan, saying that a simple majority vote had passed Article 38, but that use of the Stabilization Fund had required a 2/3 vote, which Article 38 did not secure.
- Now it seemed the same battle was having to be fought all over again.
- AR said the overriding question was legality and whether the Town could potentially be sued.
- GL and MF said if weed treatment funding was found to qualify for CPA money, then why not use it.
- Selectwoman Pauline Conley said to let Town Meeting make the final decision.
- JG moved to continue the Public Hearing to 10/5/11 for CPC to take a vote as to whether to endorse this application and move it onto the Warrant; JP 2nd.
- Motion approved unanimously.