



Malden Community Preservation Committee

Remote Committee Meeting

January 19, 2021 6:00 p.m.

**Meeting Minutes**

Committee Members in Attendance: Lisa Sulda, *Chair*, Inna Babitskaya, Monique Ching, Rachael Running, Khalil Kaba, Eric Henry, Brendan Brett,

Committee Members Absent: Cameron Layne (absent due to internet connection difficulties)

Daniel Koff, CPA Administrator

**1. Meeting Called to Order:** Sulda called the hearing to order at 6:01 p.m., and read the provisions to hold a remote meeting pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law.

**2/3. Approval of Minutes from November 17, 2021 and December 8, 2021**

*Ching moves to approve the meeting Minutes from November 17, 2021 and December 8, 2021. Khaba approves. 6-0 approved.*

**4. Deliberation**

Sulda clarified the available options for outcomes of the CPC's deliberations: approve, approve with conditions, reject with invitation to reapply, and reject. Sulda opened deliberation on open projects.

**Malden River Works**

Sulda provided an overview of the application for \$200,000 to support the 75% design of a new park along the Malden River. Sulda informed the committee that the budget reflects a proposal for CPC to fund a portion of consultant costs including the contingencies.

*Cameron Layne entered the Zoom room to express that he has an internet connection problem and cannot attend the rest of the meeting. Sulda excused him from the meeting, and Layne left the room. Layne is noted as absent from this meeting.*

Sulda clarified that the City Solicitor confirmed that funds towards the design of the boathouse are an eligible expense because they are for public use, and promote the active recreation of the river. Sulda updated the Committee that the recent budget provided by the applicant matches the consultant bids. Expenses proposed to be covered by CPC funding include contingencies in Task 2, and items plus contingencies in Task 3, and 4, as well as consultant costs in Tasks 5-8. Koff clarified that the reasons why CPC funding is not proposed to be spent on the core tasks in Task 2 because much of the work on that task is planned to be completed by the time that CPC funding may be available, thus it would only cover any contingencies on that task that may arise.

Sulda clarified that the request is for \$200,000 which includes \$70,000 in contingencies. The contingencies include the high end of the range of estimates provided by Nangle. Although the total request has not changed, the original budget submitted by the applicant did not include contingencies, but were added as itemized costs in the most recent budget that has been submitted.

Sulda expressed her opinion that a 40% contingency is a lot to ask, and wondered if there are bigger issues with this application. 20% is more of an expected contingency.

Running expressed that Sulda raised a good point. She believes it is an excellent project that has broad community support, so she may be more concerned about this issue if it were a smaller group or more unknown entity. She thinks this is an A-team group with strong support from the community, and is not bothered by the high contingency in this request because she believes there is a lot of integrity in this application.

*Kaba recused himself from discussion on the project because he has a personal conflict as a member of the Malden River Works Steering Committee.*

Babitskaya expressed that it is a valuable project with community support, but wants to ensure that the CPC explores all aspects of the project including the consultant costs.

Koff explained that the contingency for the entire project is 12.5% which is in range of a typical project of this size. The contingency is 35% of the total request to the CPC because the entire load of the contingency is allocated to this source of funding. One reason is because much of the work has already been completed, using other sources of funding. Contingencies are typically used at the end of the project, and this one is entering its later phase. An additional reason that the applicant loaded the contingency for the entire project on the portion of funds allocated by the CPC is so that any unused funds may be rolled back into the General Reserve and reallocated to other projects.

Sulda expressed that when contingency is involved, it is rare that funds are not used. Allocated funding to a project may be used by that applicant, so there is a chance that no funds may be returned to CPC.

Babitskaya queried as to how the 12% was calculated.

Sulda confirmed that the calculation was made based on the budget provided by the applicant. She expressed that she is not entirely comfortable with supporting such a large percentage of the contingency.

Brett ran the calculations for the percentage of contingency in the request for CPC versus the total budget. Koff shared his screen to show the budget. Brett confirmed that most of the contingency is related to the outcomes of the tests which are unknown given the prior industrial use of the river. Given that this element is a wildcard, he inquired as to what else the applicant may include in this request.

Sulda believed a 20% contingency is more in line with industry standards.

Koff clarified that Nangle is the engineering expert on the Malden River. He is someone who the City uses on issues related to the river.

Sulda clarified that she will cast a vote only if it is close.

Babitskaya inquired whether the Coalition may approve the costs. Sulda confirmed that it is up to the municipality to make a determination. Babitskaya advocated for more consideration if there are any doubts as to eligibility or usefulness of funding because the budget is tight.

Henry requested a point of order whether there is still quorum without Cameron's presence and Khalil's abstention. Sulda confirmed that there are 6 voting members which is a quorum.

Henry expressed that this is a relatively new body with little precedent to rely upon, so he requested to know what percentage of these types of projects are typically dedicated to contingency, and what would be the detriment if CPC would be unable to support the project in full. Sulda responded that contingencies in this body have often been between 18-20%. In her professional work, contingencies were 15-20%. In construction, a 20% contingency is standard.

Brett requested to know more about the role of Landing Studio in the project compared to Nangle Consulting. Sulda confirmed that Landing Studio is the main design consultant and their bid represents the majority of the costs (~\$468,000, compared to \$56,000 from Nangle for engineering). Brett confirmed that the majority of the contingency is in Task 2, and Nangle only asked for \$39,000 in that task and doesn't mention contingency, whereas Landing Studio does not mention a contingency in their bid. Sulda confirmed that this budget was created and contingencies were added by the project manager, Evan Spetrini at OSPCD.

Ching expressed confusion at not seeing Nangle's costs within the tab that she was looking at. Sulda confirmed that they are viewing the Budget Details tab. Koff shared his screen to show how the tasks in the budget align with the tasks in the Landing Studio budget, whereas tasks for Nangle are distributed within those tasks and are thus not as easy to parse.

Running expressed that she is incredibly enthusiastic about this project as a whole, and CPC's proposed contribution to it. She believes this is the kind of project that the CPC should be supporting due to environmental remediation, providing new access to an open blue space that was otherwise inaccessible. She does not believe that funds will be used improperly based on what she has read in the application, so the percentage of contingency is not a concern and she hopes that the application is passed.

Brett sees a concern with setting precedent given the large contingency, but he thinks that the contingency is reasonable given the task at hand to test the unknown conditions of the river. Sulda confirmed that CPC only releases funds for work completed that is approved by the Coordinator to ensure that it is in line with approved expenses.

Koff shared his screen to show an additional breakdown of calculations:

- Total project budget: \$623,696.25
- Total request to CPC: \$200,000.00
- CPC % share of project: 32%
- CPC % share of project without contingencies: 24%
- Total CPC request without contingency: \$130,903.75
- Total contingency on project (and in CPC request): \$69,096.25
- % contingency as share of request to CPC: 34.5%
- % contingency as share of entire project: 11%

Ching agrees with Running that she is comfortable with an 11% contingency on the overall project. The applicant loaded the project's contingency onto CPA funding to make sure that the CPC is comfortable with the expenses.

*It was moved by Running, seconded by Ching to recommend that the CPC fully fund the Malden River Works Project for an award of \$200,000.*

*Running amended the motion to include a condition to require that all costs associated with both the Park and the DPW Yard be split 72-28%. The motion was passed 5-0.*

*Sulda requested that this project receive funding from the Open Space Fund.*

### **Devir Park**

Sulda introduced the request for Devir Park to be awarded \$700,000 for the creation of construction documents and the construction of two of three phases that were laid out in the Devir Park Master Plan. She discussed the recent correspondence from applicants including that they increased caliper of some trees and that two additional trees are now planned to be saved. A plant list was provided. Sulda is disappointed that only 4 evergreen trees are included, but that the diversity of new plantings was nice to see.

Sulda expressed that she would like to see the third phase completed as soon as possible.

Babitskaya expressed a concern about the removal of trees in city parks, and inquired as to whether a motion may be made to request that City Council hire a professional arborist to determine whether trees should be removed throughout the city. She views it as a form of historic preservation. Sulda expressed that the Plan update may express a desire for existing mature trees to be saved (where possible) with CPC-awarded projects.

*It was moved by Henry, seconded by Brett to recommend that the CPC fully fund the Devir Park Project for an award of \$700,000 to come out of the Budgeted Reserves. Motion passed 5-0.*

Henry requested a point of clarification as to whether the Chair should ask the person who made the motion to vote, or whether their motion would be viewed as an affirmative vote. Koff informed Sulda that there may be times when the person making the motion may vote in the negative. Sulda agreed to

require a formal vote from those who make motions. Sulda requested votes from Henry and Brett on Devir Park, which were both in the affirmative. Motion passed.

### **Linden Park Ice Rink**

Sulda introduced the request for the Linden Park Ice Rink to be awarded \$200,000 for a design phase to convert a street hockey rink to an ice rink. Sulda confirmed that community outreach to the School has been minimal so far, so it may be included as a condition of the grant, with specific populations identified (school community and abutters). Notification to the Committee would be required concerning any community meetings about the project.

Brett confirmed that they are requesting \$200,000 in this phase for design, and \$300,000 in the future for construction (to be voted upon later).

Running agrees with Sulda. The applicant was able to address many of the CPC's concerns in his presentation to the Committee. Running's remaining concern is with community engagement. The applicant's desire to make ice skating more accessible by providing free skating periods at high traffic periods to a community who otherwise wouldn't have access to ice skating is admirable. She sees potential in the project.

Sulda would also like to request a maintenance plan be developed in this phase to determine how costs would be covered to ensure that the facility won't become a burden on the city/taxpayers. She wants to add this condition to the grant agreement.

*It was moved by Ching, seconded by Running, to recommend that the CPC fully fund the Linden Ice Rink Project for an award of \$200,000 with the stated conditions to come out of the Open Space Reserves. Motion passed 5-0.*

### **Crescent Slope**

Sulda introduced the application to survey a small woodland lot at Crescent Slope. The applicants obtained three bids, and have adjusted their request to account for the highest bid. The request is currently for \$13,216 to survey the property as a first phase of a larger project to turn it into a nature habitat and learning space. An evaluation was conducted by the Conservation Commission and it received 23 points out of 44 points. It rated relatively low, but within the range to be considered favorably.

Babitskaya requested more information about why the range of costs was so different across the three bids. She requested an inventory of prices for various types of work. She believes that many times applicants ask too much for the work that needs to be completed. Sulda responded the CPC has instituted a rule for applicants to obtain three bids as a way to ensure that the CPC is paying a reasonable rate for the scope of work. Each project is different, so creating a comparable matrix may be difficult. The CPC can vote to award less than the total request. Running expressed that since costs on these projects fluctuate with changing labor and materials costs, prices are not fixed. Having a matrix of this kind would necessitate constant revamping.

Brett likes this application because there is a group who has taken responsibility to be a caretaker for this lot that would otherwise take a lot of maintenance to improve. The bid is for marking the fence, not installation, so it seems costly to pay for the highest bid that is three times the estimate of the lowest two bids. Sulda agreed and said she appreciated the effort made by the applicant. They are very knowledgeable about the area and have already put in a lot of work into improving the site prior to their request for funding.

*Running made a motion to approve the project for \$6,000*

Babitskaya thought it might be wiser to permit them to do this project with a lower bid, closer to \$4,000.

*Running amended her motion to award Crescent Slope \$5,000.*

Henry made a point of order to request information concerning the three bids. Koff confirmed that the bids came in at: \$3,900, \$3,800, and \$13,000 respectively.

Henry inquired whether Running would be amenable to lowering the motion to \$4,000. Running expressed that she would like to provide the applicant with a contingency, and \$4,000 would not provide much of a cushion. Brett expressed that he would like to include a contingency for the lower bids, but thought that the highest bid was too much.

*Brett seconded Running's amended motion to award Crescent Slope \$5,000. Motion passed 5-0*

### **0 Leonard St.**

Sulda introduced the application for \$75,312 to acquire a piece of property and hold it as conservation land. The Conservation Commission evaluation gave it a 19 out of 44 points and needed at least 22 to be reviewed favorably. The City Solicitor confirmed that the City would hold and own the Conservation Restriction. The applicant would grant access to the public, and is interested in installing signage. This would be the CPC's first purchase of property. It is proposed to remain as an unimproved nature habitat across the street from Waitt's Mountain.

Running is generally amenable but has some concerns. She believes the applicant is requesting a lot of money for the purchase price. Public access is limited. It is at the end of a dead-end street, so it seems as if the CPC would be preserving property for the local residents only. Sulda agreed. Running expressed that although there are benefits to preserving green space for natural habitat without a recreational use, since this lot is next to an existing park, the value of preserving more nature there is diminished.

Brett visited the site recently. He confirmed that although it is across the street from Waitt's Mountain, it is far from the entrance and pathways, so it would be a stretch to call it an extension. Malden is lacking in green space, but the benefits seem different for this project. There is no plan here to keep the space clear and clean. The applicant might form a friends group. The cost is high. He is not sure what the city gets out of the expense. He does not see preserving this land as a benefit to anyone beyond the abutters.

Ching expressed that she is not comfortable spending city funds on property that seems to have a private benefit. She has passed by the site numerous times and confirms that it appears to be private. It

is down a side street behind houses. Unless there was some assurance for more signage, more public parking, and greater public access, she would not be comfortable with this proposal. The amount they are asking for is 50% higher than the latest sale prices. The appraisal was high. She is not comfortable with the project.

Sulda expressed that it is a lot of money, but the CPC can vote to award less and see if the seller will sell. This project may have come before the CPC in 2018 as a pre-application, but may have been denied because of ineligibility. Koff confirmed that he could not find these records (the CPC used a different email and electronic filing system prior to 2019).

Sulda expressed that the application may be stronger if there were a neighborhood group in place, or if they requested a survey, then maybe the applicant could be reinvited in another fiscal year. It could be an option to not approve the application as it is.

Henry appreciates that there may be history in coming before this committee. The purchase of land should be considered judiciously. He thought \$75,000 for 1/3 acre seems high, but the appraiser thought the price would be appropriate for that lot. There may be potential for negotiation. He wanted to be judicious about the opportunity to purchase land and the potential to use it to enjoy nature.

Babitskaya had concerns about the project and agrees with Running, Ching, and Brett that if a purchase is made, it should be available to the public. She questioned what the purpose of a purchase would be without robust public access. She advocated for improving what the City maintains already, rather than spend funds on property that will not be accessible.

Khaba agreed. He expressed that if they formed a group, perhaps they could raise the funds themselves. Currently he is not convinced on the greater potential for the project. He believed that it seemed to be more of a personal endeavor given the scale of the proposal.

Brett agreed. He noted that the lot has been for sale for years. It was put on the market for \$100,000, then reduced to \$50,000, so purchasing it for \$75,000 does not make sense. It does not seem to be a buildable lot, so this project may just benefit the seller.

Henry asked if there is a price at which he would be comfortable.

Brett expressed that the only benefits are trees and nature. He does not see what the City of Malden and its residents at-large get out of the project beyond knowing that they are preserving nature.

Sulda expressed that she would like to see a bigger plan for the lot beyond a simple purchase, but there does not seem to be an intention to create one. There is not even a plan to survey the lot. There is simply a promise to create a community group. Given that a survey is not proposed, there is no guarantee that even a sign would be installed after the purchase would be made. The funds are simply proposed to go towards the purchase and the filing fees.

Brett confirmed that Crescent Slope is city-owned. He inquired how that transpired, but was unable to receive a definitive response.

*It was moved by Running, seconded by Ching, to reject this project. Motion passed 5-1.*

## 5. New Application – Spot Pond Brook Greenway

Sulda introduced a new off-cycle application from the City for a Spot Pond Brook Greenway Phase II. The application is to create a 25% design and engineering plan for the continuation of the Greenway. The total request for this phase is for \$25,000 to serve as a match to a \$100,000 grant that has been awarded to the project. Phase I of the Greenway was awarded \$150,000 by the CPC in FY21 and has \$15,000 left unspent. If those funds were rolled into this new phase of the project, their request would only be for \$10,000. Next steps are to decide if it is eligible, then schedule a hearing, then get it on track for FY23 funding.

Sulda did not perceive any issues with eligibility. Brett agreed, and pointed out that DCR is in support.

Sulda confirmed that the decision at hand in this meeting is whether to move the project forward for a Public Hearing. Running agreed that it would help to schedule a Public Hearing for this project as CPC funding would unlock additional sources of funds.

Kaba inquired about the timing for additional deliberation. Sulda confirmed that CPC deliberation could be held in March or April and if CPC voted to recommend the project, the recommendation could be sent in a follow-up round to the City Council in time to be included in FY22 funding. *It was moved by Brett, seconded by Kaba to move Spot Pond Brook Greenway application to a Public Hearing. Approved 6-0.*

## 6. Status update on new jobs

Koff provided a status update based on the export of the finance tracking sheet and memo on current invoices. All projects are on track.

- [CPC Financial Report 20220119 \(1\)](#)
- [Open-Project-Status-Update 20220118](#)

The following projects are at or near completion and may be closed out shortly:

- Spot Pond Brook Greenway Phase I
- Trafton Park Phase I
- Kierstead & Tartikoff Parks

Sulda confirmed that she and Koff will conduct more due diligence on the Start Secure Program to review the guidelines to make it more accessible given that only 1 out of 13 applicants have been eligible, and that only \$2,300.00 out of the \$100,000 award has been spent in nearly a year.

## 7. Review survey and pre-application

Sulda introduced a new survey for FY23 that is a copy of the one for FY22, and a new online version of the pre-application that the CPC may use in FY23. Running inquired as to whether the questions on the Pre-Application have changed in the conversion to an online format. Koff confirmed that the online pre-application is not substantively different from the previous form, although the questions are laid out differently. Koff created two versions of the pre-application, one that places the applicant information

on the front page, and the other that places the information about the project on the front page. Sulda informed the Committee that they are reviewing best practices from other CPC's in an effort to make the application process more accessible. Sulda confirmed that the Pre-Application does not need to be approved in this meeting, but the survey needs to be approved.

*It was moved by Running, seconded by Ching to approve the survey for distribution. Approved 6-0.*

## **8. Schedule Public Hearing**

Sulda proposed doing a combination public hearing on Spot Pond Brook and an informational hearing, plus a monthly meeting in February. Sulda proposed starting at 6:30pm start time on February 16<sup>th</sup>.

## **9. Other business**

Sulda confirmed that the new CPC ordinance has been approved, but not yet posted on the city's online municipal code system. Members will be allowed no more than 3 terms (instead of 2).

Koff will update the chart with everyone's chart date and term limits based on the new guidelines.

Henry inquired whether his term has been extended. Sulda confirmed that his term has been extended. Henry expressed that it is a worthwhile agenda.

## **10. Adjournment**

*It was moved by Running, seconded by Brett to adjourn the meeting. Approved 6-0.*

### **Meeting Packet:**

- [CPC Financial Report 20220119 \(1\)](#)
- [Open-Project-Status-Update 20220118](#)
- [1-10-2022 Devir Park Memo to CPC](#)
- [1-10-2022 Revised Devir Park Planting Plans](#)
- [1-10-2022 Revised Devir Park Site Prep and Demo Plans](#)
- [A21 - Leonard Street](#)
- [Crescent Slope Conservation Area - Rev December 2021 complete compressed final](#)
- [Devir Park Revitalization Project Final Application 9-3-21](#)
- [Final CPC Application for Linden Rink - October 2021 \(1\)](#)

- [Malden River Works CPA Application\\_FINAL 9-7-21](#)
- [Oak Grove Neighborhood Green Space 0 Leonard Str Application 9-3-21 \(1\)](#)