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**Michael A. Podolski, Esq., Chair**

**John R. Bethoney, Vice Chair**

**Robert D. Aldous, Clerk**

**Ralph I. Steeves**

**James E. O’Brien IV**

**Planning Director**

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**TOWN OF DEDHAM**

**PLANNING BOARD**

**MEETING MINUTES**

**November 3, 2016, 7 p.m., Lower Conference Room**

**Present:** Michael A. Podolski, Esq., Chair

John R. Bethoney, Vice Chair

 Robert D. Aldous, Clerk

 Ralph I. Steeves

 James E. O’Brien IV

 Richard J. McCarthy, Jr., Planning Director

Call to order 7:00 p.m. The Pledge of Allegiance was recited. Plans, documents, studies, etc., referred to are incorporated as part of the public records and are on file in the Planning and Zoning office.

**Dr. Dennis Teehan, Board of Selectmen: Discussion regarding Community Preservation Act**

Dr. Teehan gave a brief history of the Community Preservation Act (CPA), created by the state legislature in 2000 to incentivize investment in open space recreation, historic preservation, and affordable housing. It works as a surcharge, which can be between 1% and 3% of real property taxes; Dedham would have a 1% surcharge. It requires a Town Meeting vote and a town-wide ballot question, and would not become law until it was voted and approved at both Town Meeting and town election. Communities participating in the program receive an annual distribution from the trust fund, which contains money from the Registries of Deeds. Residential and commercial properties are included. The first $100,000 of home values and commercial values in Dedham would be exempt, and any local exemptions related to value and income would apply. Low income and seniors getting income assistance on their tax bill are disqualified from the program and would not pay a surcharge. The revenue is tallied and, based on what the town collected, it would get a proportional amount of money from the CPA trust fund. Recent distributions to other towns have been considerable, between 30-50%. Dr. Teehan believes it was 31% this year, and the year before was 52%. He reviewed a slide that shows the numbers, what the surcharge would be, what would be collected from taxpayers, and what would be received from the state.

From the money collected, the Town would spend 10% on open space and recreation, historic preservation, and affordable housing. The Town could spend 5% on administrative costs. The remaining money would be spent according to the will of Town Meeting. The funds also can be used to pay debt services. The money does not have to be spent in any one year, so the Town would not be under obligation to do projects that it would not otherwise do. If Town Meeting and the electorate pass the CPA, the money would be managed by a nine-member committee (5 appointed, including a Planning Board member, and 4 elected), which would govern where the money goes. Projects are proposed to the committee, which then sends it to Town Meeting for a vote. No project would ever be approved without Town Meeting approving them, and they are subject to all applicable laws and regulations. Dr. Teehan said this is not a tax increase; it is a 1% surcharge. It will not raise taxes, and the state will match the money. He said it would bring in hundreds of thousands of dollars to the Town for its projects, making considerable savings. He said the Town could do the same amount of projects for less money. He felt that this was a critical move for the Town, especially financially.

Mr. Bethoney commended Dr. Teehan for his passion and knowledge. He said that it would be a problem if people think of it as a tax because taxes are high in Dedham. He posed some questions for Dr. Teehan:

1. If the Town had had CPA when the Town did the Endicott Estate, Dedham Square, Condon Park, Ames School, and Town Hall, would the real estate taxes on his house and office be lower today?
2. The Town spends money to take advantage of the funds, but it then takes the excess money and puts it into something else with the philosophy of “if we have it, we’ll spend it.” Will the Town take the savings and spend it on something else?
3. Re: Residential tax rate. He agreed that the tax rate had gone down. However, what was not stated in the report is that the assessments on properties have skyrocketed to a far greater degree than the tax rate has gone down. As a result, his yearly taxes have consistently gone up. In addition, commercial property is strangling in town. He said that the word “surcharge” will be a hurdle. People will question why their taxes are so high, where the tax money is going, and why is the rate always going up to a significant degree.

Dr. Teehan said these are hypothetical questions. He could not say definitively what would happen. The most likely scenario is that the CPA will have a positive effect on tax rate moving forward, and benefit the town financially. He believes it will lower taxes; this will be seen in ten years. He said he did believe it would have had a positive effect on the tax rate in the past. Mr. Bethoney was concerned about having the savings and wondering what to do with it, whether it will go back to the community or will it be spent because the Town has it. Dr. Teehan said there would be more than enough projects to supplement with the match money.

Mr. Aldous said this is not state money, but our money; it comes from the Town anyway. He did not see how it would save money because it is still tax money. If the state wants to give the Town money, it comes from the Town anyway. He noted that there was an article in the *Boston Herald* that said the CPA would probably die within a few years. Dr. Teehan said there was no indication of this. Rep. Paul McMurtry said there is a bill to supplement the program. Mr. Aldous asked if the Town would get less money over the years, and Dr. Teehan said it is possible, but it is also possible to get more; he said this is unpredictable. Mr. O’Brien asked how many times the Town could have dipped into this program if it had been part of it before doing the 24 projects the Town has done. Dr. Teehan said a check is cut every year, and can be used or not used. The Committee decides this. There are 161 towns involved with the CPA out of the 351 towns in the state.

Mr. Podolski said this surcharge will be on the people who own real estate in town, roughly 9,500 properties. There are about 25,000 people in town. Minus children, less than half of the people will pay the surcharge, and the rest, who are tenants, will not. He did not think it was right. Dr. Teehan said that landlords would pay the surcharge, but Mr. Podolski said that landlords will raise rents. In addition, CPA money cannot be used for artificial fields, i.e., Gonzalez Field. Dr. Teehan discussed this. Mr. McCarthy noted that if the Town does approve the CPA, it would be for five years. Mr. Podolski said the biggest problem is that the Town will spend the money anyway, and it is already spending too much. How the money is spent has to be better targeted. Surpluses should come back to the taxpayers, not pet projects. The people who put it in should get it back, not in pennies on a tax rate. Michael Butler, Board of Selectmen, said that last year, when there was a surplus, a postcard was sent to every resident in Dedham about a meeting in December. Mr. Podolski was there and did not see anything done at the meeting. He said the Town spent $7 million on pension liability, which was half of the surplus. This was discussed in detail. Mr. Butler said the process was going to be repeated this year so people can come to the Middle School to give thoughts on what the Board of Selectmen proposes for this year’s surplus.

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| **Applicant:**  | **ECEC** |
| **Project Address:** | **1100 High Street, Dedham, MA** |
| **Case #:** | **SITE-01-16-2061** |
| **Zoning District:** | Single Residence A |
| **Representative(s):** | Michael Williams, Principal, KBA Architects, 6 13th Street, Charlestown Navy Yard, Charlestown, MA 02129David Roberts, School Building and Rehab Committee |
| **Town Consultant:** | Steven Findlen, McMahon Associates  |

Mr. Findlen said the three outstanding on-site issues have been addressed and resolved. Town Engineer Jason Mammone, P.E., sent a letter saying that the issues that he had would not hold up Board approval.

1. A potential issue had been identified re: buffers. The Conservation Commission approved the conditions, saying there is no issue. This has been resolved.
2. The Fire Chief sent his final letter regarding safety. This has been resolved.
3. There were concerns about how pedestrians would operate. They proposed additional guide signage on the site to get people from High Street through the site. He received a revised plan this morning, and he is fine with it. This has been resolved.

The Applicant is reviewing Mr. Findlen’s comments regarding traffic. The working committee will meet on 11/4/16. Mr. Findlen thinks he will receive proposed mitigation from the Applicant for Route 109. The Board should be involved in this as much as possible since it is the biggest neighborhood concern. Mr. Findlen said he should be able to review and respond to the letter he received by Thursday. He wants to get a response from the Applicant regarding the traffic issues as soon as possible.

The traffic presentation and off-site mitigation on will be discussed on 11/4/16, and then the Board would get into it on 11/10/16. Mr. Podolski said he did not think this will be finished then, or before the holiday season. He asked Mr. Roberts whether their schedule would be impacted if the on-site portion is approved but traffic is not resolved before the beginning of January. Mr. Roberts said this is not part of the reimbursable part of the budget approved by Town Meeting. Traffic does not affect their schedule in any way. Mr. McCarthy said the overall purpose was to do the traffic presentation to ensure all the points were given so that the design number is right. Mr. Podolski said that if on-site is approved, then they can get the state money, and the Board can continue to work on Route 109. Mr. Findlen said they will need a more thorough traffic presentation on 11/10/16. The Board had no further questions. The Board will do a Certificate of Action for on-site, and another for off-site.

Paula Leca, direct abutter, 1076 High Street: She asked about the blasting, when it will happen, when the homes will be surveyed for documentation if there is damage, the hours of demolition and construction, the lighting, the noise, the days when work will be done, and whether her house would fall apart. She asked if there would be notification, and how they could get an agreement on that. Mr. Podolski said this is handled by the construction management schedule. There is never construction on Sunday with the exception of an extreme emergency. Typical hours are 7 a.m. to 4 p.m. with an occasional Saturday; the neighborhood would be notified in advance. The Building Department will go down there and shut them down if the neighbors are not notified. He said they are not that far along in that process. Mr. Williams said they are looking to have a contractor on board in late December for the building demolition, site preparation, and removal of ledge. When the contractor is hired, they anticipate another community meeting to discuss a proposed schedule of laying out the fence and the silt fence, how the site will be prepared, and where the trailer and dumpsters will be. All abutters will be made aware of this. Work will begin toward the middle of January, starting with setting up the fence for erosion control.

Ms. Leca was concerned about fencing for the existence of the school. There is a fence separating the school from Lowder Brook. It ends and then there are trees, a ditch, and her driveway. She wants to be sure that consideration is given to an appropriate separation between the school and the ditch, and then her house. Mr. Williams said they considered repairing the fence as it exists to minimize the impact on the wetlands. Ms. Leca said that animals coming from the school property are always in the ditch, but her main concern is protecting the children after construction. She also said the sidewalk is not a proper sidewalk in front of her house, all the way to Lowder Street. She said her driveway is dangerous to walkers and runners. She does not have a way to ensure that she will not hit someone when she comes out of her driveway. She is also tremendously concerned about construction on Saturdays. When asked if she would prefer that the project take longer, she said she would. She wanted the Board to recognize that these things have not been discussed or resolved. There will be another community meeting after the contractor is hired that should explain more. She also said the hours of construction, 7 a.m. to 4 p.m., and blasting need to be discussed, as she thought these were incredibly challenging. She asked for clarity on the protections they would have and what advance notice they would receive.

Blasting, how it is done, and what has to be done related to preliminary findings prior to blasting is extensively covered under Massachusetts law. If her concerns are not covered by laws, Mr. Bethoney suggested that the Board give the Applicant the same Certificate of Action used on other large projects with those types of stipulations within them. This will let them see what they have to propose to the Board for the Board to ultimately approve. The Board approves the plan in concept, but ultimately the plan goes along with a Certificate of Action that says “under these conditions, are you able to build this project?” If the Applicant does not mutually agree, the Board will not sign it. The Certificate of Action will incorporate all of the obligations that the Applicant has based on community meetings and Applicant mutual agreement. It will discuss trash, when dumpsters are picked up at the school, construction, noise, watering down dust, and all the minutia with which the community should be concerned. The Applicant, when he gets together with the community, will takes notes on what they want, and these will be into the Certificate of Action. Ms. Leca’s points are valid, but because they are not specifically site-related, they have to be proposed and discussed by the community, Planning Board, and the Applicant, mutually agreed upon to some extent, and then proposed in a Certificate of Action that the Board signs.

The contractor can, if he wants, make a mutual agreement with the neighbors on the days they will work, or he can do what the Zoning Bylaw allows him to do. This will be proposed to the Planning Board in a Certificate of Action, and the Board determines whether it is acceptable. It is a collaborative process in many ways, and in other ways, it is what the Zoning Bylaw says relating to the site. This all occurs prior to signing the Certificate of Action. The Board encouraged the Applicant to meet with the community to determine their concerns, then make sure those concerns are addressed with the final paperwork for review, revision, and ultimately approval.

Michael Hunter, 1076 High Street: Mr. Hunter understood the comments regarding the Zoning Bylaw, but said that if this is disruptive to his life and privacy, it will be more than a collaborative process. He submitted a letter to the Board, which will be given to the Applicant for its understanding and response. He did not understand why these concerns are not site issues, and is concerned about what happens in the interior site that protects his privacy. Mr. Bethoney said this is another issue; Mr. Hunter said it is a site issue, and he would like a side meeting with the Applicant. He said there is a lot of passing the buck with comments such as ‘this is out of our domain,’ the planning committee has oversight,’ etc. He wanted uniformity on decision making that has an impact on the quality of life of the neighborhood, saying that a number of neighbors are worn down and think no one is taking overall responsibility for ensuring their protection.

Mr. Bethoney said Mr. Hunter and Ms. Leca are asking two questions: (1) what is happening on the site during construction, and (2) what is the ultimate impact after the whole project is built. Mr. Hunter’s concern right now on site is the fence or what barriers will be between their property and the school. Mr. Hunter said his concern is comprehensive. He is concerned about the barriers protecting their privacy on site and protecting the interests of the school to make sure they are creating a boundary. Mr. Williams said that during construction, there will be a sediment erosion control fence. Mr. Podolski asked if he had considered putting up a fence along the Hunters’ property for privacy purposes, and Mr. Williams said there will be a 6 foot high chain link construction fence with green lattice along the Hunters’ property enclosing the work area. He said they will get as close as they can to Route 109. He said it should go all the way around the property to protect both the abutters and the contractors. They are not planning to fence along Route 109; this will be where workers and equipment will be stored and they want to protect that. Mr. Hunter’s concern is the access road as it goes out, asking what the phasing of the access road would be during construction, and whether it is built prior or simultaneous with construction of the school. Mr. Williams said they do not know at this point. Mr. Podolski asked if they were going to use the existing entrance for entering and exiting during construction. Mr. Williams said they would use only the exiting. They are not going to open up the exit, and construction vehicles will not use the exit road at any time. This will be in the Certificate of Action.

Mr. Williams said that, once construction is completed, they would maintain and fix the fences around the playgrounds as they are now. It does not go all the way down to the road. The Conservation Commission has very strict requirements about erecting fences in wetlands areas, limiting they can do with the existing fence. Protection of children is with the fences around the playground areas. Mr. Hunter would like to see a barrier post-construction, possibly a fence or vegetation that would provide height and privacy. Mr. Bethoney asked Mr. Hunter if it was at the working sessions with the neighbors, and he said he had been to a few. Mr. Bethoney said they talked specifically about the Applicant getting together with the neighbors who are most impacted by the development to delineate their concerns and address them reasonably. Mr. Hunter agreed that this has been done, although they have not had this conversation. Mr. Bethoney said they cannot foresee the specific implications of the project on individuals who are in close proximity; the Board and the Applicant need their help. He asked if there is any area to the left of the property facing Route 109 that is not wet where a fence could be put up to screen the neighbors from the school property. He asked why it had to be in the wetlands, and why it could it not be adjacent to the roadway. His point is that the Applicant needs to meet with the neighborhood and those who are most affected and most impacted by the project and address their concerns reasonably. If they are outrageous, they will report back to the Board. If the Applicant can make the neighbors’ quality of life better by adding a fence or another reasonable request, that is what the Board wants. He asked that this be handled at the neighborhood meetings, saying that the onus is not on the Planning Board. He said he would not sign anything unless there was a reasonable effort to satisfy the neighbors.

Mr. Podolski said that getting in and out of their driveway needs to be addressed by the engineers and Mr. Findlen. It is not known when the sidewalk will be constructed on Route 109. Ms. Leca said there is pavement but no curb. There is a stretch further on High Street to Lowder Street that has guardrails but they have been hit. Mr. Podolski said this is on the list to be addressed. He said they would need to think about their driveway. Mr. Hunter again said that his biggest issue is privacy. Mr. Podolski also said that blasting is a huge issue. He explained that this is controlled by State statute, and that the town really has nothing to do with that. The contractor has to provide all the information as to the examinations and picture taking even before they are allowed to walk onto the site. The Fire Department also has regulations. Mr. Bethoney said that prior Certificates of Action were specific in saying that the applicant shall follow all state and fire codes of the Commonwealth of Massachusetts. The Board can possibly specify the time of day of the blasting, but not much else. If the neighbors have concerns that are beyond the scope of what the State and the fire codes call for, they need to talk with the Applicant to see if they will agree to their concerns and incorporate it. If they do not do that, the neighbors can return to the Board at the time the Certificate of Action is reviewed to discuss what they feel has been missed. Mr. Podolski explained that a draft Certificate of Action is prepared by the Applicant and submitted to Mr. McCarthy and him. Mr. McCarthy said that the Applicant and the neighbors most affected by the blasting should meet. A group e-mail is used to notify the neighbors. Mr. Roberts explained the process of bidding for pre-demolition and selecting a contractor. Once he is selected, there will be a public meeting with the School Building and Rehab Committee, and a meeting with all abutters; these might be after the first of the year. All bid and contractor documents need to be reviewed by Town Counsel. There will be contact phone numbers if there are any questions, and there will be a person on site.

Mr. Bethoney said that the Applicant should make sure to incorporate all the representations, commitments, promises, and agreements with the neighborhood into the draft Certificate of Action. These will be reviewed by the Board and the public. Ultimately, the Applicant will be held to those. Mr. Williams said they do not need an approval to continue their schedule. They have received approval for the pre-demo. The meeting will be continued to November 10, 2016, at which time it is hoped that there will be more input on the roadway off site.

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| **Applicant:**  | **Crown Castle for AT & T** |
| **Project Address:** | **275 Commercial Circle (110 Elm Street), Dedham, MA** |
| **Case #:** | **SITE-10-16-2139** |
| **Zoning District:** | RDO |
| **Representative(s):** | Jeff Barbadora, Crown Castle, 12 Gill Street, Suite 5800, Woburn, MA  |
| **Town Consultant:** | Steven Findlen, McMahon Associates |

Mr. Barbadora explained that the existing array is on the cell tower at Legacy Place. Three antennae will be removed and replaced, and seven microwave dishes will be removed. Six remote radio units measuring 18” x 20” will be added that will work with the antenna. One fiber cable and two DC trunk lines will also be added. He is requesting a waiver for the height, which will be 116 feet. Mr. Findlen said a contact information sign was added. Mr. Bethoney moved to approve the waiver as presented, seconded by Mr. Steeves, and voted unanimously 5-0.

**Old/New Business**

Mr. Steeves discussed the new Starbucks on Providence Highway, saying he did not remember seeing “this garbage” put up anywhere. The façade is a barn board effect and very rustic. Mr. McCarthy said that the Design Review Advisory Board reviewed and recommended the façade, and the materials list matches what is on the building. Mr. Steeves said he must have missed the meeting, as he would never have voted to approve it. Mr. Podolski asked Mr. McCarthy to pull the file.

Mr. Podolski gave advance warning that the City of Boston is building 521 apartments on the Dedham/Hyde Park line near the bridge. One building will be nine stories, another seven stories, but one only sees five floors. This is a Transit Oriented Development. Fifteen percent will be low income. Mr. O’Brien said the opponents of the rail trail believe it will be trouble because it will be inviting that population into Dedham. The project will have a restaurant, business meeting, child care center, and Zip Car rentals. Mr. Steeves reminded the Board of Whiting Avenue extension, which the Board put through 18 months of meetings, and they went away. He had asked what they were doing down the street, and they said they didn’t know. He questioned this, saying there was a set of plans. After withdrawal of the project, the Board rezoned the property to single family residence.

Mr. Bethoney moved to adjourn, seconded by Mr. Steeves, and voted unanimously 5-0. The meeting ended at 8:51 p.m.

Respectfully submitted,

Robert D. Aldous, Clerk

/snw