

OPERATING PROCEDURES
Falmouth Community Preservation Committee
July 13, 2023

MISSION AND ORGANIZATION

Committee Purpose – To exercise the rights and powers subject to the duties, obligations, and restrictions as set forth in the Massachusetts Community Preservation Act (Act) and in the 2005 Town Bylaw (Bylaw) establishing the Falmouth Community Preservation Committee (CPC).ⁱ Falmouth governmental bodies also “possess and exercise all powers given to them under the Constitution and laws of the Commonwealth and shall possess and exercise such additional powers and duties as may be authorized by the [Falmouth] charter, bylaw, or vote of Town Meeting.”ⁱⁱ

Members – The Bylaw establishes a CPC of nine members serving three-year overlapping terms and appointed one member each from the Conservation Commission, the Housing Authority, the Historical Commission, the Planning Board, and the Recreation Committee, as designated by his or her governing body, and four at-large members appointed by the Select Board.

Statutory Requirements, Rules and Regulations – All members need to be familiar with the Community Preservation Act, the Cape Cod Modified CPA, the Falmouth CPA Bylaw, The Falmouth Home Rule Charter, the Town of Falmouth Committee Handbook, The Open Meeting Law, and the Conflict of Interest Law. If a committee member believes another committee member has violated any of these laws, rules, or regulations, that person first discusses the possible violation with the member to seek resolution. With no resolution, both parties consult Town Counsel for resolution.

Terms – Each member may serve three, three-year terms. After an absence of one year, a member whose terms have expired may be re-appointed to the CPC.ⁱⁱⁱ

Attendance – If a member has unexcused absences without good cause from one half of the total number of meetings in a fiscal year or from four or more consecutive meetings, he or she will be considered to have vacated the office. The Committee should ask the appropriate appointing authority to appoint a replacement, if there are applicants for the position, within 30 days of receipt of the member’s resignation.^{iv}

Officers – The CPC operates under the direction of a chair (or co-chairs), a vice-chair, a clerk, and a financial officer. The CPC elects its officers for a one-year term at either the last meeting in the outgoing fiscal year, or the first meeting in the new fiscal year. CPC members notify CP staff two weeks prior to this meeting of their interest in serving as an officer, indicating the position(s) they are willing to fill. To be considered for an office, a member must be nominated by another member, and no second is necessary. Voting takes place in order of the nominations and election is by majority vote.

Officers' Duties – The chair coordinates meeting schedules and develops agendas with staff, appoints sub-committees and ad hoc committees as necessary, conducts all meetings, and formally represents the CPC in discussions, negotiations, and public meetings, including making presentations and responding to the Select Board, the Finance Committee and Town Meeting. The chair may ask for staff assistance in preparing and presenting to these entities. The chair may delegate these responsibilities when necessary. If co-chairs are serving, they share these responsibilities by mutual agreement and no vice-chair is elected.

The vice-chair carries out these functions in the absence of the chair as requested.

The clerk ensures that meeting minutes are promptly forwarded to the Town Clerk and updates the CPC Plan and Operating Procedures as needed. The clerk may also assist in revising and updating other CPC documents as requested by the chair or the CPC.

The financial officer performs the following duties when necessary: oversees the committee's CPFund financial plan; works with staff to reconcile the plan with the Town CP Fund account at end-of-year closeout; consults with staff to determine estimated revenues, expenditures, and allocations for the coming fiscal year and projected revenues; works with staff to ensure that the committee fulfills its fiduciary responsibility as described in the CPA; makes financial reports to the CPC as needed; and reviews invoices and authorizes reimbursements/payments to grantees. When the reimbursement or payment presents a conflict of interest for the financial officer or when that person is unavailable, the chair or vice-chair may review and authorize such reimbursements and payments.

The community preservation committee shall keep a full and accurate account of all its actions, including its recommendations and the action taken on them and records of all appropriations or expenditures made from the Community Preservation Fund. The committee shall also keep records of any real property interests acquired, disposed of, or improved by the city or town upon its recommendation, including the names and addresses of the grantors and grantees and the nature of the consideration. The records and accounts shall be public records.^v

Public records – The CPC chair maintains with the Town Clerk a current description of the duties and responsibilities of the CPC and its members.^{vi}

Subcommittees – The chair appoints standing and ad hoc subcommittees as needed. They operate in accordance with the same laws, rules, and regulations as the CPC. Standing sub-committees act only under the direction of the full CPC and report to the full CPC. They operate closely with staff, including setting and posting subcommittee agendas and meetings. CPC sub-committees comprise the following areas of interest:

Executive Committee – personnel and organizational issues, liaison to Town Government, definition, and prioritization of issues for the CPC and its subcommittees

Finance Sub-Committee – short- and long-term needs based financial planning; monitoring of the committee’s performance of its fiduciary responsibility; preparation and delivery of financial reports to the CPC as needed

Historic Preservation Sub-Committee – choice of historical consultants, consideration of project and grant proposals, Historical Commission liaison, short-term issues

Community Housing Sub-Committee – choice of consultants, consideration of project and grant proposals, RFP development, issues related to the Falmouth Affordable Housing Fund (FAHF)

Open Space and Recreation Sub-Committee – choice of consultants, liaison with The 300 Committee (T3C), oversight of multi-use projects (except housing), liaison with personnel of projects having to do with water quality

Communications

In general, committee members communicate regarding CPC matters with staff and Town officials, departments, committees, boards, and commissions through the chair. Members may speak for the CPC or act on behalf of the CPC at the request of the CPC or chair. If speaking publicly on other matters, members should not present themselves as representing the CPC.

Project Liaisons

CPC members select from one to five projects for which they serve as liaisons to the full committee. The duties of a liaison are to (1) take special interest in the selected projects; (2) maintain familiarity with the applications and Letters of Agreement and any changes in terms as the projects progress; (3) identify relevant issues; (4) review semi-annual project progress reports and report on those to the committee; and (5) conduct informal (drive-by) and formal (by appointment with the project manager or his or her designee) site visits as needed to gather information and confirm reported progress.

Staff – The Act allows each CPC to allocate up to 5 percent of its annual revenues to administration, which may include staff salaries and benefits.^{vii} Community Preservation staff support the CPC and the chair. Falmouth governmental bodies may nominate prospective employee(s) of their choice, who will then be considered for appointment by the Town Manager. They are hired according to the policies of the Town’s Human Resources Department and work under the supervision of the Town Manager or his or her designee.^{viii}

MEETINGS

Meetings – Meetings include (1) regularly scheduled meetings on the second and fourth Thursdays of every month during the grant cycles, (2) monthly meetings otherwise, (3)

special meetings, and (4) an annual needs assessment hearing. All meetings are public and interested parties may address the CPC during the period designated for public comment or, by previous request to the chair or staff, at a time designated on the meeting agenda and at a length subject to the discretion of the chair.

Posting of Meetings – Except in cases of emergency, the CPC provides public notice of all its committee and sub-committee meetings and agendas by posting them on the Community Preservation page of the Town website at least 48 hours in advance of the meeting excluding Saturdays, Sundays, and legal holidays. Public hearings require additional notice. Notice of emergency meetings must be posted as soon as reasonably possible prior to the meeting.^{ix}

Open Meeting Law – The CPC and its members conduct their business in compliance with the Open Meeting Law.^x The Open Meeting Law applies to site visits to properties under consideration in each grant application cycle. The CPC does not conduct business, deliberate issues, or take votes via email. Email messages among members are restricted to providing information, scheduling meetings, determining agendas, and attendance responses. Staff distributes committee information in connection with any agenda item, including legal or technical expert opinion, to all members at the same time. Such information is distributed in a clearly documented form that includes, if applicable, the questions asked and the responses to those questions.

These guidelines are not intended to limit general discussion by CPC members with the public, CPC members from other towns, or representatives of the Community Preservation Coalition about the work or operations of the CPC when not related to a proposal for CPA funding or legal/technical aspects of an agenda item.

Public Records – All Falmouth governmental bodies maintain records of attendance and minutes of meetings, which are filed with the Town Clerk and posted on the CPC page on the Town website (www.falmouthma.gov).^{xi} The CPC has a designated paid recording secretary.

Conduct of Meetings – CPC meetings are guided by Roberts Rules of Order except that the CPC chair may vote. After consultation with the chair or in a CPC meeting, any member may place an item on the agenda of a future committee or sub-committee. All CPC decisions require a motion, a second, discussion, and a vote by voice or by hand as the chair requests and by hand if a CPC member so requests. The chair may not make or second motions, but any other member may make, move to amend, and second a motion.

Executive Session – The CPC may meet in executive (private) session provided that the chair (1) convenes an open session, (2) states the reason for the executive session and all subjects that may be discussed, (3) states whether the CPC will reconvene in open session at the end of the executive session, and (4) takes a roll call vote of CPC members to enter an executive session.^{xii}

CONDUCTING BUSINESS

Conflict of Interest Law – CPC members inform themselves of the requirements of the Conflict of Interest Law and act in accordance with them in order to ensure recusal during discussions and voting (removal from the meeting room) in areas of conflict between a member’s private interests and his or her public duties as a CPC member.^{xiii}

Quorum – According to the Bylaw, a CPC quorum is a simple majority of nine members. Because a quorum is essential to CPC meetings and business, it is crucial that a member unable to attend a scheduled meeting notify the chair or staff at the earliest possible moment.

Voting – Following the Bylaw, the CPC does not meet or conduct business, including voting, without a quorum.

A CPC member who misses an applicant’s project presentation or the CPC discussion of that application will (1) review the minutes of that meeting and seek a briefing on the application from staff or (2) abstain from voting on that application. In order to participate knowledgeably in discussing and voting to recommend grant applications to Town Meeting, CPC members will attempt to visit all properties under consideration for each grant application cycle, and these visits must be made in accordance with the Open Meeting Law.

Staff maintains a separate record of voted decisions and policies for future reference.

Communications between Funding Applicants, Project Managers/Signatories, and CPC Members

Communications between funding applicants and project managers/signatories and CPC members occur in accordance with the CPC application process and the Open Meeting Law and as follows:

- Staff provide the communication hub between funding applicants and the CPC; project managers/signatories and the CPC; town departments and officials and the CPC; and the public and the CPC.
- Staff are available to discuss with potential funding applicants their project eligibility, proposals, and applications as well as active projects with potential applicants and project managers/signatories.
- Individual committee members are encouraged to advocate for new projects and project proposals in areas of their interest, drawing on their own experience, knowledge, and commitment.

- Potential applicants should consult with staff before preparing their applications. Applicants seeking information from a CPC member regarding a submitted application or active project will be referred to staff.
- Suggestions and directions to applicants or project managers/signatories regarding their submitted applications or actual projects come from the CPC as a whole or from staff representing the CPC. After discussion and consensus, the CPC as a committee may communicate to applicants or project managers/signatories through staff or at a public meeting or hearing.
- Applicants and project managers/signatories wishing to communicate with the CPC should address email or other written communication to staff, who will then forward it to the CPC. They may also request from staff to be placed on the agenda of a regular meeting. Applicants are encouraged to communicate their questions, concerns, and responses to requests for information well in advance of CPC meetings.
- The CPC Chair, as needed, communicates CPFund matters to the chairs of other municipal committees, boards, and commissions and to the public.
- Staff advise all applicants as to final disposition of their applications: recommendation to Town Meeting for funding of proposed projects or rejection of application. Applicants may request a meeting with staff and committee members designated by the chair to review the committee's decision.
- Prior to the applicable Town Meeting, grant applicants whose proposals will receive a funding recommendation sign a letter of agreement (LOA) with the CPC. The LOA outlines the terms, conditions, and time period of the authorized project or purchase.
- After Town Meeting approval of a funding proposal, funded applicants continue to communicate with the CPC through staff.
- Staff monitor the projects as they progress, provide direction to project managers as needed, receive and review semi-annual reports, review and give initial approval to invoices for reimbursement of project expenditures, and report issues to the project liaison and CPC as needed.

Annual Needs Assessment – According to the MADOR regulations stated below, the CPC conducts an annual assessment of community needs in the four CP funding areas at a public hearing and through consultation with appropriate Town departments, committees, boards, and commissions. In addition to a broad discussion of all funding areas, the CPC may also each year at the needs assessment public hearing request input on specific issues or concerns in a particular funding area during the public hearing.

Annual Needs Study - The committee must study the community preservation needs, possibilities and resources of the city or town consulting with various municipal agencies, particularly those represented on the committee. It should then develop a community preservation program and financial plan for the city or town. The program should identify long-term and short-term goals and needs, set criteria for evaluating proposed acquisitions and initiatives, prioritize projects and estimate their costs. The financial plan should include a multi-year revenue and expenditure forecast and identify the fund or other municipal financing source for each proposed project. The program and financial plan should be reviewed and updated annually to reflect changes in the community's needs, priorities, and resources.

The committee must hold at least one public informational hearing as part of the initial study and annual review process. Notice of the annual hearing must be posted at least two weeks before the hearing date. In addition, the committee must publish a hearing notice in a newspaper of general circulation in the community for each of the two weeks before the hearing date.^{xiv}

Annual Report – The chair or his or her designee drafts a summary of CPC actions and CPFund transactions during the year to be included in the Town's Annual Report to the Town Manager.^{xv}

ⁱ MGL Chapter 44B and Falmouth Town Code, Ch. 29, Article VI, sections 15-21.

ⁱⁱ Falmouth Home Rule Charter, Article VII, C7-2. A.

ⁱⁱⁱ Falmouth Home Rule Charter, Article VII, C7-2. H.

^{iv} Falmouth Home Rule Charter, Article VII, C7-2. G.

^v MGL Ch. 44B s. 13.

^{vi} Falmouth Home Rule Charter, Article VII, C7-2. B.

^{vii} MGL Chapter 44B s. 6.

^{viii} Falmouth Home Rule Charter Article VII, C7-2. B.

^{ix} See Town of Falmouth Committee Handbook.

^x MGL Chapter 30A, section 19(a). See also Town of Falmouth Committee Handbook.

^{xi} Falmouth Home Rule Charter, Article VII, C7-2. B.

^{xii} See Town of Falmouth Committee Handbook.

^{xiii} MGL Chapter 268A. See also Town of Falmouth Committee Handbook.

^{xiv} MA DOR Property Tax Bureau Informational Guideline Release (IGR) No. 19-14 (As amended by IGR No. 01-207, IGR 02-208, and IGR 02-209), Article IV, D.1.

^{xv} Community Preservation Committee Bylaw paragraph 9