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Memorandum

To: Community Preservation Committee  
From: Michael D. Ford, Town Counsel  
Re: Review of CPA Applications (FY 2026 funding)  
Date: January 24, 2025

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My comments on the CPA Applications received for FY2026 funding are set forth below.

**#1 FY2026 Centers for Culture and History in Orleans – Lifeboat House Building Project**

The Centers for Culture and History in Orleans “CHO” (a.k.a. Orleans Historical Society), a non-profit is requesting \$245,000 (with \$55K already received) for the boathouse to protect the CG36500. The application states that the project design and site are unchanged from those presented to the CPC in the 2025 cycle, including building modifications requested by the Orleans Historical Commission. The CHO assumes that any site conflict related to the Orleans Library state grant application is resolved, and negotiations are successful with the town for a lease change involving a small portion of 139 Main Street land, prior to the May, 2025 Town Meeting and voter approval of the lease change and 2026 CPC funding. The application states in part that the “Goals for the new building (in priority order):

1. Protect, preserve and respectfully display the CG36500 (Listed on the National Register of Historic Places).
2. Make the boat and its story accessible to all, year-round.
3. For context, exhibit the nearly 400-year history of lifesaving on the Outer Cape.
4. Honor the finest traditions of the U.S. Coast Guard
5. Establish a revenue stream by charging an admission fee to see the boat and other events/activities at the entire CHO campus. (In return, leased town land provides a 99-year revenue source for Orleans.)”

As previously noted, if the CPA determines that the construction of the new building is necessary for the preservation of the historic boat house, then the project would be a permissible use of CPA funds. The CPA funds could only be used for funding the structure that is necessary to preserve the boat and could not be used for the construction of office space, etc. The applicant

will need to provide the CPC with a breakdown of each component of the project, so that the CPC may be able to determine the eligibility of each component of the project.

I note that the application states that one of the goals of the building is “ 5. Establish a revenue stream by charging an admission fee to see the boat and other events/activities at the entire CHO campus.” however, establishing a revenue stream is not an allowable use of CPA funds. CPA funds can only be used for the building necessary to preserve the boat and the boat must be available for public viewing in order to protect the public investment. Further, it will be necessary to have adequate restrictions in place (grant and preservation restrictions) prior to funding to protect the public investment.

### **#2 FY2026 Historic District Implementation**

The Orleans Historical Commission is requesting \$15,000 in historic preservation funds to support the implementation of a local historic district along Main Street in East Orleans. Included in the grant proposal are consultant fees (\$10,000) and related project expenses (\$5,000). The consultant would be a Secretary of the Interior Standards qualified preservation professional. The project assumes that the local historic district bylaw will be approved in a spring 2025 Town Meeting. The consultant would work with a Historic District Commission to develop Design Guidelines if needed, along with policies, procedures and forms for the Commission and Town to use. The consultant also would provide technical assistance for an initial period of 6 months for the review of applications, and training to the Commission on architectural styles and the design review process.

It would appear, provided the proposed local historic district bylaw is adopted, that the CPC could make a determination that the use of a preservation consultant to support the implementation of the historic district would be eligible for CPA funding for historic preservation purposes.

### **#3FY 2026 Enhanced Historic Properties Research and Documentation**

The Orleans Historical Commission is requesting \$25,000 to engage a historic preservation consultant to continue the process of researching the identified buildings and to prepare new inventory forms with upgraded (or new) architectural significance narratives, historical significance narratives, and photographs with the inventory to be filed with the Massachusetts Historical Commission and available on their MACRIS website. This would allow the revision or creation of about 80 inventory forms to be filed by the Massachusetts Historical Commission. This project focuses on the documentation of houses and buildings on what are known in the inventory as “Form B”s. It would appear, consistent with prior funding requests that the historic properties research would be eligible for CPA funding for historic preservation purposes.

#### **#4 FY 2026 Historical Preservation Public Education**

The Orleans Historical Commission is requesting the sum of \$25,000 for “website development, placement of historical markers, public presentations, development of printed materials and maps, and research.” This project could be funded if the CPC determines that the funding is for the “acquisition, preservation, rehabilitation and restoration of historic resources.”

#### **#5 FY2026 Lower Cape Cod Community Development Corporation**

The Lower Cape Cod Community Development Corporation d/b/a, the Community Development Partnership (CDP) is requesting \$10,000.00 for the Lower Cape Housing Institute. The CDP created the Cape Housing Institute to offer training to municipal officials and town staff and advance level topics for those who have already attended the training. Consistent with prior funding recommendations for the Cape Housing institute, the CPC may determine that the this may be funded as a project for the support of community housing.

#### **#6 FY2026 Historical Preservation Consultant**

The Orleans Historical Commission is requesting \$7,000 to fund a Historical Preservation Consultant who will advise the Historical Commission in the evaluation of grant applications to the Community Preservation Committee (CPC) in the historic preservation category. The Consultant may be requested to provide advice and assistance in the pre-award phase and/or in the post-award implementation phases of the grant process, at the request of the Historical Commission.

Examples of pre-award assistance:

- Evaluation of the historical significance of a property proposed for historic restoration/rehabilitation
- Degree to which the proposed project complies with the historic preservation category of the Community Preservation Act
- Degree to which the proposed project complies with the Secretary of the Interior’s standards for the Treatment of Historic Properties (SOI Standards)
- Other relevant issues as may be deemed appropriate by the Historical Commission.

Examples of post-award assistance:

- Assistance in constructing a grant agreement between the CPC and the applicant.
- Evaluating degree of compliance by the applicant to the terms of the grant agreement
- Degree of compliance by the applicant with the SOI Standards as the work progresses.
- Assistance in the drafting and filing of any deed restrictions required by CPC in the award of a grant.

Action Plan and Timeline: Receipt of funds in mid 2025 would underwrite activities in the fiscal 2026 period. At this time it is not possible to know the exact volume of applications that will be

received. Financial Data: Estimating 55- 60 hours at consulting fee of \$120 plus \$200 in expected expenses would Amount to 6800 to 7400 dollars.

CPA funds may be used “for the acquisition, preservation, rehabilitation and restoration of historic resources ... provided, however, that funds expended pursuant to this chapter shall not be used for maintenance.” An historic resource is “a building, structure, vessel real property, document or artifact that is listed on the state register of historic places or has been determined by the local historic preservation commission to be significant in the history, archeology, architecture or culture of a city or town.” The CPA defines “preservation” as “protection of personal or real property from injury, harm or destruction.”

It does not appear that this project is for the acquisition, preservation, rehabilitation and restoration of historic resources, however, the CPC could fund such costs from the CPC’s Administrative Expense Budget.

#### **#7 FY2026 Recreation Sipson Island, Pleasant Bay**

Sipson Island Trust (SIT), a private conservation nonprofit that owns and stewards most of Sipson Island, is requesting \$15,500 in recreation funds for the design, construction, and installation of new signage on Sipson Island. Sipson Island Trust purchased 22 acres of the island in June 2020 to ensure its long-term protection and stewardship and opened it for public enjoyment for the first time in 300 years. Since the purchase of the island, SIT has protected this natural sanctuary with conservation restrictions and completed the demolition of abandoned structures and removal of harmful septic systems. The Trust is proceeding with comprehensive plans for ecological restoration and management, including opportunities for public recreation, education, and research. These plans include changing the trail system to move them away from eroding cliffs and creating spaces for programming. To implement our plans, the Trust needs signage to welcome visitors, describe basic rules, provide information on the island’s history as a refuge for the Monomoyick people and its diverse attributes, direct visitors to safe public paths, and protect areas undergoing restoration. The Trust is requesting funds to design, procure and install the signs.

CPA funds may be used for the “acquisition, creation, preservation, rehabilitation and restoration of land for recreational use,” however, CPA funds may not be used for maintenance. “Preservation” is defined as the “protection of personal or real property from injury, harm or destruction.” “Rehabilitation” is defined as “capital improvements, or the making of extraordinary repairs, to ... lands for recreational use ... for the purpose of making such ... lands for recreational use ... functional for their intended uses ... further, that with respect to land for recreational use, “rehabilitation” shall include the replacement of playground equipment and other capital improvements to the land or the facilities thereon which make the land or the related

facilities more functional for the intended recreational use.” The CPA defines “maintenance” as “incidental repairs which neither materially add to the value of the property nor appreciably prolong the property's life, but keep the property in a condition of fitness, efficiency or readiness.”

It would appear that the CPC could make a determination that the proposed signs will be for the preservation and rehabilitation of land for recreational use.

#### **#8 FY2026 Open Space Purchase 32 Locust Road**

The Town Open Space Committee (OSC) is seeking \$300,000.00 to purchase 3.78 acres of vacant land located at 32 Locust Road. The application states that the lot is within a highly diverse ecological system. The area includes important water resources and wildlife habitat and will provide an important addition to the Town’s other holdings in this critical ecological area.

It is my understanding as set forth in a Memo from George Meservey, Town Planner, that the OSC is now interested in purchasing 32 Locust Road in partnership with the Affordable Housing Trust Fund Board (AHTFB). The parcel would be purchased, then divided. The Housing Trust would obtain approximately 80,000 s.f. of upland for a future a housing development; the remaining pondside portion would be put into Conservation. The AHTFB discussed acquiring a portion of the property, and encouraged staff to pursue a joint purchase with OSC. In order to justify the land cost, they would like to be able to do a project of 3-4 housing units. This can be accomplished through a Comprehensive Permit under MGL 40B. The Planning Department could assemble, file and expedite the permit. The cost to purchase would be split evenly between CPC funds and Housing Trust funds. Costs for property pre-development (engineering, lot division plan) would be funded by the OSC and AHTFB.

It would appear that CPA funds could be used to fund the portion of the land that will be restricted to open space uses as authorized by the CPA. Under Section 12(a) of the CPA the property would have to be bound by a permanent conservation restriction meeting the requirements of G.L. c. 184, §33-34 limiting the use of the property for open space purposes.

However, the mechanics of the purchase and how title will be acquired will have to be reviewed so that the purchase complies with the provisions of the CPA.

#### **# 9 FY2026 French Cable Museum**

The French Cable Museum, a non-profit corporation, is requesting \$1250 in historic funding to continue to protect and preserve the interior of the French Cable Station Museum and its amazing collection. The application states that the French Cable Station building “houses what is likely the most comprehensive collection of undersea telegraphic equipment and documents to be found anywhere in the world. This proposal seeks to continue to protect and preserve that collection

through the purchase and installation of simple shades in the windows throughout the building. ... By purchasing and installing window shades we can shield the 100+ year old equipment and the wood finishes inside the building from the damaging effects of the sunlight.

CPA funds may be used “for the acquisition, preservation, rehabilitation and restoration of historic resources ... provided, however, that funds expended pursuant to this chapter shall not be used for maintenance.” An historic resource is “a building, structure, vessel real property, document or artifact that is listed on the state register of historic places or has been determined by the local historic preservation commission to be significant in the history, archeology, architecture or culture of a city or town.” The CPA defines “preservation” as “protection of personal or real property from injury, harm or destruction.”

In order to fund the project, the CPC will have to make a determination that the proposed work is for the preservation of historic resources and that the work is not maintenance as defined in the CPA. Further, the applicant is a private entity and thus there will need to be grant agreements and appropriate restrictions in place in order to protect the investment of public funds.

**#10 FY2026 Academy of Performing Arts – Playhouse Restoration**

The Academy of Performing Arts, a non-profit organization has requested the sum of \$163,000 in historic preservation funds for completion of exterior restoration work on the Academy Playhouse building, including siding, chimney demolition, storm windows and roofing. In order to fund the project, the CPC would have to make a determination that the proposed work is not maintenance and that each component of the work is for the preservation, rehabilitation, or restoration of an historic resource. Further any CPA funding will have to be subject to appropriate grant agreements and restrictions in order to protect the investment of public funds.

**#11– FY2026 Northwest Schoolhouse Project**

The Odd Fellows 132 (application submitted by Paul Davies) are requesting the sum of \$108,029.93 in historic preservation funds for historic preservation work on the Odd Fellows building located at 2 Namskaket Road, Orleans, MA. In order to fund the project, the CPC will have to make a determination that the proposed work is for the preservation, rehabilitation and restoration of an historic resource and that the work is not maintenance as defined in the CPA. Further, the applicant is a private entity and thus there will need to be grant agreements and appropriate restrictions in place in order to protect the investment of public funds.

**#13 FY2026 Orleans Affordable Housing Trust Fund**

The Orleans Affordable Housing Trust Fund is requesting the sum of \$500,000.00 for community housing purposes. Under, the CPA a town may appropriate money in any year from

the Community Preservation Fund to an affordable housing trust fund. M.G.L. c. 44B, § 5. Therefore, the request for \$500,000 is a permissible use of CPA funds.

**#14FY2026 Open Space Purchase 8, 10, And 14 Bay Ridge Lane**

The Town Open Space Committee (OSC) is seeking \$90,000 to acquire three lots on Bay Ridge Lane for open space purposes. The application notes that the three lots total .89 acres and are contiguous to existing town owned property on Bay Ridge Lane that is commercially used for DPW storage. The lots are partially wetlands and part of the environmentally sensitive area of Namskaket Marsh that receives groundwater and nitrogen inputs from a watershed shared by the Towns of Orleans and Brewster. The area has strategic importance to the Town because of its contribution includes important water resources and wildlife habitat and will provide an important addition to the other conservation holdings in this critical ecological area.

CPA funds may be used "... for the acquisition, creation and preservation of open space; ... "Open space" includes "land to protect existing and future well fields, aquifers and recharge areas, watershed land, agricultural land, grasslands, fields, forest land, fresh and salt water marshes and other wetlands, ocean, river, stream, lake and pond frontage, beaches, dunes and other coastal lands, lands to protect scenic vistas, land for wildlife or nature preserve and land for recreational use."

The CPC could make a determination that the proposed acquisition would be eligible for CPA funding for open space purposes.