



# Bulletin

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2003-04B

## COMMUNITY PRESERVATION FUND

TO: Assessors, Collectors, Treasurers, Accountants, Auditors, Mayors, Selectmen, City/Town Managers, Executive Secretaries, Finance Directors, City/Town Councils, City Solicitors and Town Counsels

FROM: James R. Johnson, Director of Accounts

DATE: February 2003

SUBJECT: Community Preservation Act Implementation and Appropriation Votes

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This *Bulletin* provides communities that have adopted the Community Preservation Act (CPA) with guidance about identifying the source of CPA funds for proposals being presented to their legislative bodies for the upcoming fiscal year. It also includes recommendations for acceptance proposals in communities presenting a CPA acceptance referendum to the voters during 2003.

### **I. ACCEPTANCE VOTES**

We strongly recommend that any community presenting a CPA acceptance referendum to its voters during 2003 **expressly** state the fiscal year the surcharge will first be assessed in the underlying acceptance proposal presented to the legislative body (or contained in an initiative petition). This implementation date should also be included in the summary prepared by municipal counsel that appears on the ballot underneath the referendum question. This will avoid issues that have arisen in a few communities about the intended year and will enable assessors, collectors and other officials to properly plan for CPA implementation.

As a general matter, please note that where voters consider a CPA referendum at a spring annual town election, it is expected that the surcharge will be assessed in FY04. If the town intends otherwise, it needs to include a FY05 implementation date in its underlying acceptance proposal. A city that presents a CPA referendum to voters at a fall election, on the other hand, has the option of assessing the surcharge in either FY04 or FY05 and therefore, should clearly identify the intended implementation date. The CPA contemplates that the surcharge will be assessed along with the real estate tax for a fiscal year. Therefore, if the city wants to implement the CPA in FY04, the referendum has to take place before the FY04 tax rate is set with the expectation of implementing the surcharge in the actual tax bills issued thereafter.

## II. APPROPRIATION VOTES

We also recommend that communities adopt consistent terminology for identifying CPA financing sources in proposals presented to and approved by their legislative bodies. During the FY03 tax setting process, we found that there were often questions about the particular source of funds voted for a CPA acquisition or other initiative. As you know, this difficulty arises from the multiple financing source structure of the Community Preservation Fund. The use of consistent and clear terminology will assist the clerk in certifying and the accounting officer in tracking all appropriations and reservations approved by the legislative body.

*Attachment 1* sets out the language we recommended in our initial CPA implementation guidelines. See Property Tax Bureau Informational Guideline Release No. 00-209, *Community Preservation Fund* (December 2000), as later amended by IGRs 01-207 and 02-208. (The amended version of IGR 00-209 is available on our web site: [www.dls.state.ma.us](http://www.dls.state.ma.us)). The attachment also includes a sample warrant article and motion using that language. If you do not want to adopt that language, we suggest that the Community Preservation Committee (CPC), clerk, accounting officer and other officials involved in financial matters work together to establish a term for each CPA financing source before the upcoming budget cycle so that those terms can be used consistently in all future recommendations made to town meeting or city council.

## III. FY04 BUDGET CYCLE

We continue to receive questions about the availability of CPA financing sources available at different points during the municipal fiscal cycle, particularly annual revenues that have not been appropriated for particular purposes or reserved for later appropriation for one of the three CPA purposes (open space, historic resources and community housing) before the tax rate is set.

The chart in *Attachment 2* explains the various CPA financing sources. For communities that adopted and implemented the CPA in FY02 or FY03, the sources available to them at different points during the FY04 budget cycle are shown in *Attachment 3*. For communities that first assess a surcharge for FY04, *Attachment 4* identifies the sources that will be available in both the FY04 and FY05 budget cycles.

During the FY04 budget cycle, communities may upon recommendation of the CPC appropriate or reserve the estimated FY04 Community Preservation fund revenues any time before they set their FY04 tax rate in the fall of 2003. After the rate is set, however, they can only approve new spending from any available Community Preservation fund reserves or by authorizing debt under the CPA. Available reserves would include any (1) fund balance (as of 6/30/03 and reported by accounting officer), (2) fund special purpose reserves (Open space, Historic resources and Community housing) and (3) year's budgeted reserve (see explanation in paragraph 3 below).

With respect to the estimated annual fund revenues, communities may do any of the following upon recommendation of the CPC:

1. Appropriate them for specific acquisitions or projects, CPC operating expenses, or debt service on CPA borrowings. For example:

Voted: to appropriate \$100,000 from FY04 Community Preservation fund revenues for X purpose.

2. Reserve them for later appropriation for one of the following three categories of CPA purposes: (a) Open space (excluding recreational), (b) Historic resources, and (c) Community housing. For example:

Voted: to reserve \$100,000 from FY04 Community Preservation fund revenues for open space purposes (or to the Community Preservation Fund Open Space Reserve).

3. Reserve monies for later appropriation for any CPA purpose during FY04. For example:

Voted: to reserve \$250,000 from FY04 Community Preservation fund revenues for Community Preservation fund purposes during FY04 (or to the FY04 Community Preservation Fund Budgeted Reserve).

EXPLANATION: We suggest voting an annual budgeted reserve if communities want the flexibility to use any annual revenues not appropriated for particular purposes, or reserved for later appropriation for open space, historic resources or community housing, after the tax rate is set. Upon recommendation of the CPC, the legislative body may vote annual revenues into the reserve any time until the rate is set. Amounts in the reserve may be transferred by the legislative body upon CPC recommendation to fund any CPA spending purpose at any time during the FY (*e.g.*, transfers can be made from the FY04 Community Preservation Fund Budgeted Reserve any time from 7/1/03 to 6/30/04). Any balance remaining at the end of the fiscal year closes to the overall Community Preservation fund balance and becomes part of that funding source after the accounting officer reports it.

As a practical matter, it may be best to wait until after October 15 when state matching funds are in hand to place any unappropriated or unreserved annual revenues into a budgeted reserve. That way the community can use a firm revenue figure and avoid the possibility that it appropriates and reserves more than is actually collected, *i.e.*, runs a deficit in the fund at year end that has to be covered by next year's revenues. That timing may not work for many communities, however, particularly those that set tax rates in September and October and towns that do not typically have a fall special town meeting.

Regardless of the timing, we think the CPC could vote to recommend that the legislative body place an amount equal to the difference between the estimated annual revenues and the amount actually appropriated and reserved for CPA purposes into the year's budgeted reserve. For example, if municipal budget officials estimate total FY04 fund revenues will be \$1,000,000, the CPC might vote to recommend that town meeting or city council reserve FY04 Community Preservation fund revenues for community preservation purposes during FY04 in an amount equal to the difference between \$1,000,000 and the amount appropriated and reserved to date. The CPC should consult with municipal counsel and the town meeting moderator to determine how to properly move this recommendation after the legislative body has disposed of all other recommendations and the specific dollar amount is then known.

Finally, please note that surcharge and state matching monies are not separate and distinct financing sources for appropriation or reservation purposes. The total amount the community anticipates collecting from the two receipts during any fiscal year makes up the estimated annual fund revenues for that year. Also, once a fiscal year ends, any annual revenues collected that were not appropriated or reserved before the tax rate was set for that year flow into the fund balance and become part of that available funding source once it is reported by the accounting officer. They do not remain a separate and distinct funding source.

## Attachment 1

### **SAMPLE VOTES FROM COMMUNITY PRESERVATION FUND FINANCING SOURCES**

<u>SOURCE</u>	<u>VOTE</u>
Annual revenues	<ul style="list-style-type: none"><li>• To appropriate \$10,000 from FY2004 Community Preservation Fund revenues for _____.</li><li>• To reserve \$250,000 from FY2004 Community Preservation Fund revenues for FY2004 Community Preservation Fund purposes (FY2004 Budgeted Reserve)</li><li>• To reserve \$100,000 from FY2004 Community Preservation Fund revenues for Open Space.</li></ul>
Annual Budgeted Reserve	<ul style="list-style-type: none"><li>• To appropriate/transfer \$75,000 from FY2004 Community Preservation Budgeted Reserve to _____.</li></ul>
Special Purpose Reserves	<ul style="list-style-type: none"><li>• To appropriate/transfer \$75,000 from Community Preservation Fund Open Space Reserve to _____.</li></ul>
Fund Balance	<ul style="list-style-type: none"><li>• To appropriate/transfer \$75,000 from Community Preservation Fund balance to _____.</li></ul>
Excess Bond Proceeds	<ul style="list-style-type: none"><li>• To appropriate/transfer \$10,000 from Community Preservation – Parcel X Land Acquisition Loan balance to _____.</li></ul>

### **SAMPLE COMMUNITY PRESERVATION PROGRAM APPROPRIATION VOTE**

**ARTICLE:** TO SEE IF THE TOWN WILL VOTE TO ACQUIRE BY PURCHASE OR EMINENT DOMAIN A PARCEL OF LAND DESCRIBED AS ASSESSORS MAP 30 LOT 125 CONSISTING OF APPROXIMATELY 25.2 ACRES FOR OPEN SPACE PURPOSES UNDER THE COMMUNITY PRESERVATION ACT, AND TO APPROPRIATE OR TRANSFER FROM THE COMMUNITY PRESERVATION FUND, ANNUAL REVENUES OR AVAILABLE FUNDS, OR TO AUTHORIZE THE TREASURER WITH THE APPROVAL OF THE SELECTMEN TO BORROW UNDER THE COMMUNITY PRESERVATION ACT, A SUM OF MONEY TO FUND SUCH ACQUISITION, OR TAKE ANY OTHER ACTION RELATIVE THERETO.

**MOTION:** I move that the town authorize the Conservation Commission to purchase a parcel of land described as Assessors Map 30 Lot 125 consisting of approximately 25.2 acres for open space purposes under the Community Preservation Act and to fund such acquisition, that \$5,000,000 be appropriated with \$400,000 to be appropriated from FY04 Community Preservation Fund revenues, \$100,000 to be transferred from the Community Preservation Fund Open Space Reserve, \$1,000,000 to be transferred from the Community Preservation Fund balance and that \$3,500,000 be borrowed by the treasurer, who is authorized with the approval of the selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by General Laws Chapter 44B §11, or any other general or special law, for a period not to exceed 20 years.

## Attachment 2

# COMMUNITY PRESERVATION FUND FINANCING SOURCES

	<b>ANNUAL FUND REVENUES</b>	<b>BUDGETED RESERVES</b>	<b>FUND BALANCE</b>	<b>BORROWING</b>
<b>Definition</b>	Annual recurring revenues	Funds designated by the legislative body for later appropriation for any CPA purpose during the fiscal year <u>and/or</u> for one of the following specific CPA purposes: (1) open space (excluding recreational), (2) historic resources and (3) community housing	Unspent funds generated by favorable operations during the previous FY that are available for appropriation	Debt repaid with future fund revenues
<b>Source</b>	<p>Surcharges assessed for FY</p> <p>State trust fund distribution received during FY (beginning in 2<sup>nd</sup> year of fund operation)</p>	Appropriations from annual fund revenues or fund balance	<p>Appropriation turn-backs, including unappropriated balance from any annual budgeted reserve</p> <p>Actual receipts in excess of budgeted revenues</p> <p>Investment interest</p> <p>Miscellaneous non-recurring revenues, <i>e.g.</i>, proceeds from sale of community preservation fund acquisitions, damages and fines related to the acquisitions, or public/private gifts/grants for non-specific community preservation fund purposes</p>	Proceeds from notes, bonds or other debt obligations issued for a CPA purpose
<b>Limitations</b>	<p>Legislative body <i>must</i> appropriate or place in budgeted special purpose reserves at least 10% of each year's annual revenues for each of following CPA purposes: (1) open space (excluding recreational), (2) historic resources and (3) community housing</p> <p>Cannot spend from appropriations until FY begins (<i>i.e.</i>, 7/1)</p>	<p>Appropriations <i>to</i> a particular reserve require legislative body vote that states the specific dollar amount and source being reserved</p> <p>Appropriations <i>from</i> the annual budgeted reserve may made for any CPA purpose during the FY only and any unappropriated balance at year-end closes to fund balance</p> <p>Appropriations <i>from</i> a particular special purpose reserve limited to that CPA purpose</p>	May be appropriated by legislative body for any CPA purpose	<p>Legislative body <i>must</i> specifically authorize borrowing under CPA (G.L. Ch. 44B)</p> <p>Borrowing limited to purposes and terms applicable to municipal borrowing generally under G.L. Ch. 44 §§7 and 8</p> <p>Appropriations <i>from</i> proceeds remaining after purpose completed or abandoned restricted to a CPA purpose for which borrowing may be authorized for same or longer term than original loan</p>
<b>Availability</b>	Until tax rate set for FY. Once rate set, only budgeted reserves, fund balance or borrowing may be used as financing source.	<p>Annual budgeted reserve during FY (<i>i.e.</i> 7/1 to 6/30)</p> <p>Special purpose reserves any time after reservation</p>	Any time after accounting officer reports prior FY fund activities and balance to DOR until 6/30 close of current FY	Anytime
<b>Similarity</b>	<p>General fund annual tax levy (taxes, state aid, receipts)</p> <p>Enterprise fund annual revenues (user charges and fees)</p>	<p>Stabilization fund (<i>i.e.</i>, general fund monies reserved for later appropriation for municipal purpose)</p> <p>Enterprise fund budgeted surplus</p>	<p>Free cash</p> <p>Enterprise fund free cash (retained earnings)</p>	Other municipal debt

## Attachment 3

### CPA FINANCING SOURCES

#### Sources available during FY04 budget cycle for communities that first assessed surcharge in FY02 or FY03

##### COMMUNITIES THAT IMPLEMENTED SURCHARGE IN FY02

##### COMMUNITIES THAT IMPLEMENTED SURCHARGE IN FY03

###### Spring 2003 Annual Town Meeting/City Council Budget Meeting

- **FY04 CP fund revenues** (amount available = estimated (1) FY04 surcharges and (2) 10/15/2003 state trust fund distribution based on FY03 net surcharge levy as of 6/30/2003). Cannot spend appropriations made from this source until 7/1/03.
  - CP fund balance (amount available = balance as of **6/30/02** less appropriations & reservations made at meeting held since balance reported by accounting officer. Amount reflects favorable FY02 fund activity, including FY02 surcharge collections above the amounts appropriated & reserved at the time the FY02 rate was set)
  - **FY03** CP budgeted reserve balance if any
  - CP open space, historic resource, community housing reserve balances if any
  - CP borrowing
- **FY04 CP fund revenues** (amount available = estimated (1) FY04 surcharges and (2) 10/15/2003 state trust fund distribution based on FY03 net surcharge levy as of 6/30/2003). Cannot spend appropriations made from this source until 7/1/03.
  - **NO FUND BALANCE AVAILABLE UNTIL 1<sup>ST</sup> YEAR OF FUND OPERATION ENDS ON 6/30/03.** Any FY03 estimated fund revenues that were not appropriated or reserved at time FY03 rate was set are not available until they become part of the 6/30/03 fund balance and are reported by accounting officer.
  - **FY03** CP budgeted reserve balance if any
  - CP open space, historic resource, community housing reserve balances if any
  - CP borrowing

###### Any Special Town Meeting/City Council Meeting Held Before 7/1/2003

- Same sources as available before 7/1 to the extent not already appropriated or reserved at previous meetings
- Same sources as available before 7/1 to the extent not already appropriated or reserved at previous meetings

###### Any Special Town Meeting/City Council Meeting Held After 7/1/2003 and Before FY04 Tax Rate Set

- FY04 CP fund revenues not appropriated or reserved at previous meetings
  - CP fund balance (amount available = balance as of **6/30/03** less any appropriations & reservations made at meeting held since balance reported by accounting officer. Amount reflects 6/30/02 balance not appropriated or reserved during FY03 and favorable FY03 fund activity, including FY03 surcharge collections above the amounts appropriated & reserved at the time the FY03 rate was set)
  - **FY04** CP budgeted reserve balance if any (Unappropriated FY03 budgeted reserve closed to fund balance as of 6/30/03)
  - CP open space, historic resource, community housing reserve balances if any
  - CP borrowing
- FY04 CP fund revenues not appropriated or reserved at previous meetings
  - CP fund balance (amount available = balance as of **6/30/03** less any appropriations & reservations made at meeting held since balance reported by accounting officer. Amount reflects favorable FY03 fund activity, including FY03 surcharge collections above the amounts appropriated & reserved at the time the FY03 rate was set)
  - **FY04** CP budgeted reserve balance if any (Unappropriated FY03 budgeted reserve closed to fund balance as of 6/30/03)
  - CP open space, historic resource, community housing reserve balances if any
  - CP borrowing

###### Any Special Town Meeting/City Council Meeting Held After 7/1/2003 and After FY04 Tax Rate Set

- **EXCEPT FY04 FUND REVENUES**, same sources as available before tax rate set to the extent not already appropriated or reserved at previous meetings. (FY04 fund revenues not appropriated or reserved at time FY04 tax rate set are not available until they become part of the 6/30/04 fund balance and are reported by accounting officer.)
- **EXCEPT FY04 FUND REVENUES**, same sources as available before tax rate set to the extent not already appropriated or reserved at previous meetings. (FY04 fund revenues not appropriated or reserved at time FY04 tax rate set are not available until they become part of the 6/30/04 fund balance and are reported by accounting officer.)

## Attachment 4

### CPA FINANCING SOURCES

#### Sources available during FY04 and FY05 budget cycles for communities that first assess surcharge in FY04

##### Any Town Meeting/City Council Meeting Held Before FY04 Tax Rate Set

- **FY04 CP fund revenues** to the extent not appropriated or reserved at any previous meetings held since CPA referendum approved. (Amount available = estimated FY04 surcharges only. First state trust fund distribution will not be received until 10/15/2004, *i.e.*, during FY05). Cannot spend appropriations made from this source until 7/1/03.
- **FY04** CP budgeted reserve balance if any created by reservations made at any previous meetings
- CP open space, historic resource, community housing reserve balances if any created by reservations made at any previous meetings
- CP borrowing

##### Any Special Town Meeting/City Council Meeting Held After FY04 Tax Rate Set

- **EXCEPT FY04 FUND REVENUES**, same sources as available before tax rate set to the extent not already appropriated or reserved at previous meetings. (FY04 fund revenues not appropriated or reserved at time FY04 tax rate set are not available until they become part of the 6/30/04 fund balance and are reported by accounting officer.)

#### Sources available during FY05 budget cycle

##### Spring 2004 Annual Town Meeting/City Council Budget Meeting

- **FY05 CP fund revenues** (amount available = estimated (1) FY05 surcharges and (2) 10/15/2004 state trust fund distribution based on FY04 net surcharge levy as of 6/30/2004). Cannot spend appropriations made from this source until 7/1/04.
- **NO FUND BALANCE AVAILABLE UNTIL 1<sup>ST</sup> YEAR OF FUND OPERATION ENDS ON 6/30/04.** Any FY04 estimated fund revenues that were not appropriated or reserved at time FY04 rate was set are not available until they become part of the 6/30/04 fund balance and are reported by accounting officer.
- **FY04** CP budgeted reserve balance if any
- CP open space, historic resource, community housing reserve balances if any
- CP Borrowing

##### Any Special Town Meeting/City Council Meeting Held Before 7/1/2004

- Same sources as available before 7/1 to the extent not already appropriated or reserved at previous meetings

##### Any Special Town Meeting/City Council Meeting Held After 7/1/2004 and Before FY05 Tax Rate Set

- FY05 CP fund revenues not appropriated or reserved at previous meetings
- **FY05** CP budgeted reserve balance if any (Unappropriated FY04 budgeted reserve closed to fund balance as of 6/30/04)
- CP fund balance (amount available = balance as of **6/30/04** less any appropriations & reservations made at meeting held since balance reported by accounting officer. Amount reflects favorable FY04 fund activity, including FY04 surcharge collections above the amounts appropriated & reserved at the time the FY04 rate was set)
- CP open space, historic resource, community housing reserve balances if any
- CP Borrowing

##### Any Special Town Meeting/City Council Meeting Held After 7/1/2004 and After FY05 Tax Rate Set

- **EXCEPT FY05 FUND REVENUES**, same sources as available before tax rate set to the extent not already appropriated or reserved at previous meetings. (FY05 fund revenues not appropriated or reserved at time FY05 tax rate set are not available until they become part of the 6/30/05 fund balance and are reported by accounting officer.)