

## **MINUTES OF MEETING OF WAREHAM FINANCE COMMITTEE**

**Date of Meeting: July 11, 2012**

### **I. CALL MEETING TO ORDER**

The meeting was called to order at 6:30 P.M.

### **II. ROLL CALL**

Members Present: Donna Bronk, Chair  
Frank Heath, Vice Chair  
Larry McDonald, Clerk  
Bonnie Cottuli  
David Trudell  
Sam Gray  
Dominic Cammarano (Arrived at 6:55 P.M.)  
Tom Worthen  
Marilyn Donahue (Arrived at 6:45 P.M.)

Also Present: Derek Sullivan, Financial Analyst  
Brian Kudish, Town Accountant

### **III. CITIZENS PARTICIPATION**

No-one came forward for Citizens Participation.

### **IV. APPROVAL OF MEETING MINUTES: JUNE 13, 2012**

**MOTION: Mr. Gray moved to approve the meeting minutes of June 13, 2012 as amended. Mr. McDonald seconded.**

**VOTE: Unanimous (7-0-0)**

### **V. BUSINESS**

Ms. Bronk introduced Mr. Brian Kudish as the new Town Accountant.

#### **A. FY2012 Reserve Fund Transfers.**

#### **B. FY2012 Year End Appropriation Transfers.**

Mr. Sullivan submitted two Reserve Fund transfer requests to the FinCom. One request is for \$61,000 to go into the Municipal Maintenance salary budget & the second request is for \$22,332 to go into the Municipal Maintenance expense budget. He stated these amounts will bring the FY2012 Reserve Fund balance to zero & clear it out. He noted that the Town (Municipal Maintenance) received 75% reimbursement from FEMA for

Hurricane Irene. He stated the Reserve Fund transfer request amounts are to cover the rest of the expenses incurred by Municipal Maintenance. He is working on getting a break-down relative to the FEMA reimbursement.

Present before the FinCom: Mark Gifford, Municipal Maintenance Director

Mr. Gifford stated another issue his department is facing is \$56,000 in retro fees for union representatives. He stated only \$38,000 was budgeted, thus there is a shortfall. He stated other issues deal w/ union negotiations for on-call personnel came to \$15,000 & inspection expenses for the West Wareham dam were charged to the Municipal Maintenance Dept. He noted that the Municipal Maintenance Dept. was told to purchase Christmas decorations & to do work on the Veterans Memorial project by the Administration. He is looking to recoup all this money because there are still bills that need to be paid. He noted that back in December, he submitted Reserve Fund transfer requests to Administration as well as a Town Meeting Warrant article, but the article was pulled at Town Meeting as well as the Reserve Fund transfer requests. He stated this is the first time in the 20 years he has been director that he has had to come before the FinCom for a transfer request.

Mr. Gray clarified that there is \$83,332 in the FY2012 Reserve Fund. Mr. Sullivan stated this is correct. He stated that the total amount of transfers (Reserve Fund transfers being requested plus departmental transfers) total \$229,901.

Mr. Sullivan submitted documentation re: unforeseen expenses of the Municipal Maintenance Dept. (Attached as reference #1).

Mr. Heath feels the Municipal Maintenance Dept. is looking for more money from Hurricane Irene vs. the numbers being shown in reference document #1.

**NOTE:** Ms. Donahue arrived at this time.

Mr. McDonald expressed concern re: several expenses being discussed. He feels some of these items should have been budgeted for or handled at the recent Special Town Meeting. He stated now the FinCom is being asked to clear out the Reserve Fund. He also doesn't feel some of the departmental transfers being proposed fall under the statute.

Mr. Sullivan stated there is no penalty for not following this statute. He stated if these transfers are approved, it will be the first time in two years that the Town will not end the fiscal year in a deficit. He stated if the \$83,332 is not utilized from the Reserve Fund, it could potentially effect Free Cash & the recap sheet.

**NOTE:** Mr. Cammarano arrived at 6:55 P.M.

Mr. Sullivan stated what he is requesting is best for the Town.

Mr. Heath stated the FinCom & Administration have discussed these types of expenses for months & the FinCom has asked re: the FEMA reimbursement several times & the FinCom was told everything is fine, but now at the last minute, the FinCom is receiving these requests. He feels the math doesn't seem to be working. He feels deficit spending is the responsibility of the BOS & the Town Administrator, but now the FinCom is being asked to break the law. He stated there were many opportunities to address these issues & he is not in favor of what is being proposed.

Mr. McDonald concurred that watching over these issues is the responsibility of the BOS.

Mr. Trudell expressed concern re: draining the Reserve Fund to zero. He stated the FinCom is being asked to continue w/ the same "game" & not having those in charge make the hard decisions. This matter needs to be addressed so it doesn't happen again.

Mr. Heath noted that the Reserve Fund transfer request is for FY2012, not FY2013.

Ms. Bronk understands the situation Mr. Gifford is in & she understands the situation Mr. Sullivan inherited. She noted everyone is struggling to do the right thing. She stated she has the highest respect for Mr. Gifford & Mr. Sullivan.

Ms. Cottuli asked if there is any way to pinpoint the non-reimbursed figure(s) associated w/ Hurricane Irene to see if it fits the criteria for a Reserve Fund transfer. Mr. Sullivan stated that the Municipal Maintenance Dept. requested \$225,000 for Hurricane Irene & they received \$140,000 back. The \$225,000 also includes salaries.

Mr. Trudell asked if this proposal does not pass, would it be defaulted to Town Meeting in the fall. Mr. Heath stated it is too late for that. He stated the Town would end in a deficit status. He noted the penalty for a deficit status is to postpone the deficit for one year.

Mr. McDonald stated at the recent Special Town Meeting, some of these expenses were known. Mr. Sullivan stated this is correct, but it wasn't known at the time what the FEMA reimbursement would be. Mr. Gifford stated he did submit Reserve Fund transfer requests in December to Administration, but what the Town Administrator did w/ them he does not know; they never went forward. He noted he has bills to pay, such as utility bills.

Mr. Gray stated some people that were involved w/ these issues are no longer employed by the Town. He finds it hard to see how anything is gained by saying no to this action.

Ms. Bronk asked why the BOS did not act on this matter.

Ms. Cottuli asked if the Reserve Fund transfer request will resolve all of the Municipal Maintenance Dept.'s problems. Mr. Gifford stated yes.

Mr. Heath noted that the Reserve Fund is not a "piggy bank." He stated there are specific criteria that needs to be met to utilize the Reserve Fund. He feels if this proposal passes, it will set a precedent. He explained all the BOS did at there meeting last night was to approve the grand total of \$229,901. It is now left up to the FinCom to deal w/ the issue which he is very concerned about.

Mr. Sullivan noted several options the FinCom has relative to transfers for the \$229,901 deficit (Transfers w/ Reserve Fund or transfers w/ no Reserve Fund). He read Chapter 44, Section 33B into the record. (Attached as reference). He stated there is no legal opinion as to "aggregate" in the citation. Brief discussion ensued re: the word "aggregate."

Mr. Sullivan discussed the breakdown of departmental transfers in proposal option #1. (Attached as reference).

Mr. Trudell stated the FinCom has asked for monthly reports for quite some time & have not received them. He feels these would be helpful to the FinCom.

**MOTION: Mr. McDonald moved to approve a Reserve Fund transfer request in the amount of \$61,000 for the Municipal Maintenance Dept.'s salary budget for FY2012. Ms. Cottuli seconded.**

**VOTE: (0-8-0)**

**NOTE: Ms. Donahue stated she will not be voting this evening because she has not been sworn in officially yet.**

Mr. Cammarano asked for a reconsideration of the vote.

**MOTION: Mr. Cammarano moved for a reconsideration of the vote. Ms. Cottuli seconded.**

**VOTE: Unanimous (8-0-0)**

**Results of re-vote for the Reserve Fund transfer request in the amount of \$61,000 for the Municipal Maintenance Dept.'s salary budget.**

**VOTE: (1-7-0)  
Mr. Cammarano in favor**

**MOTION: Mr. McDonald moved to approve a Reserve Fund transfer request in the amount of \$22,332 for the Municipal Maintenance Dept.'s expense budget. Ms. Cottuli seconded.**

**VOTE: (1-7-0)  
Mr. Cammarano in favor**

Present before the FinCom: Alan Slavin, BOS

Mr. Slavin explained the BOS approve the whole amount of \$229,901 with the understanding that Chapter 44, Section 33B would not be violated.

Present before the FinCom: Bob Brady

Mr. Brady stated the votes the FinCom just took, essentially created a deficit. He questioned what the administrative plan will be going forward. Mr. Sullivan stated that Free Cash will be reduced by \$83,332 & if the departmental transfers are not done, the deficit going forward will be larger.

Ms. Cottuli feels it is a "cop out" by the BOS to vote only on the lump sum figure & assume the FinCom would approve the Reserve Fund transfers & departmental transfers. She questioned if the departmental transfers could be done w/in the law. Mr. Sullivan stated no.

Mr. Sullivan discussed option #2. (Attached as reference). He also discussed option #3. (Attached as reference). He explained that options #2 & #3 would solve the problem. He stated the BOS voted on option #2, but this option would not be w/in Chapter 44, Section 33B where option #3 would be.

Mr. Cammarano still feels option #1 is still the only/best choice because as with options #2 & #3, those options will hurt the Town in the long run. Mr. McDonald understands Mr. Cammarano's opinion, but he is more comfortable taking money out of a salary account vs. the Reserve Fund because it will not set a precedent. Mr. Gray concurred w/ Mr. McDonald. He stated he would like to hear from the BOS & have assurances that this won't happen in the future.

Present before the FinCom: Alan Slavin, BOS

Mr. Slavin stated at the BOS meeting last night, Chapter 44, Section 33B was brought up & the BOS objected to not violating MA General Law. He doesn't feel the BOS dropped this matter into the FinCom's lap. He stated there is a difficult decision to be made w/ the least impact to the Town. He suggested forming an audit committee going forward to avoid these issues in the future.

Ms. Donahue feels this situation will always happen because it is a function of budgeting. She stated there are always last minute bills & never enough money in the budget.

Present before the FinCom: Bob Brady

Mr. Brady explained how there is an option to fix the problem mathematically.

Mr. Heath stated at the recent Special Town Meeting, there were a number of transfers brought forward & the reason for this was because of the amount being brought forward

from the original Town Meeting. He doesn't know how these issues being brought forward before the FinCom this evening "got lost."

**MOTION: Ms. Cottuli moved to approve option #3 relative to budget transfers in the amount of \$229,901.00. Mr. Gray seconded.**

**VOTE: (5-2-1)**  
**Mr. Trudell & Mr. Cammarano opposed**  
**Mr. Heath abstained**

**NOTE:** Mr. Gifford departed at this time.

**C. FY2013 Reserve Fund Transfer to Upper Cape Cod Tech Budget Line (Year ending 2013).**

Mr. Sullivan explained that when the budget was put together for Town Meeting, there was a motion made at Town Meeting to level fund the Upper Cape budget to FY2012 levels which left a surplus of \$220,346. The other communities involved w/ Upper Cape approved Upper Cape's FY2013 budget, thus the Town is beholden to this accepted FY2013 Upper Cape budget. The surplus was placed in the Reserve Fund for FY2013. This surplus money is owed to Upper Cape.

Mr. Sullivan noted there is a question of whether this surplus money can be voted out of the Reserve Fund by the FinCom or if Town Meeting action is required. He discussed what he feels can be done w/ the Reserve Fund due to what was stated/explained at Town Meeting.

Mr. McDonald questioned if it has to go back before Town Meeting to change the figure. Ms. Bronk stated the agreement between the participating towns & Upper Cape goes back to the 1970's. Mr. Heath stated there was no contingency at Town Meeting re: if the other participating towns voted favorably. He feels Town Counsel's opinion is needed in this matter.

**MOTION: Mr. Heath moved to table the matter of the FY2013 Reserve Fund transfer to Upper Cape Cod Tech budget line to the FinCom's next meeting so that legal counsel's opinion can be sought. Mr. Gray seconded.**

**VOTE: Unanimous (8-0-0)**

**D. Reminder – Special Election – Wednesday, July 25, 2012.**

Mr. McDonald asked if the FinCom will have any statement prior to the Special Election. Ms. Bronk stated no.

**VI. ANY OTHER BUSINESS/DISCUSSION**

#### **A. Town Administrator Screening Committee.**

Ms. Bronk stated a Town Administrator Screening Committee has been formed & she is the FinCom's representative on this committee. She noted that some resumes for the Town Administrator's position have been received.

#### **B. Quinn Bill.**

Ms. Bronk feels the Quinn Bill gives the Town a huge liability now that the State doesn't provide a match anymore.

Mr. Sullivan stated the Town's liability now under the Quinn Bill is \$350,000 (if the State matched, the Town's liability would be \$175,000). She believes a committee needs to be formed to conduct research on this matter. She suggested Mr. Worthen, Mr. Trudell, & Ms. Donahue be members on this committee.

#### **C. MEMA & FEMA.**

This matter was already discussed previously in the agenda. Mr. Sullivan stated he isn't expecting anything else.

#### **D. State Aid.**

Mr. Sullivan briefly discussed the local aid budget update. (Attached as reference #4). Brief discussion ensued re: figures shown on the documentation.

#### **E. School Transportation.**

Mr. Heath explained that non-net school spending had a \$300,000 deficit, thus, money was taken out of the transportation revolver in the amount of \$240,000. The other \$60,000 needed was taken out of the school choice revolver. He stated there is no more money in the transportation revolver for things like repairs. The balance in the transportation revolver is zero.

**NOTE:** Present before the FinCom: Claire Smith, Town Moderator

Ms. Smith stated relative to the Quinn Bill issue, the FinCom may want to find out if the vote at Town Meeting would need to be amended. Mr. Heath noted the Supreme Court stated towns can opt out of paying the State's portion.

#### **F. Council on Aging.**

Mr. Heath stated the Council on Aging's Director position has been eliminated. He stated there is confusion as to whom is to be administering matters at the COA. He stated there is a need to have a FinCom liaison for the COA to find out what is going on.

### **G. Capital Planning Member Appointment.**

Ms. Bronk stated Mr. Heath has decided to be the FinCom representative on the Capital Planning Committee.

### **H. Liaison Assignments.**

The following liaison assignments were made:

Mr. Worthen: Treasurer/Collector, Inspections Dept., & Assessors  
Ms. Bronk: Media, Revolving Funds, Legal, & Benefits  
Ms. Cottuli: Community Events, EMS (w/ Mr. Trudell), Council on Aging  
Mr. Cammarano: Board of Health, Veterans/Disability, & Planning/Zoning/CEDA  
Mr. McDonald: IT, WPCF, & Library  
Mr. Gray: School Dept., Audit Committee, & Town Clerk  
Mr. Trudell: Police, Animal Control, Harbormaster, & EMS (w/ Ms. Cottuli)  
Mr. Heath: Town Administrator, Accounting, Municipal Maintenance, & financial matters

Brief discussion ensued re: Harbormaster fees & the General Fund.

### **I. Community Preservation Financial Report**

Ms. Bronk stated the FinCom should be receiving a financial report from Community Preservation. Mr. Sullivan stated he can request this report from Accounting.

Mr. Trudell requested monthly reports on the budget be submitted to the FinCom.

Mr. Heath asked if Community Preservation figures are still in sync w/ Accounting. Mr. Sullivan stated he has not seen the figures, but he has heard the figures are not in sync, but he has not heard that there is any big issue.

Ms. Bronk suggested having Community Preservation come before the FinCom at their next meeting. The FinCom members concurred.

### **J. Community Preservation Legislation**

Mr. Heath briefly discussed the new Community Preservation legislation. (Attached as reference #5). He suggested all FinCom members review the documentation & have this matter placed on the next meeting agenda.

### **K. Audit Status (6-month review)**

Ms. Bronk stated the FinCom should review & discuss this at the next meeting. (Attached as reference #6).



Brief discussion ensued re: DOR guidelines & audit reviews in the future.

#### **L. Public Relations**

Mr. Heath suggested having a space in a newspaper to explain issues & note key meetings. He asked if the FinCom would approve a public relations person to place issues in the paper.

Present before the FinCom: Bob White

Mr. White feels much of the FinCom's discussions go beyond people's attention spans & the message may get lost. He suggested taking small segments of FinCom discussions, amplifying it, & bringing it to a conclusion. He is willing to do this w/ the FinCom's help & involvement. He will help facilitate the technical side of it. Brief discussion ensued.

#### **M. Municipal Maintenance Dept. Overages**

This was already discussed previously in the agenda.

#### **VII. LIAISON REPORTS**

Ms. Cottuli stated the Community Events Committee voted to approve the Community Events Chair to authorize the Town Accountant/Town Administrator to go through the purchasing process for kiosk(s). This proposal is being put through legal review right now.

#### **VIII. NEW BUSINESS**

Mr. McDonald asked for information on the new jet skis that are policing the Town waters.

Ms. Bronk stated she spoke to Chief Stanley & she was told these jet skis were gifted to the Police Dept. She stated there are costs associated w/ these jet skis, such as gas, maintenance, & personnel. Mr. Heath questioned if the jet skis were gifted, did the BOS accept them. Ms. Bronk stated all gifts have to be gifted to the Town.

Present before the FinCom: Gary Buckminster, Harbormaster

Mr. Buckminster stated the jet skis are a "loaner program." He stated the Town has received the jet skis for one year w/ the option to buy. He stated the Town needs to provide maintenance for the jet skis.

Mr. McDonald stated there is a need to know these things because there is a financial impact & further, he is not clear as to if the police officers riding the jet skis are certified to do so.

Mr. Heath announced that no formal decision has been made re: cuts to school transportation or maintaining transportation services. He stated there is some ongoing discussion of re-activating the Transportation Commission to look at the issues. Lengthy discussion ensued.

**IX. NEXT MEETING DATE & TIME**


The next FinCom meeting will be held on 7/25/12 at 6:30 P.M.

**X. ADJOURNMENT**

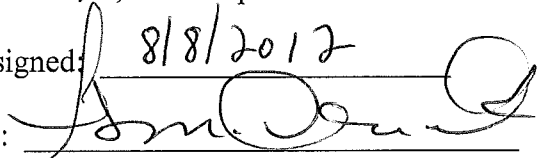
**MOTION:** Mr. Trudell moved to adjourn the meeting at 9:20 P.M. Mr. Gray seconded.

**VOTE:** Unanimous (9-0-0)

Respectfully submitted,

  
Kelly Barrasso, Transcriptionist

Date signed: 8/8/2012

Attest:   
Larry McDonald, Clerk  
WAREHAM FINANCE COMMITTEE

Date copy sent to Town Clerk: 8/9/12

#1

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*Salons*

Unforseen Expenses

Christmas	Vet Memorial	Hurricane Irene	Polar Express	Onset Mobile	Onset Sprinkler
Joseph Statue	\$359.92	\$59.82	\$129,199.29	\$1,579.16	\$3,500.00
Display Supplies	\$7.47	\$383.95	\$2,625.00	\$565.46	
Tape Connectors	\$89.38	\$1,078.95	\$4,273.50	\$984.00	
Lights at Town Hall	\$437.00	\$1,129.59	\$3,972.94		
		\$1,528.97	\$32.06		
		\$962.21			
Wreaths/Bows	\$312.50	Flags, Brackets Poles	\$756.98		
materials	\$5.00	Signs	\$85.00		
outlets	\$10.37	Town Seal	\$250.00		
lights	\$72.37	Supplies	\$1,924.13		
		Chris Still	\$850.00		
Totals	\$1,294.01	\$9,009.60	\$140,102.79	\$3,128.62	\$3,500.00

Raise Increase \$22,989.65

DEF Mess \$5,791.85

On Call Wages \$15,963.61

MSC Roof \$2,885.00

Pare Engineering \$3,400.00 Tremont Dam

Flags 1,135.92

SuAsco Watershed \$2,550.00


Look for Irene's first deposit.... Line Transfer

Guy's money Articles? Article account numbers? ...change

EPA Fine 1500

AF

#2



THE 18<sup>TH</sup> GENERAL COURT OF  
THE COMMONWEALTH OF MASSACHUSETTS

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**PART I**      **ADMINISTRATION OF THE GOVERNMENT**  
 (Chapters 1 through 182)
 

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PREV NEXT

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**TITLE VII**      **CITIES, TOWNS AND DISTRICTS**


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PREV NEXT

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**CHAPTER 44**      **MUNICIPAL FINANCE**


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PREV NEXT

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**Section 33B**      **Transfer of appropriations; restrictions**


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PREV NEXT

Section 33B. (a) On recommendation of the mayor, the city council may, by majority vote, transfer any amount appropriated for the use of any department to another appropriation for the same department. In addition, the city council may, by majority vote, on recommendation of the mayor, transfer within the last 2 months of any fiscal year, or during the first 15 days of the new fiscal year to apply to the previous fiscal year, an amount appropriated for the use of any department other than a municipal light department or a school department to the appropriation for any other department, but the amount transferred from 1 department to another may not exceed, in the aggregate, 3 per cent of the annual budget of the department from which the transfer is made. Except as provided in the preceding sentence, no transfer shall be made of any amount appropriated for the use of any city department to the appropriation for any other department except by a 2/3 vote of the city council on recommendation of the mayor and with the written approval of the amount of the transfer by the department having control of the appropriation from which the transfer is proposed to be made. No transfer involving a municipal light department or a school department shall be made under the previous sentence without the approval of the amount of the transfer by a vote of the municipal light department board or by a vote of the school committee, respectively.

(b) A town may, by majority vote at any meeting duly held, transfer any amount previously appropriated to any other use authorized by law. Alternatively, the selectmen, with the concurrence of the finance committee or other entity establish under section 16 of chapter 39, may transfer within the last 2 months of any fiscal year, or during the first 15 days of the new fiscal year to apply to the previous fiscal year, any amount appropriated for the use of any department other than a municipal light department or a school department to the appropriation for any other department or within a department, but the amount transferred from 1 department to another or within a department may not exceed, in the aggregate, 3 per cent of the annual budget of the department from or within which the transfer is made or \$5,000, whichever is greater.

# MUNICIPAL RELIEF ACT BUDGET TRANSFERS

New  
1st way

Dept From	Category	Amount	Dept To	Category	Amount	Reason for Deficit
Selectmen	Salaries	5,000.00	Personnel Services	Expense	6,850.00	
Town Accountant	Salaries	1,850.00				
		<u>6,850.00</u>			<u>6,850.00</u>	
Selectmen	Salaries	5,000.00	FICA	Expenses	29,010.00	Budgeted incorrectly
Town Planner	Salaries	5,614.00				
Animal control	Salaries	5,000.00				
Beaches	Salaries	5,000.00				
MIS	Salaries	8,396.00				
		<u>29,010.00</u>			<u>29,010.00</u>	
Town Planner	Salaries	5,614.00	Municipal Maintenance	Salaries	16,708.00	Collective Bargaining Retro wasn't budgeted for.
Audit	Expense	1,094.00				Retro's \$22,989
Animal control	Salaries	5,000.00				
Selectmen	Salaries	5,000.00				
		<u>16,708.00</u>			<u>16,708.00</u>	
COA	Salaries	5,000.00	Legal	Expenses	58,801.00	Union Negotiations
Town Accountant	salaries	5,392.00				
Debt Short Int	Expenses	3,242.00				
Unemployment	Expense	5,250.00				
Town Planner	salaries	5,614.00				
MIS	salaries	6,122.00				
Selectmen	salaries	5,000.00				
Animal Control	salaries	5,000.00				
Beaches	salaries	5,000.00				
Assessor	salaries	13,181.00				
		<u>58,801.00</u>			<u>58,801.00</u>	
Beaches	Salaries	3,800.00	Inspections	Salaries	3,800.00	Budgeted incorrectly
Beaches	Salaries	3,700.00	Health	Salaries	3,700.00	Budgeted incorrectly
MIS	Salaries	8,482.00	MIS	Expense	23,000.00	
Selectmen	Salaries	5,000.00				
Assessors	Salaries	9,518.00				
		<u>23,000.00</u>			<u>23,000.00</u>	
Beaches	Salaries	4,700.00	General Services	Expense	4,700.00	
		<u>146,569.00</u>			<u>146,569.00</u>	
Reserve fund transfer						
MM expenses		61,000.00				
MM Salaries		22,332.00				

MUNICIPAL RELIEF ACT						
BUDGET TRANSFERS						
Dept From	Category	Amount	Dept To	Category	Amount	Reason for Deficit
Selectmen	Salaries	6,850.00	Personnel Services	Expense	6,850.00	
Selectmen	Salaries	29,010.00	FICA	Expenses	29,010.00	Budgeted incorrectly
Assessors	Salaries	29,500.00	Municipal Maintenance	Expenses	61,000.00	Expense for Hurricane Irene totaling approx 250,000. This was an unforeseen expense. FEMA only reimburses the town 75%. The 25% that the town is responsible for is what makes up the deficit. MM requested reserve fund in Jan but was pulled by TA & Article for line item transfer pulled in STM
HarborMaster	Salaries	14,000.00				
Veterans	Expense	17,500.00				
Town Planner	Salaries	29,000.00	Municipal Maintenance	Salaries	39,040.00	Collective Bargaining Retro wasn't budgeted for. Retro's \$22,989
Beaches	Salaries	7,000.00				
Audit	Expense	3,040.00				
COA	Salaries	34,000.00	Legal	Expenses	58,801.00	Union Negotiations
Town Accountant	salaries	9,600.00				
Debt Short Int	Expenses	7,700.00				
Unemployment	Expense	7,501.00				
Beaches	Salaries	3,800.00	Inspections	Salaries	3,800.00	Budgeted incorrectly
Beaches	Salaries	3,700.00	Health	Salaries	3,700.00	Budgeted incorrectly
MIS	Salaries	23,000.00	MIS	Expense	23,000.00	
Beaches	Salaries	4,700.00	General Services	Expense	4,700.00	
		229,901.00			229,901.00	

*Andrew*

*Option 2*

<b>Selectmen Budget</b>	123,496
3% or 5000	5,000
Surplus	38,000
Personnel	(5,000)
FICA	(5,000)
MM	(5,000)
Legal	(5,000)
MIS	(5,000)
MM Expense	(5,000)
	<u>8,000</u>

<b>Town Accountant Budget</b>	179,738
3% or 5000	5,392
Surplus	9,600
Personnel	(1,850)
Legal	(5,392)
MIS	(2,358)
	<u>-</u>

<b>Assessors Budget</b>	439,387
3% or 5000	13,181
Surplus	29,000
Legal	(13,181)
MIS	(9,518)
MM Expense	(6,301)
	<u>-</u>

<b>MIS Budget</b>	282,755
3% or 5000	8,482
Surplus	23,000
FICA	(8,396)
Legal	(6,122)
MIS Expense	(8,482)
	<u>0</u>

<b>Town Planner Budget</b>	187,155
3% or 5000	5,614
Surplus	29,000
FICA	(5,614)
MM	(5,614)
Legal	(5,614)
MM Expense	(5,614)
	<u>6,544</u>

<b>Animal Cntl Budget</b>	99,511
3% or 5000	5,000
Surplus	20,000
MM	(5,000)
Legal	(5,000)
FICA	(5,000)
	<u>5,000</u>

<b>Beaches Budget</b>	95,000
3% or 5000	5,000
Surplus Salary	23,000
Surplus Expense	8,000
FICA	(5,000)
Legal	(5,000)
Inspections	(3,800)
Health	(3,700)
MM Expense	(5,000)
General Services	(4,700)
	<u>3,800</u>

<b>COA</b>	156,473
3% or 5000	5,000
Surplus	34,000
Legal	(5,000)
MM Expense	(5,000)
	<u>24,000</u>

<b>Audit Budget</b>	123,840
3% or 5000	5,000
Surplus	8,000
MM	(1,094)
	<u>6,906</u>

<b>Veteran Budget</b>	300,000
3% or 5000	9,000
Surplus	30,000
MM Expense	(9,000)
	<u>21,000</u>

<b>Debt Short Int Budget</b>	78,000
3% or 5000	5,000
Surplus	56,000
Legal	(3,242)
MM Expense	(5,000)
	<u>47,758</u>

<b>Unemployment</b>	175,000
3% or 5000	5,250
Surplus	22,000
Legal	(5,250)
MM Expense	(5,250)
	<u>11,500</u>

<b>Twn Clerk Budget</b>	149,431
3% or 5000	5,000
Surplus Salary	600
Surplus Expense	4,800
MM Salaries	(5,000)
	<u>400</u>

<b>Debt Principal Budget</b>	495,121
3% or 5000	14,853
Surplus	17,000
MM Expense	(14,835)
	<u>2,165</u>

<b>HarborMaster Budget</b>	344,956
3% or 5000	10,348
Surplus	14,713
MM Salaries	(10,348)
	<u>4,365</u>

<b>Treasurer Budget</b>	407,353
3% or 5000	12,220
Surplus	7,500
MM Salaries	(6,984)
	<u>516</u>

Approved *#3 way*



## TOWN OF WAREHAM

54 Marion Road  
Wareham, MA 02571

#4  
Derek D. Sullivan  
Financial Analyst  
(508) 291-3100 x 3108  
(508) 291-3124 FAX  
[dsullivan@wareham.ma.us](mailto:dsullivan@wareham.ma.us)

### Memo

To: Stephen M. Holmes, Chairman Board of Selectman  
From: Derek Sullivan, Financial Analyst  
cc: Wareham Board of Selectmen  
cc: John Foster, Town Administrator  
cc: Donna Bronk, Chairman of the Finance Committee

Date: 7/10/2012

Re: Local Aid Budget Update

The Governor has signed the FY13 State Budget which has increased Wareham's State Aid by \$227,889 and lowered the Assessments by \$19,864.<sup>1</sup>

Table 1 shows the difference between what passed at the Spring 2012 Town Meeting and the new Cherry Sheet numbers as signed by the Governor.

Table 1

Category (does not include offsets)	Town Meeting Passed FY13 Budget	Governor Signed FY13 Cherry Sheet	Delta
Education	\$12,281,729	\$12,397,054	\$115,325
General Government	\$1,928,752	\$2,041,316	\$112,564
Charges/Assessments <sup>2</sup>	\$2,063,606	\$2,043,742	\$19,864
		FY13 Budget Surplus	\$247,753

<sup>1</sup> Please see attached Cherry Sheet

<sup>2</sup> A reduction in charges/assessments would mean a decrease in expenses and would result in a surplus or a positive number.



## WAREHAM

## A. EDUCATION:

## Distributions and Reimbursements:

1. Chapter 70	12,345,207
2. School Transportation <i>Chs. 71, 71A, 71B and 74</i>	0
3. Charter Tuition Reimbursements <i>Ch. 71, s. 89</i>	51,847
4. Smart Growth School Reimbursements <i>Ch. 40S</i>	0

## Offset Items – Reserve for Direct Expenditure:

5. School Lunch <i>1970, Ch. 871</i>	19,206
6. School Choice Receiving Tuition <i>Ch. 76, s. 12B, 1993, Ch. 71</i>	185,614

Sub-Total, All Education Items	12,601,874
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## B. GENERAL GOVERNMENT:

## Distributions and Reimbursements:

1. Unrestricted General Government Aid	1,673,496
2. Local Share of Racing Taxes <i>1981, Ch. 558</i>	0
3. Regional Public Libraries <i>Ch. 78, s. 19C</i>	0
4. Urban Renewal Projects <i>Ch. 121, ss. 53-57</i>	0
5. Veterans' Benefits <i>Ch. 115, s. 6</i>	204,028
6. Exemptions: Vets, Blind, Surviving Spouses & Elderly <i>Ch. 58, s. 8A; Ch. 59 s. 5</i>	123,275
7. State Owned Land <i>Ch. 58, ss. 13-17</i>	40,517

## Offset Item - Reserve for Direct Expenditure:

8. Public Libraries <i>Ch. 78, s. 19A</i>	18,748
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Sub-Total, All General Government	2,060,064
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C. TOTAL ESTIMATED RECEIPTS, FISCAL 2013	14,661,938
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Commonwealth of Massachusetts Department of Revenue  
**NOTICE TO ASSESSORS OF ESTIMATED CHARGES**  
 General Laws, Chapter 59, Section 21

**WAREHAM****A. County Assessments:**

1. County Tax: <i>Ch. 35, ss. 30, 31</i>	69,525
2. Suffolk County Retirement <i>Ch. 61, Acts of 2009, s. 10</i>	0
Sub-Total, County Assessments	69,525

**B. STATE ASSESSMENTS AND CHARGES:**

1. Retired Employees Health Insurance <i>Ch. 32A, s. 10B</i>	0
2. Retired Teachers Health Insurance <i>Ch. 32A, s. 12</i>	1,249,619
3. Mosquito Control Projects <i>Ch. 252, s. 5A</i>	82,100
4. Air Pollution Districts <i>Ch. 111, ss. 142B, 142C</i>	7,160
5. Metropolitan Area Planning Council <i>Ch. 40B, ss. 26, 29</i>	0
6. Old Colony Planning Council <i>1967, Ch. 332</i>	0
7. RMV Non-Renewal Surcharge <i>Ch. 90; Ch. 60A</i>	42,660
Sub-Total, State Assessments	1,381,539

**C. TRANSPORTATION AUTHORITIES:**

1. MBTA <i>Ch. 161A, ss. 8-9; 1974, Ch. 825, ss. 6-7</i>	0
2. Boston Metro. Transit District <i>1929, Ch. 383; 1954, Ch. 535</i>	0
3. Regional Transit <i>Ch. 161B, ss. 9, 10, 23; 1973, Ch. 1141</i>	167,138
Sub-Total, Transportation Assessments	167,138

**D. ANNUAL CHARGES AGAINST RECEIPTS:**

1. Special Education <i>Ch. 71B, ss. 10, 12</i>	3,216
2. STRAP Repayments <i>1983, Ch. 637, s. 32</i>	0
Sub-Total, Annual Charges Against Receipts	3,216

**E. TUITION ASSESSMENTS:**

1. School Choice Sending Tuition <i>Ch. 76, s. 12B, 1993, Ch. 71</i>	225,221
2. Charter School Sending Tuition <i>Ch. 71, s. 89</i>	197,103
3. Essex County Technical Institute Sending Tuition <i>1998, Ch. 300, s. 21</i>	0
Sub-Total, Tuition Assessments	422,324

**F. TOTAL ESTIMATED CHARGES, FISCAL 2013****2,043,742**

For additional information about how the estimates were determined and what may cause them to change in the future, please click on the following link: [Local Aid Estimate Program Summary](#).

Red-line version of the Community Preservation Act statute, showing all amendments

Section-by-section explanation of new law

Community Preservation Coalition Website

CPA Update Newsletter Archives

July 9, 2012

Dear CPA Advocate:

In a noontime ceremony at the State House yesterday, Governor Deval Patrick signed the FY2013 state budget, which included the long-awaited CPA legislation!

The Governor made no amendments or vetoes to the CPA sections included in the budget. The legislation also included the additional \$25 million in funding for the statewide CPA Trust Fund from the FY 2013 budget surplus. As we reported in our last newsletter, legislative leaders have indicated their full intention to provide \$25 million from the budget surplus in future years, as well.

The legislation passed yesterday amends eight different sections of the CPA statute, and the Coalition has prepared two documents that will help explain the major changes:

A red-line version of the CPA statute, as amended, with all changes highlighted.

A companion section-by-section that provides short explanations for the major changes.

The Coalition will be providing additional analysis of the legislation in the coming weeks, including a live, online training presentation.

We are grateful to our CPA advocates across the state for your support and advocacy for this critical legislation!

Forward email

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sent to [ron2angeladunham@verizon.net](mailto:ron2angeladunham@verizon.net) by [stuart.saginer@communitypreservation.org](mailto:stuart.saginer@communitypreservation.org)

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Community  
Preservation Coalition | 33 Union Street, 5th Floor |  
Boston | MA | 02108

Community Preservation Act: Enabling Statute – M.G.L. ch. 44B

Note: This is an unofficial copy of the CPA statute. It contains elements added by the Community Preservation Coalition including bold emphasis and historic citations of CPA amendments. It also contains amendments passed in H. 4200 (July 2012); those changes are indicated in blue (new text) or red ~~striketrough~~ (deletions from existing law). Lastly, it includes two sections also passed in H. 4200 related to additional funding for the CPA Trust Fund and the effective date for all CPA changes contained in H. 4200. Those two sections are at the bottom of this document, following the changes to the CPA statute.

Chapter 267 of the Acts of 2000

*As amended by SB 2343 (July 2002), HB 3944 (July 2003), HB 4709 (December 2004), HB 1680 (March 2006), SB 167 (September 2006), SB 2725 (December 2006), and HB 4200 (July 2012).*

AN ACT RELATIVE TO COMMUNITY PRESERVATION.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. The General Laws are hereby amended by inserting after chapter 44A the following chapter:- CHAPTER 44B. COMMUNITY PRESERVATION.

Section 1. This chapter shall be known and may be cited as the Massachusetts Community Preservation Act.

Section 2. As used in this chapter, the following words shall, unless the context clearly indicates a different meaning, have the following meanings:-

"Acquire", obtain by gift, purchase, devise, grant, rental, rental purchase, lease or otherwise. "Acquire" shall not include a taking by eminent domain, except as provided in this chapter.

"Annual income", a family's or person's gross annual income less such reasonable allowances for dependents, other than a spouse, and for medical expenses as the housing authority or, in the event that there is no housing authority, the department of housing and community development, determines.

"Capital improvement", reconstruction or alteration of real property that: (1) materially adds to the value of the real property or appreciably prolongs the useful life of the real property; (2) becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself; and (3) is intended to become a permanent installation or is intended to remain there for an indefinite period of time.

"Community housing", low and moderate income housing for individuals and families, including low or moderate income senior housing.

"Community preservation", the acquisition, creation and preservation of open space, the acquisition, creation and preservation of historic resources and the creation and preservation of community housing.

"Community preservation committee", the committee established by the legislative body of a city or town to make recommendations for community preservation, as provided in section 5.

"Community Preservation Fund", the municipal fund established under section 7.

"CP", community preservation.

"Historic resources", a building, structure, vessel, real property, document or artifact that is listed ~~or eligible for listing~~ 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.

"Legislative body", the agency of municipal government which is empowered to enact ordinances or by-laws, adopt an annual budget and other spending authorizations, loan orders, bond authorizations and other financial matters and whether styled as a city council, board of aldermen, town council, town meeting or by any other title.

"Low income housing", housing for those persons and families whose annual income is less than 80 per cent of the areawide median income. The areawide median income shall be the areawide median income as determined by the United States Department of Housing and Urban Development.

"Low or moderate income senior housing", housing for those persons having reached the age of 60 or over who would qualify for low or moderate income housing.

"Maintenance", ~~the upkeep of real or personal property.~~ 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.

"Moderate income housing", housing for those persons and families whose annual income is less than 100 per cent of the areawide median income. The areawide median income shall be the areawide median income as determined by the United States Department of Housing and Urban Development.

"Open space", shall include, but not be limited to, 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.

"Preservation", protection of personal or real property from injury, harm or destruction; ~~but not including maintenance.~~

"Real property", land, buildings, appurtenant structures and fixtures attached to buildings or land, including, where applicable, real property interests.

"Real property interest", a present or future legal or equitable interest in or to real property, including easements and restrictions, and any beneficial interest therein, including the interest of a beneficiary in a trust which holds a legal or equitable interest in real property, but shall not include an interest which is limited to the following: an estate at will or at sufferance and any estate for years having a term of less than 30 years; the reversionary right, condition or right of entry for condition broken; the interest of a mortgagee or other secured party in a mortgage or security agreement.

"Recreational use", active or passive recreational use including, but not limited to, the use of land for community gardens, trails, and noncommercial youth and adult sports, and the use of land as a park, playground or athletic field. "Recreational use" shall not include horse or dog racing or the use of land for a stadium, gymnasium or similar structure.

"Rehabilitation", ~~the remodeling, reconstruction and capital improvements, or the~~ making of extraordinary repairs, to historic resources, open spaces, lands for recreational use and community housing for the purpose of making such historic resources, open spaces, lands for recreational use and community housing functional for their intended uses including, but not limited to, improvements to comply with the Americans with Disabilities Act and other federal, state or local building or access codes; **provided, that** with respect to historic resources, "rehabilitation" shall ~~have the additional meaning of work to~~ comply with the Standards for Rehabilitation stated in the United States Secretary of the Interior's Standards for the Treatment of Historic Properties codified in 36 C.F.R. Part 68; and provided 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.

"Support of community housing", shall include, but not be limited to, programs that provide grants, loans, rental assistance, security deposits, interest-rate write downs or other forms of assistance directly to individuals and families who are eligible for community housing or to an entity that owns, operates or manages such housing, for the purpose of making housing affordable.

Section 3. (a) Sections 3 to 7, inclusive, shall take effect in any city or town upon the approval by the legislative body and their acceptance by the voters of a ballot question as set forth in this section.

(b) Notwithstanding the provisions of chapter 59 or any other general or special law to the contrary, the legislative body may vote to accept sections 3 to 7, inclusive, by approving a surcharge on real property of not more than 3 per cent of the real estate tax levy against real property, as determined annually by the board of assessors. The amount of the surcharge shall not be included in a calculation of total taxes assessed for purposes of section 21C of said chapter 59.

(b½) Notwithstanding chapter 59 or any other general or special law to the contrary, as an alternative to subsection (b), the legislative body may vote to accept sections 3 to 7, inclusive, by approving a surcharge on real property of not less than 1 per cent of the real estate tax levy against real property and making an additional commitment of funds by dedicating revenue not greater than 2 per cent of the real estate tax levy against real property; provided, however, that additional funds so committed shall come from other sources of municipal revenue including, but not limited to, hotel excises pursuant to chapter 64G, linkage fees and inclusionary zoning payments, however authorized, the sale of municipal property pursuant to section 3 of chapter 40, parking fines and surcharges pursuant to sections 20, 20A and 20A1/2 of chapter 90, existing dedicated housing, open space and historic preservation funds, however authorized, and gifts received from private sources for community preservation purposes; and provided further, that additional funds so committed shall not include any federal or state funds. The total funds committed to purposes authorized under this chapter by means of this subsection shall not exceed 3 per cent of the real estate tax levy against real property, less exemptions, adopted. In the event that the municipality shall no longer dedicate all or part of the additional funds to community preservation, the surcharge of not less than 1 per cent shall remain in effect, but may be reduced pursuant to section 16.

(c) All exemptions and abatements of real property authorized by said chapter 59 or any other law for which a taxpayer qualifies as eligible shall not be affected by this chapter. A taxpayer receiving an exemption of real property authorized by said chapter 59 or any other law shall be exempt from any surcharge on real property established under this section. The surcharge to be paid by a taxpayer receiving an abatement of real property authorized by said chapter 59 or any other law shall be reduced in proportion to the amount of such abatement.

(d) Any amount of the surcharge not paid by the due date shall bear interest at the rate per annum provided in section 57 of said chapter 59.



(e) The legislative body may also vote to accept one or more of the following exemptions:

(1) for property owned and occupied as a domicile by a person who would qualify for low income housing or low or moderate income senior housing in the city or town;

(2) for class three, commercial, and class four, industrial, properties as defined in section 2A of said chapter 59, in cities or towns with classified tax rates; ~~or~~

~~(3) for \$100,000 of the value of each taxable parcel of residential real property.~~

(3) for \$100,000 of the value of each taxable parcel of residential real property; or

(4) for \$100,000 of the value of each taxable parcel of class three, commercial property, and class four, industrial property as defined in section 2A of said chapter 59.

(f) Upon approval by the legislative body, the actions of the body shall be submitted for acceptance to the voters of a city or town at the next regular municipal or state election. The city or town clerk or the state secretary shall place it on the ballot in the form of the following question:

"Shall this (city or town) accept sections 3 to 7, inclusive of chapter 44B of the General Laws, as approved by its legislative body, a summary of which appears below?"

(Set forth here a fair, concise summary and purpose of the law to be acted upon, as determined by the city solicitor or town counsel, including in said summary the percentage of the surcharge to be imposed.)

If a majority of the voters voting on said question vote in the affirmative, then its provisions shall take effect in the city or town, but not otherwise.

(g) The final date for notifying or filing a petition with the city or town clerk or the state secretary to place such a question on the ballot shall be 35 days before the city or town election or 60 days before the state election.

(h) If the legislative body does not vote to accept sections 3 to 7, inclusive, at least 90 days before a regular city or town election or 120 days before a state election, then a question seeking said acceptance through approval of a particular surcharge rate with exemption or exemptions, may be so placed on the ballot when a petition signed by at least 5 per cent of the registered voters of the city or town requesting such action is filed with the registrars, who shall have seven days after receipt of such petition to certify its signatures. Upon certification of the signatures, the city or town clerk or the state secretary shall cause the question to be placed on the ballot at the next regular city or town election held more than 35 days after such certification or at the next regular state election held more than 60 days after such certification.

(i) With respect to real property owned by a cooperative corporation, as defined in section 4 of chapter 157B, that portion which is occupied by a member under a proprietary lease as the member's domicile shall be considered real property owned by that member for the purposes of exemptions provided under this section. The member's portion of the real estate shall be represented by the member's share or shares of stock in the cooperative corporation, and the percentage of that portion to the whole shall be determined by the percentage of the member's shares to the total outstanding stock of the corporation, including shares owned by the corporation. This portion of the real property shall be eligible for any exemption provided in this section if the member meets all requirements for the exemption. Any exemption so provided shall reduce the taxable valuation of the real property owned by the cooperative corporation, and the reduction in taxes realized by this exemption shall be credited by the cooperative corporation against the amount of the taxes otherwise payable by or chargeable to the member. Nothing in this subsection shall be construed to affect the tax status of any manufactured home or mobile home under this chapter, but this subsection shall apply to the land on which the manufactured home or mobile home is located if all other requirements of this clause are met. This subsection shall take effect in a city or town upon its acceptance by the city or town.

Section 4. (a) Upon acceptance of sections 3 to 7, inclusive, and upon the assessors' warrant to the tax collector, the accepted surcharge shall be imposed.

(b) After receipt of the warrant, the tax collector shall collect the surcharge in the amount and according to the computation specified in the warrant and shall pay the amounts so collected, quarterly or semi-annually, according to the schedule for collection of property taxes for the tax on real property, to the city's or town's treasurer. The tax collector shall cause appropriate books and accounts to be kept with respect to such surcharge, which shall be subject to public examination upon reasonable request from time to time.

(c) The remedies provided by chapter 60 for the collection of taxes upon real estate shall apply to the surcharge on real property pursuant to this chapter.

Section 5. (a) A city or town that accepts sections 3 to 7, inclusive, shall establish by ordinance or by-law a community preservation committee. The committee shall consist of not less than five nor more than nine members. The ordinance or by-law shall determine the composition of the committee, the length of its term and the method of selecting its members, whether by election or appointment or by a combination thereof. The committee shall include, but not be limited to, one member of the conservation commission established under section 8C of chapter 40 as designated by the commission, one member of the historical commission established under section 8D of said chapter 40 as designated by the commission, one member of the planning board established under section 81A of chapter 41 as designated by the board, one member of the board of park commissioners established under section 2 of chapter 45 as designated by the board and one member of the housing authority established under section 3 of chapter 121B as designated by the authority, or persons, as determined by the ordinance or by-law, acting in the capacity of or performing like duties of the commissions, board or authority if they have not been established in the city or town. If there are no persons acting in the capacity of or performing like duties of any such commission, board or authority, the ordinance or by-law shall designate those persons.

(b)(1) The community preservation committee shall study the needs, possibilities and resources of the city or town regarding community preservation, **including the consideration of regional projects for community preservation.** The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the board of park commissioners and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the city or town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the city or town.

(2) The community preservation committee shall make recommendations to the legislative body for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation ~~and~~ preservation, **rehabilitation and restoration** of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of open space, ~~land for recreational use~~ and community housing that is acquired or created as provided in this section; **provided, however, that funds expended pursuant to this chapter shall not be used for maintenance.** With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. **With respect to recreational use, the acquisition of artificial turf for athletic fields shall be prohibited.**

(3) The community preservation committee may include in its recommendation to the legislative body a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

(c) The community preservation committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the community preservation committee shall constitute a quorum. The community preservation committee shall approve its actions by majority vote. Recommendations to the legislative body shall include their anticipated costs.

(d) After receiving such recommendations from the community preservation committee, the legislative body shall then take such action and approve such appropriations from the Community Preservation Fund as set forth in section ~~8-7~~, and such additional non-Community Preservation Fund appropriations as it deems appropriate to carry out the recommendations of the community preservation committee. **In the case of a city, the ordinance shall provide for the mechanisms under which the legislative body may approve or veto appropriations made pursuant to this chapter, in accordance with the city charter.**

(e) For the purposes of community preservation and upon the recommendation of the community preservation committee, a city or town may take by eminent domain under chapter 79, the fee or any lesser interest in real property or waters located in such city or town if such taking has first been approved by a two-thirds vote of the legislative body. Upon a like recommendation and vote, a city or town may expend monies in the Community Preservation Fund, if any, for the purpose of paying, in whole or in part, any damages for which a city or town may be liable by reason of a taking for the purposes of community preservation.

(f) Section 16 of chapter 30B shall not apply to the acquisition by a city or town, of real property or an interest therein, as authorized by this chapter for the purposes of community preservation and upon recommendation of the community preservation committee, and notwithstanding the provisions of section 14 of chapter 40, for purposes of this chapter, no such real property, or interest therein, shall be acquired by any city or town for a price exceeding the value of the property as determined by such city or town through procedures customarily accepted by the appraising profession as valid.

A city or town may appropriate money in any year from the Community Preservation Fund to an affordable housing trust fund.

Section 6. In ~~every~~ each fiscal year and upon the recommendation of the community preservation committee, the legislative body shall spend, or set aside for later spending, not less than 10 per cent of the annual revenues in the Community Preservation Fund for open space, ~~but not including land for recreational use,~~ not less than 10 per cent of the annual revenues for historic resources and not less than 10 per cent of the annual revenues for community housing. In each fiscal year, the legislative body shall make ~~such~~ appropriations from the Community Preservation Fund as it deems necessary for the administrative and operating expenses of the community preservation committee, ~~but the~~ and such appropriations shall not exceed 5 per cent of the annual revenues in the Community Preservation Fund. The legislative body may also make appropriations from the Community Preservation Fund as it deems necessary for costs associated with tax billing software and outside vendors necessary to integrate such software for the first year that a city or town implements the this chapter; provided, however, that the total of any administrative and operating expenses of the community preservation committee and the first year implementation expenses shall not exceed 5 per cent of the annual revenues in the Community Preservation Fund.

Funds that are set aside shall be held in the Community Preservation Fund and spent in that year or later years;; provided, however, that ~~but~~ funds set aside for a specific purpose shall be spent only for the specific purpose. Any funds set aside may be expended in any city or town ~~in the commonwealth~~. The community preservation funds shall not replace existing operating funds, only augment them.

Section 7. Notwithstanding the provisions of section 53 of chapter 44 or any other general or special law to the contrary, a city or town that accepts sections 3 to 7, inclusive, shall establish a separate account to be known as the Community Preservation Fund of which the municipal treasurer shall be the custodian. The authority to approve expenditures from the fund shall be limited to the legislative body and the municipal treasurer shall pay such expenses in accordance with chapter 41.

The following monies shall be deposited in the fund: ~~(a)~~ (i) all funds collected from the real property surcharge or bond proceeds in anticipation of revenue pursuant to sections 4 and 11; ~~(b)~~ (ii) additional funds appropriated or dedicated from allowable municipal sources pursuant to subsection (b½) of section 3, if applicable; (iii) all funds received from the commonwealth or any other source for such purposes; and ~~(e)~~ (iv) proceeds from the disposal of real property acquired with funds from the Community Preservation Fund.

The treasurer may deposit or invest the proceeds of the fund in savings banks, trust companies incorporated under the laws of the commonwealth, banking companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks, or may invest the proceeds in paid up shares and accounts of and in co-operative banks or in shares of savings and loan associations or in shares of federal savings and loan associations doing business in the commonwealth or in the manner authorized by section 54 of chapter 44, and any income there from shall be credited to the fund. The expenditure of revenues from the fund shall be limited to implementing the recommendations of the community preservation committee and providing administrative and operating expenses to the committee.

Section 8. (a) The fees of the registers of deeds, except as otherwise provided, to be paid when the instrument is left for recording, filing or deposit shall be subject to a surcharge of \$20. The fees for so recording, filing or depositing a municipal lien certificate shall be subject to a surcharge of \$10. The surcharges shall be imposed for the purposes of community preservation. No surcharge shall apply to a declaration of homestead under chapter 188. No surcharge shall apply to the fees charged for additional pages, photostatic copies, abstract cards, additional square feet for the filing and recording of plans or for additional or required marginal references.

(b) The fees of the assistant recorder, except as otherwise provided, to be paid when the instrument is left for registering, filing or entering with respect to registered land shall be subject to a surcharge of \$20. The fees for so registering, filing or entering a municipal lien certificate shall be subject to a surcharge of \$10. The surcharges shall be imposed for the purposes of community preservation. No surcharge shall apply to a declaration of homestead of chapter 188. No surcharge shall apply to the fees charged for additional lots shown on plans, for indexing instruments recorded while a petition for registering is pending, for additional certificates of sewer assessments, for old age assistance liens, for duplicates and for photocopies.

(c) All surcharges on fees collected pursuant to this section shall be forwarded to the Massachusetts Community Preservation Trust Fund, established in section 9.

Section 9. (a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Massachusetts Community Preservation Trust Fund, for the benefit of cities and towns that have accepted sections 3 to 7, inclusive, and pursuant to said sections 3 to 7, inclusive, have imposed a surcharge on their real property tax levy, subject to any exemptions adopted by a municipality. The fund shall consist of all revenues received by the commonwealth: (1) under the provisions of section 8; (2) from public and private sources as gifts, grants and donations to further community preservation programs; (3) from damages, penalties, costs or interest received on account of litigation or settlement thereof for a violation of section 15; or (4) all other monies credited to or transferred to from any other fund or source pursuant to law.

(b) The state treasurer shall deposit the fund in accordance with the provisions of section 10 in such manner as will secure the highest interest rate available consistent with the safety of the fund and with the requirement that all amounts on deposit be available for withdrawal without penalty for such withdrawal at any time. All interest accrued and earnings shall be deposited into the fund. The fund shall be expended solely for the administration and implementation of this chapter. Any unexpended balances shall be redeposited for future use consistent with the provisions of this chapter.

(c) The state treasurer shall make all disbursements and expenditures from the fund without further appropriation, as directed by the commissioner of revenue in accordance with said section 10. The department of revenue shall report by source all amounts credited to said fund and all expenditures from said fund. The commissioner of revenue shall assign personnel of the department as it may need to administer and manage the fund disbursements and any expense incurred by the department shall be deemed an operating and administrative expense of the program. The operating and administrative expenses shall not exceed 5 per cent of the annual total revenue received under the provisions of said section 10.

Section 10. (a) The commissioner of revenue shall annually on ~~October 15~~ or before ~~November 15~~ disburse monies from the fund established in section ~~10 9 to cities and towns that have~~ to a city or town that has accepted sections 3 to 7, inclusive, and notified the commissioner of ~~their~~ its acceptance. The community shall notify the commissioner of the date and terms on which the voters accepted said sections 3 to 7, inclusive. The municipal tax collecting authority shall certify to the commissioner the amount the ~~municipality~~ city or town has raised through June 30 by imposing a surcharge on its real property levy and shall certify the percentage of the surcharge applied. In the event a city or town accepts said sections 3 to 7, inclusive, pursuant to subsection (b½) of section 3 the municipal tax collecting authority shall certify to the commissioner by October 30, the maximum additional funds the city or town intends to transfer to the Community Preservation Fund from allowable municipal sources for the following fiscal year. Once certified, the city or town may choose to transfer less than the certified amount during the following fiscal year.

(b) The commissioner shall multiply the amount remaining in the fund after any disbursements for operating and administrative expenses pursuant to subsection (c) of section 9 by 80 per cent. This amount distributed in the first round distribution shall be known as the match distribution. The first round total shall be distributed to each city or town accepting said sections 3 to 7, inclusive, in an amount not less than 5 per cent but not greater than 100 per cent of the total amount raised by the additional surcharge on real property by each city or town and, if applicable, the additional funds committed from allowable municipal sources pursuant to subsection (b½) of section 3. The percentage shall be the same for each city and town and shall be determined by the commissioner annually in a manner that distributes the maximum amount available to each participating city or town.

(c) The commissioner shall further divide the remaining 20 per cent of the fund in a second round distribution, known as the equity distribution. The commissioner shall determine the equity distribution in several steps. The first step shall be to divide the remaining 20 per cent of the fund by the number of cities and towns that have accepted said sections 3 to 7, inclusive. This dividend shall be known as the base figure for equity distribution. This base figure shall be determined solely for purposes of performing the calculation for equity distribution and shall not be added to the amount received by a participant.

(d) Each city and town in the commonwealth shall be assigned a community preservation rank for purposes of the equity distribution. The commissioner shall determine each community's rank by first determining the ~~municipality's~~ city or town's equalized property valuation per capita ranking, ranking ~~municipalities~~ cities or towns from highest to lowest valuation. The commissioner shall also determine the population of each ~~municipality~~ city or town and rank each from largest to smallest in population. The commissioner shall add each equalized property valuation rank and population rank, and divide the sum by ~~two~~ 2. The dividend is the community preservation raw score for that ~~municipality~~ city or town.

(e) The commissioner shall then order each ~~municipality~~ city or town by ~~CP~~ community preservation raw score, from the lowest raw score to the highest raw score. This order shall be the ~~CP~~ community preservation rank for each ~~municipality~~ city or town. If more than ~~one~~ 1 ~~municipality~~ city or town has the same ~~CP~~ community preservation raw score, the ~~municipality~~ city or town with the higher equalized valuation rank shall receive the higher ~~CP~~ community preservation rank.



(f) After determining the ~~CP~~ community preservation rank for each ~~municipality~~ city or town ~~in the commonwealth~~, the commissioner shall divide all ~~municipalities~~ cities or towns into deciles according to their ~~CP~~ community preservation ranking, with approximately the same number of ~~municipalities~~ cities and towns in each decile, and with the ~~municipalities~~ cities or towns with the highest ~~CP~~ community preservation rank shall be placed in the lowest decile category, starting with decile 10. Percentages shall be assigned to each decile as follows:

decile 1	140 per cent of the base figure
decile 2	130 per cent of the base figure
decile 3	120 per cent of the base figure
decile 4	110 per cent of the base figure
decile 5	100 per cent of the base figure
decile 6	90 per cent of the base figure
decile 7	80 per cent of the base figure
decile 8	70 per cent of the base figure
decile 9	60 per cent of the base figure
decile 10	50 per cent of the base figure

After assigning each ~~municipality~~ city and town to a decile according to their ~~CP~~ community preservation rank, the commissioner shall multiply the percentage assigned to that decile by the base figure to determine the second round equity distribution for each participant.

~~(f)~~ (g) Notwithstanding any other provision of this section, the total state contribution for each city ~~or~~ and town shall not exceed the actual amount raised by the ~~municipality's~~ city or town's surcharge on its real property levy and, if applicable, additional funds committed from allowable municipal sources pursuant to subsection (b1/2) of section 3.

~~(g)~~ (h) When there are monies remaining in the ~~trust fund~~ Massachusetts Community Preservation Trust Fund after the first and second round distributions, and any necessary administrative expenses have been paid in accordance with section 6 9, the commissioner may conduct a third round surplus distribution. Any remaining surplus in the fund may be distributed by dividing the amount of the surplus by the number of cities and towns that have accepted ~~this chapter~~ sections 3 to 7, inclusive. The resulting dividend shall be the surplus base figure. The commissioner shall then use the decile categories and percentages as defined in this section to determine a surplus equity distribution for each participant.

(h) (i) The commissioner shall determine each participant's total state grant by adding the amount received in the first round distribution with the amounts received in any later round ~~or rounds~~ of distributions, with the exception of a city or town that has already received a grant equal to 100 per cent of the amount the community raised by its surcharge on its real property levy.

(1) Only those cities and towns that adopt the maximum surcharge ~~allowed by this chapter~~ pursuant to subsection (b) of section 3 and those cities and towns that adopt the maximum surcharge and additional funds committed from allowable municipal sources such that the total funds are the equivalent of 3 per cent of the real estate tax levy against real property pursuant to subsection (b $\frac{1}{2}$ ) of said section 3 shall be eligible to receive additional state monies through the equity and surplus distributions.

(2) If less than 10 per cent of the cities and towns ~~in the commonwealth~~ have accepted sections 3 to 7, inclusive, and imposed and collected a surcharge on their real property levy, the commissioner may calculate the state grant with only ~~one~~ 1 round of distributions, or in any other equitable manner.

(j) After distributing the ~~trust fund~~ Massachusetts Community Preservation Trust Fund in accordance with this section, the commissioner may keep any remaining funds in the trust for distribution in the following year.

Section 11. A city or town that accepts sections 3 to 7, inclusive, may issue, from time to time, general obligation bonds or notes in anticipation of revenues to be raised pursuant to section 3, the proceeds of which shall be deposited in the Community Preservation Fund. Bonds or notes so issued may be at such rates of interest as shall be necessary and shall be repaid as soon after such revenues are collected as is expedient. Cities or towns that choose to issue bonds pursuant to this section shall make every effort to limit the administrative costs of issuing such bonds by cooperating among each other using methods including, but not limited to, common issuance of bonds or common retention of bond counsel. Except as otherwise provided in this chapter, bonds or notes issued pursuant to this section shall be subject to the applicable provisions of chapter 44. The maturities of each issue of bonds or notes issued under this chapter may be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the officers authorized to issue bonds or notes or, in the alternative, in accordance with a schedule providing for a more rapid amortization of principal.

Section 12. (a) A real property interest that is ~~purchased~~ acquired with monies from the Community Preservation Fund shall be bound by a permanent ~~deed~~ restriction, recorded as a separate instrument, that meets the requirements of sections 31 to 33, inclusive, of chapter 184 limiting the use of the interest to the purpose for which it was acquired. The ~~deed~~ permanent restriction shall run with the land and shall be enforceable by the city or town or the commonwealth. The ~~deed~~ permanent restriction may also run to the benefit of a nonprofit organization, charitable corporation or foundation selected by the city or town with the right to enforce the restriction. The legislative body may appropriate monies from the Community Preservation Fund to pay a nonprofit organization created pursuant to chapter 180 to hold, monitor and enforce the deed restriction on the property.

(b) Real property interests acquired under this chapter shall be owned and managed by the city or town, but the legislative body may delegate management of such property to the conservation commission, the historical commission, the board of park commissioners or the housing authority, or, in the case of interests to acquire sites for future wellhead development by a water district, a water supply district or a fire district. The legislative body may also delegate management of such property to a nonprofit organization created under chapter 180 or chapter 203.

Section 13. The community preservation committee shall keep a full and accurate account of all of 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 or grantees and the nature of the consideration. The records and accounts shall be public records.

Section 14. Notwithstanding the provisions of any general or special law to the contrary, every city and town may accept sections 3 to 7, inclusive, and may thereupon receive state grants under section 10. A city or town that accepts said sections 3 to 7, inclusive, shall not be precluded from participating in state grant programs.

State grant programs may include local adoption of this chapter among the criteria for selection of grant recipients. Funds in the Community Preservation Fund may be made available and used by the city or town as the local share for state or federal grants upon recommendation of the community preservation committee and the legislative body, as provided for in section 5, if such grants and such local share are used in a manner consistent with the recommendations of the community preservation committee.

Section 15. (a) A person who, without permission, knowingly carries away or steals, mutilates, destroys, damages, causes to be damaged or cuts any tree, shrub, grass or any other portion of real property purchased by a city or town with funds derived from this chapter shall be liable to the city or town in tort for such actions.

(b) Damages, including punitive damages for willful or wanton violation of this chapter or any rule or regulation issued or adopted hereunder, may be recovered in a civil action brought by the city or town or, upon request of the city or town, by the attorney general. The city or town or, upon request of the city or town, the attorney general, may bring an action for injunctive relief against any person violating this chapter or any rule or regulation issued hereunder. The superior court shall have jurisdiction to enjoin violations, to award damages and to grant such further relief as it may deem appropriate.

(c) Any damages, penalties, costs or interest thereon recovered pursuant to this section shall be deposited into the Community Preservation Fund of the city or town in which the violation occurred.

Section 16. (a) At any time after imposition of the surcharge, the legislative body may approve and the voters may accept an amendment to the amount and computation of the surcharge, or to the amount of exemption or exemptions, in the same manner and within the limitations set forth in this chapter, **including reducing the surcharge to 1 per cent and committing additional municipal funds pursuant to subsection (b 1/2) of section 3.**

(b) At any time after the expiration of five years after the date on which sections 3 to 7, inclusive, have been accepted in a city or town, said sections may be revoked in the same manner as they were accepted by such city or town, but the surcharge imposed under section 3 shall remain in effect in any such city or town, with respect to unpaid taxes on past transactions and with respect to taxes due on future transactions, until all contractual obligations incurred by the city or town prior to such termination shall have been fully discharged.

Section 17. The commissioner of revenue shall have the authority to promulgate rules and regulations to effect the purposes of this chapter.

SECTION 2. Section 38 of chapter 262 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following paragraph:-

The fees of the registers of deeds, except as otherwise provided, to be paid when the instrument is left for recording, filing or deposit shall be subject to a surcharge under section 8 of chapter 44B.

SECTION 3. Section 39 of said chapter 262, as so appearing, is hereby amended by adding the following paragraph:-

The fees of the assistant recorder, except as otherwise provided, to be paid when the instrument is left for registering, filing or entering with respect to registered land shall be subject to a surcharge under section 8 of chapter 44B.

Approved September 14, 2000.

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**Please Note:**

H. 4200, signed by the Governor on July 8, 2012 also included two sections related to additional funding for the CPA Trust Fund and the effective date for all CPA changes contained in H. 4200. Those sections are shown below.

**SECTION 155.** (a) Notwithstanding any general or special law to the contrary, after complying with clause (a) of section 5C of chapter 29 of the General Laws, the comptroller shall dispose of the consolidated net surplus in the budgetary funds for fiscal year 2013 in the following order to the extent that funds are available: (i) transfer \$25,000,000 to the Massachusetts Community Preservation Trust Fund, established by section 9 of chapter 44B of the General Laws; and (ii) transfer the remaining balance from the General Fund to the Commonwealth Stabilization Fund.

(b) All transfers pursuant to this section shall be made from the undesignated fund balance in the budgetary funds proportionally from the undesignated fund balances; provided, however, that no such transfers shall cause a deficit in any of the funds.

**SECTION 218.** Sections 57 to 71, inclusive, shall apply to all Community Preservation Fund appropriations approved by a city or town's legislative body on or after the effective date of acceptance of sections 3 to 7, inclusive, of chapter 44B of the General Laws in any such city or town.

## Summary: Changes to the Community Preservation Act

July 2012

This document summarizes the major changes to the Community Preservation Act included in H. 4200 signed by Governor Patrick on July 8, 2012. The section numbers shown below are those found in Chapter 44B, The Community Preservation Act enabling statute, which can be found at: [www.communitypreservation.org/content/text-legislation](http://www.communitypreservation.org/content/text-legislation)

In addition to the changes explained below, H. 4200 also included a \$25 million transfer from the state's FY 2013 budget surplus to the statewide CPA Trust Fund, for distribution to CPA communities in the fall of 2013.

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### Section 2

- Adds a new definition for "Capital improvement" as shown below.

*"Capital improvement", reconstruction or alteration of real property that: (1) materially adds to the value of the real property or appreciably prolongs the useful life of the real property; (2) becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself; and (3) is intended to become a permanent installation or is intended to remain there for an indefinite period of time.*

- "Historic resources" definition: Deletes the confusing phrase "or eligible for listing," as shown below.

*"Historic resources", a building, structure, vessel, real property, document or artifact that is listed ~~or eligible for listing~~ 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.*

- Adds a clearer definition of the term "Maintenance" as shown below, and relocates the prohibition on using CPA funds for maintenance to Section 5(b)2.

*"Maintenance", 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.*

- For recreation projects only, expands the definition of "rehabilitation," as shown below, to allow for replacement of recreational equipment and other capital improvements.

*"Rehabilitation", capital improvements, or the making of extraordinary repairs, to historic resources, open spaces, lands for recreational use and community housing for the purpose of making such historic resources, open spaces, lands for recreational use and community housing functional for their intended uses including, but not limited to, improvements to comply with the Americans with Disabilities Act and other federal, state or local building or access codes; provided, that with respect to historic resources, "rehabilitation" shall comply with the Standards for Rehabilitation stated in the United States Secretary of the Interior's Standards for the Treatment of Historic Properties codified in 36 C.F.R. Part 68; and provided 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.*

## Summary: Changes to the Community Preservation Act

July 2012

- Adds a definition of “support of community housing,” as shown below, to clarify that assistance may be provided directly to persons that qualify for community housing.

*“Support of community housing”, shall include, but not be limited to, programs that provide grants, loans, rental assistance, security deposits, interest-rate write downs or other forms of assistance directly to individuals and families who are eligible for community housing or to an entity that owns, operates or manages such housing, for the purpose of making housing affordable.*

### Section 3

- Allows communities to adopt CPA at the ballot with a minimum 1% property tax surcharge and then dedicate additional municipal revenues (such as hotel/motel excise taxes) to their CPA Fund, up to the full 3% of the real estate levy against real property.
- Adds a new, optional commercial exemption for the first \$100,000 of property value for commercial and industrial properties, mirroring the current optional \$100,000 residential exemption.

### Section 5

- Adds a requirement that Community Preservation Committees should, as part of their Community Preservation Plan, consider CPA projects that are regional in scope.
- Modifies the allowable uses of CPA funds to permit the rehabilitation of existing recreational land not created or acquired with CPA funds.
- Adds a prohibition on using CPA funds to acquire artificial turf for athletic fields.
- Clarifies that in the case of cities, legislative body action on CPA spending recommendations will be governed by the same procedures used for other city appropriations, as specified in the city charter.

### Section 6

- Allows communities to use their annual 10% open space set-aside on both passive and active recreation projects.
- Allows communities to use some of their CPA administrative and operating expenses, in their first year only, to cover CPA costs associated with tax billing software upgrades. Such costs currently must be paid from non-CPA revenue sources.

## Summary: Changes to the Community Preservation Act

July 2012

### Section 7

- For communities that adopt CPA with the provision allowing for additional municipal revenue to be deposited into their Community Preservation Fund, this section provides the language that allows that additional revenue to be deposited into the fund.

### Section 10

- Allows the CPA Trust Fund disbursement for municipalities to be delayed to November 15<sup>th</sup> each year, if necessary, so that monies from the state budget surplus can be deposited into the CPA Trust Fund prior to the distribution. Previously the deadline was October 15<sup>th</sup>.
- If applicable, requires municipalities to certify to the commissioner of revenue by October 30<sup>th</sup> each year the maximum additional funds it intends to transfer to its Community Preservation Fund from other allowable municipal revenues for the following fiscal year, and clarifies that such municipalities will qualify for annual CPA matching funds for those additional funds, as well.

### Section 12

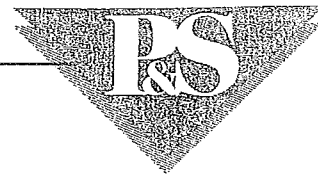
- Clarifies that a real property interest *acquired* by a municipality by any mechanism using CPA funds shall be bound by a permanent restriction. Current legislation uses the word *purchased*.
- Changes the term “deed restriction” to the more proper “permanent restriction,” and clarifies that the restriction must be recorded as a separate instrument that meets the requirements of Chapter 184, sections 31 to 33.
- Clarifies that CPA funds may be appropriated to non-profit organizations to hold, monitor and enforce restrictions limiting the use of land to CPA purposes.

### Section 16

- Allows communities that have already accepted the CPA at a surcharge level above 1% the option of reducing their CPA surcharge to 1% and committing additional municipal revenues to their Community Preservation Fund, pursuant to Section 2 above.

Please Note: This document was prepared on July 9, 2012 by the Community Preservation Coalition based on an unofficial version of the Community Preservation Act as amended on July 8, 2012. The Coalition does not render legal opinions or advice, and recommends consulting with an attorney.





TOWN OF WAREHAM

SIX MONTH OPERATIONAL REVIEW

AS OF DECEMBER 31, 2011

# Powers & Sullivan, LLC

Certified Public Accountants



May 9, 2012

Board of Selectmen  
Town of Wareham  
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To the Honorable Board of Selectmen:

At the Town's request, we were engaged to review the operations of the Town for the six months ending December 31, 2011. The purpose of this review was to assist management in determining if procedures have been put in place to properly account for and reconcile the Town's cash, receivables, revenues, expenditures, budget and beginning balances for fiscal 2012.

These reviews were conducted outside the scope of our fiscal year 2012 audit. Our procedures mainly consisted of inquiries of management and review of documentation provided by the Interim Town Accountant. This report is intended solely for the information and use of management of the Town of Wareham, Massachusetts.

## Background

Since fiscal year 2010, the Town has had multiple material weaknesses regarding reconciliation procedures surrounding all elements of the general ledger and subsidiary ledgers. As a result of the Town's inability to properly record and reconcile its financial activity for FY2009 and FY2010, the financial statements received qualified opinions for both fiscal years.

For FY 2011, the Town did not implement proper procedures or complete reconciliations and therefore the Town Accountant was terminated during the last few months of the fiscal year. The Town engaged our firm to extend our audit procedures that resulted in a significant number of proposed audit adjustments to correct the ledger activity. This resulted in an unqualified audit opinion on the basic financial statements for FY2011 but the material weaknesses remained.

During FY12, an Interim Town Accountant was hired and is under contract with the Town until June 30, 2012. The Town has recently hired a new full time Town Accountant, and he is scheduled to begin May 21, 2012.

The Interim Town Accountant was responsible for fulfilling all the duties of the Town Accountant; reconcile all accounts; develop new internal control policies and procedures; close the ledgers at the end of FY11 and each month of FY12; preparation of Schedule A; assist in the completion of the Tax Rate Recapitulation Sheet for fiscal year 2012; recording and reporting of all activity related to fiscal year 2012; and assisting in the implementation of reconciliation procedures surrounding cash and receivable balances.

## **Overview of Process**

Our process involved discussing with both Accounting and Treasury personnel; 1) how the fiscal year 2012 operating budget is recorded in the general ledger and how it reconciles with the votes and the Tax Rate Recapitulation Sheet; 2) inquired whether general ledger cash receipts and warrant postings are up to date; 3) whether there have been reconciliations performed regarding the cash, receivables and beginning balances brought forward from fiscal year 2011.

The following section summarizes our observations and recommendations by major section reviewed:

### **Cash Procedures - Observations**

We discussed with the Interim Town Accountant the process being used to reconcile cash with the Treasurers Office. Copies of the Treasurers bank to book reconciliation for each month are completed and forwarded to the Accountant to reconcile to the monthly ending cash balance per the general ledger. We reviewed the first six months of FY12 cash reconciliations and verified that they were completed as of the date of our report. At December 31, 2011, a variance of \$2,255 was reported as a timing difference and has cleared as of February 2012.

This is a very positive development as the Town's lack of ability to complete this basic function was the main reason for the material weaknesses and qualified audit opinions.

We did not review the January and February 2012 cash reconciliations in detail but they appeared to be completed. We also were informed that the March 2012 cash reconciliation was being performed in April and expected to be completed in early May.

Through discussions, we noted that there was a lack of communication between the Interim Town Accountant and both Accounting support staff and Treasury staff. There were no meaningful discussions between the Interim Town Accountant, the Accounting staff and Treasury staff on the process used to reconcile cash. Although the cash was reconciled, it appears to us that the Interim Accountant completed the reconciliation independent of the other staff and Treasury Department. Any reconciliation process must be a cooperative effort that involves all parties. We would still consider the current process to be a significant deficiency due to the fact only the Interim Accountant is reviewing and approving the reconciliation workpapers. The Treasurer, or his designee, must also review and approve the reconciliation.

### **Recommendation**

We understand that the Interim Town Accountant had to perform a lot of catch-up for cash and ledger reconciliations, and as such, may not have had time to bring together all that are involved in the reconciliation. However it now appears as if the reconciliation is being prepared timely. It is imperative on a go forward basis that the Interim Accountant works with the Treasurer and trains the new Town Accountant on how to perform the reconciliation. Probably the most important responsibility of the Interim Accountant is to document the process and transition the actual reconciliation process to the new Town Accountant so that timely reconciliations will be able to continue after the Interim Accountant is phased out.

We recommend that monthly meetings be held between the Interim Town Accountant, the Accounting support staff and the Treasurer's Office staff. All applicable employees' need to be informed as to where the monthly reconciliation process stands, assist in the resolution of any reconciling items and assure that all necessary adjustments found as part of the reconciliation process are properly posted to the correct set of records.

We also recommend that cash reconciliation procedures be performed on a monthly basis once the Treasurer's bank to book reconciliation has been received. Timely reconciliations allows for a more efficient resolution of reconciling items due to the transactions having occurred more recently.

### **Receivable Procedures – Observations**

We discussed with the Interim Town Accountant the process being used to reconcile the receivable balances with the Collectors Office. The Accountant's Office has read only access to run reports from the Collector's Receivable Module. The Interim Town Accountant has been generating these reports and using them to compare to reports run from the general ledger. We reviewed the first six months of FY12 receivable reconciliations and for some of the receivables that have minimal activity such as, boat excise, we have reviewed the reconciliations through the first eight months of FY12.

As of the date of our review, the majority of receivable balances have been reconciled. We noted that it is the General Fund receivables that have received the most attention, we did observe, that if a receivable type has multiple years open, only the most recent couple of fiscal years are being reconciled. The older years with small balances and that have minimal activity have not been fully reviewed and reconciled to the Collectors records. Although most of the receivable balances were reconciled, it appears to us that the Interim Accountant completed the reconciliation independent of the other staff and Collectors Office.

Also, reconciliations related to the receivable account balances of the Community and Economic Development Authority (CEDA) and the Water Pollution Control Facility (WPCF) are just getting started and a priority should be placed on these balances before the end of the current fiscal year.

The balances related to CEDA and the WPCF include such balances as Title V Loans, User Charges and Betterments. These categories of receivables have been a problem for the Town in the past and have contributed to the material weaknesses reported in prior fiscal years.

The Town also maintains various miscellaneous receivables such as Chapter 90, Veterans Benefits, Police Details to name a few, these receivables must be included as part of the monthly reconciliation process.

The lack of reconciliations occurring for these receivable types would be considered a deficiency in internal control and will result in a material weakness for the FY12 audit if not satisfactorily reconciled by fiscal year end.

We have also noted that the same lack of communication documented with the cash reconciliation procedures exists regarding the receivable reconciliations. As a result of the communication breakdown, we observed that both the Interim Town Accountant and the Accounting Office support staff have been working on receivable reconciliations and are not communicating with each other.

First, this is a duplication of effort and second, if two parties are trying to correct the same reconciling items this can lead to either duplicate or two differing adjustments being posted to correct the reconciling item.

### **Recommendation**

We understand that the Interim Town Accountant had to perform a lot of catch-up for receivable and ledger reconciliations, and as such, may not have had time to bring together all that are involved in the reconciliation process. However, just as with the cash procedures, the most important responsibility of the Interim Town Accountant is to document the process and transition the actual reconciliation process to the new Town Accountant so he will be able to continue the timely completion after the Interim Town Accountant is phased out. A second important responsibility regarding the receivables is to address all receivable types and the older years that have not been reconciled to date.

We recommend that monthly meetings be held between the Interim Town Accountant, the new Town Accountant and the Treasurer's Office staff. All applicable employees' need to be informed as to where a particular reconciliation stands, assist in the resolution of reconciling items and assure that all necessary adjustments found as part of the reconciliation process are properly posted to the correct set of records.

We also recommend that a plan be developed by the Interim Town Accountant that states who is reconciling a particular receivable area. This will help to eliminate any duplication of effort that currently exists and assure that all receivable balances are reconciled timely. Procedures also need to be put in place to assure that all adjustments found either through the reconciliation process or received from other Departments are posted to the general ledger in a timely manner.

### **General Ledger Beginning and Ongoing Fund Balances**

We reviewed the general ledger beginning balances of fiscal year 2012 to ascertain if they can be reconciled to the prior year ending balances. This was accomplished with minimal variances. A list of questions has been provided to the Interim Town Accountant for review. There were approximately four special revenue funds in which the beginning balances did not reconcile with the prior year. Two appeared as if the prior year revenues did not close out to the fund balance and two funds that were out of balance in the prior year by equal and opposite amounts were carried over at the incorrect balances. The overall variance in beginning balance is minor but still needs correction. The Interim Town Accountant has been given a listing of the funds in question and will be providing the adjustments deemed necessary upon their review.

We also noted that the process of reconciling various departmental fund balances such as grants, gifts, revolving funds, planning deposits etc. has not occurred. Recently letters were sent from the Interim Town Accountant to Town Departments outlining the balances as maintained in ledger and asking if the department heads agree with the reported balances. It is our understanding that the Interim Town Accountant has had little response.

### **Recommendation**

The most important responsibility of the Interim Town Accountant regarding this section is to work with Town departments to assure that all Funds maintained in the ledger agree with the records maintained at the department level and to transition this process to the new Town Accountant.

We strongly recommend that the Town Administrator's Office and, if needed, the Selectmen require timely responses from every Department to the Town Accountant's Office regarding the reconciliation process and review of monthly reports distributed.

This would be considered a material weakness in internal control if these reconciliations do not take place in a timely manner.

#### **General Fund, Water Pollution Control Facility (WPCF), and Cemetery Perpetual Care (CPC) Budgets**

We were provided with a budget schedule for the fiscal year 2012 general fund operating budget. The schedule was reconciled to the Tax Rate Recapitulation Sheet with a variance of approximately \$39,000. Reconciliation to the general ledger was not provided and is currently being completed by the Interim Town Accountant. This will be provided when completed.

We were not provided with a reconciliation to the Tax Rate Recapitulation Sheet or the general ledger for the WPCF and the CPC FY2012 budgets. These have been requested of the Interim Town Accountant.

Monitoring and reconciliation of all legally voted Town budgets is one of the most important functions of the Town Accountants Office. The budget represents legally adopted appropriations that the Town must adhere to. Reconciliations should be performed after each Town Meeting and every adjustment posted to the ledgers to assure that the ledger is accurate and up to date for all funds with a voted budget.

We noted that periodically appropriation reports have been provided to Town departments for review. However, it does not appear that all departments are responding to the Accountant's Office regarding if they agree with the reports received.

#### **Recommendation**

We recommend that a complete budget reconciliation to the Tax Rate Recapitulation Sheet and the general ledger be performed for every legally adopted budget. This is a critical step in assuring that monthly appropriation reports distributed to department heads are reporting accurate budgeted amounts and that the ledger reconciles to the approved Tax Rate Recapitulation Sheet and any subsequent Town Meeting votes.

We strongly recommend that the Town Administrator's Office and, if needed, the Selectmen require timely responses from every Department to the Town Accountant's Office regarding the reconciliation process and review of monthly reports distributed.

#### **Summary**

Based on our review of the first six months of fiscal year 2012, we have concluded that the reconciliation of cash is now occurring on a monthly basis.

As discussed above, most receivable balances maintained in the general fund have been reconciled with the exception of receivable types that have multiple fiscal years open. For example the ledger is reporting real estate receivables for each fiscal year back through FY08. Only fiscal years 2012 back through 2010 have been reviewed and reconciled. Although the older years have minimal activity, if there is an outstanding balance being maintained it needs to be reconciled.

We also noted that the balances related to CEDA and the WPCF which include such receivable balances as Title V Loans, User Charges and Betterments have not been reconciled as of the date of this report. This needs to be made a priority during the remaining months of FY12.

Miscellaneous receivable balances such as Chapter 90, Veterans Benefits and Police Details, to name a few, must be included as part of the monthly receivable reconciliation process.

Communication between the Interim Town Accountant, Accounting support staff, Treasury staff and others within Town Hall needs to be enhanced so that everyone is involved in the decision making and reconciliation processes. Good communication will also help to assure that a duplication of effort does not exist. Also, now that a new Town Accountant has been hired, he needs to be involved in every meeting and included in the decision making process regarding new procedures on a go forward basis.

All cash receipt and warrant activity has been properly recorded in the general ledger and reconciled to the Treasurer's records for the first six months of fiscal year 2012.

All beginning fund balances for fiscal year 2012 have been reconciled to the ending balances reported in fiscal year 2011, as noted, there are four funds with immaterial variances that the Interim Town Accountant is researching.

A general fund budget schedule was received that can be reconciled to the Tax Rate Recapitulation Sheet with a variance of approximately \$39,000 that must be resolved. Reconciliation to the general ledger for the general fund was not provided but is being worked on and will be provided to us upon its completion.

We were not provided with a reconciliation of the WPCF or the CPC budgets to the Tax Rate Recapitulation Sheet or the general ledger. These have been requested of the Interim Town Accountant.

Reconciliations between the ledger and all other Town departments regarding such balances as grants, revolving funds, planning deposits have not occurred. Letters have been sent to various departments by the Interim Town Accountant with little response. At this point, the Town Administrator and, if needed, the Selectmen need to pursue each department head requiring timely responses to the Accountant's Office every month upon review of reports distributed or face disciplinary actions.

Each one of these policies and procedures must be formally documented in a handbook. Each month the Town Accountant must prepare a monthly closing checklist that verifies all steps have been completed and signed off. The checklist must be presented to the Town Administrator by the end of the third week of the following month.

Finally, it is important to note that the Interim Town Accountant's contract expires at the end of June, 2012. We recommend that management work with the Interim Town Accountant to assure that all reconciliation procedures are documented and that the new Town Accountant is trained to continue this process once the contract ends. We also recommend that copies of all documents that were prepared by the Interim Town Accountant be obtained and filed accordingly for future use. These would include items such as Schedule A for fiscal years 2010 and 2011, Free Cash Certification workpapers, any workpapers related to the preparation of the Tax Rate Recapitulation Sheet and Year-End DOR submittals.

We appreciate the opportunity to service the Town of Wareham, MA, and look forward to our continued relationship. Please do not hesitate to contact us should you have any questions regarding this report.

Sincerely,

  
Powers & Sullivan, LLC

