

ARTICLE 29 * AMEND TOWN BYLAWS – CHAPTER S
(Majority vote) **COMMUNITY PRESERVATION COMMITTEE**

To see if the Town will vote to amend Chapter S of the General Bylaws of the Town (the Community Preservation Committee Bylaw) as follows:

1. Delete Section 3.2, which prescribes the appropriate recommendations for use of funds the Committee shall make for open space, historic resources and community housing, and replace it with the following new Section 3.2:

The Committee shall make recommendations in proper form to Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, 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, and community housing that is acquired or created with funds received in accordance with the Community Preservation Act, MGL Chapter 44B, Sections 1 to 17, as amended; provided, however, that funds expended pursuant to this chapter shall not be used for maintenance. With respect to community housing, the Committee shall recommend, whenever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

[Section 3.2 currently reads:

“The Committee shall make recommendations in proper form to the Town Meeting 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 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 with funds received in accordance with the Community Preservation Act, MGL Chapter 44B, Sections 1 to 17, as amended. With respect to community housing, the Committee shall recommend, whenever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.”]

2. Delete Section 3.4, which prescribes the percentage of annual revenues in Community Preservation Funds that shall be set aside for later spending and replace it with the following new Section 3.4:

In each fiscal year, the Committee shall recommend spending, or setting aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for each of open space, historic resources, and community housing. The Committee may also recommend an appropriation of not more than 5% of the annual revenues of the Community Preservation Fund for the Committee’s administrative and operating expenses. The Committee shall report each year to the Town Meeting on its actual expenditures and anticipated expenditures for administration and operating costs.

[Section 3.4 currently reads:

“In each fiscal year, the Committee shall recommend spending, or setting aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for each of open space (not including land for active recreation purposes), historic resources, and community housing. The Committee may also recommend an appropriation of not more than 5% of the annual revenues of the Community Preservation Fund for the Committee’s administrative and operating expenses. The Committee shall report each year to the Town Meeting on its actual expenditures and anticipated expenditures for administration and operating costs.”]

Or take any other action relative thereto.

MOTION

Move that the Town adopt the general bylaw amendments as set forth in the Article.

SUMMARY

The proposed amendments make Chapter S consistent with the legislative changes made to Massachusetts General Law, Chapter 44B, Community Preservation Act (CPA) signed by Governor Patrick on July 8, 2012. The first proposed amendment, Section 3.2, modifies the allowable uses of CPA funds to permit the rehabilitation of existing recreational land not created or acquired with CPA funds. It also clarifies that CPA funds shall not be used for maintenance. The second proposed amendment, Section 3.4, removes the prohibition of using the annual 10% open space set-aside fund on passive and active recreation projects.

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Selectman assigned: David Clough: bos@acton-ma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>
	Recommended	Deferred

ARTICLE 32
(Majority vote)

**COMMUNITY PRESERVATION PROGRAM –
DIRECT APPROPRIATIONS FROM FUND BALANCE**

To see if the Town will vote to appropriate or set aside for later appropriation, and to authorize and direct the Board of Selectmen and the Town Manager to expend or set aside, from the FY 2012 Community Preservation Fund balances as set forth herein, the amounts listed below for community preservation purposes, with such expenditures to be subject to conditions listed in the Article’s Summary and to be further specified in award letters from the Community Preservation Committee, with each item considered a separate appropriation;

FY 2012 COMMUNITY PRESERVATION FUND BALANCES	
FY 2012 Community Preservation Fund Revenues	
Community Preservation Fund Surcharge Collected in FY 2012	\$ 783,627.72
State Community Preservation Trust Fund Receipt, October 2012	\$ 208,957.00
Other FY 2012 Community Preservation Fund Components	
Interest Earned in FY 2012	\$ 23,687.55
Unencumbered FY 2012 Fund Balance	\$ 194,797.00
Recapture of unspent previous years’ project appropriations	\$ 4,279.17
Total - FY 2012 Community Preservation Fund Balance	\$ 1,215,348.44
FY 2012 Open Space Set-Aside	
Set-Aside Fund Balance from appropriations for the Acquisition, Creation, and Preservation of Open Space and its Rehabilitation and Restoration	\$ 2,077,537.12
Recaptures to the Set-Aside Fund Balance for the Acquisition, Creation, and Preservation of Open Space and its Rehabilitation and Restoration, of proceeds from the sale of property (Gaebel house at Piper Road) and of unspent project appropriations related to the Gaebel land purchase	\$ 221,034.75
Total FY 2012 Open Space Set-Aside Fund Balance	\$ 2,298,571.87
FY 2012 Historic Set-Aside	
Set-Aside Fund Balance from appropriations for the Acquisition, Preservation, Rehabilitation and Restoration of Historic Resources	\$ 528.00
Total FY 2012 Historic Set-Aside Fund Balance	\$ 528.00
APPROPRIATIONS FROM COMMUNITY PRESERVATION FUND BALANCE	
Purposes	Recommended Amounts
Set Aside Appropriations for	
A. Acquisition, Creation, and Preservation of Open Space, and its Rehabilitation and Restoration	\$ 300,000.00
B1. Acquisition, Preservation, Rehabilitation and Restoration of Historic Resources; required make-up for under-spending in 2004 after recapture	\$ 500.00
B2. Acquisition, Preservation, Rehabilitation and Restoration of Historic Resources; required make-up for under-spending in 2013	\$ 35,246.00
Spending Appropriations	
C. Acton Arboretum – Wildflower Boardwalk	\$ 24,000.00

D. Acton Housing Authority – Sachem Way Siding Replacements	\$ 280,000.00
E. Historic Streetscapes Restoration Program – Shade Tree Plantings	\$ 10,000.00
F. West Acton Baptist Church – Belfry Restoration	\$ 18,563.00
G. West Acton Baptist Church – Master Plan	\$ 22,500.00
H. NARA – Picnic Pavilion	\$ 100,000.00
I. NARA – Concession & Comfort Station Design	\$ 25,000.00
J. Elm Street – Playground and Tennis Courts	\$ 75,000.00
K. Morrison Farm Park Improvements [#]	\$ 259,000.00
Administrative Spending Appropriation	
L. A fund for CPC direct expenses and for reimbursing the Town of Acton for administrative services and operating expenses provided in support of the Community Preservation Committee	\$ 49,629.00
Total Recommended Appropriations from FY 2012 Community Preservation Fund Balance and Current Historic Set-Aside Fund	
	\$ 1,199,438.00
Resulting Fund Balances	
Remaining FY 2012 Community Preservation Fund Balance	\$ 15,910.44
Resulting Balance in the Set-Aside Fund for the Acquisition, Creation, and Preservation of Open Space, and its Rehabilitation and Restoration ^{##}	\$ 2,598,571.87
Resulting Balance in the Set-Aside Fund for the Acquisition, Preservation, Rehabilitation and Restoration of Historic Resources	\$ 36,274.00

[#] Line item K shall not be appropriated if related Article 30, which would authorize borrowing for the Morrison Farm Park project, fails.

^{##} The line items related to the Open Space Set-Aside balances in the above table may change as a result of the vote taken on Article 31.

, or take any other action relative thereto;

And, whereas Massachusetts General Laws, Chapter 44B requires that the Town appropriate for spending, or set-aside for future spending, from the 2012 Community Preservation Fund Revenues at least 10% for open space, 10% for historic preservation, and 10% for community housing;

And, whereas the recommended appropriations for open space, historic preservation, and community housing each meet or exceed 10% of the 2012 Community Preservation Fund Revenues;

And, whereas Town Meeting may vote to delete or reduce any of the recommended amounts;

Therefore, in the event that recommended amounts are deleted or reduced, vote to appropriate as a set-aside for future spending from the FY 2012 Community Preservation Fund Balance the minimum necessary amounts to allocate not less than 10% of the FY 2012 Community Preservation Fund Revenues for open space (\$99,258.48), not less than 10% of the FY 2012 Community Preservation Fund Revenues for historic preservation (\$99,258.48), and not less than 10% of the FY 2012 Community Preservation Fund Revenues for community housing (\$99,258.48), or take any other action relative thereto.

SUMMARY

This article would make appropriations from the Town's Community Preservation Fund balance. All items listed are recommended by the Community Preservation Committee.

In 2002, the Town adopted the Community Preservation Act, Massachusetts General Laws Chapter 44B (CPA). This established Acton's Community Preservation Fund through a 1.5% annual surcharge on real estate property tax bills with certain exemptions, and made the Town eligible to receive annually additional monies from the Massachusetts Community Preservation Trust Fund, which are added to the Town's Community Preservation Fund. Under the CPA, the Community Preservation Fund may be used to acquire, create and preserve open space; to acquire, preserve, rehabilitate, and restore historic resources; to acquire, create, preserve and support community housing; to acquire, create, preserve, rehabilitate and restore land for recreational use; to rehabilitate and restore open space and community housing that were acquired or created with Community Preservation Funds; and for certain related expenses in support of the foregoing. Community housing is defined as housing for low- and moderate-income individuals and families. This is the ninth year of appropriations from Acton's Community Preservation Fund.

Local adoption of the CPA established the Acton Community Preservation Committee as a statutory committee under the Act (Chapter S of the Bylaws of the Town of Acton). The Community Preservation Committee's duties under the law are to study the needs, possibilities, resources, and preferences of the Town regarding community preservation; to engage in an open and public process of deliberation and consult with other Town Boards and Committees; and to make recommendations to Town Meeting for appropriations from the Community Preservation Fund.

In September 2012, the Community Preservation Committee published its 2013 Community Preservation Plan with guidelines for the submission of projects seeking funding. The Committee received sixteen applications for funding of proposed projects and programs. The Committee reviewed all applications, interviewed proponents, and solicited legal opinions on the proposals to help evaluate their eligibility under the Act. This article represents the Committee's overall recommendation for appropriations which includes recommended funding for ten of the proposed projects and programs from the available Community Preservation Fund balance. The recommended funding levels may differ from the amounts requested by the projects' proponents and some of the proposed projects have undergone significant transformations from how they were proposed originally. One of the projects, the Morrison Farm Park Improvements (line item K), is recommended for additional funding through borrowing in Article 30 of this warrant. The recommended line item K appropriation for the Morrison Farm Park Improvements in this article is contingent upon the approval of Article 30.

All recommended amounts are "up-to" spending limits. Savings, if any, will be available for future appropriations. As in previous years the recommended appropriations include a set-aside for open space. The recommended appropriations leave a remaining Community Preservation Fund balance of \$15,910.44 that is available for future Town Meeting appropriations in all eligible funding categories under the Act.

The CPA states that Town Meeting may delete or reduce any of the recommended appropriations, but may not add new items or increase the recommended appropriations. The Act also requires that the Community Preservation Committee recommends and that Town Meeting appropriates in each fiscal year the spending of not less than 10% (\$99,258.48) of the annual revenues in the Community Preservation Fund for each of the following: open space; historic resources; and community housing. The Committee may also recommend the eminent domain taking by the Town of interest in real property (not recommended this year), the borrowing of funds for Community Preservation (see separate articles in this warrant), and an appropriation of not more than 5% of the annual revenues of the Community

Preservation Fund for the Committee's administrative and operating expenses (\$49,629.00 recommended).

A total of \$4,279.17 has been recaptured from unspent prior years' Community Preservation project appropriations and closed to the Community Preservation Fund. From 2004: Historic District Signs - \$500.00. From 2010: Windsor Building restoration - \$100.00, Theater III restoration - \$3,347.17, 468 Main St. windows - \$200.00; Town Hall windows - \$132.00. In addition, proceeds from the sale of the Gaebel house and left-over funds from the 2008 Gaebel land purchase appropriation, together \$221,034.75, have been recaptured to the Open Space Set-Aside Fund.

A. Open Space Set-Aside

The current Open Space Set-Aside Fund balance is \$2,298,571.87. This balance includes the proceeds from the sale of Gaebel house returned to the set-aside fund pursuant to Article 2 of the October 2008 Special Town Meeting appropriation to purchase the Gaebel land, and left-over funds from said land purchase appropriation, totaling \$221,034.75. This item adds \$300,000.00 to the existing open space set-aside fund, from which Town Meeting, with the recommendation of the Community Preservation Committee, may appropriate spending for the purpose of acquisition, creation, and preservation of open space, or its rehabilitation or restoration.

B. Historic Preservation Set-Aside(s)

The recapture of \$500.00 in unspent CPA funds previously appropriated in 2004 for the Historic District Signs would put the Town \$500.00 below the 10% statutory minimum threshold for either spending or setting aside for later spending CPA funds for historic preservation, rehabilitation and restoration purposes in that year. To make up this shortfall, the Committee recommends a \$500.00 appropriation to the Set-Aside Fund for the Acquisition, Preservation, Rehabilitation, and Restoration of Historic Resources.

This year the total recommended appropriation for historic preservation, rehabilitation, and restoration projects is less than the statutory 10% minimum. To make up for this shortfall, the Committee recommends that Town Meeting also set-aside \$35,246.00 to the Set-Aside Fund for the Acquisition, Preservation, Rehabilitation, and Restoration of Historic Resources.

Town Meeting, with the recommendation of the Community Preservation Committee, may appropriate spending from this set-aside fund for the purpose of acquisition, preservation, rehabilitation and restoration of historic resources.

C. Acton Arboretum – Wildflower Boardwalk

The existing 145 foot boardwalk is part of the wildflower loop trail in the Acton Arboretum. Built in 1994, it needs to be replaced due to substantial rot of the supporting structure. The recommended \$24,000 appropriation will help fund the construction of a new boardwalk. Pledged and anticipated additional contributions to this effort include a \$5,000 donation from the Friends of the Acton Arboretum, other anticipated cash and in-kind donations, volunteer efforts, and help from the Natural Resources Department. A professional builder will oversee the work. The boardwalk will meet today's universal access standards and is expected to last 20-30 years. The project is subject to approval by the Conservation Commission.

D. Acton Housing Authority – Sachem Way Siding Replacements

All the Acton Housing Authority's existing older buildings at Sachem Way need new roofs. In addition the plywood siding and insulation on the 12 unit family buildings must be replaced due to warping and detachment of the siding material. In this weathered condition, the particulars of the existing assembly

(the plywood siding serves double-duty as sheathing on top of exterior rigid insulation panels, and provides for structural rigidity of the buildings in the apparent absence of diagonal bracing) has allowed water penetration sufficient to compromise the batt insulation between the studs. If left unchecked, the condition will eventually compromise the integrity of the buildings.

The Acton Housing Authority expects to receive State funding for the re-roofing, expected to cost about \$150,000.00. The re-siding component of the project, including new batt insulation, new sheathing, new rigid exterior insulation, and new durable fiber cement siding, is expected to cost \$354,031.00. The recommended \$280,000.00 appropriation will help pay for the re-siding. The Acton Community Housing Corporation has pledged to fund the difference. The Housing Authority intends to bid the roofing and siding projects together to increase efficiency and reduce overall cost.

E. Historic Streetscapes Restoration Program – Shade Tree Plantings

This recommended \$10,000 appropriation continues funding for the restoration of the historic streetscapes in the Acton Center, South Acton, and West Acton Historic Districts through the replanting of public shade trees. The program began with a 2009 CPA appropriation, also \$10,000, which yielded 24 trees. This program renewal will fund approximately the same number of additional new trees at an average of eight trees per year. All work will be performed on publicly owned lands and streets, or on adjacent properties as allowed by Massachusetts General Law Chapter 87.

F. West Acton Baptist Church – Belfry Restoration

The West Acton Baptist Church, located at the corner of Massachusetts Avenue and Central Street and in the West Acton Historic District, was built in 1854. The belfry's golden dome replaced the original steeple in 1934. The bell itself was cast in Boston in 1854 by a former apprentice of Paul Revere.

The wood of the belfry's interior structure is so damaged and rotted by water exposure and penetration that it must be restored as soon as possible. The floor supporting the bell is soft, appears to have dropped, and its underside shows water damage. The bell cannot be rung safely until the restoration work is done. Further neglect would not only jeopardize the entire belfry, but also risk damage to other parts of the building. The recommended \$18,563 appropriation helps restore the interior of the church belfry. The total estimated cost of the work is \$20,625. The congregation will pay for the difference. Funding of this project is subject to a certificate of appropriateness or non-applicability by the Historic District Commission and contingent upon receipt of a fully executed perpetual historic preservation restriction that is acceptable to the Town.

G. West Acton Baptist Church – Master Plan

While the previous recommended appropriation (F) addresses an emergency restoration need in the belfry of the West Acton Baptist Church, the entire building requires attention. This recommended \$22,500 historic preservation appropriation will help fund a restoration and rehabilitation master plan for the building to evaluate the facility's condition, help identify critical needs and set restoration work priorities that integrate with the future anticipated use or uses of the facility. The total estimated cost of the work is \$25,000. The congregation will pay for the difference. A similar study was funded through CPA some years earlier for the nearby Theater III building. That study was crucial in defining the actual needs of the building and scoping out the restoration and rehabilitation work that ensued, which was also supported partially with Acton Community Preservation Funds. The Theater III work is now completed. The Committee anticipates a similarly successful historic preservation project in the case of the West Acton Baptist Church. As with item F above, funding of this project is contingent upon receipt of a fully executed perpetual historic preservation restriction that is acceptable to the Town. In addition, the final scope of work shall be reviewed by the Community Preservation Committee before any fund payments are made to ensure full compliance with CPA eligibility criteria.

H. NARA – Picnic Pavilion

The recommended \$100,000.00 appropriation for the NARA Park Pavilion augments the April 2008 appropriation of \$250,000.00 from the Community Preservation Fund for this project. The pavilion will be sited on a lawn area between the playground and the amphitheatre, overlooking NARA's pond and beach.

The project, originally designed as a modular timber frame structure, was advertised in September 2008. Partially due to applicable State laws and regulations it failed to attract any bidders. Shortly afterward, a court decision in the Seideman vs. City of Newton case made the pavilion project ineligible for CPA funding. Since then, while waiting for legislative changes to cure the problems that Seideman v. Newton created, the Town engaged an architect to revise project design for a custom built pavilion that can attract qualified construction bidders while providing for compliance with State laws and regulations. The new custom design has a higher price. The CPA was finally changed in July 2012, making the pavilion project once again eligible for CPA funding.

The Town has requested \$230,000 in supplemental funding. This \$100,000 award anticipates the Town finding other funding sources or further revising the design to bring costs in line with available funds.

I. NARA – Concession & Comfort Station Design

NARA Park is now home to the Joseph Lalli Miracle Field, the first handicap accessible ball field specially designed for children with disabilities in New England. As NARA Park continues to grow, so does the demand to supply the amenities park users require. The recommended \$25,000 appropriation will fund the engineering and architectural design for a multi-use building with septic system near the miracle field that includes restroom facilities, storage space, and room for a concession stand. The total estimated cost for this design project is \$30,000. The difference is made up with pledged donated services.

J. Elm Street – Playground and Tennis Courts

The renewal of the Elm Street playground, located at 19 Elm Street behind the tennis courts and next to Jefferson Farms condominium, was another victim of the Seideman v. Newton court decision (see H above). Awarded \$75,000 of Community Preservation Funds in 2008, the project could not proceed as a legally eligible CPA project until a remedial amendment to the CPA statute could be passed, which finally occurred in July 2012. The recommended \$75,000 appropriation is for a toddler playground (~\$50,000) and for new tennis court surfaces (~\$25,000).

The plan for the playground calls for safety engineered wood fiber surfacing, fencing, a cement pad added under the existing 24' x 24' picnic shelter, a cement sidewalk, and the professional installation of toddler playground equipment. The Acton Children's School has donated used toddler playground equipment valued at approximately \$25,000; in addition there will be a new set of four swings.

The two adjoining tennis courts will be resurfaced with new line paintings. The courts were last resurfaced 10 years ago. The Acton Recreation Department advises that doing this relatively inexpensive surface restoration now will prevent further deterioration and avoid a much more expensive full depth reconstruction later.

K. Morrison Farm Park Improvements

The Morrison Farm Committee, on behalf of the Board of Selectmen, prepared a concept plan for Morrison Farm to create an historic, nature, open space and recreation park on approximately 50 acres of land and pond area owned by the Town of Acton stretching from East Acton Village to the Robbins Homestead site on Concord Road, including Ice House Pond, all of the farmland along Ice House Pond, and stretching further upstream along Nashoba Brook.

The concept plan presents a multi-element, multi-year implementation program that seeks a total of \$2,764,000 in Community Preservation funding support. It calls for approximately 15 acres of forested land to be protected under the care of the Conservation Commission, a large open meadow, the continuation of community garden plots and the Pam Resor Orchard; formal preservation of the Robbins Homestead site and Alarm Stone, the preservation of the Ice House Foundation, and the creation of a new building envisioned as the Morrison Nature and History Center; boardwalks and trails and a connecting bridge, a picnic area, playground and the East Acton Village Green, and a playing field for informal pick-up games. Attention would be given to universal designs to accommodate people with various accessibility needs. The existing house will remain. The barn would be demolished, with funds for the demolition coming from non-CPA sources.

Most of the project cost will be bonded subject to approval by Town Meeting of separate Article 30 in this warrant. With this article, the Committee recommends the appropriation of \$259,000 from the currently available Community Preservation Fund balance of the aforesaid total amount to fund upfront “soft costs, such as an archeological survey, planning, engineering, architectural design, and the cost of issuing the bond. This project is eligible for funding in three CPA categories: open space, historic preservation, and recreation. The Committee has assigned this recommended appropriation to the CPA categories in the following proportions: open space - 5% (\$12,950.00); historic - 5% (\$12,950.00); and the rest remains unassigned.

L. Administrative and Operating Expenses

The recommended appropriation in the amount of \$49,629 is 5% of the FY 2012 revenues in the Community Preservation Fund as provided in the Act (local surcharge and State trust fund receipts). The funding is to help the Town with administrative and legal expenses incurred in connection with the support of the Community Preservation Committee and Program, and to pay for the Community Preservation Committee’s direct expenses such as the annual membership in the Massachusetts Community Preservation Coalition.

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Recommendations: **Board of Selectmen** **Finance Committee**
 Recommended **Recommended**
