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**TOWN OF BELMONT**  
**COMMUNITY PRESERVATION COMMITTEE (CPC)**

Minutes: Tuesday, November 10, 2015, Town Hall Conference Room #1, 5:00PM  
Present: Liz Allison, Floyd Carman, Anthony Ferrante, Lisa Harrington, Gloria Leipzig,  
Anne Marie Mahoney, Margaret Velie, Jim Williams  
Absent: Andres Rojas  
Other: Michael Trainor

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Margaret Velie called the meeting to order at 5:02 PM.

Approve Minutes

Motion to approve minutes of October 14, 2015 passed with seven votes.

- Liz Allison abstained from voting, as she was not present for the October 14, 2015 meeting.

Preliminary Applications Discussion and Update

*Hittinger Field Renovation* – The CPC received the attached e-mail from the Community Preservation Coalition (Coalition) regarding the use of artificial turf (Attachment 1). Although the preliminary application had already been rejected, this issue may present itself in future proposals.

*PQ Park Revitalization* – While the original preliminary application was for the rehabilitation of the park, the CPC suggested they submit a final application for the master plan first. It was also determined that the master plan should not be funded through CPA administrative budget, and would need to be treated as a regular CPA project.

Floyd Carman stated that he has urged the project sponsors to narrow their focus to a plan for just the PQ playground and to use fundraising efforts as an additional funding source. However, subsequent conversations have led to the impression that the project may increase in scope to include daylighting the Wellington Brook.

Anthony Ferrante will meet with Jay Marcotte (DPW Director) and David Kale (Town Administrator) in order to gather more information about the Recreation Strategic Plan that the Town is currently drafting.

*Winn Brook Tennis* – Anthony Ferrante argued that the project should not move forward until the aforementioned Recreation Strategic Plan has been completed.

Discussion of Belmont's Recreational Needs

The Coalition stated that administrative funds could be used for the purposes of conducting a Recreational Needs Study, but it would be the CPC's responsibility to sponsor the administrative project. The funds could not be given to an outside board or commission in order for them to conduct such a study. See Attachment 2 for further information.

Jim Williams inquired whether a town-wide playground study could be funded through the CPA administrative budget. Floyd Carman believed that it could, but given the overall favorable condition of the playgrounds in the Town conducting such a study might not be necessary.

Separately, it was confirmed that upon its completion the master plan for the Grove Street Playground will be reviewed for potential CPA-eligibility.

#### Preparation for November 12, 2015 Public Meeting

Project sponsors will be expected to give a five minute presentation introducing their proposal. The CPC expects to move through each presentation fairly quickly, with the meeting expected to adjourn by 8:30pm.

#### Project Monitor Reports

##### **FY14 Project Monitor Reports**

*Comprehensive Cultural Resources Survey* – The project consultant will be attending the Belmont Historic District Commission meeting on November 10, 2015 to provide a progress update and revised timeline. Lisa Harrington will e-mail a status update to Michael Trainor.

*Irrigation Improvements at Rock Meadow Community Gardens* – The Conservation Commission will meet on November 10, 2015 to discuss the project and determine if the remaining CPA funds will be necessary to complete the project. Margaret Velie will provide an update at the next CPC meeting.

*Landscape Plan for Intergenerational Walking Path at Clay Pit Pond* – The Conservation Commission will meet on November 10, 2015 to discuss the project and confirm whether the Town of Belmont has received the final report. Margaret Velie will provide an update at the next CPC meeting.

*Preserving and Digitizing Belmont's Vital Records* – See Attachment 1. The CPC will likely be asked to grant a deadline extension for the project at their next meeting.

##### **FY15 Project Monitor Reports**

*(Belmont Village) Electrical Upgrade* – Sponsors received two bids that were within the approved project budget. The Department of Housing and Community Development is currently reviewing the submissions and a special meeting is likely to be called soon to award the contract.

*First Time Homebuyer Assistance* – The final grant has been awarded. The first two grants were originally given six months to utilize the down payment assistance, however an extension is likely to be granted.

##### **FY16 Project Monitor Reports**

*Belmont Veterans Memorial Project* – Work has been completed in advance of the Veterans Day celebration, but invoices have yet to be submitted.

*1853 Homer House Rehabilitation and Restoration* –Town Counsel is drafting an historic restriction with a fifteen year term. Floyd Carman stated that the project sponsors should move forward with procuring a vendor. The deed restriction is not necessary in order to put the project out to bid. Lisa Harrington expressed the project sponsors' concerns that they may not be able to provide enough additional public access to the building in order to satisfy the terms of the CPA grant.

Other Business

- Open Space and Housing Inventory – The Conservation Commission will meet on November 10, 2015 to discuss the project and confirm whether the Town of Belmont has received the final report. Margaret Velie will provide an update at the next CPC meeting.
- Motion approved unanimously for payment of \$727.38 (18 hours @ \$40.41) to Michael Trainor for October/November administrative work.

The next meeting is scheduled for Wednesday, December 9, 2015 at 5:00PM, Town Hall Conference Room 1.

The meeting was adjourned at 6:00PM.

Respectfully submitted,

Michael Trainor

**From:** [Michael Trainor](#)  
**To:** [Trainor, Michael](#)  
**Subject:** Fwd: FW: Question on Artificial Turf  
**Date:** Friday, October 16, 2015 12:49:44 PM  
**Attachments:** [M E M O R A N D U M \(CPA Funds Athletic Turf Field 1.27.13\).doc](#)

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----- Forwarded message -----

**From:** **Margaret Velie** <[jsmv@msn.com](mailto:jsmv@msn.com)>  
**Date:** Fri, Oct 16, 2015 at 12:04 PM  
**Subject:** FW: Question on Artificial Turf  
**To:** Michael Trainor <[michaeltrainor.mt@gmail.com](mailto:michaeltrainor.mt@gmail.com)>

Here's the e-mail from Katherine Roth who works with Stuart.

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**From:** [Katherine.Roth@communitypreservation.org](mailto:Katherine.Roth@communitypreservation.org)  
**To:** [jsmv@msn.com](mailto:jsmv@msn.com)  
**CC:** [Stuart.Saginer@communitypreservation.org](mailto:Stuart.Saginer@communitypreservation.org)  
**Subject:** FW: Question on Artificial Turf  
**Date:** Thu, 15 Oct 2015 19:26:32 +0000

Hi Margaret:

Stuart forwarded me your question, and asked me to get back to you on it.

Unfortunately, the MA DOR hasn't issued any guidance on the CPA amendments passed in the summer of 2012, including the one prohibiting the use of CPA funds to purchase artificial turf.

However, we worked closely with the legislature on these amendments, so we do know that the intent was simply to prohibit the acquisition of the artificial turf itself with CPA funds.

As to other associated costs, such as drainage, excavation, etc., we do think these are most likely allowable. For example, see the attached memo from one CPA community's Town Counsel.

Whether the costs of laying the new artificial turf, once purchased with other funds, could be covered with CPA funds, we're not sure. We recommend consulting with your Town Counsel on this particular associated cost.

I hope this information is helpful –

Best,

Kathy

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**From:** Stuart Saginor  
**Sent:** Thursday, October 15, 2015 2:46 PM  
**To:** Margaret Velie  
**Cc:** Katherine Roth  
**Subject:** RE: Question on Artificial Turf

Hi Margaret:

My apologies for taking so long to answer this email, but we put everything on hold to prepare for our 15<sup>th</sup> Anniversary event last week and have still not caught up.

Kathy Roth is going to answer this question for you very shortly, as we discussed it and have the info you need.

Regards,

Stuart

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**From:** Margaret Velie [<mailto:jsmv@msn.com>]  
**Sent:** Wednesday, October 07, 2015 1:41 PM  
**To:** Stuart Saginor  
**Cc:** floyd carman  
**Subject:** Question on Artificial Turf

Stuart,

First, thanks so much for all your efforts in putting on the wonderful celebration yesterday.

Now another CPA question.

This is a question on a High School softball field that is currently grass. We have a proposal to expand and resurface the field with artificial turf. I want to make sure I understand the intent behind the 2012 change [Section 5 (b)(3)] *With respect to recreational use, the acquisition of artificial turf for athletic fields shall be prohibited.*

Does this mean CPA funds cannot be used for just the material, the actual artificial turf surface itself? How about all the other construction costs, including the excavation of the existing field, subsurface preparation and drainage work, installation costs, etc.?

As always thanks so much,

Margaret Velie  
Belmont CPC

## MEMORANDUM

TO: Norwell Board of Selectmen; Norwell Community Preservation Committee  
FR: Robert W. Galvin, Esq., Town Counsel  
DA: January 27, 2013  
RE: Question relative to Changes to the Community Preservation Act

I have been asked by a member of the Norwell Community Preservation Committee to provide an opinion on the meaning of certain specific language contained in Mass. Gen. L. c. 44B §5(b)(2) which was added by a 2012 amendment to the Community Preservation Act. Specifically, I have been asked if the new prohibition against the use of CPA funds for the "acquisition of artificial turf" should be construed as a prohibition against the use CPA funds for any other costs and expenses associated with an artificial turf field.

SIMPLE ANSWER: It is my opinion that the sentence added by the 2012 amendment to the CPA is an express prohibition on the use of CPA funds for the acquisition of an artificial turf surface only, but not other costs and expenses which may be associated with a field project which may receive an artificial field surface.

DISCUSSION: The specific question I was asked involves the interpretation of the following provisions of Gen. L. c. 44B §5(b):

(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, 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 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.

Mass. Gen. L. c. 44B §5(b)(2).

Since this highlighted language was only added to the statute this past summer and also for the reasons also set forth in this memorandum, there are no reported Massachusetts Supreme Judicial Court, Massachusetts Appeals Court, Superior Court or Land Court decisions which interpret this language. I am also unaware of a single lawsuit

challenging the use of CPA funds for costs and expenses relating to a field project simply because such costs and expenses relate to a field project involving artificial turf.

It is my opinion that the lack of litigation involving this language is indicative of the clarity in the language of the statute itself. Had the legislature intended to prohibit the use of CPA funds for other aspects of a field construction project because the surface of the field would be constructed of artificial turf, the legislature could have simply added the words “or installation of” “or related expenses” or several variations on these phrases to specifically prohibit such other costs and expenses from also being paid with CPA funds. This result is also consistent with established rules of statutory construction which are frequently applied to assist with the interpretation of a word or phrase of a statute. See Victor V. v. Commonwealth, 423 Mass. 793, 794 (1996) (“Where the statutory language is clear, the courts must give effect to the plain and ordinary meaning of the language”); *also* if a plain meaning emerges for a disputed statutory term, the court must respect that meaning. It cannot deviate from, or alter, that plain meaning by expedient enlargement or restriction. Gen. L. c. 4, ‘6, Third; Commissioner of Correction v. Superior Court, 446 Mass. 123, 124 (2006); Gordon & Son, Inc. v. Alcoholic Beverage Control Commission, 371 Mass. 584, 589 (1976); Casey v. Massachusetts Electric Co., 392 Mass. 876, 880 (1984); Commonwealth v. Gove, 366 Mass. 351, 354 (1974); Franki Foundation Co. v. State Tax Commission, 361 Mass. 614, 617 (1972); and F. Frankfurter, *Some Reflections on the Reading of Statutes*, 47 COLUM. L. Rev. 527, 543 (1947).

In an effort to provide the most comprehensive answer to this question, I have however consulted with the Community Preservation Coalition’s website and sought out the available technical assistance in responding to this question.<sup>1</sup> As the Selectmen and CPC in Norwell are undoubtedly aware, the Community Preservation Coalition (the Coalition) was formed in the 1990s with the goal of achieving passage of a Community Preservation Act. The Coalition was founded by the following organizations which now serve on its Steering Committee; The Trust for Public Land and The Conservation Campaign, Citizens’ Housing and Planning Association, Massachusetts Affordable Housing Alliance, Mass Audubon, The National Trust for Historic Preservation, and Preservation Massachusetts. The Trustees of Reservations joined the Coalition’s Steering Committee in 2007 and during that same year, the Steering Committee was expanded to include representatives from CPA communities in the Commonwealth. Today, the Coalition continues to help municipalities understand, adopt and implement CPA, and therefore, in my view has an authoritative voice in the proper interpretation of the statute.

The Coalition maintains following entry on its website under its technical assistance page which specifically addresses this issue as follows:

“Another change ushered in by the 2012 amendment was a prohibition on the use of CPA funds for the acquisition of artificial turf for athletic fields. Communities may still use their CPA funds for other aspects of a field project, but must appropriate non-CPA funds to acquire the artificial turf surface.”

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<sup>1</sup> The Coalition was not aware of any current judicial interpretation of this language.



“Is Our Project Allowable?”, Community Preservation Coalition, January 27, 2013.  
<http://www.communitypreservation.org/content/chart-allowable-uses>.

Furthermore, back on August 16, 2012, following the passage of the 2012 amendment, the Coalition’s executive director, Stuart Saginor, was quoted in a Boston Globe article as follows on this specific issue:

“But while it can no longer be used to acquire artificial turf, CPA money can still be spent on other features of the sports fields construction projects, such as drainage and site preparation, according to Stuart Saginor, executive director of the Community Preservation Coalition, a key supporter of the law and the recent changes.

Saginor said that at hearings on the CPA overhaul bill when it was first filed in the 2007-08 legislative session, some argued that the program’s funds should not be used at all in artificial turf projects because they went against the overriding aim of the law, which is to help communities preserve natural assets. Others opposed such a restriction.

“This seemed to us to be a great compromise,” he said of the new rule.

Laidler, John. “Officials see gains in new CPA spending rules. *Boston Globe*. August 16, 2012. January 27, 2013.

Both the Town of Wayland and the City of Newton were reportedly seeking to use CPA funds for artificial turf fields. Several other towns reportedly used CPA funds prior to the amendment for artificial turf fields. This legislation’s prohibition against the acquisition of the artificial turf itself I believe is therefore viewed as the compromise by the Coalition. If any organization were likely to be taking an opposite perspective view of the law from that rendered herein by me, it is my view that the Coalition would be asserting that opposition.

In addition to the foregoing, at last Thursday nights’ MA City Solicitors and Town Counsel Association’s monthly meeting, I raised this issue with my colleagues and each of them who were familiar with the CPA statute concurred with my opinion that the prohibition applies simply to the acquisition of the artificial turf surface only.



Michael Trainor <michaeltrainor.mt@gmail.com>

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## FW: Questions on use of Administrative Funds

1 message

Margaret Velie <jsmv@msn.com>

Thu, Oct 22, 2015 at 10:19 AM

To: floyd carman <fcarman@belmont-ma.gov>

Cc: Michael Trainor <michaeltrainor.mt@gmail.com>

Floyd,

Here's the response I got from Stuart. The first question pertained to a study of overall recreational needs. It doesn't look like we could add money to the study the town has already proposed, it would have to be a separate study by us.

The second question pertained to the proposed PQ project's use of Administrative Funds.

Peg

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From: Stuart.Saginer@communitypreservation.org

To: jsmv@msn.com

Subject: Re: Questions on use of Administrative Funds

Date: Thu, 22 Oct 2015 13:04:09 +0000

Hi Margaret:

The answer to the first question is yes, the CPC can use administrative funds to a study of the town's recreational needs. A few caveats. The CPC can't "loan" their admin budget to another town board, nor can other town boards apply to use CPC administrative funds. It is the CPC's budget to operate their own committee, so the study would have to be something that the CPC initiates and wants to do to help with their planning, and the study should be done under it's control. The final product goes to the CPC, and then can of course be distributed to anyone else. Lastly, you can only study things that the CPA can fund, mainly capital improvement to facilities. The study couldn't look at the structure of the rec department staffing to see if it is adequate, for example, because CPA funds can't be used for rec department staffing or administration.

Similarly, it couldn't study if the rec department's programming is meeting the town's needs, as CPA can't fund rec department programs.

There is no concrete answer to the second question. As a best practice we advise towns to use the two-phase approach, as it gives Town Meeting the authority to decide if the project is worthy of even spending design money on it. That is the approach used for most municipal projects, although there are exceptions, of course. It is certainly OK to use CPC admin funds to do feasibility work on a potential project. For example, if you want a concrete cost estimate for a project so you know how much to ask for at town meeting, or want to do a basic study on a parcel to see if it is suitable for the town to buy with CPA funds for housing. A master plan for a park sounds more like a project in and of itself to us, but others might see it more akin to a feasibility study. That's a local decision you'll have to make at the CPC level, as there isn't enough detail in the CPA legislation to provide exact guidance on this question.

If you have any follow up questions on this, we unfortunately won't be able to respond until next week. We are actually closed until next Wednesday, but your question sneaked in right before we closed, so I wanted to get back to you this week.

Regards,  
Stuart

Stuart Saginer  
Executive Director,

Community Preservation Coalition  
10 Milk Street, Suite 810  
Boston, MA 02108

Direct: 617-371-0540  
stuart.saginer@communitypreservation.org

Please Note: The Community Preservation Coalition does not render legal opinions or advice, and recommends consulting with an attorney.

On Oct 20, 2015, at 1:21 PM, Margaret Velie <jsmv@msn.com> wrote:

Stuart,

Thanks for having Katherine Roth get back to me last week on the artificial turf question. We have two questions on the use of CPA Administrative Funds.

First, we want to confirm that they can be used to hire a consulting firm to do a study of our town's overall recreational needs? (not specific to one project or site)

Second, can they be used to fund the design of a specific project? We received an application to renovate a playground and other parts of a town park complex from a group of neighbors. There is no master plan for the site. We suggested that the project be funded in two phases, first for the plan and then once that is completed for the construction. The question was raised as to whether we could use our Administrative Funds for the design portion.

Thanks,

Margaret Velie  
Chair, Belmont CPC