

**COMMUNITY PRESERVATION COMMITTEE
TOWN OF NEEDHAM, MASSACHUSETTS**

**Minutes of Meeting
December 1, 2010**

Present: Jane Howard – Chairman, Mark Gluesing – Vice Chair, Janet Bernardo, Carol Boulris, Reg Foster, Mike Retzky

Absent: Bruce Eisenhut

Town Staff: Patricia Carey, Staff Liaison
Nicole DiCicco, Recording Secretary

Guests: Stuart Saginor, Executive Director MA Community Preservation Coalition
Lita Young, resident

The meeting convened at 7:35PM in the Webster Room of the Public Services Administration Building (PSAB).

Chairman's Comments: Ms. Howard began the meeting by having all the Committee members introduce themselves, naming their appointing Boards for the meetings guests before turning the meeting over to Mr. Saginor for his presentation.

Presentation: Stuart Saginor, Executive Director of Community Presentation

Coalition: Mr. Saginor used a Power Point Presentation to introduce/ reacquaint the Committee members with CPA Legislation. (Please see *Addendum A* for a copy of this presentation in its entirety.)

Along with the Power Point Presentation (seen in Addendum A), Mr. Saginor handed out a "Community Preservation Fund- Allowable Spending Purposes" Chart (Please see *Addendum B* for a copy of handout.), a June 11, 2002 letter from the Chief, Property Tax Bureau (Please see *Addendum C* for a copy of handout.) and an information sheet titled "Can CPA Fund Private Projects?". (Please see *Addendum D* for a copy of handout.)

Proposals: The project proposal deadline for Fiscal Year (FY) 2011 had passed and the Committee currently has 4 project proposals to consider for Town Meeting in May 2011. Ms. Howard has asked everyone to review all the proposals for the next meeting at which point eligibility will be decided and liaisons assigned.

Set Upcoming Meeting Schedule:

December 8, 2010 at 7:30pm in the Public Services Administration Building (PSAB)
Webster Conference Room

January 12, 2011 at 7:30pm in the PSAB Webster Conference Room

Minutes of Public Hearing – April 28, 2010: Ms. Bernardo made a motion to accept the minutes of the April 28, 2010 meeting. Mr. Foster seconded the motion and the minutes were approved unanimously.

Minutes of Meeting – August 17, 2010: Ms. Bernardo made a motion to accept the minutes of the August 17, 2010 meeting. Ms. Boulris seconded the motion and the minutes were approved unanimously.

Minutes of Meeting – October 14, 2010: Ms. Bernardo made a motion to accept the minutes of the October 14, 2010 meeting. Ms. Boulris seconded the motion and the minutes were approved unanimously.

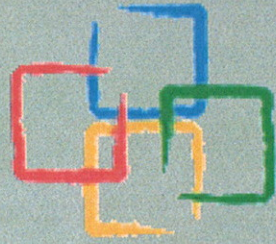
Minutes of Meeting – November 8, 2010: Mr. Foster made a motion to accept the minutes of the November 8, 2010 meeting. Mr. Gluesing seconded the motion and the minutes were approved unanimously.

Adjournment: Mr. Gluesing made a motion to adjourn the meeting at 8:55 PM. Mr. Foster seconded the motion. The motion was unanimously approved and the meeting was adjourned at 8:55 PM.

Respectfully submitted,

Nicole DiCicco
Recording Secretary

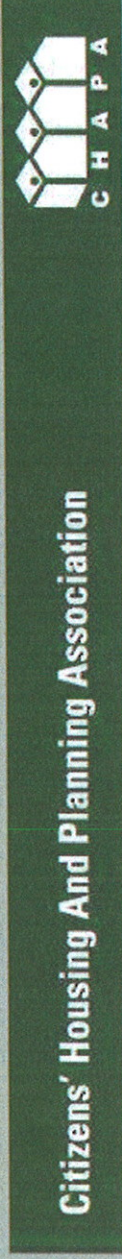
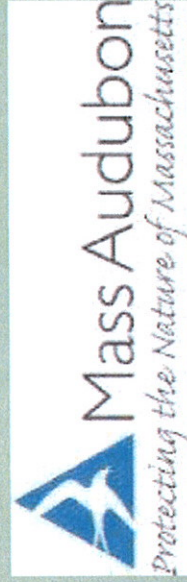
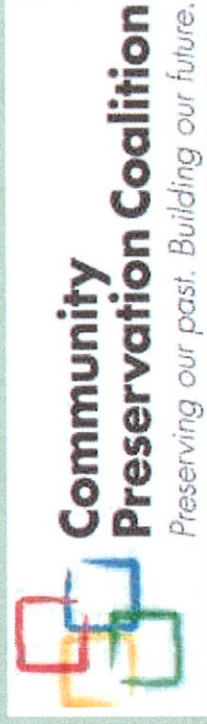
CPA at 10 years: Where have we come? Where are we going?



**Community
Preservation Coalition**

Preserving our past. Building our future.

Coalition Partners

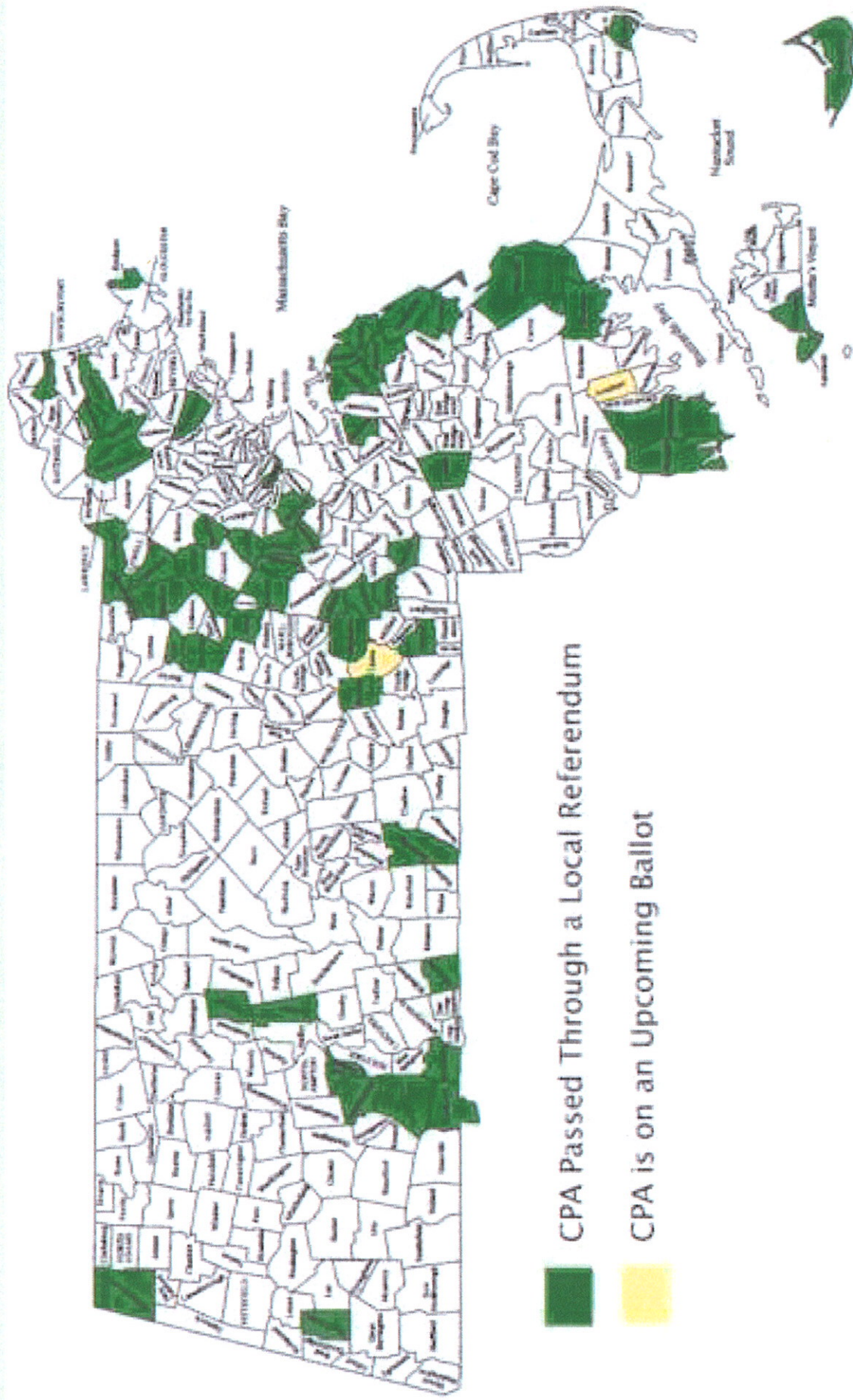


September 14, 2000: Governor Cellucci Signs the CPA

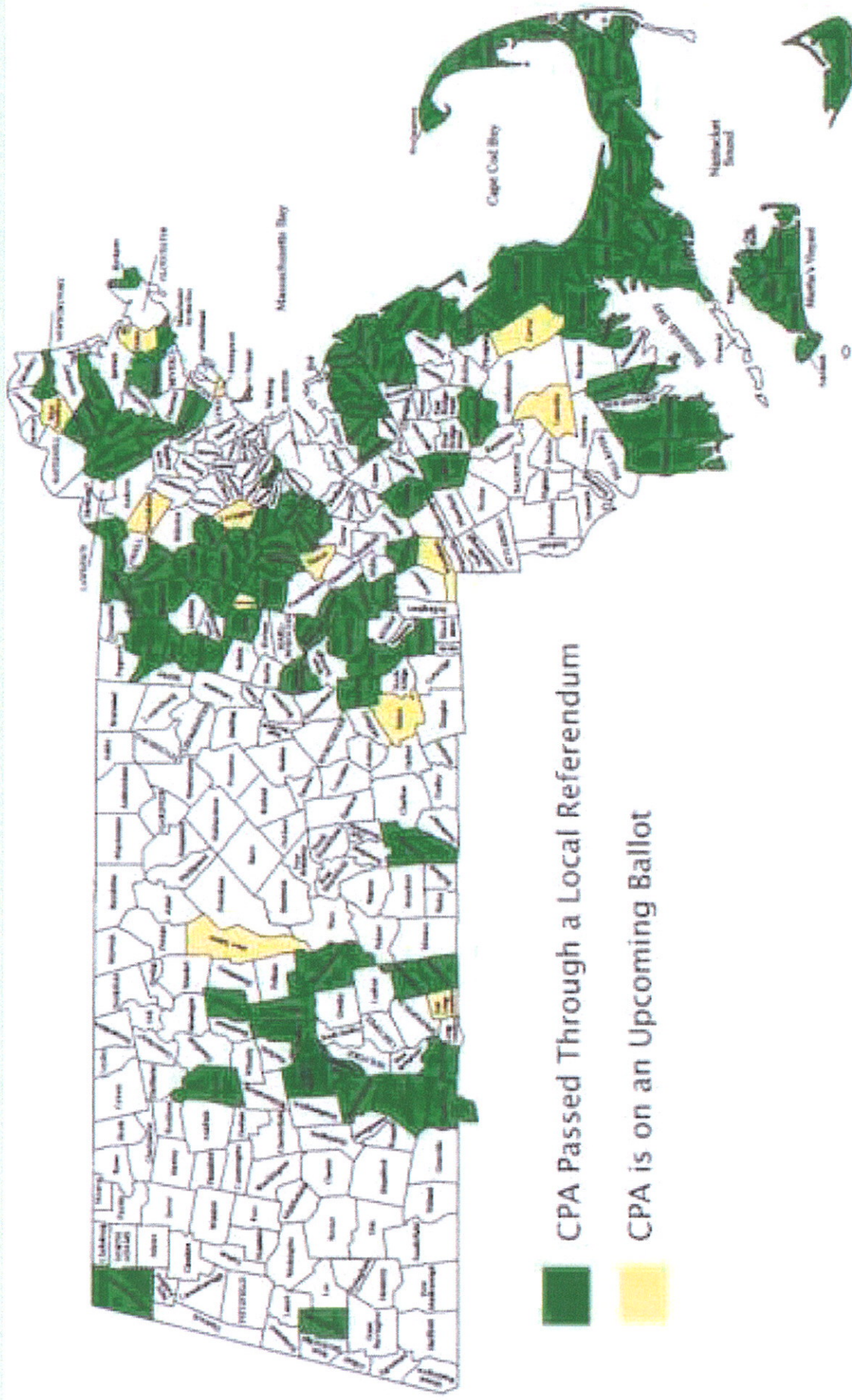


**Happy
10th Anniversary
CPA!**

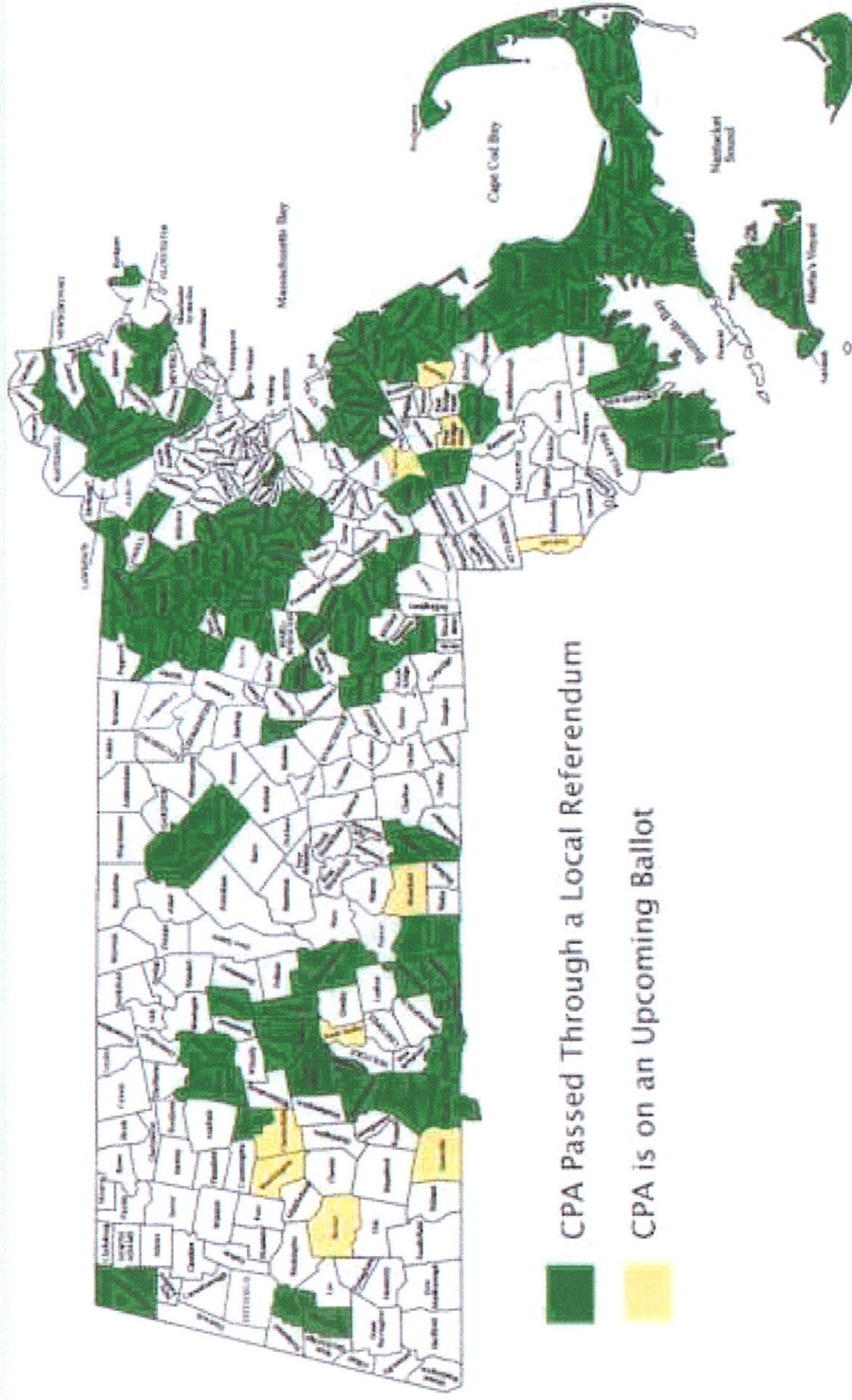
Status of Adoption: 2002



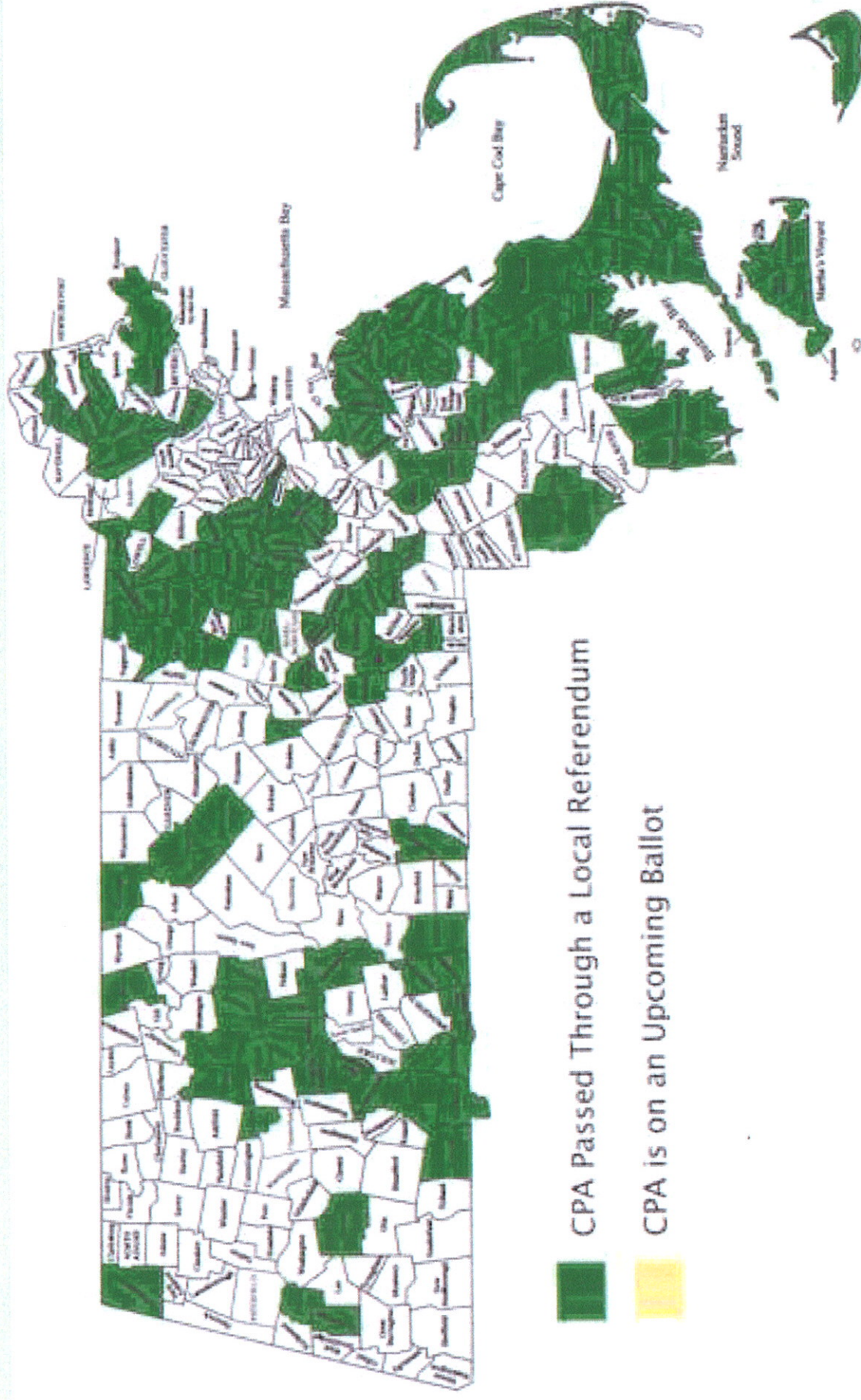
Status of Adoption: 2006



Status of Adoption: 2008

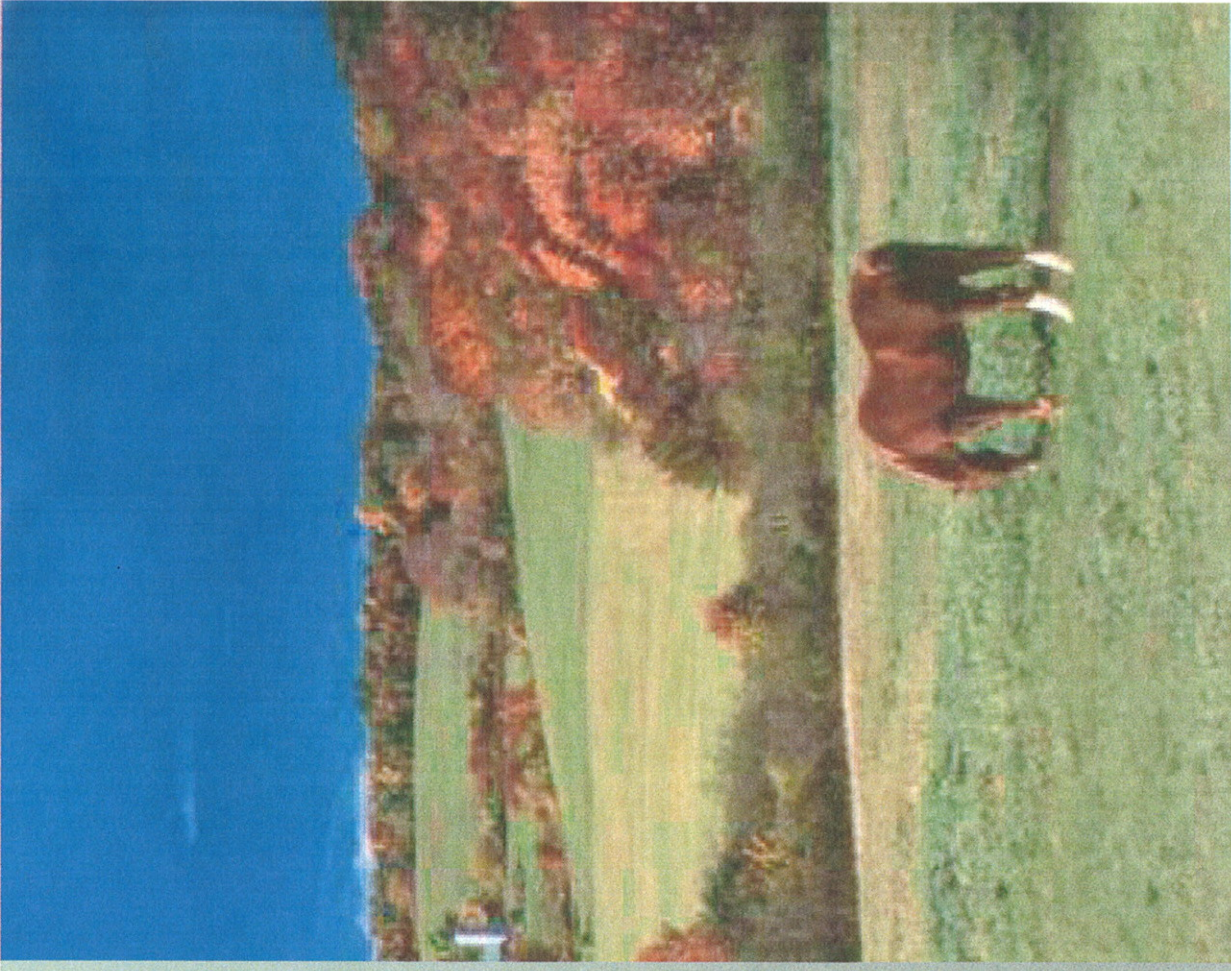


2010: 147 Communities (42% of the Commonwealth)



CPA Achievements

- **Open Space:** More than 13,300 acres of open space protected
- **Historic:** Over 2,000 appropriations made to restore and preserve historic resources
- **Housing:** Over 4,200 units constructed
- **Recreation:** 840 recreational projects



CPA Achievements

More than \$925 million raised
so far for CPA projects

Percentage Spending

Housing: 31% (25%)*

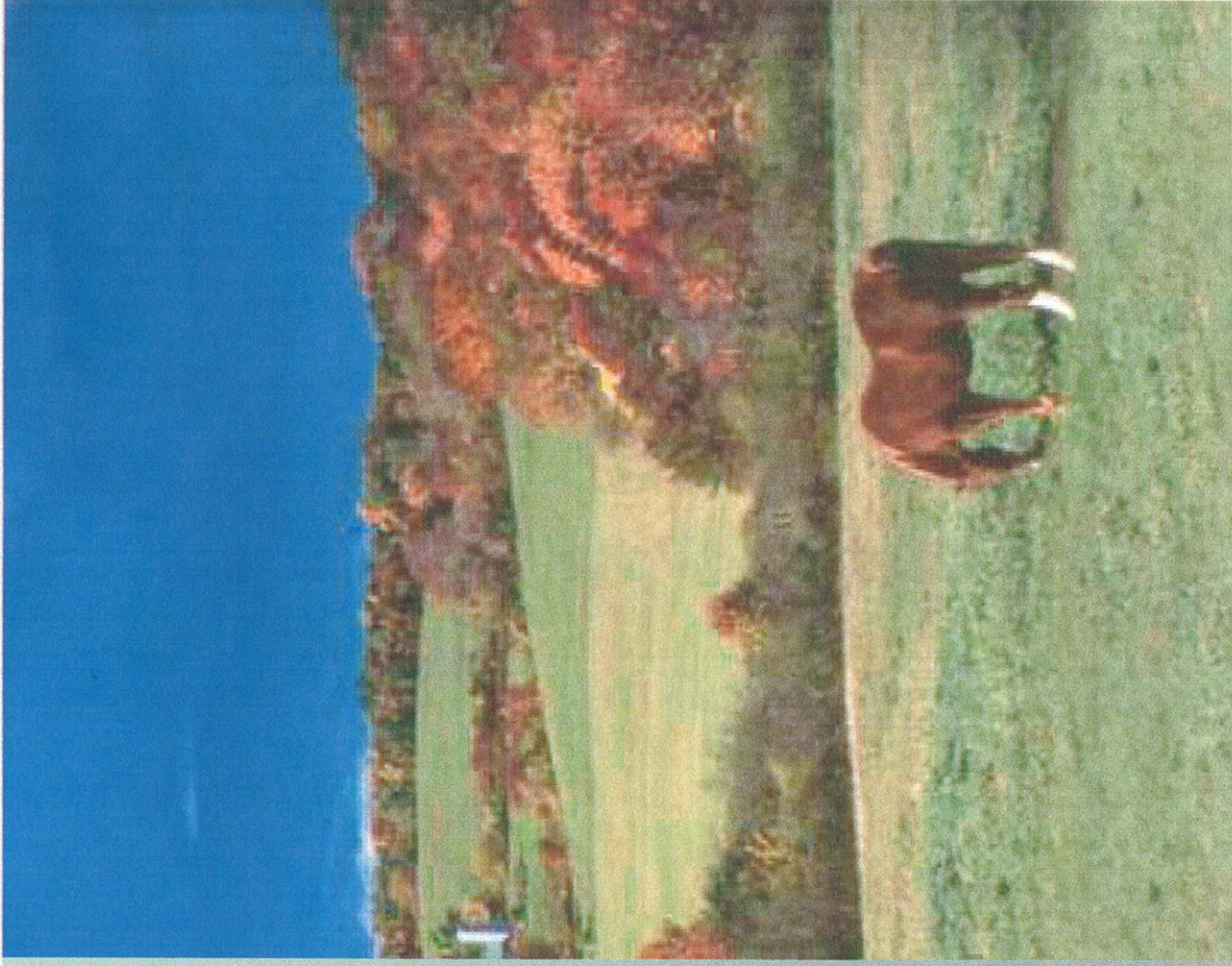
Open Space: 27% (34%)*

Historic: 27% (25%)*

Recreation: 10% (9%)*

Mixed Use: 4% (7%)*

*Includes full amount of bonded projects



Iconic Projects: Windrush Farm, North Andover



Declaration of Independence, Mendon

The CONGRESS July 4, 1776. A DECLARATION
By the Representatives of the UNITED STATES
OF AMERICA. In General Congress assembled

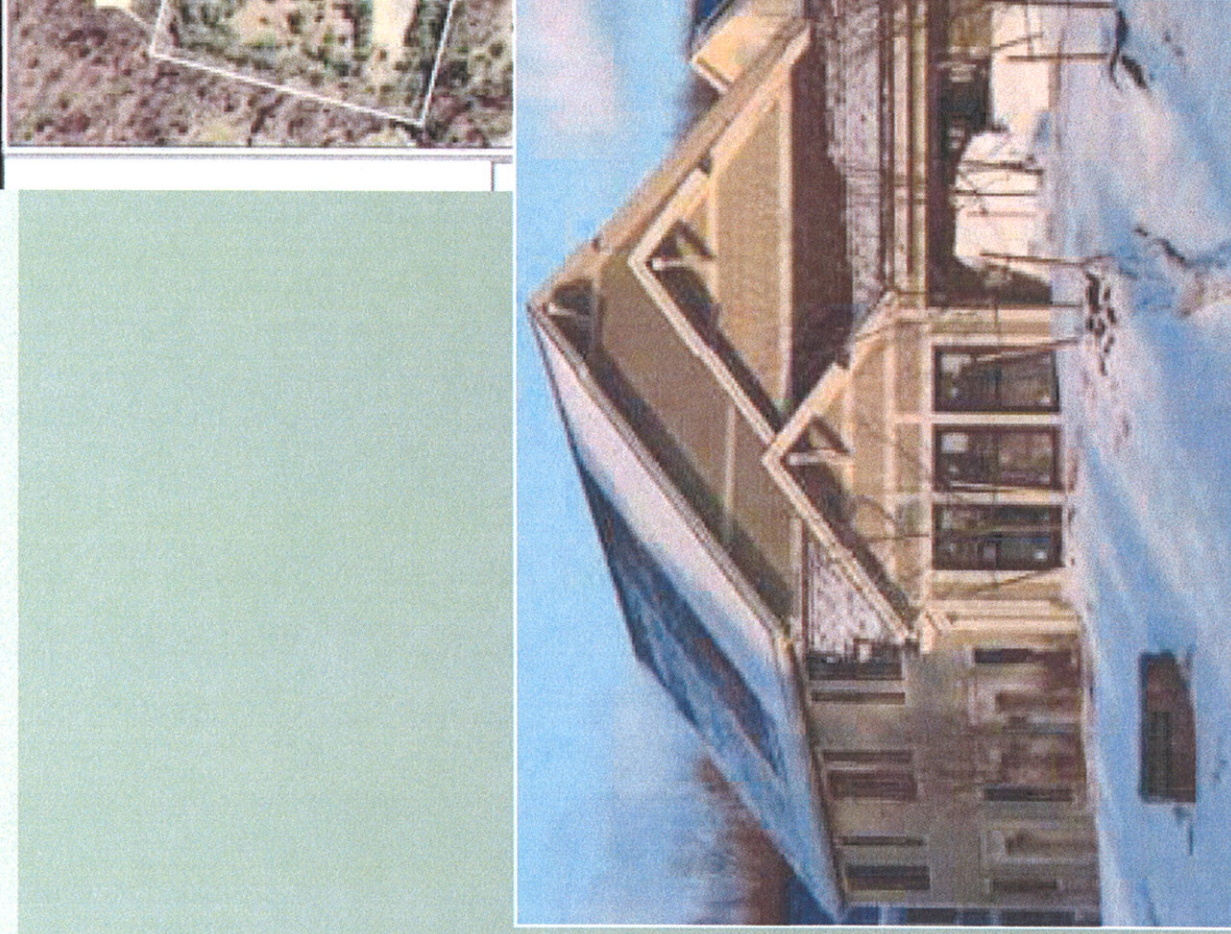
When in the Course of human Events, it is usual necessary for one People to declare the Rights which they have asserted. When with another, and to assume among the Powers of the Earth, the separate and equal Station which the Laws of Nature and of Nature's God entitle them; a Decent Respect to the Opinions of Mankind requires that they should declare the Causes which impel them to the Separation.

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness: That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed, that when any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its Foundation on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety & Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for

Town Hall, Needham



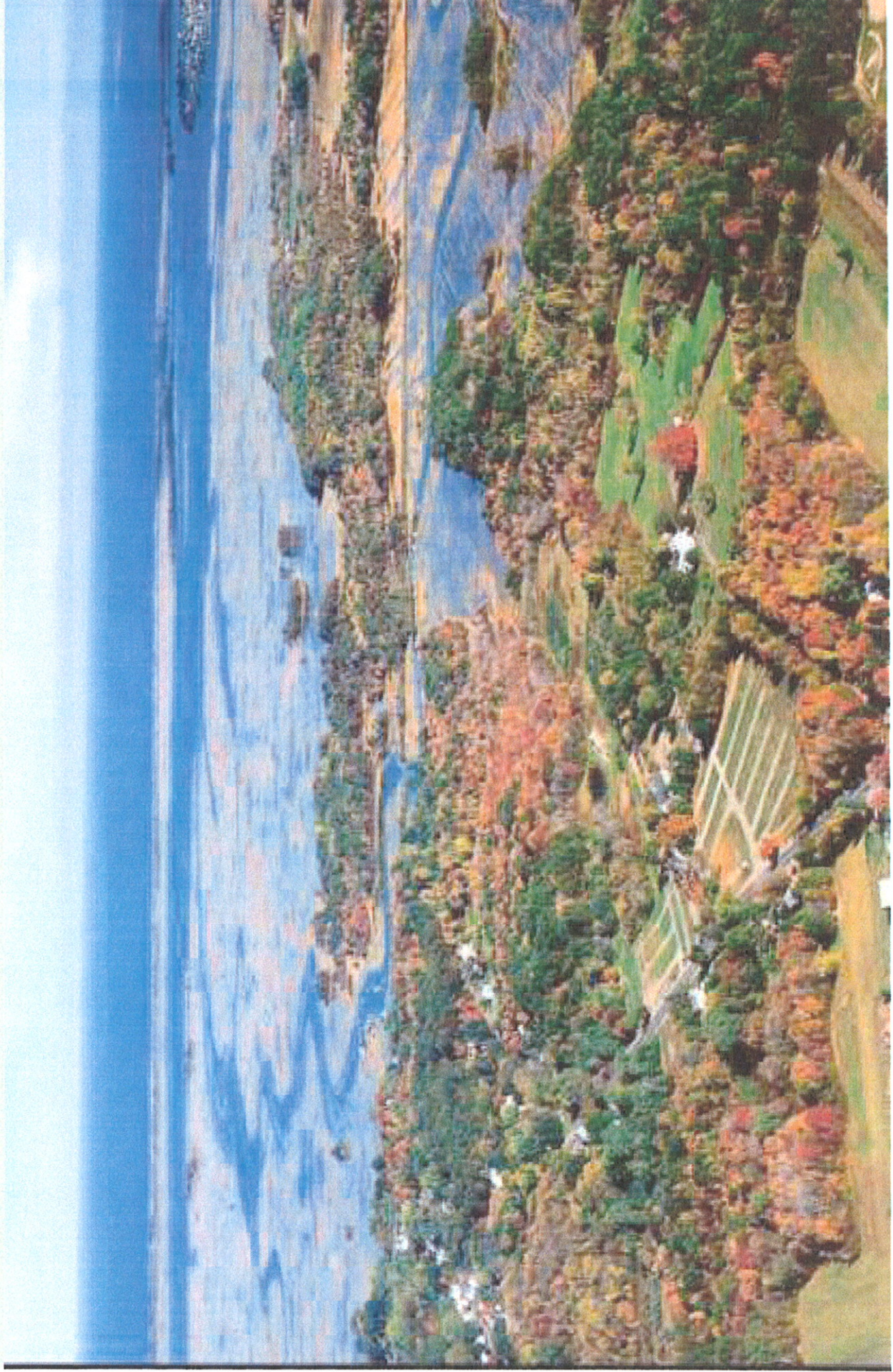
89 Oxbow, Wayland



Clipper City Rail Trail, Newburyport



Bradstreet Property, Rowley



Angino Farm, Newton



CPA Challenges

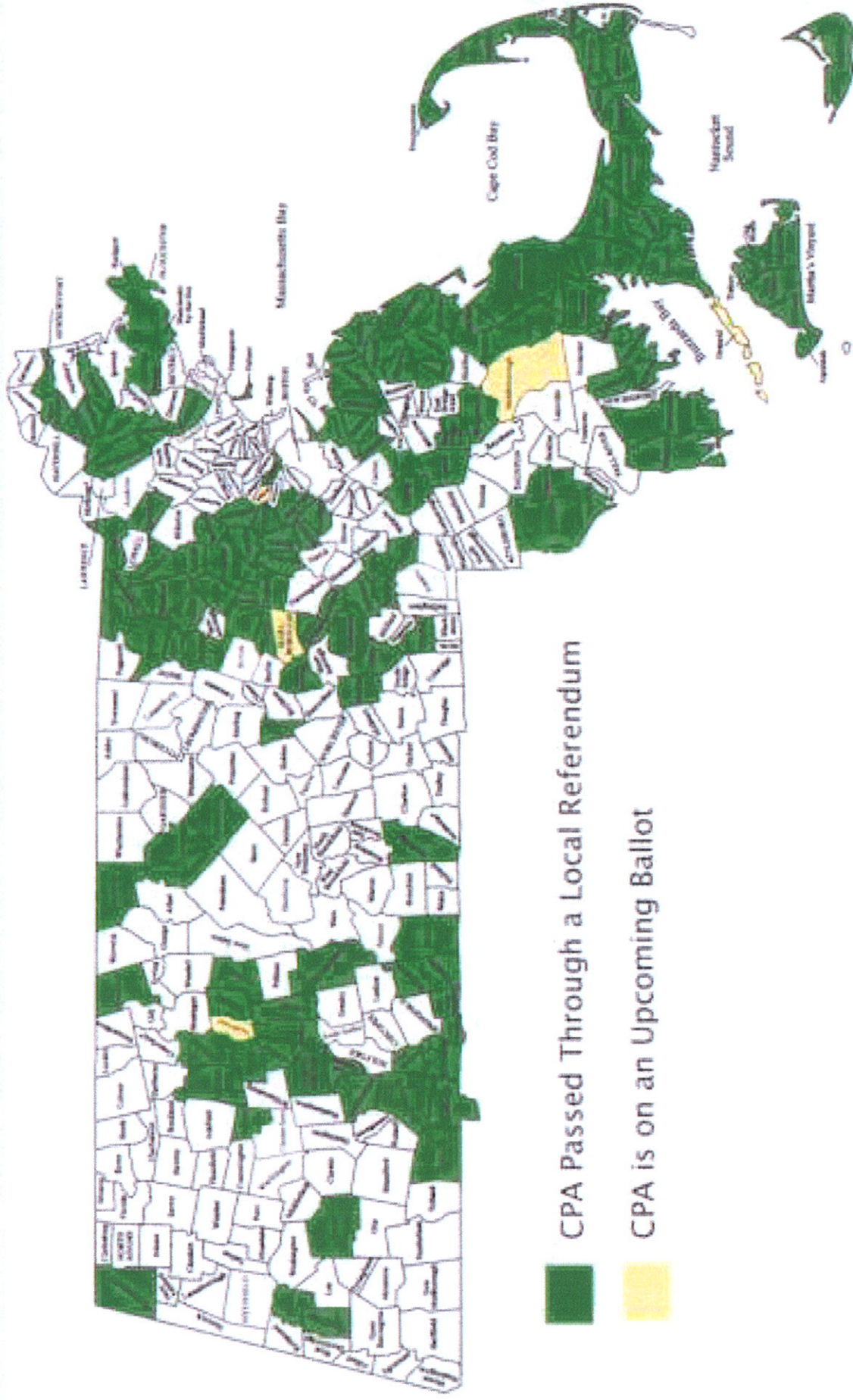
- Harmful legislation
- Adoption patterns (lack of cities)
- Trust fund matching dollars
- Recreation category



Other CPA Bills Filed: Current Legislative Session

HB584	HB2896	SB104
HB707	HB2912	SB622
HB709	HB2939	SB625
HB1062	HB3095	SB634
HB1228	HB3604	SB658
HB1984	HB3606	SB783
HB2762	HB3799	SB1240
HB2840	SB94	SB1301

Adoption Patterns



CPA Trust Fund (millions)

<u>Revenue</u>	<u>Distributions</u>
FY 2002: \$41.3	FY 2003: \$17.8
FY 2003: \$53.8	FY 2004: \$27.2
FY 2004: \$50.5	FY 2005: \$31.4
FY 2005: \$37.4	FY 2006: \$46.3
FY 2006: \$36.1	FY 2007: \$58.6
FY 2007: \$31.9	FY 2008: \$68.1
FY 2008: \$27.0	FY 2009: \$54.6
FY 2009: \$25.2	FY 2010: \$31.6
FY 2010: \$25.6	FY 2011: \$25.9

Recreation Category

	Open Space	Historic	Recreation	Housing
Acquire	Yes	Yes	Yes	Yes
Create	Yes	-	Yes	Yes
Preserve	Yes	Yes	Yes	Yes
Support	-	-	-	Yes
Rehabilitate and/or Restore	Yes – if acquired or created w/CPA \$\$	Yes	Yes – if acquired or created w/CPA \$\$	Yes – if acquired or created w/CPA \$\$

Solution: SB 90 “*An Act to Sustain Community Preservation*”

Three Major Components:

1. Increase in trust fund revenue to guarantee a 75% match on first round

Funds from above change would allow for...

2. Flexibility on local CPA revenue sources (not just relying on property tax surcharge)
3. CPA “rehabilitation” projects on existing recreational land

Progress and Next Steps

Hearing was held on 9-29-09

Favorable Recommendation - Committee on Community
Development and Small Business on 11-10-09

Favorable Recommendation - House Ways & Means
on 7-30-10

Hopeful for floor vote next session

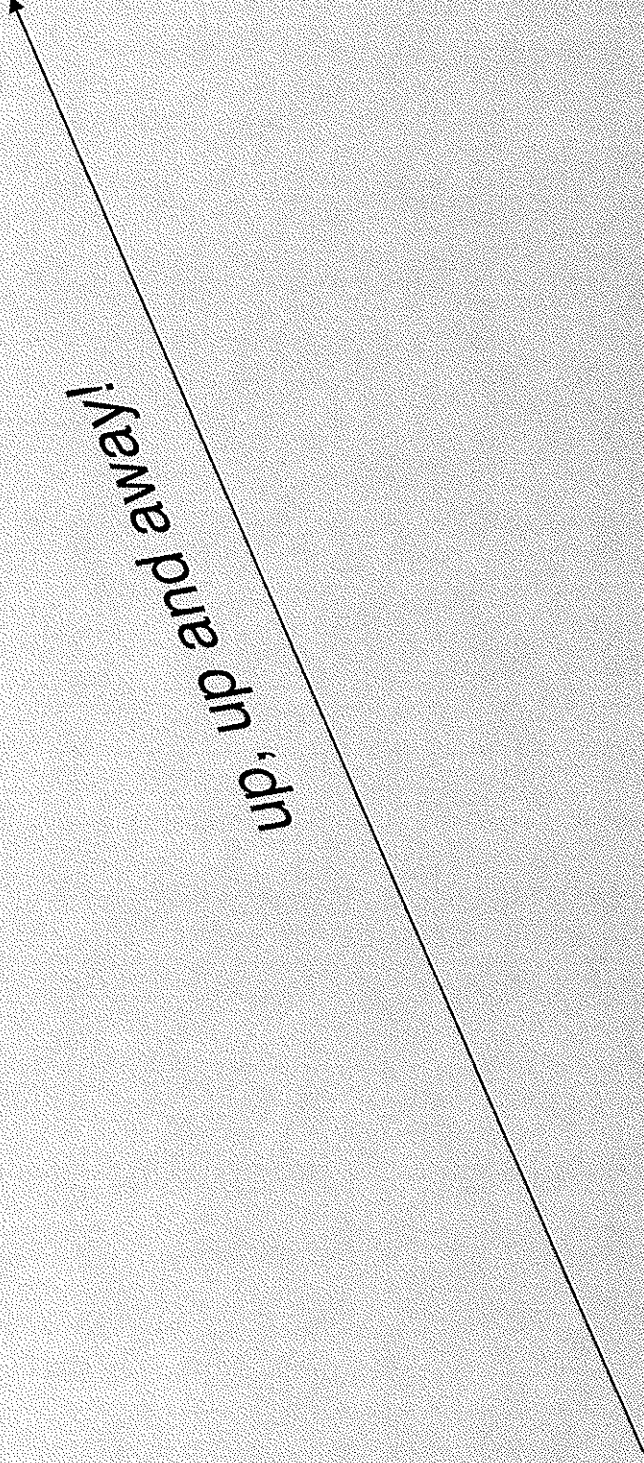
Local Topics

1. What can (and can't) be done with CPA funds at 174 Charles River St. & Walker Gordon Park?
2. How about Carol-Brewster land acquisition?
3. How to fund non-municipal projects, particularly in the housing category?

What is the future of CPA?

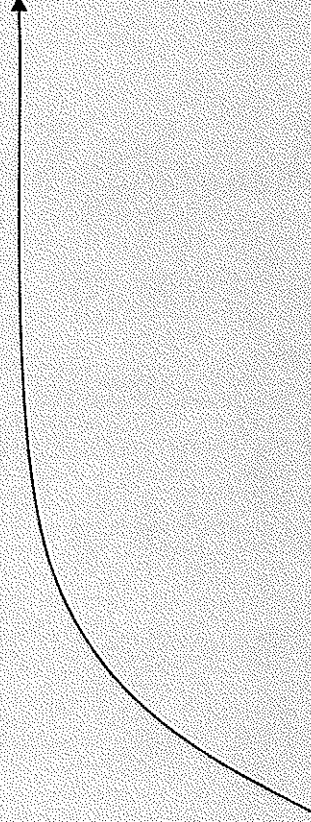
1. If SB 90 passes...

up, up and away!

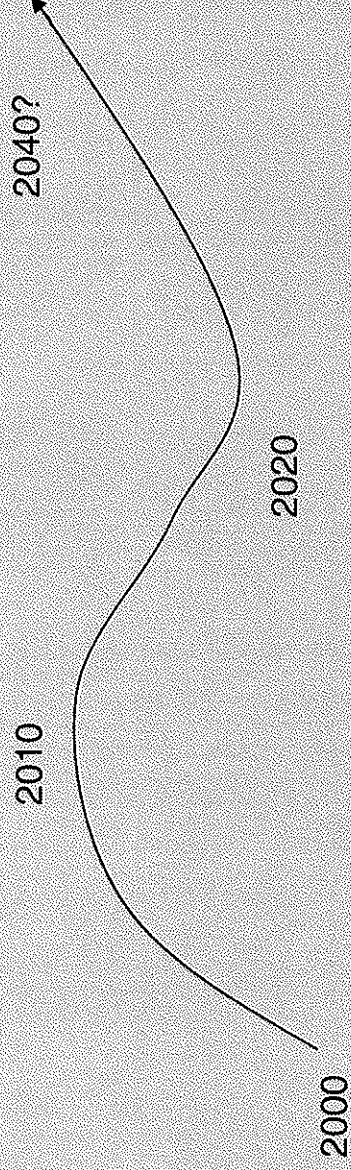


What is the future of CPA?

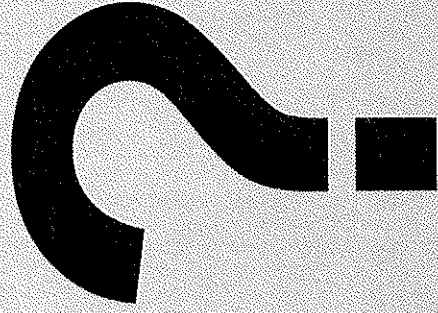
2. If SB 90 doesn't pass: *'Plateau Scenario'*



3. If SB 90 doesn't pass: *'Sagino Scenario'*



Time for Questions

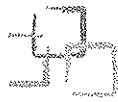


For more information:

www.communitypreservation.org

Community Preservation Coalition

Addendum B



**Community
Preservation Coalition**
Preserving our past. Building our future.

33 Union Street, Fourth Floor
Boston, MA 02108
Phone: 617-367-8998
Fax: 617-367-8788

COMMUNITY PRESERVATION FUND ALLOWABLE SPENDING PURPOSES

DEFINITION	OPEN SPACE	HISTORIC RESOURCES	RECREATIONAL LAND	COMMUNITY HOUSING
	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	Building, structure, vessel or real property listed or eligible for listing on the state register of historic places or determined by the local historic preservation commission to be significant in the history, archeology, architecture or culture of the city or town	Land for 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 Does <u>not</u> include horse or dog racing or the use of land for a stadium, gymnasium or similar structure	Housing for low and moderate income individuals and families, including low or moderate income seniors Moderate income is less than 100%, and low income is less than 80%, of US HUD Area Wide Median Income
ACQUIRE CREATE	Yes Yes	Yes No	Yes Yes	Yes (effective 12/5/2006) Yes
PRESERVE Means protect from injury, harm or destruction, not maintenance	Yes	Yes	Yes	Yes
SUPPORT	No	No	No	Yes, includes funding for community's affordable housing trust
REHABILITATE/RESTORE Means remodel, reconstruct or repair (extraordinary, not maintenance) to make property functional for intended use, including improvements to comply with federal, state or local building or access codes or with federal standards for rehabilitation of historic properties	Yes, if acquired or created with Community Preservation funds	Yes	Yes, if acquired or created with Community Preservation funds	Yes, if acquired or created with Community Preservation funds

Chart courtesy of the Massachusetts Department of Revenue

www.communitypreservation.org

Addendum C

Massachusetts Department of Revenue Division of Local Services
Alan LeBovidge, Commissioner Joseph J. Chessey, Jr., Deputy Commissioner



June 11, 2002

Marie Chiofolo, Acting Chairman
Community Preservation Committee
1 Liberty Lane
Norfolk MA 02056

Re: Community Preservation Act
Our File No. 2002-379

Dear Ms. Chiofolo:

You asked that we review a list of eleven projects that the town's Recreation Department proposes financing with monies raised under the Community Preservation Act (CPA) and advise whether the town may do so. It appears that a number of the projects may involve installations and improvements to one or more existing town recreational facilities. We do not know all of the details for each project, but we can offer general guidelines to assist you evaluate whether a proposal may be financed with community preservation fund monies.

With respect to recreational purposes, the CPA provides that monies in the community preservation fund may be used "for the *acquisition, creation and preservation* of land for recreational use ... and for the *rehabilitation or restoration* of such ... land for recreational use ... *that is acquired or created*" under the act. (Emphasis added). G.L. Ch. 44B §5(b)(2). "Acquisition" can include obtaining a fee or lesser interest in the land, including a lease, and "preservation" is defined quite narrowly to mean protection of property from injury, harm or destruction, but not including maintenance. G.L. Ch. 44B §2. The act does not specifically define the term "creation," but we presume the Legislature intended the term to be given its ordinary and generally understood meaning as bringing into being, causing to exist or production. American Heritage Dictionary 338 (2nd New College Edition 1985); Black's Law Dictionary 440 (4th ed. 1968). Only those recreational properties acquired or created with fund monies may be rehabilitated or restored using such monies.

Accordingly, we think the town may spend fund monies to do the following:

1. Acquire real property and develop it as a recreational site.
2. Acquire an existing recreational site and rehabilitate or restore it as needed.
3. Develop a recreational use on any real property owned by the town before adoption of the CPA, or acquired with other municipal funds, that is not already dedicated to recreational use.

Marie Chiofalo, Acting Chairman
Community Preservation Committee
Town of Norfolk
Page Two

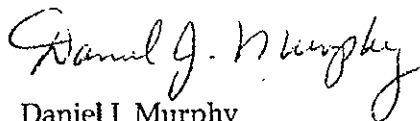
4. Make particular improvements on recreational property owned by the town before adoption of the CPA, or acquired with community preservation or any other municipal funds, for the limited purpose of protecting the property from injury, harm or destruction. This might include such projects as repair or replacement of a roof to protect a structure from damage from the elements or installation of a sprinkler system to protect it from fire damage. It does not include ordinary maintenance or upkeep of the property, nor improvements intended to enhance or extend its use or life.

Community preservation fund monies cannot ordinarily be used to simply replace equipment, or install additional equipment, amenities or improvements, on an existing recreational property. Equipment and improvements can be financed with fund monies, however, where they are an integral part of a project that qualifies as the creation, preservation, rehabilitation or restoration of recreational land. This would include any equipment and amenities acquired or installed:

1. During the original development of a new recreational site on land acquired for that purpose with community preservation funds.
2. During the original development of a new recreational site on property owned by the town before adoption of the CPA, or acquired with other municipal funds, that is not already dedicated to recreational use.
3. During the rehabilitation or restoration of a recreational site acquired or developed with fund monies.
4. For the protection of the property from physical harm.

If you have any further questions on this matter, please do not hesitate to contact me again.

Very truly yours,



Daniel J. Murphy
Chief, Property Tax Bureau

DJM/KC

Addendum D



Community Preservation Coalition

Preserving our past. Building our future.

Can CPA Fund Private Projects?

Have you ever wondered if CPA funds can be used to fund projects on privately-owned property? This question comes up frequently for historic preservation projects, such as restoring an historical society's house museum, preserving windows on an old YMCA building, or restoring an old tavern that's now a private residence. The answer is, it depends.

The Community Preservation Act does not prohibit use of CPA funds for projects on privately-owned property. However, the Anti-aid Amendment to the Massachusetts Constitution does prohibit the use of public funds to private entities for private purposes (Mass Const. Amend. Article 46 s.2, as amended by Article 103). But that doesn't mean you can't do it!

The key concept to understand is that public funds are prohibited from being used for **private purposes**. Any expenditure of public funds must be used to advance a **public purpose**. As the Department of Revenue points out in a February 2007 letter to the Town of Norfolk, the preservation of historic assets are generally understood to have legitimate public purposes. A variety of federal and state programs provide historic preservation grants to private non-profit organizations, and typically the public purpose is served by the acquisition of a historic preservation restriction. Likewise, many CPA communities are now requiring permanent historic preservation restrictions as a condition of funding preservation projects on private properties.

Another example to support the use of public funds for a privately-owned resource, is the USS Massachusetts case. As cited in the same DOR letter, state funds were granted to rehabilitate the USS Massachusetts for use as a memorial and museum (*Helmes v. Commonwealth*, 406 Mass. 873). The Supreme Judicial Court found the expenditure was for a legitimate public purpose since the museum would be open to the public.

The bottom line is this: CPA funds can be used to fund a project on private property if the project is advancing a public purpose, such as the public acquiring a deed restriction, providing public access to the property or some other benefit.

[View the February 2007 DOR letter to the Town of Norfolk on private projects](#)

[View description of a Newton CPA project combining historic rehab of private home to be converted to mixed-income housing](#)