

**ARTICLE 12.** To see if the Town will vote to appropriate **\$25,000** from the Undesignated Community Preservation Fund balance **to be deposited into the Conservation Fund established pursuant to the Conservation Commission Act, M.G.L. Ch. 40 s. 8C, for use by the Conservation Commission on projects that satisfy eligibility requirements of both M.G.L. Ch. 40 s. 8C and the Community Preservation Act, M.G.L. Ch. 44B;** any expenditure of such funds to be authorized by the Conservation Commission in consultation with the Community Preservation Committee; or take any other action thereon.

Sponsored and supported by the Community Preservation Committee  
Finance Committee recommends adoption of this article  
Select Board recommends adoption of this article

**MOTION:** I move to appropriate **\$25,000** from the Undesignated Community Preservation Fund balance **to be deposited into the Conservation Fund established pursuant to the Conservation Commission Act, M.G.L. Ch. 40 s. 8C, for use by the Conservation Commission on projects that satisfy eligibility requirements of both M.G.L. Ch. 40 s. 8C and the Community Preservation Act, M.G.L. Ch. 44B;** any expenditure of these deposited funds to be authorized by the Conservation Commission in consultation with the Community Preservation Committee.

**COMMENTS:** Both this article and the next one are ongoing annual appropriations intended to build up the Conservation Fund to mitigate any taxpayer impact on potential future acquisition of open space if and when it becomes available. There are statutory limitations to the use of CPC funds for open space acquisition, so half is proposed from CPC funds and half is proposed from Free Cash (see next article #13).

Supporting Information for Warrant Articles 12 & 13  
Town Meeting, May 10 2022  
Ross Povenmire

The Conservation Fund is established pursuant to MGL Ch. 40 s. 8C (attached), which states that “A city or town may appropriate money in any year to a conservation fund of which the treasurer shall be the custodian. . . . Money in said fund may be expended by said commission **for any purpose authorized by this section . . .**” [emphases added]

The purposes described in the statute include:

. . . [T]he **promotion and development of the natural resources and for the protection of watershed resources** of said city or town. Such commission shall **conduct researches** into its local land areas and shall seek to co-ordinate the activities of unofficial bodies organized for similar purposes, and may **advertise, prepare, print and distribute books, maps, charts, plans and pamphlets** which in its judgment it deems necessary for its work. Among such plans may be a conservation and passive outdoor recreation plan which shall be, as far as possible, consistent with the town master plan and with any regional plans relating to the area. . . . It may **purchase interests in such land** with sums available to it. If insufficient funds are available or other reasons so require, a city council or a town meeting may raise or transfer funds so that the commission may **acquire in the name of the city or town by option, purchase, lease or otherwise the fee in such land or water rights, conservation restrictions, easements or other contractual rights including conveyances on conditions or with limitations or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of or otherwise conserve and properly utilize open spaces in land and water areas within its city or town, and it shall manage and control the same.** [emphasis added]

Between 2010 and 2020 a total of twelve disbursements were made from the Conservation Fund for such things as beaver deceivers, fees for display space at Earth Day, turtle studies, wetland delineations, and trail maintenance. The only revenues into the Conservation Fund during that time, other than interest, was \$1000 from the General Fund in 2011 and \$5000 from the General Fund in 2016. As of July 1, 2020, the balance in the Conservation Fund was \$2,224. The Conservation Commission decided at that time that the Conservation Fund needed to be augmented so that it could address the purposes for which it was authorized.

It was also determined at this time that Community Preservation Act (CPA) funds could be transferred into the Conservation Fund for any purpose consistent with both MGL 40 s. 8C and the eligibility requirements of the CPA (see attached DOR letter). A highly attractive feature of CPC funds is that they include a state “match” of varying proportions each year, thereby reducing the proportionate share provided directly by town tax payers. Since there is broad overlap between the purposes MGL 40 s. 8C and eligibility requirements of the CPA with regard to recreation and open space, the additional limitation on the use of CPA derived revenue deposited into the Conservation Fund was deemed workable despite requiring additional bookkeeping. The additional bookkeeping is necessary to ensure that the sources of revenue within the Conservation Fund are tracked and spent accordingly. The eligibility requirements of the CPA are summarized as follows:

	Open Space	Historic	Recreation	Housing
Acquire	Yes	Yes	Yes	Yes
Create	Yes	No	Yes	Yes
Preserve	Yes	Yes	Yes	Yes
Support	No	No	No	Yes
Rehabilitate and/or Restore	No, unless acquired or created with CPA funds	Yes	Yes (new 7/8/2012)	No, unless acquired or created with CPA funds

Chart adapted from "Recent Developments in Municipal Law", Massachusetts Department of Revenue, October 2012.

Another highly attractive feature of the Conservation Fund is the ability of the Conservation Commission to utilize the fund without waiting for Town Meeting appropriation. This feature was deemed particularly valuable in cases where quick action is necessary, such as when an unexpected opportunity arises to purchase land or when urgent trail maintenance is required. While CPC derived revenues deposited into the Conservation Fund cannot be used to for contingent land purchases, such as an "option to purchase," General Fund derived revenue in the Conservation Fund is available for use in purchasing such options (see DOR email). Similarly, CPC derived revenue may not be used for maintenance (support) projects, while General Fund revenues may be used for maintenance. For this reason it was deemed desirable to have sufficient quantity of both types of revenues in the Conservation Fund. Of course, in cases where the purposes of MGL Ch. 40 s.8C and the CPA eligibility requirements align, the combined total revenue would be available for use.

In view of the above, the Conservation Commission decided around 2020 to request regular transfers from both the CPA fund and the General Fund into the Conservation Fund. In September 2020, Town Meeting approved the transfer of \$25,000 from CPA and \$15,000 from the General Fund into the Conservation Fund. In June of 2021, Town Meeting approved the transfer of \$25,000 from CPA and \$25,000 from the General Fund into the Conservation Fund. The current balance of the Conservation Fund is \$98,639, of which \$50,000 is CPA derived revenue.