



Eric D. Batista  
City Manager

CITY OF WORCESTER

cm2023jan18045050

Attachment for Item #

9.4 C

January 24, 2023

TO THE WORCESTER CITY COUNCIL

COUNCILORS:

I write to provide an informational communication relative to implementation steps for the Community Preservation Act, and respectfully request your review and consideration of adopting the enclosed organizational ordinance establishing the Community Preservation Fund and Community Preservation Committee, as received from Peter Dunn, Chief Development Officer. In accordance with Sections 5 and 7 of Massachusetts General Laws, Chapter 44B, both the fund and the committee are required to be established. The review and adoption of this organizational ordinance will help us prepare for the upcoming fiscal year.

We have recommended the maximum allowed nine (9) members for the composition of the Community Preservation Committee. This includes the five (5) statutorily required members – a delegate from the Planning Board, Conservation Commission, Historical Commission, Parks & Recreation Commission, and Worcester Housing Authority Board, as well as our recommendation to have four (4) additional at-large members. The five (5) required members would be designated by their respective boards, whereas candidates for the remaining four (4) at-large seats would follow the normal procedure with the Citizen's Advisory Council for my consideration of appointment and confirmed by your Honorable Body. We hope to start advertising nominations for this new, exciting committee as soon as possible following the Council's review, deliberation, and adoption of the organizational ordinance establishing the committee. The committee will need considerable time to develop the required Community Preservation Plan, so our goal is to have a committee in place around the start of the upcoming fiscal year.

I am also recommending that the Executive Office of Economic Development be the department to serve as the administrative staff and support to the Community Preservation Committee. As such, in the upcoming budget, the department's table of organization will reflect a new position commensurate with the duties and responsibilities of the role. This position is eligible to be funded through the CPA funds that will be collected. Eligible administrative and operating costs cannot exceed 5% of the annual budget for CPA funds.

We look forward to implementing this important initiative, and the positive outcomes that we expect to see from these new resources coming available to the community.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Eric D. Batista", with a large, stylized flourish at the end.

Eric D. Batista  
City Manager



TO: Eric D. Batista, City Manager

FROM: Peter Dunn, Chief Development Officer

DATE: January 24, 2023

RE: Community Preservation Act – Informational Communication and Recommend Adoption of an Organizational Ordinance

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In November 2022, the Worcester voters passed Question 5 on the ballot, adopting Sections 3 through 7 of Massachusetts General Laws, Chapter 44B (MGL Ch. 44B) – also known as the Community Preservation Act (CPA).

The purpose of this communication is focused on implementation steps, not background information or financial implications to taxpayers. For additional information on background and financial implications, I recommend readers refer to the report published on August 2, 2022 by the Worcester Regional Research Bureau at [www.wrrb.org](http://www.wrrb.org); the May 25, 2021 report of City Auditor Robert Stearns submitted to the City Council; and the Massachusetts Community Preservation Coalition's website at [www.communitypreservation.org](http://www.communitypreservation.org).

To best prepare for the upcoming fiscal year when CPA funds will start to be collected, one of the first steps recommended is enacting an organizational ordinance to create the Community Preservation Committee and the Community Preservation Fund. Enclosed please find the recommended organizational ordinance that our office developed in consultation with the City Solicitor.

### **Community Preservation Committee**

Adoption of the CPA requires the creation, by ordinance, of the Community Preservation Committee (CPC). The CPC must be comprised of no fewer than five (5) members, and no more than nine (9) members. Furthermore, the composition **must include** delegates from the following, existing boards/commissions of the city:

- 1.) one delegate of the city's conservation commission, as designated by the commission.
- 2.) one delegate of the city's historical commission, as designated by the commission.
- 3.) one delegate of the city's planning board, as designated by the board.
- 4.) one delegate of the city's parks and recreation commission, as designated by the commission.
- 5.) one delegate of the board of directors of the Worcester Housing Authority, as designated by the Authority.

Beyond these five (5) required members, our recommendation is to have four (4) additional, at-large members, such that the total composition of the CPC would be nine

(9) members. Candidates for the additional, at-large seats would follow the normal course of procedure with our boards and commissions through the Citizen's Advisory Council. Those members would be appointed by the City Manager, and confirmed by the City Council. Furthermore, in terms of classification, this would be an executive board of the City of Worcester. We have also recommended staggering the initial appointment terms, which is typical, so that we maintain continuity on the CPC as terms expire.

The Executive Office of Economic Development will be the programmatic liaison and staff support to the CPC. As such, in the FY24 budget, the table of organization for Economic Development will reflect a new position, which will carry out the administration and operational activities of the CPC. This position is eligible to be funded out of the CPA funds collected.

The **duties and responsibilities** of the CPC included in our recommended ordinance are based on Section 5(b) of the CPA – MGL Ch. 44B. The primary role of the CPC is to develop and update a **Community Preservation Plan** that will guide its funding recommendations to the City Manager and the City Council.

Before making any funding recommendations, Section 5(b) states the CPC “must study the needs, possibilities and resources of the city or town regarding community preservation, including the consideration of regional projects for community preservation.” This process requires consultation with existing municipal boards and one or more public hearings. The process culminates with publishing a Community Preservation Plan, which will guide the priorities and funding recommendations of the CPC. The plan should be updated periodically to reflect the changing needs, possibilities, and resources of the city.

It should be noted that many communities have taken **a year or more** to develop their initial Community Preservation Plan. For example, recently in the Town of Shrewsbury, the CPC was appointed in April 2021 and the Community Preservation Plan was published in June 2022. In some cases for Towns, this process is even longer since the organizational by-law establishing the CPC requires town meeting approval and then Attorney General's office approval. For example, the Town of Berlin voters adopted the CPA in 2018, but the CPC was not formed until 2020. This first-year timeframe for creating the plan does not necessarily slow down the deployment of any CPA funds because the CPC will not know the total amount of the first-year collections until the end of the first fiscal year anyway. Furthermore, the state matching funds are typically distributed in November following the fiscal year.

## **Community Preservation Fund**

Section 7 of the CPA – MGL Ch. 44B – requires that the City establish a separate account, to be known as the Community Preservation Fund (CPF). The City's Treasurer is the custodian of the account, and the authority to approve appropriations from the account rests with the City Council. As stated, the CPC will make funding recommendations to the City Manager and then to the City Council. The CPC may recommend CPA funds for purposes of acquisition, preservation, rehabilitation and restoration of: **open space and recreation; historic resources; and community housing**. In addition the CPC may recommend CPA funds for eligible administrative and operating expenses, provided that those expenses do not exceed 5% of the annual budget. The CPC will recommend an annual budget including an allocation of at least 10% for each of the three CPA purposes. The CPC can also recommend setting aside funds for later spending.

Another best practice identified from other communities that we expect for Worcester would be the CPC's annual allocation for community housing being disbursed to the Affordable Housing Trust Fund. CPA funds are the most common source for the continued capitalization of municipal Affordable Housing Trust Funds across the state, and we have already been having conversations about what strategies we will need to consider when the initial funds from the American Rescue Plan Act are exhausted or expire.

In terms of accepting funding proposals for the CPC's consideration, most communities have a cyclical process. That allows the CPC to review the relative merits of all proposals seeking CPA funds in a given year, and consider those proposals in alignment with the annual budget as well as the current Community Preservation Plan. The specific process and timelines associated with any Request for Proposals (RFP) will ultimately be deliberated and decided on by the CPC.

### **Estimated Implementation Timeline**

Based upon the information provided in this report and the enclosed, recommended organizational ordinance, the following schedule is the best estimate we can offer for an implementation timeline:

Late Winter / Early Spring 2023: Open Nominations for CPC Candidates  
Late Spring / Early Summer 2023: Appoint Members of the CPC  
Summer 2023: Initial Meetings of the CPC / Initiation of Community Preservation Plan  
2023-2024: Community Preservation Plan Development  
June 2024: First fiscal year of CPA collections concludes  
Summer / Fall 2024: Community Preservation Plan published  
November 2024: Distribution of state matching funds for first year  
Late 2024 / Early 2025: Initial RFP for project proposals

This schedule is subject to change as we proceed with implementation and start to work with the committee; however, we believed providing this initial estimate for the implementation timeline was helpful to set preliminary expectations for key milestones.

Sincerely,



Peter Dunn  
Chief Development Officer

**AN ORDINANCE ESTABLISHING THE  
COMMUNITY PRESERVATION COMMITTEE  
OF THE CITY OF WORCESTER**

Whereas, in 2015, the City Council, acting pursuant to the recommendation of the City Manager made under Article VI of the Home Rule Charter, adopted a Comprehensive Reorganization Plan containing a new Revised Ordinances of 2015, Part Two, Organization of City Agencies; and,

Whereas, in the 2022 local election, Worcester voters passed Question 5, adopting sections 3 through 7 of chapter 44B of the General Laws; and

Whereas, pursuant to section 5(a) of chapter 44B of the General Laws, the city has a statutory obligation to create a community preservation committee; and,

Whereas, pursuant to section 7 of chapter 44B of the General Laws, the city has a statutory obligation to create a community preservation fund; and

Whereas, the city council and city manager desire to fulfill said sections 5(a) and 7 by creating a community preservation committee who shall be responsible for the planning, stewardship and recommendations for appropriation of proceeds from the community preservation fund; and

Now, Therefore, Be it Ordained by the City Council of the city of Worcester, as follows:

§ 1. The Revised Ordinances of 2015, Part Two, Organization of City Agencies, are hereby amended by inserting at the conclusion of Article III thereof a new section 19 as follows:

**§ 19. Community Preservation Committee**

(a) *Establishment of the Community Preservation Fund.* By virtue of the Worcester voters adopting sections 3 through 7 of chapter 44B of the General Laws, the city of Worcester hereby establishes on the books of the city an appropriations account known as the “Community Preservation Fund” for the deposit of collections, gifts, grants, appropriations, and other funds qualifying under section 7 of chapter 44B of the General Laws.

(b) *Establishment of the Community Preservation Committee.* Under authority of section 5(a) of chapter 44B of the General Laws, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the “Community Preservation Committee.”

(c) *Membership.* The Community Preservation Committee shall consist of nine members appointed under the provisions of section 5(a) of chapter 44B of the General Laws as follows:

- (1) one delegate of the city's conservation commission, as designated by the commission.
- (2) one delegate of the city's historical commission, as designated by the commission.
- (3) one delegate of the city's planning board, as designated by the board.
- (4) one delegate of the city's parks and recreation commission, as designated by the commission.
- (5) one delegate of the board of directors of the Worcester Housing Authority, as designated by the Authority.
- (6) four at-large members of the community appointed by the city manager.

(d) *Term – Initial Appointments.* The initial appointments of the members shall be staggered such that the first city manager appointee shall serve a term of one year; the second and third city manager appointees shall serve for terms of two years; the fourth city manager appointee shall serve a term of three years; the conservation commission appointee shall serve a term of one year; the historical commission appointee shall serve a term of two years; the planning board appointee shall serve a term of three years; the parks and recreation commission appointee shall serve a term of one year; and the Housing Authority appointee shall serve a term of two years. Thereafter, the terms of such members shall be three years. Every appointee shall serve as a member of the Community Preservation Committee until the appointment and confirmation of their successor. In the event of the death, disability, resignation, or removal of any member prior to the expiration of the term for which they were appointed, the city manager shall appoint a replacement member who shall serve for the balance of the unexpired term of the member for which they are replacing. All members may be reappointed in accordance with the provisions and limitations of the city charter. All members shall serve at the pleasure of the city manager except that no member shall be removed from office solely on account of any vote or position taken on any matter pending before or decided by the Community Preservation Committee. The chair of the Community Preservation Committee shall be designated by the city manager.

(e) *Function of the Community Preservation Committee.* It shall be the function of the Community Preservation Committee to advise and assist the city manager and the city administration in efforts relating to community preservation, including open space, historic resources, and community housing. The Community Preservation Committee shall make recommendations to the city manager for appropriations from the Community Preservation Fund for said purposes, as well as eligible administrative and operating expenses, and the city manager may then make a recommendation to the city council for final appropriation.

(f) *Duties and Responsibilities.* In accordance with section 5(b) of chapter 44B of the General Laws, the duties and responsibilities of the Community Preservation Committee are as follows:

- (1) The Community Preservation Committee shall study the needs, possibilities, and resources of the city regarding community preservation, including the consideration of regional projects for community preservation. The Community Preservation Committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the board of parks and recreation 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 Community Preservation Committee shall hold one or more public informational hearings on the needs, possibilities, and resources of the city 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.
- (2) The Community Preservation Committee shall make recommendations 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 ordinance shall not be used for maintenance. With respect to community housing, the Community Preservation Committee shall recommend, whenever 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 recommendations 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.
- (4) The Community Preservation Committee may recommend, and the city council may approve, appropriations from the fund to acquire land, or real property interests therein, held for railroad purposes to be used by the city for recreational use as a rail trail as defined in section 35A of chapter 82 of the General Laws. Notwithstanding subsection section 12(a) of chapter 44B of the General Laws, land, or real property interests therein, acquired pursuant to this paragraph shall remain subject to any property interest, including restrictions or reversionary interests, required to be held by the grantor or the United States pursuant to the federal National Trails System Act of 1968, as amended. Notwithstanding the definition of real property



interest in section 2 of chapter 44 of the General Laws, land, or real property interests therein, acquired pursuant to this paragraph shall be considered a real property interest for purposes of this ordinance, and a conservation restriction that meets the requirements of sections 31 to 33, inclusive, of chapter 184 of the General Laws shall be required.

- (5) 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 for appropriation shall include their anticipated costs.

(g) The chief development officer of the city, or his or her designee, shall administer the business and public affairs of the Community Preservation Committee and serve as the clerk and keeper of its official records.

#### **Effective Date**

§ 2. In accordance with Article Six of the city charter, this ordinance shall take effect on the earlier of the date of approval or, in the absence of a vote of approval by the city council, ninety (90) days after the date it is received by the city council.