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Questions over CPA spending

By **Katie Liesener**/ Staff Writer
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More often than not, kids who play on the central playing field at Wayland High School are left with their cleats stuck in the muck of the stressed and sodden field.

But town officials are equally stuck on what to do about it. Their quagmire is a legal one - whether Community Preservation Act (CPA) money could be used to help fund an artificial turf to replace the existing sod.

The Community Preservation Committee, which recommends use of the funds to Town Meeting, is not convinced it can be done.

"The committee feels we have a very strong fiduciary responsibility. When we go to Town Meeting, voters have every reason ... to expect we've done our homework and are in keeping with the legal intent of the CPA," said Michael Patterson, chairman of the Community Preservation Committee, at Monday night's selectmen's meeting.

Patterson said the committee should not consider a project that could open the town up to a costly lawsuit.

By law, CPA funds - preservation money raised from a community's tax levy and matched by the state - can be used for the acquisition, creation or preservation of recreational land. In January, the committee sought the opinion of the legal office of the state Department of Revenue to determine whether the laying of an artificial turf would fall within these parameters.

In an e-mail to Patterson, DOR attorney Kathleen Colleary said laying artificial turf would constitute "maintenance" or "rehabilitation" of the field rather than the "preservation" allowed by state law.

When the committee asked Town Counsel Mark Lanza to respond to that opinion, he came down on the opposite side. In a March 31 letter, Lanza argued artificial turf would be a legal use of CPA funds because it would constitute the creation of a new field.

The Wayland Boosters, which began organizing the project almost a year ago, are seeking roughly \$300,000 in CPA funds for the projected \$960,000 cost. They would seek the remainder from private donations and grant money, said Craig Foreman, Boosters president.

The School Committee and Park & Recreation Commission have voted to support their proposal.

Foreman said the high school playing field is the only one in town that includes parking, lights and bleachers.

"It's a community location, which is why the community needs this field. The fact that it's at the high school is secondary," he said.

Currently, the field is used by varsity high school teams and rented to the Wayland-Weston Pop Warner team. The conditions limit it to 25 uses in the spring and 25 in the fall. The field is rested in the summer.

If artificial turf were put down, Foreman said, the field could be used 2,700 hours a year (as opposed to 150 currently), giving other teams, such as youth lacrosse and youth soccer, a place to play when the other town fields are too wet.

Patterson said the committee has not yet weighed the merits of the project, because its legality is still in question.

"This is not something we've opposed. This is a problem with the statue," said committee member Jerry Heller.

Heller, who is an attorney, said that although other towns have successfully used CPA funds for athletic fields, the projects have not fit the same criteria as Wayland's. He and the rest of the committee were also concerned about a lawsuit pending against Newton for its use of CPA funds for a playing field project.

Heller said he felt Lanza's opinion was flawed and did not address the state's concerns.

Selectmen Chairman Michael Tichnor said he was "taken aback" by the committee's response.

"You folks disagree with town counsel. I have a problem with that as town counsel is a representative of the Board of Selectmen and of the town," he said.

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"You've asked for the opinion of town counsel and rejected it."

Lanza stood by his opinion at the meeting, but said that until the state issues clear guidelines on recreational uses of CPA funds or there is a judicial determination on the matter, there will always be room for interpretation.



The discussion ended with the committee agreeing to meet with project proponents if they could provide substantially new information, specifically any new legal research that could show a comparable use of CPA funds elsewhere. The selectmen also suggested the project might be revised to accord with any new legal findings.

Foreman is skeptical that the project can be altered.

Asked whether the project could be completed without CPA funds, he replied, "I don't know."

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