



November 5th, 2020

Don't Delay Submitting Proposition 2½ Question Results to DLS

Data Analytics and Resources Bureau



DLS reminds all local officials to submit specimen ballots with certified election results for all Proposition 2½ questions voted this year in a timely fashion. Your submission should include votes that have passed **and** failed and clearly indicate the purpose and type of vote (override, underwrite, debt exclusion or capital expenditure exclusion).

In this edition:

- Don't Delay Submitting Proposition 2 1/2 Question Results to DLS
- The Importance of the Utility Class and Valuation Methodology
- Free 2020 "What's New in Municipal Law" Seminar Available Online
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These votes should be emailed to the Data Analytics and Resources Bureau at databank@dor.state.ma.us. Missing or incomplete documentation may cause a delay in certifying your community's annual tax rate.

The Importance of the Utility Class and Valuation Methodology

Joanne Graziano - Local Assessment Bureau Chief

The methods derived for assessing property in communities are subject to review by the Bureau of Local Assessment (BLA) every five years to ensure the community is utilizing accepted mass appraisal methods. Most taxpayers are familiar with the local revaluation programs being conducted on real estate; however, personal property assessments are also subject to this review. Personal property generally includes tangible items that are not firmly attached to land

By the Numbers

City & Town provides updates on the progress of the tax rate and certification season while also allowing you to follow the tax rate setting process in real time. Thanks to our Municipal Databank staff, this public information is available 24/7 by [clicking here](#).

Prelim. Certifications
Approved: 36

Final Certification: 23 (of
70 total)

LA4 Approved:
164 (194 submitted)

LA13/ New Growth Approved:
164 (180 submitted)

Tax Rates Approved: 34

Balance Sheets Approved: 153

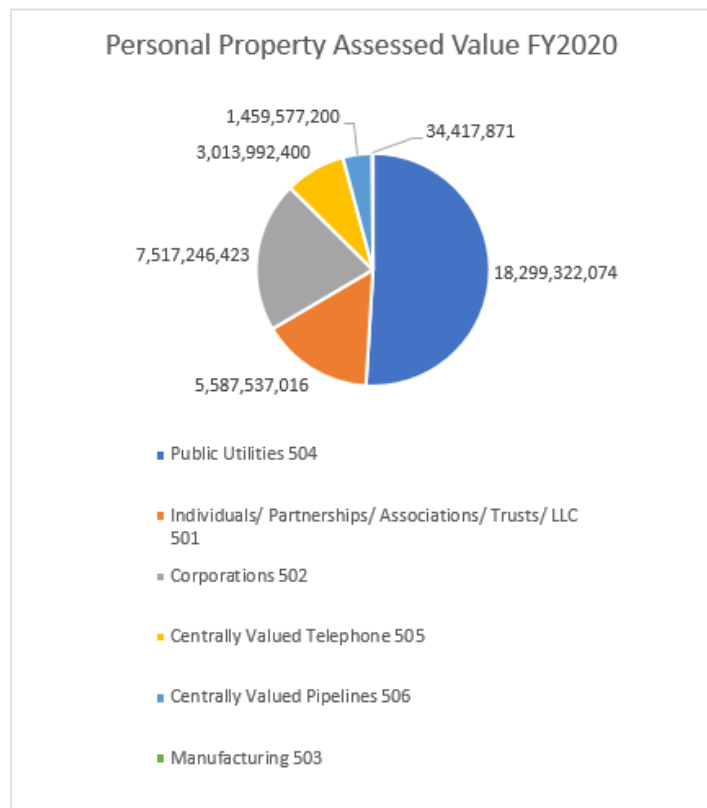
Total Aggregate Free Cash
Approved: \$814,177,266

Important Dates & Information

DLS Cybersecurity Reminder

or buildings and are not specially designed for or of such a size and bulk to be considered part of the real estate. This includes, for example, merchandise, furniture, machinery, tools, and equipment. Personal property is taxable unless a specific exemption provision applies. [G.L. c. 59, § 2](#). For many communities, their largest personal property owner that is assessed is the utility companies. This class of property, listed as property use code 504, includes public utilities that provide the transmission and distribution of gas and electricity.

A significant class in the tax levy, they comprise 47% of the total personal property value in the Commonwealth with close to \$18.3 billion in assessed value (AV) recorded in FY2020.



Communities have been basing its utility assessments on “net book value” due to a longstanding position of the Department of Public Utilities (DPU) stating that “if a regulated utility sells an asset to another regulated, public utility, the basis of that asset in the hands of the transferee remains the same as that of the transferor for rate-making

Have you recently received an unsolicited email, supposedly from the Division of Local Services Bureau of Local Assessment (BLA)? You may have been a target of an email attack known as Phishing. This malicious activity uses email to try to gain access to systems or to gather information by posing as a trustworthy organization (like BLA). Contact information for most DLS staff is readily obtainable on our website, and it has previously been used in phishing attempts. If you receive an email from DLS with a suspicious sender's address, a strange greeting or signature, or anything that doesn't seem normal, just delete it. When in doubt, delete!

DHCH Eviction Diversion Initiative Launches New Awareness Campaign

The Executive Office of Housing and Economic Development is raising awareness of its Eviction Diversion Initiative with a new video. To view and share it, [click here](#). More information is available at mass.gov/CovidHousingHelp.

Latest Issue of *Buy the Way* Now Available

purposes". Basically, this followed a net book value approach.

Assessors have relied heavily on the utility companies reporting the net book value of their property and assessed them at their word. Over the years, assessors questioned this method and challenged valuing at net book value, believing it was not representing fair cash value. By 2011, the Supreme Judicial Court (SJC) considered an appeal from the Appellate Tax Board (ATB) in *Boston Gas Co. v. Assessors of Boston*, 458 Mass. 715 (2011). In this case, the assessors had used a valuation *method other than net book value* to value the taxpayer's utility property. The SJC held that changes in the utility regulatory environment and other special circumstances justified the use of a valuation method other than "net book" and that the method used provided a reliable estimate of the fair cash value of the property. Specifically, they used a valuation method that gave equal weight to the property's net book value and its reproduction cost new less depreciation.

There have been recent court cases that continued to support this method and over the past two years, the Division of Local Services (DLS) has guided assessors. In 2019, DLS issued a Legal Finance Opinion ([LFO 2019-1 Assessing Utility Properties](#)) to explain the changes in the law. Additionally, to further support the collection of data required to value utilities, DLS issued [Bulletin 2019-5](#), which released two new personal property returns approved by the Commissioner of Revenue under [G.L. c. 58, § 5](#). While optional forms for FY21, [State Tax Form STF 2-504-G](#) (for gas companies) and [STF-2-504-E](#) (for electric companies) **will be required returns for FY22** for the utility companies. See [Bulletin 2020-11 for Updated Form of List Forms FY2022](#).

For FY 2021, a significant change was made to the certification review of utility property for communities. BLA expects more substantiation of a community's valuation and for purposes of mass appraisal, we will be accepting a method that gives equal weight to the property's net book value and its reproduction cost new less depreciation. Guidelines are published in [IGR-19-08](#), referred to as the

Don't miss the [October-November 2020 edition of Buy the Way](#), the bi-monthly magazine of the Operational Services Division (OSD). Click [here](#) to get news and updates from OSD delivered to your inbox.

DLS Links:

[COVID-19 Resources and Guidance for Municipal Officials](#)

[Municipal Finance Training and Resource Center](#)

[Local Officials Directory](#)

[Municipal Databank](#)

[Informational Guideline Releases \(IGRs\)](#)

[Bulletins](#)

[Publications & Training Center](#)

[Tools and Financial Calculators](#)



Certification Standards.

Generally, the net book value valuation method resulted in an undervaluing of the assets. Principal Assessor of Hopkinton John Neas commented, “[N]et book value of utility companies does not represent the full and fair cash value and an assessor is required to assess property at full and fair cash value.”

Assessors may need an appraiser or consultant that can assist with valuation of this type of property and, hopefully, it will be cost-effective for your community when you weigh the benefit.

Karen Tonelli, Director of Assessing of the Town of Montague, hired a consultant for FY2020 and reported that by adopting the updated methodology, “the total increase in tax dollars for FY19 from using the appraisal figures vs. Net Book Value from the Form of List Reported for these companies was \$11,252,202 in Personal Property value and \$294,700 in tax dollars. This is additional value in the class that relieved some of the residential tax burden from 58.08% in FY18 to 56.75% for FY19. Assessor Tonelli reports, “We were all very pleased with the result to say the least.”

Free 2020 “What’s New in Municipal Law” Seminar Available Online

Developed by our Bureau of Municipal Finance Law, the Division of Local Services is pleased to announce its annual “What’s New in Municipal Law” presentation on recent legislation and court decisions is currently available online and at no cost for the first time in our organization's history. The presentation consists of five narrated videos discussing recent laws and cases related to municipal finance and municipal law. You can view the videos individually or together as a group on our YouTube channel listed under [What’s New in Municipal Law 2020](#). The estimated viewing time and link for each segment is included below.



We hope you find this resource helpful and informative!

[Part 1 – New Legislation \(19:34\)](#)

[Part 2A – Property Tax Decisions \(21:15\)](#)

[Part 2B – Tax Collection and Public Employment \(14:43\)](#)

[Part 2C – Finance and Land Use \(10:27\)](#)

[Part 2D – Other Municipal Decisions \(16:04\)](#)

Ask DLS: Community Preservation Act - Part 5

This month's *Ask DLS* features Part 5 of frequently asked questions concerning the Community Preservation Act (CPA). Additional questions about the CPA will be featured in future editions of *City & Town*. For Part 4 of the series, see the [October 1st, 2020 edition of City & Town](#). For additional information on the Community Preservation Act, see [Informational Guideline Release \(IGR\) 19-14](#). Please let us know if you have other areas of interest or send a question to cityandtown@dor.state.ma.us. We would like to hear from you.

Are there any prerequisites for a CPA expenditure?

The CP Fund is a special revenue fund subject to appropriation. A recommendation by the Community Preservation Committee (CPC) and an appropriation by the legislative body of the city or town are both required to spend any monies belonging to the fund. [G.L. c. 44B, § 7](#). Appropriations are by majority vote, except in the case of borrowing ([G.L. c. 44B, § 11](#) and [G.L. c. 44, § 2](#)) and eminent domain ([G.L. c. 44B, § 5\(e\)](#)) where a two-thirds vote is required.

What is an allowable CP Fund expenditure?

CPA appropriations fall into two categories: (1) for the CPC's administrative or operating budget; and (2) for eligible

community preservation projects.

What expenditures fall into the CPC's administrative or operating budget?

Community preservation funds may be used for the administrative and operating expenses of the CPC. Annual appropriations for these expenses may not exceed five percent of the year's estimated annual CP Fund revenues. [G.L. c. 44B, §§ 6-7](#). Committee administrative expenses are limited to expenses necessary to support the CPC's statutory responsibilities. Eligible expenditures include:

- A. Clerical support for the CPC (i.e., transcribing CPC meeting minutes).
- B. Wages or salary of a person providing direct administrative support services to the CPC.
- C. CPC office supplies.
- D. Newspaper advertisements for CPC hearings.
- E. Expenses for contractual or consulting services that assist the CPC in making its decisions or that provide information needed by the CPC to make spending recommendations to the legislative body, including feasibility studies, assessments, appraisals or preliminary plans related to a proposed CPA project under consideration by the CPC.
- F. Funding for historic resource or affordable housing inventories or historic preservation plans or affordable housing plans or similar plans if the purpose is to assist the CPC in performing its statutory duty to study the community preservation needs, possibilities and resources of the city or town and make spending recommendations to the legislative body.
- G. Tax billing software changes and outside vendors necessary to integrate such software for the implementation of the CPA (first year only). [G.L. c. 44B, § 6](#).

What are examples of ineligible expenditures?

The following are examples of ineligible expenditures:

- A. Salaries, wages or benefits or other indirect costs incurred by other general government departments such as assessors, treasurer/collector, accounting officer, town counsel, planning department or others.
- B. Costs of a study to determine if a particular property is a historic resource. (A particular property is a historic resource if it meets the definition of “historic resource” under [G.L. c. 44B, § 2.](#))
- C. Costs of studies, assessments, plans or other information required in seeking the designation of a historic district. If, however, the studies, assessments or plans result in information to assist the CPC in performing its statutory duty to study the community preservation needs, possibilities and resources of the city or town and make spending recommendations to the legislative body, then the costs allocated to that portion of the work could be an allowable CPC administrative expenditure.
- D. Costs of feasibility studies, assessments, appraisals or plans unrelated to the CPC’s statutory duties or a proposed CP project or related to a project which is not eligible for funding under the CPA.
- E. Supplemental costs of a community preservation project approved by the legislative body. The CPC’s approved administrative/operating budget appropriation is a separate appropriation from an approved project appropriation. A transfer of funds from one appropriation to another, in this case from the CPC administrative appropriation to a CP project appropriation, requires approval of the legislative body upon a CPC recommendation. [G.L. c. 44, § 33B.](#)
- F. Contracted services to implement a particular community preservation project approved by the legislative

body, for example, contract legal services regarding the acquisition of a particular parcel of land or architectural services regarding the preparation of construction documents for creation of a community housing development. Such project expenses, together with any other acquisition or construction expenses, must be paid from the project's appropriation, not from the CPC's administrative budget.

What are allowable community preservation project expenditures?

[G.L. c. 44B, § 5](#). The three community preservation asset categories are: (1) open space (including land for recreational use); (2) historic resources; and (3) community housing. In each asset category, CP funds may be appropriated for the following projects:

- A. Open Space:
 - i. The acquisition, creation and preservation of open space.
 - ii. The rehabilitation or restoration of open space; provided the open space was acquired or created with community preservation funds.

- B. Land for Recreational Use: The acquisition, creation, preservation, rehabilitation and restoration of land for recreational use.

- C. Historic Resources: The acquisition, preservation, rehabilitation and restoration of historic resources.

- D. Community Housing:
 - i. The acquisition, creation, preservation and support of community housing.
 - ii. The rehabilitation or restoration of community housing; provided the housing was acquired or created with community preservation funds.
 - iii. Appropriations to a municipal affordable housing trust fund created by a municipality pursuant to [G.L. c. 44, § 55C](#); however, the affordable housing trust may expend CP funds only for community housing purposes

described in sections (a) and (b) above. [G.L. c. 44, §§ 55C\(a\), \(c\)\(1\)](#).

Whenever possible, the CPC should recommend projects that reuse existing buildings or construct new buildings on previously developed sites. [G.L. c. 44B, § 5\(b\)\(2\)](#).

Stay tuned to next month's *City & Town* for Part 6 in our FAQ series on the CPA. For more information see [Informational Guideline Release \(IGR\) 19-14](#).

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Contact *City & Town* with questions, comments and feedback by emailing us at cityandtown@dor.state.ma.us.

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