

Open Space Bond Program
Report to the Board of Selectmen
June 2002
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I. Overview and Accomplishments

In the mid and late 1990s, with development threatening some of the most notable properties in Town (Wendel, Scott Farm, Barowy), public support to protect Ipswich's critical open space parcels gained significant momentum (see Appendix 1 for "History of the Ipswich Open Space Bond"). After the passage of the April 2000 Open Space Bond Authorization, a Steering Committee, which included a broad spectrum of Town interests, was formed to make recommendations on how to implement the Program. The "Report of the Open Space Bond Steering Committee" (September 20, 2000, see Appendix 2) laid out recommendations on how the Program should be implemented. The policies and procedures of the Open Space Bond Program are based on the recommendations of this report.

Since April 2000 when the Annual Town Meeting authorized the \$10 million Open Space Bond, six parcels totaling 289 acres have been permanently protected at an anticipated net cost to the Town of \$3,844,401 or \$13,302 per acre. This includes substantial protection for the three properties noted above. **This anticipated net cost includes direct reimbursements and grants to the Town that total approximately \$735,000** from state agencies, state grants, and the Town of Topsfield (see Appendix 3). Gross open space funds expended total \$4,579,161 or about 46% of the Open Space Bond Authorization.

The total cost of this protected land was approximately \$7.6 million, but due to partnerships with state and other agencies and organizations such as the Department of Environmental Management and Essex County Greenbelt Association, **the Town has paid only half of the cost of protecting these properties. Thus, on average, for every Open Space Bond dollar spent by the Town, a dollar of external funding was raised** via individual donations, from project partners, and/or outside grants to project partners (see Appendix 4). **Partnerships have been and continue to be key to leveraging outside funding to protect as much land with as little Town money as possible.**

Because reimbursements cannot be used to fund new projects (per 01/02 opinion letter from Bond Counsel) the \$10 million authorization is reduced by the total expended, regardless of reimbursements. Therefore, as of June 2002 approximately \$5,420,840 of the Authorization remains unbonded and available for new open space projects.

The Open Space Program takes direction from the Board of Selectmen, the Open Space Committee and the Planning Department, working towards the protection of a variety of parcels that meet the Town's open space needs and goals. **Of the six parcels acquired/protected, five have some form of public access, all provide quality wildlife habitat and wetlands/watershed protection, and two are key scenic properties contributing towards the rural character that defines Ipswich.**

II. Why Municipalities Cannot Afford Not to Protect Open Space

Many studies have shown that while the purchase of open space is an up-front expense, it is a long-term investment that balances the high service cost of residential developments. One Massachusetts study found that, in general, the expense/revenue ratio for residentially developed land was \$1.09/1 as compared to \$0.44/1 for open space. In other words, for every dollar of taxes raised, residential developments generate service costs in excess of those raised taxes (see “Community Choices: Thinking Through Land Conservation, Development, and Property Taxes in Massachusetts”, Trust for Public Land, 1999). According to the Superintendent of Schools, Ipswich’s school system is currently at 95% capacity, even with the recent construction of the new middle and high school. While, in general, schools account for the greatest expense category associated with residential developments, other expense categories such as police, fire and public works are also significant.

This same study found that **in the long term, property tax rates are generally higher in more developed towns than in more rural towns and the residential property tax rate is, on average, lower in more rural towns where there are more acres of open land per capita.** This counters the age-old argument that the “highest and best use” for land is residential development, which increases the tax base. This position fails to address the expense side of the equation.

Quite often, an open space project is triggered by a landowners’ desire to sell a property. In these situations we are presented with a choice: protect the property or let it be developed in a way that may end up costing the taxpayers more in the long-term. In either scenario, there are tax implications. The need for new schools is a prime example of one the largest expense categories associated with residential development.

While the long-term cost/benefit analysis is relevant, particularly in difficult economic times such as this, the Open Space Bond Authorization passed because the residents of Ipswich value their surroundings: the natural landscape, the farms and fields, the salt marsh and riparian wetlands, and the rural character that defines this Town. Preservation of Ipswich’s landscape is not only good for the environment and residents, it’s good for the economy. When we think about why tourists come to Ipswich, we think about Russell Orchards, Crane’s Beach, and Willowdale State Forest, three properties protected as permanent open space. These same tourists will eat and shop downtown, stay at local bed and breakfasts, and bring outside dollars to local businesses.

Even so, every attempt to minimize the Town’s direct costs for open space protection is thoroughly explored before embarking on a new project. Per the recommendations of the Open Space Bond Steering Committee, the Town will pursue an outright acquisition using Town funds alone **only** if the parcel cannot be adequately protected through zoning, acquisition by a state or private conservation entity, partial acquisition, or partnering with another agency or organization. The Open Space Bond is but one tool of many used to protect open space in Ipswich. Through the Town’s Open Space Preservation Zoning and Great Estates Bylaw the Town can and has obtained significant open space set-asides at

no cost. Another option for open space protection is limited development, where the most sensitive natural resources on a site are protected and the areas that can support development with minimal impact are developed in order to finance the conservation portion of a project. **In any scenario, all grant funding opportunities are explored to further reduce the Town's cost.**

III. Open Space Projects

The following open space projects were initiated and completed between December 2000 and May 2002:

Bush Hill Trust – 13-acres – Map 40, Parcel 49A – Off of Pineswamp Road

The Town foreclosed on this property in the fall of 2000 for non-payment of taxes. This parcel is included on the “list of priority parcels” and because it had been targeted for acquisition for conservation purposes and was currently owned by the Town per the conclusion of the tax title taking, the Open Space Committee (OSC) and Department of Planning and Development (DPD) recommended, and the Board of Selectmen (BOS) agreed, that this parcel should be transferred to the Conservation Commission. Article 29 of the spring 2002 ATM authorized the transfer this parcel to the care, control and custody of the Conservation Commission.

Ross – 29.5 acres – Map 21, Lot 104

In September 2001, the Town received a “Notice of Intent to Sell” under Chapter 61A for the Ross property off of Maria Drive. Since this parcel may provide a site for the relocation of the “Brown’s Well” municipal water supply in addition to the wildlife habitat and potential public trail network that it provides, the OSC and DPD recommended and the Board of Selectmen agreed, that the Town should act on our right of first refusal under Chapter 61A. This parcel was added to the “list of priority parcels” for which Open Space Bond funds can be expended per the vote of the fall 2001 STM and the property was acquired in April 2002. The Town, through its Department of Planning and Development, obtained a grant from the Department of Environmental Protection to cover approximately 60% of the acquisition price.

Scott Farm Conservation Restriction – 83.5 acres – Map 53C, Lot 12

In the spring of 2001, the Town was approached by Ipswich River Preservation, LLC (IRP), which had recently formed in order to acquire and protect Scott Farm. IRP successfully purchased interests in the property from three of the four Scott siblings but were unable to reach agreement with the fourth Scott sibling who indicated he would like to develop the property. The engineering analysis and subsequent appraisal for the property showed that it could support up to 39-houselots resulting in a fair market value of \$4 million. Over the course of the spring and summer of 2001, the Town negotiated the terms of a conservation restriction, the purchase of which would allow for the buyout of the fourth sibling and the protection of the most important resources on site. This conservation restriction eliminates any development from 45-acres including all of the front fields, all of the river frontage and adjacent forest. It allows for the existing barn/cottage to be sold as a single-family house lot, and allows for the “backland” of

approximately 35-acres to be developed as either a total of four ANR lots or one eight-lot cluster development. Under either development scenario, the Grantors are required to create a homeowners association, which will ensure that the terms of the CR are upheld. The Town paid a total of \$1.45 million out of the Open Space Bond authorization in October 2001 for the purchase of this conservation restriction.

Smolenski – 16.9 acres – Map 19D, Lot 5

In October 2000 the Smolenski's contacted the Town and offered to sell their property for \$29,900. This landlocked parcel abuts Country Club property and municipally owned Dow Brook watershed land. While this property was not originally included on the "list of priority parcels" for which Bond funds could be expended, it does have value as wildlife habitat and as watershed for the Dow Brook Reservoir. Given the reasonable price of \$1,758/acre and the public values that would be protected with an acquisition, the Town agreed to move forward with the purchase. The spring 2001 ATM approved the addition of this parcel to the "list of priority parcels" and the property was acquired in January 2002. The Town, through its Department of Planning and Development, obtained a grant from the Department of Environmental Protection to cover approximately 60% of the acquisition price.

Wendel – 106 acres – Map 22D, Lot 48

Because the property was being actively marketed for sale and because the Open Space Program Manager had not yet been hired, the Trust for Public Land (TPL) was asked to step in and assist with this project in December of 2000. After many months, TPL successfully negotiated an agreement to acquire the entire property for \$4 million (compared to the \$4.9 million asking price). To provide a greater assurance of public access to the property, the Town offered (and TPL accepted) to pursue external grants so that the Town could purchase the fee-interest in 91-acres of the property (the conservation area), and allow TPL to sell a restricted residential lot on 15-acres. As a result of the Town's submittal of a grant application, the United States Fish and Wildlife Service (USFWS) provided \$1 million towards DEM's acquisition of a conservation restriction and DEM, with the Executive Office of Environmental Affairs, agreed to provide an additional \$500,000. Because DEM/EOEA's contribution is contingent upon funding authorization from the state legislature (the "Environmental Bond Bill"), the Town agreed to front their contribution subject to reimbursement, and this additional Town expenditure was authorized at the fall 2001 STM. The 91-acre conservation property was acquired in March 2002 for \$2 million. A Stewardship Committee has been formed to make management recommendations for how to accommodate public access and protect the wildlife habitat on this property.

Willowdale – 40 acres – Map 50, Lot 2

This partnership project was completed in June 2001. Essex Country Greenbelt Association was a key partner in this project that also included the Department of Environmental Management and the Town of Topsfield. State Representative Brad Hill and State Senator Bruce Tarr were crucial supporters that ensured this project was successfully completed. This 40-acre in holding was slated for development before the

project partners stepped in and successfully negotiated the acquisition. The project partners contributed the following amounts to the acquisition:

Department of Environmental Management	\$1,000,000
Essex County Greenbelt Association	\$600,000
Friends of Willowdale State Forest	\$100,000
Town of Ipswich	\$300,000
Town of Topsfield	\$100,000
Massachusetts Legislature: Special Legislation	\$400,000
TOTAL	\$2,500,000

Because the Town of Topsfield was unable to access their contribution in time for the closing, the Town of Ipswich agreed to “front” their portion of the funding, subject to a reimbursement the following spring. Topsfield’s Special Town Meeting in May 2002 voted in favor of the reimbursement and payment is expected June 2002. Because the parcel is part of the Willowdale State Forest complex, the partners have agreed that the property will be managed by DEM. This project was the first expenditure out of the Open Space Bond.

IV. Future

It is counterproductive to identify specific upcoming projects in public session because of the negative impact that dialogue may have on the Town’s negotiating position. That said, discussions are taking place with a number of landowners in Ipswich about ways in which their property can be permanently preserved. A Landowner workshop, in partnership with Essex County Community Foundation, Essex County Greenbelt Association, and The Trustees of Reservations, is being planned for fall 2002 to provide information about estate planning, appraisals, and land conservation planning to landowners in Ipswich, Rowley and Essex.

There is also good news ahead regarding funding for open space protection. The grant awarded by the United States Fish and Wildlife Service from their Coastal Wetlands Conservation Program for the Wendel property continues to focus on the types of habitats that are found in Ipswich. The 2002 Federal Farm Bill is expected to be finalized shortly, which will provide millions in funding for farmland protection. The Massachusetts Self-Help program recently announced a fall grant round providing a total of \$4.5 million for the protection of open space. And, with the anticipated passage of the state Environmental Bond Bill this summer, land acquisition budgets at state agencies will be replenished so that they can consider future partnership acquisitions with municipalities. **We will continue to explore all of these and other grants and partnership programs to protect a variety of open space types at the least possible cost to the Town.**

Stewardship of properties acquired and/or protected with Town funds is of critical importance. To that end, a Stewardship Committee has been formed to make management recommendations for the newly acquired Wendel property. The objective is to accommodate public access while adequately protecting the wildlife habitat this property provides, as well as provide direction for long-term stewardship of this property.

Furthermore, the Conservation Commission is currently undertaking an effort to develop management plans for all Town-owned conservation lands.

Open space provides many environmental benefits, such as clean air, clean water, flood control, and pollution mitigation. It provides a financial offset to the high cost of residential developments from a local tax perspective. It provides quality habitat not only for rare and endangered species but for common species, as well. It provides a respite for residents and tourists from traffic, congestion, and the generally frantic pace of life today. It provides children with a connection to the natural world and the opportunity for adults as well as children to recreate.

The Town of Ipswich is blessed with the resources that provide these benefits. The residents of Ipswich, in their approval of the Open Space Bond Authorization, clearly articulated that the protection of open space is a priority. The Open Space Committee and the Open Space Bond Program, in implementing the Open Space Bond Authorization, are proud to have protected close to 300-acres in the past year and a half. We are equally proud that the Town, through the efforts of staff and members of the Open Space Committee as well as through project partners, generated over \$3.7 million in outside funding to protect land in Ipswich.

Appendices

Appendix 1

History of the Ipswich Open Space Bond (Prepared by David Standley for the Ipswich Open Space Committee)

Ipswich Facts

Legislative Body	Town Meeting (open)
Governance	Board of Selectmen, Town Manager
Population	13,000 plus (Town Clerk-1999)
Land Area	33 sq. mi. (21,300 acres)
Assessed valuation	\$1.2 billion (prior to reassessment, 2000)
Tax Rate FY 2002	\$11.40/\$1000
Land area available for development	5600 acres
Water supply sources	Public-surface water with treatment, and groundwater
Sewage disposal	Public collection and treatment for central portion, individual on-site systems for remainder of town
Electricity	Municipal electric system
Schools	K-12. 2 elementary schools, middle and high schools

Events Precedent to Passage of the Open Space Bond Authorization

	Growing awareness over a period of years of the importance of open space preservation and of threats to that asset.
	Open Space and Recreation Plans developed and presented 1974, '85, '94' '99.
'95-'96	Perceived endangerment of 3 major religious holdings-LaSalette Shrine, Don Bosco, Sisters of Notre Dame de Namur
'96	Passage of the Great Estates Zoning Bylaw in response to that perception
'96	Town Meeting authorizes \$32 million for new High School/Middle School, and \$2.1 million for the expansion of the Public Library
'97 and later	Several other large parcels made available for development (Wendel, Scott, Barowy, Willowdale)
'97-'00	Open Space Committee (OSC) intensifies efforts to convince Selectmen and Finance Committee of need for open space preservation initiative
'97	OSC organizes presentation to owners of large parcels about ways to preserve lands from development
'97	Establishment of Open Space/Water Supply/Recreation Fund enabling Selectmen to take preliminary actions to protect named large parcels (enacted in response to plans of Salesian Brothers to sell Don Bosco property.
'98	Town meeting authorizes borrowing of \$200,000 for protection of Nichols Field
'99	Town Meeting authorizes \$25,000 for Growth Management Study. Growth Management Steering Committee established. Planning Dept. undertakes "Town Characterization" initiative

- '99, '00 Town Meeting adopts and amends acceptance of Mass. Hotel/Motel Room Occupancy Tax legislation, providing a funding stream for protection of open space. Also dedicates Ch. 61 rollover taxes and lease income from use of town properties for wireless transmission facilities to the Open Space/Water Supply/Recreation Fund
- '99 Open Space Committee proposes and then withdraws proposal for an Open Space Fund, gains commitment from Selectmen and Finance Committee to revisit the issue.
- '99,'00 “Building Cap” warrant articles debated, defeated, raising the awareness of the threats to Ipswich and of actions of area communities.
 Planning Dept. consultant Community Design Professionals conducts Ipswich “Visioning Forums”, completes report on The Future of Ipswich Planning Project. MAPC preliminary build out projections made public.

The Open Space Bond Authorization development process

- Dec '99 Open Space Committee begins development of OS Bond proposal. Funding target of \$10 million established based on (a) the asking price of 4 major parcels then on the market, and (b) potential to acquire full title to 200 acres based on then-average selling price of raw land of \$50,000/acre.
 Discussions begun with Selectmen and FinCom members. Selectmen incorporate “straw” article into preliminary draft of warrant for 2000 Town Meeting.
- Jan-March '00 OSC continues negotiation with BoS and FinCom, gaining agreement on bond target and on provisions of warrant article. Drafts reviewed by Town Counsel and others.
 Information is collected on comparable actions of other communities.
 Listing of “parcels of conservation interest” is developed and filed with the Town Clerk. This list of 85 parcels (often referred to as the “priority list”) includes 3000 acres of open space, about 54% of the developable open space in Ipswich. (Its importance and significance is simply that under the terms of the Authorization the Selectmen need not seek specific authorization from Town Meeting to acquire protective interests in those properties, *provided* the cost of protection of a given parcel is not more than \$1.5 million.)
 Publicity program is undertaken. Front page article in Globe North section with picture. Letters in Ipswich Chronicle. Video produced for airing on Cable TV. “Information Day “ on a Saturday at the Post Office with handouts. Presentations made to numerous town

boards and committees. Telephone calling program staffed by OSC members. "Contact your friends" approach. Supportive editorial in Chronicle.

Financing scenarios developed and tax impact projections prepared for those scenarios. Economic arguments for protection of open space developed and presented.

Town Meeting April 2000
Poster Board with pictures of major properties at risk. Handouts. Selectmen, Finance Committee, Planning Board, Conservation Commission, Open Space Committee support Article. Article passes with 76% support (2/3 needed).

Prop. 2 ½
override
Lawn signs prepared in advance, sprouted on the day after Town Meeting. "Save Open Space-Vote Yes on 2". Telephoning resumed. Posters distributed. Video aired. Override vote 62% in favor (majority needed).

Appendix II

Report of the Open Space Bond Steering Committee; September 20, 2000

Introduction

The Open Space Bond Authorization was approved at the Annual Town Meeting on April 3, 2000, and the Annual Town Election on April 11, 2000. The Town Meeting vote and the ballot question are attached as Appendix A. The Authorization provides bonding authority of \$10 million to be used for the permanent protection of parcels deemed to be significant for open space, water supply protection, recreation and other limited municipal purposes. Protection may be secured through the acquisition of conservation restrictions, development rights, or outright ownership of parcels.

The use of the Authorization is currently limited to the protection of the 85 priority parcels listed in Appendix B, which were identified by the Open Space Committee as being appropriate for the goals of the Authorization. Parcels may be added to or removed from the list by Town Meeting vote.

The Town Manager established the temporary ad hoc Open Space Bond Steering Committee on May 16, 2000, to develop and recommend a process for carrying out the Authorization's objectives. The Committee, comprised of residents and land conservation professionals, met weekly for four months. The tasks of the Committee included the establishment of procedures, delineation of responsibilities, and review of criteria and a method for evaluating and ranking the priority parcels.

The Committee has prepared its Report in a format that will enable the Board of Selectmen to adopt the recommended procedures and policies as the “Open Space Bond Program” for the Town.

Glossary of Frequently Used Terms

“Authorization”	Open Space Bond Authorization (Appendix A)
“BOS”	Board of Selectmen
“CDP”	Community Design Partnership, Inc.
“Chapter 61”	Mass. Gen. Laws, Chapters 61 (forestry), 61A (agricultural and horticultural), and 61B (open space and recreation)
“Committee”	ad hoc Open Space Bond Steering Committee
“ConComm”	Conservation Commission
“DPD”	Department of Planning and Development
“Listed Parcels”	85 priority parcels identified in the Authorization (Appendix B)
“OSC”	Open Space Committee
“OSRWSPF”	Open Space, Recreation, Water Supply Protection Fund
“Program Manager”	Open Space Program Manager
“Program”	Open Space Bond Program

Summary of Recommendations

The Committee recommends that the Town should be proactive and that the BOS institute an Open Space Bond Program. Critical elements of the Program include:

- frequent and reliable communications to the affected landowners, and to residents regarding the program’s status;
- careful evaluation of listed parcels and the establishment of priorities for protection;
- adequate personnel, including an Open Space Program Manager and an additional part-time DPD staff position;
- clearly delineated organizational responsibilities within the Town’s management structure;
- qualified outside professionals readily available for specific projects and ongoing relationships with conservation organizations;
- responsibility for negotiating specific transactions; and
- a procedure for managing interests in each protected parcel.

We recommend that an Open Space Program Manager, reporting to the DPD, be responsible for handling all negotiations with landowners.

We recommend that the Program be conducted so as to leverage the Town's financial and managerial resources as much as possible. Parcels can be protected through a variety of means, including acquisition of partial interests such as conservation restrictions and development rights, and partnerships with conservation organizations, as well as through acquisition of fee title. Total direct ownership of parcels will be the most expensive, both in cost of acquisition and in ongoing maintenance costs, and should be used only where necessary to achieve the program's objectives for a particular parcel. Funding from outside sources should be used when available to supplement the funds used from the bond authorization.

Following are our key recommendations for the Program:

Communications

- The Town should keep residents informed of the Program's activities through the local news media and in the annual reports of the OSC and the DPD.
- The OSC, with assistance from the DPD staff, should organize an information program with invitations to the owners of listed parcels. As a follow-up, the DPD should contact landowners who attend the program for their feedback in order to begin a long-term dialogue regarding the future of their parcels.
- All Town departments should promptly notify the DPD of any requests for permits or other activity on listed parcels, and the DPD and the Program Manager should "keep an ear to the ground" within Town Hall for early recognition of any possible opportunities for acquisition

Parcel Evaluation

- The method for evaluating listed parcels that the OSC has adopted, based on the work of CDP, should be used for ranking and prioritizing any parcels being considered for protection under the Program. Evaluation of all listed parcels should be completed by the end of 2000.
- The ranking and prioritization of parcels by the OSC and discussions relating to potential acquisitions should be conducted in Executive Session of the BOS in order to protect the Town's negotiating position for transactions.

Organizational Responsibilities

- The DPD should have primary responsibility for implementing the Program.
- The Town should retain a Program Manager, reporting to the Director of the DPD, to be responsible for communicating and negotiating with landowners on specific projects. This position would be part-time, probably a minimum of 10 hours per week and could possibly be filled by an independent contractor or a volunteer with relevant land conservation experience. The position should be funded out of the Authorization.
- The DPD should be central in administering the Program, acting as the communication point for the Program Manager, the OSC, other Town

departments, and landowners, and maintaining all files and records relating to the Program.

- The DPD should add a part-time employee to support the administration and operation of the Program. The costs of additional staff support should be funded through the normal Town budget or the OSRWSPF.
- The OSC should continue to serve in an advisory capacity for the Program with specific responsibility for the evaluation of parcels and the periodic recommendation to the BOS and the Town Meeting for the updating of the list of parcels.
- The DPD should keep the Town Accountant and the Finance Department well informed about its activities in order to plan for the funding of projects in a timely manner.
- The BOS should establish a process for regular assessment of the Program.

Outside Professionals and Partners

- The DPD should maintain an active list of consultants available to provide services related to implementation of the Program, including qualified professionals able to provide appraisals, land use planning, surveying, ecological assessment, title investigations, legal services, historical and archeological assessment, and hazardous waste assessment.
- Conservation organizations, such as Essex County Greenbelt Association, Inc., and The Trustees of Reservations, should be valuable resources for the Program. They are sources of experience, knowledge and expertise, possible partners for specific parcels, and qualified assignees for the Town's right of first refusal when a Chapter 61 parcel is being converted.

Acquisition Process

- The DPD should be the contact point for all inquiries regarding the status of listed parcels and the locus of information on each parcel. All inquiries to the Town from landowners should be referred to the DPD and their receipt should be promptly acknowledged.
- When the Town's option to acquire a parcel is triggered under Chapter 61, the Town should consider assigning its rights if it believes it is appropriate that the use for which the parcel is presently classified should continue in perpetuity.
- Upon receipt of an inquiry, the DPD, after consulting with other appropriate staff and boards, should determine the significance of the opportunity. The OSC should review and update the existing evaluation of the parcel, if necessary, and should make a recommendation to the DPD whether or not to pursue acquisition of an interest in the parcel.
- Upon completion of its review, the DPD should present the potential acquisition to the BOS.
- Following a vote by the BOS to proceed with an acquisition, the Open Space Program Manager should assume responsibility for the project, retaining outside professional advisors, as needed, and conducting the negotiations with the landowner.

- The Authorization should be used for all expenses directly related to acquisition of interests in parcels, not only the cost of the interest but also option fees or similar arrangements, closing costs, professional fees and other costs incurred during the Town’s due diligence. Costs incurred for an unsuccessful acquisition attempt cannot be funded by the Authorization and should be paid for from the OSRWSPF.

After Acquisition

- When the Town acquires a conservation restriction on a parcel, the ConComm should compile baseline information and monitor the parcel, including routine communication with the landowner, periodic inspections, specific communication concerning any detected problems or concerns, and should follow up as necessary to obtain and maintain compliance.
- When the Town acquires development rights, the ConComm should monitor the parcel in a fashion similar to the monitoring of a conservation restriction, recognizing that such monitoring will usually be much simpler and less intensive than monitoring of a Conservation Restriction.
- After acquiring an interest in a parcel, the Town should develop and implement a “Management Program” for the parcel through a process that includes the following principal phases:
 - 1. Determination of the Town entity that will have management responsibility for the parcel.** When the Town acquires title to a parcel for the express purpose of conservation, such as protection of open space and wildlife habitat, the ConComm should exercise its statutory authority to hold and manage the parcel. For water supply protection, the Water Department/Utilities Department should manage the parcel. For recreation, the Cemetery and Parks Department should have oversight. Action by the Town Meeting may be required to transfer control of a parcel.
 - 2. Development of a Management Plan for a parcel based on the intended use, with public participation in the development of the plan where appropriate.** The plan should include any regulations needed to carry out the management of the parcel.
 - 3. Development of a budget for implementation of the Management Plan,** which will take place through the Town’s normal budget process, involving the Town Manager, the Finance Committee, and the BOS, concluding with any necessary Town Meeting action.
 - 4. Transfer of the parcel to the designated Town department or agency** and implementation of the Management Plan by the receiving department or agency.
- The BOS should establish an oversight process covering all land use management plans by all Town departments and agencies, to ensure that plans are sound and properly implemented, are subject to regular reviews, and are updated as needed to keep them current.

Goals, Objectives and Time Frames

The goal of the Authorization is to permanently protect selected open spaces against inappropriate development, in order to protect sources of the public water supply, to preserve open space values, to ensure the continuation of recreational opportunities, to protect historically and archeologically important sites and parcels, and to address other municipal purposes not excluded in the Authorization.

We recognize that Ipswich will always be dependent on water supply sources within its borders and that opportunities to develop additional supplies are limited. Therefore protection of both the quality and quantity of available potable water is of a high priority. Parcels identified for protection would assure the continuance of other essential natural resource functions such as infiltration and storage of precipitation to regulate and balance streamflow in a natural fashion.

Undeveloped parcels of land, whether they are used for agriculture, forestry, animal husbandry, or “unused”, are often important as components of diminishing wildlife habitat. They contribute in major ways to the sense of what Ipswich is and means to its inhabitants and visitors. Such parcels provide essential buffers for existing residential development, and provide critical pollution prevention and abatement functions.

We recognize that recreation opportunities, both passive and active, available to the public in outdoor settings are limited. Hiking trails are important not only for their human use but also as corridors for wildlife movement. Playing fields are important to many residents. Wildlife viewing, especially bird watching, is increasingly important as a leisure activity.

Historic parcels are an essential element of what constitutes “Ipswich” as a town and a place. The lands surrounding or adjoining these parcels are often vital to their continued importance. Ipswich is recognized as a major source of prehistoric archeological evidence and undisturbed land is potentially valuable to researchers.

We also recognize that the Town may acquire parcels for selected municipal uses, or to control the nature and extent of development that might take place.

In its report entitled Vision for Open Space: the Ipswich Green Ring, CDP recommended that the focus for protection be on a “green network” of identified linked spaces and on the open space values themselves, rather than on specific parcels. CDP recommended that the Town should emphasize the goal and purpose of protection in various areas of town rather than become focused on specific parcels. CDP cited as an example the inner Linebrook Road, Pine Swamp Road and Topsfield Road areas, where effective open space protection requires a combination of strategies -- linked conservation restrictions, strategic purchases, appropriate limited development, and perhaps, significant

“downzoning” in rural areas combined with “upzoning” closer to the town center. CDP recommended that the Town leverage the funds in the Authorization rather than purchase only a few parcels.

There are approximately 5,500 developable acres in Ipswich. Of that, the OSC has initially listed 85 parcels, totaling about 3,000 acres, as “of conservation interest”. Parcels may be dropped from or added to the list by action of a Town Meeting.

We do not believe it is feasible or essential to provide protection for all parcels. From that realization comes the need to consider objectives and ways and means. There are inherent uncertainties in the number and identity of parcels that may be protected and the costs of acquisition. Therefore we have not set a goal in terms of acreage or number of parcels to be protected.

A critical objective is to provide some means of ensuring that the funds available are used to protect the more important parcels in the most cost-effective manner feasible. This objective requires the Town to assure itself that costs are both fair and reasonable when “open market” acquisitions are contemplated, and requires a method to group, rank or prioritize the parcels on the OSC list and to update the list from time to time. This in turn requires the development of criteria and an evaluation process on which to base judgments. As discussed later in this report, we recommend that the OSC be charged with that responsibility. The different kinds of protective rights that can be acquired will differ in both their costs and the degree of protection secured. Protective measures include acquisition of conservation restrictions, development rights (agricultural or other) and fee simple title to parcels.

Additionally, pursuit of external funding sources and technical assistance is important to enhance the cost-effectiveness of the program, and is an objective discussed in a later section.

The establishment of the Program must recognize the roles of the BOS and the Town Meeting and address the concern of the BOS that the process and its recommendations will be respected and defensible. The Program must function within the parameters set by state law and the Town’s bylaws. It must also recognize the need for the continuing availability to the Town of expertise in a number of areas or disciplines.

Another objective is to assure that any parcel or interest that is acquired is properly managed in a manner consistent with the rationale for its acquisition. Management concepts must be developed and responsibilities defined. After each acquisition a parcel-specific management plan must be developed and necessary resources committed.

Public confidence in the Program must be maintained. For what will essentially be the business of real estate acquisition, the Town must assure openness and fullest feasible availability of timely information on the Program generally, and on specific actions. However, in order to protect the Town's negotiating position, it is expected that preliminary negotiations on a parcel will be conducted with minimal public disclosure.

Program design and management issues should be addressed and resolved prior to the Annual Town Meeting in 2001, and incorporated into working documents such as "policy and procedures manuals". The evaluation and ranking of listed parcels should be completed prior to the end of 2000.

Generally, recommendations of the BOS concerning parcel acquisitions that require Town Meeting action should be considered at one of the two scheduled Town Meetings each year. Required actions would have to be completed in time for inclusion on the warrant. The Town may occasionally need to call a Special Town Meeting to consider an acquisition; however Town Meeting approval is required only when the cost of the acquisition exceeds \$1.5 million or when the parcel is not included on the then current list of parcels of conservation interest".

Methods of Protection

The Authorization is for \$10 million, but the acreage that this amount will protect will depend on the methods of protection that the Town is able to use. The simplest method, the purchase of ownership of a parcel, is the most expensive. The purchase of a conservation restriction can be a less expensive way to achieve the desired protection of the parcel. Because we are working with a specific fund, we must consider all alternatives that might help the Town achieve its objectives in the most cost-effective way.

Numerous methods of protecting open space are presented and analyzed in detail in a booklet published by The Trustees of Reservations and Essex County Greenbelt Association, Inc., entitled Land Conservation Options: A Guide for Massachusetts Landowners. This booklet is designed to educate landowners about the different ways of protecting open space and the various income and estate tax advantages that can be achieved by a landowner who is willing to consider donating all or part of the value of the land to a conservation organization.

In addition, there are techniques that can leverage the effect of the Town's funds through strategically purchasing the most cost-effective interest in the parcel and by using the Authorization as "seed" capital to obtain additional sources of funding. The financial goal is to use as little Town capital and as much capital from other public and private sources as possible. Other funding may include a landowner's contribution by way of a bargain sale (where the gift component is

an offset to the full fair market value), state and federal grant funds, state and federal agency funds (Mass. DEM, US Fish and Wildlife), privately raised funds and private capital in the form of a limited development component.

At the outset all acquisitions should be viewed as possible bargain sale opportunities. The income tax benefits for the landowner in a bargain sale can be quite significant. Not all landowners can, or will, elect to take advantage of those benefits, but in the interest of negotiating the best possible price, the Town should present the landowner with a hypothetical financial analysis of a bargain sale. Paying market value using only Authorization funds should be the strategy of last resort to acquire a parcel.

A conservation restriction is usually the most effective alternative. A restriction separates the development rights from the fee ownership and extinguishes them, allowing the fee owner of the parcel only the specific rights that are defined by the restriction. These remaining rights can include limited development. While they may be more complex to arrange, conservation restrictions have the advantage that they can be tailored in a flexible manner to suit the particular features of a given parcel. As in the case of outright acquisition, a conservation restriction could be purchased for its full fair market value or at a discount, and if the restriction met the requirements of the Internal Revenue Code, the seller of the restriction could realize income and estate tax benefits for the discount.

Other alternatives that a landowner selling to the Town might consider include bargain sales, in which the landowner accepts less than fair market value, and remainder interests, in which the landowner retains a reserved life estate, with the parcel going to the Town at the landowner's death. Through such alternative mechanisms, the Town could protect the parcel at a lower cost than the full fair market value, and ultimately have full ownership, while the landowner could achieve tax benefits for the discount from market value given to the Town.

Sources of Funding

The following elements relate to the anticipated development of a fund for the purposes of acquiring interest in land for conservation and other purposes, and for empowering local committees, commissions, and boards to implement activities with the fund.

The OSRWSPF was established in 1994 and modified in 1999. As of September 1, 2000, the fund contained \$38,805.

The Town accepted the Room Occupancy Excise Tax in 1999, with almost all of the revenue to be placed in the OSRWSPF. Collection of this tax should begin on January 1, 2001.

Revenue from withdrawal penalty taxes paid under the provisions of Chapter 61 and revenues derived from the lease or leases of town-owned property to telecommunication companies are also placed in the OSRWSPF.

The Authorization was passed at the Annual Town Meeting in 2000. Any funds generated from the sale of any portion of parcels acquired under the Authorization are to be deposited in the “capital projects fund”.

The BOS, with the advice of the OSC, controls the use of the funds in the OSRWSPF. It is expected that the OSRWSPF will be used to pay pre-acquisition costs for parcels ultimately funded by the Authorization, administrative costs, and a source to pay debt service on bonds issued under the Authorization. To the extent that the OSRWSPF is used to repay bonds, the decisions regarding bonding need to be consistent with the provisions of the Fund.

Communications

We recognize that frequent and reliable communications regarding the Program are essential for both the affected landowners and the residents of the Town.

The residents should be kept informed of the Program’s activities through the local news media, the Town’s internet website and in the reports of the OSC and the DPD in the Town’s Annual Report. Information concerning the protection of a specific parcel will most likely be limited in consideration of ongoing negotiations, the landowner’s wishes, and protection of the Town’s negotiating position.

Effective communication with the owners of the parcels identified on the list is particularly important. As an initial outreach to the landowners, we recommend that the OSC, with assistance from the DPD staff, organize an information program with invitations limited to the owners of listed parcels, or their designees, such as family members, lawyer or financial advisor. The format would be closely modeled on the OSC’s panel discussion held several years ago at the Crane Mansion. The panel should be comprised of the DPD, representatives of local conservation organizations and appropriate professional advisors. The presentation would be designed to explain the concept and funding of the Program with significant time available for a question and answer period from landowners.

As a follow-up to such a program, the DPD should contact landowners that attend the program for their feedback and hopefully begin a dialogue for long-term planning.

In addition, there is a need for the DPD to “keep an ear to the ground” within Town Hall for early recognition of a possible opportunity for acquisition. The Town Manager should distribute the list of parcels to all appropriate municipal

departments. Town staff and agencies should promptly notify the DPD of any inquiry, permit request or other activity affecting a listed parcel. As examples, the Board of Health should promptly notify the DPD if perc tests are scheduled on a listed parcel, and the Board of Assessors should notify the DPD if it receives a request for a Chapter 61 rollback tax calculation for a listed parcel.

Identification and Evaluation of Parcels

CDP developed a method for ranking and prioritizing the 85 listed parcels. The criteria and scoring system reflect input received from the community after a series of public meetings. After further refinement of the CDP evaluation form by the OSC to clearly reflect the goals of the Authorization, each parcel will be evaluated and graded. Each parcel should be evaluated by the end of this year.

The evaluation form will be a tool used by the DPD, the Plan Manager, the OSC and the BOS to screen parcels as to their relative value for protection, establish which parcels are of the highest priority, identify critical parcels for the most intensive outreach to landowners, and avoid subjective or political influences upon the availability of a specific parcel.

We recommend that the evaluation and ranking of parcels by the OSC and any discussion by the BOS of the evaluation and ranking of a specific parcel should be held in Executive Session.

Organizational Responsibilities

We believe that there will be a great deal of work to be done not only in the negotiation and ultimate purchase of parcels, but also in the day to day operation of the program and in outreach. It was initially thought that the majority of communication to and about the Program would occur through the DPD. The DPD would then advise the BOS who would make final decisions. From our discussions and our recent work with high priority parcels, and after speaking with officials of other towns with open space acquisition programs, it is clear that daily administration of the Program will produce excessive work for the current DPD staff.

We believe negotiations for parcels will be both difficult and lengthy, often requiring special real estate and legal expertise as well as constant communication with landowners or their representatives. Therefore, we recommend that the Town designate a Program Manager to negotiate the acquisition of parcels. If this aspect of the Program is not properly handled, high priority parcels could be lost or the Authorization could be exhausted without protecting the greatest number of parcels.

A qualified Program Manager will have the experience to negotiate as well as be available to work with landowners on a timely basis. This role will most likely require a minimum of 10 hours per week or more if there are multiple projects in process. A volunteer could possibly serve as the Program Manager, but we believe that a paid staff person or independent contractor will be required. The cost of the position, which we recommend should be funded out of the Authorization, is justified by the better deals that result from careful negotiation and the personal contact offered by an experienced professional. The Program Manager should report to the Director of the DPD.

The OSC is most familiar with the listed parcels. However, the current seven-member committee was not appointed to administer the Program and does not have the expertise needed to administer the Program. We recommend that the OSC continue to serve in an advisory capacity to the DPD. In addition, the OSC should be responsible for the evaluation and periodic review of the list of parcels and advise the BOS and the Town Meeting regarding parcels to be added or removed from the list.

The Town Accountant and Finance Department will need to be closely involved for the funding of each acquisition. Planning for bonding, whether short or long term, will require their expertise and active participation.

The DPD staff will be important to administering the Program. The DPD will continue to be the communication point for the Program Manager, the OSC and landowners. All files will be maintained in the DPD. As previously stated, we believe that additional staff will be required to handle the operations of the Program. This would most likely be a part-time employee, funded through the normal Town budget or the OSRWSPF.

Services from the Town Counsel or other legal counsel will be required on a regular basis, with any additional costs paid from the bond on a specific acquisition or from the OSRWSPF.

The DPD has compiled an active list of consultants able to provide services for open space preservation. Included in this list are qualified professionals able to provide appraisals, land use planning, surveying, ecological assessment, title investigations, legal services, historical and archeological assessment, and hazardous waste assessment. This resource will enable the Town to act quickly on a parcel.

Conservation organizations such as Essex County Greenbelt Association, Inc., and The Trustees of Reservations should be involved with the Town's efforts to protect open space under the Program. Their expertise and experience are invaluable. They are sources of information as well as possible partners in purchase or management. They are also possible assignees for the Town's right of first refusal when a Chapter 61 parcel is being converted.

Acquisition Process

Identification of the Availability of a Parcel for Protection

- 1) Voluntary Offer by Landowner -- A landowner or other individual or organization should contact the DPD. A comprehensive record file is commenced for the parcel.
- 2) Chapter 61 Conversion Notice – The BOS receives a bona fide Purchase and Sale Agreement or similar contract; or the Board of Assessors notifies the DPD that a landowner has not re-filed under Chapter 61; or the BOS receives a conversion notice describing a parcel that is being withdrawn from the tax status.
- 3) By Town Department or Agency -- A Town entity identifies a parcel to protect as it comes to its attention through the initiative of individual members or staff.

The DPD is the contact point for all inquiries regarding the identification or availability of a parcel. The DPD is the locus of information on each parcel, including the formal evaluation of the parcel.

Determination of the Town's Interest in Protection

The DPD and Program Manager refer to any information in Town files on the parcel, including the parcel evaluation, if any. The DPD, after consulting with other appropriate staff and boards, determines if the opportunity is serious and timely. The DPD forwards the inquiry to the OSC to evaluate the parcel for protection and to review and update the existing evaluation if necessary. The OSC makes its recommendation to acquire or not to acquire to the DPD. The DPD presents its recommendation regarding the parcel to the BOS.

Negotiations with Landowner

The Program Manager will be primarily responsible for the negotiation/acquisition process and managing the appropriate professional consultants.

Special Procedures for Chapter 61 Parcels

Determination should be made regarding whether the right of first refusal should be assigned or retained by the Town. A determination must be made regarding whether the Town and an Assignee can conform to the statutory requirement that the "major portion of the property subject to assignment" will remain in the uses specified in the statute. The Town should consider assigning its rights if the Town believes the most appropriate use of the land is the continuance in perpetuity of the use for which it is presently classified. The long term oversight and management of an agricultural, horticultural or forestry use is most likely better accomplished by an Assignee, due to its experience, staff capabilities and resources. An Assignee may also have more planning opportunities for limited

development. See Appendix C for a suggested policy for the assignment of the Town's rights.

A list of potential Assignees will be maintained by the DPD. When the Town's right to purchase a parcel arises, each appropriate Assignee will be contacted for its interest and ability to participate in the acquisition. The DPD will provide the parcel evaluation, if any, and the terms of the purchase contract or conversion notice. Interested Assignees will have a site visit coordinated by the Program Manager or the DPD. After the site visit, the BOS will be briefed on the issues and opportunities developed to date, including the parcel evaluation and any interest expressed by the Assignees. The BOS will determine whether the Town wants to acquire the parcel, negotiate an assignment with an Assignee or notify the Landowner that the Town will not exercise its option.

After the Acquisition

After the protection of a parcel by the Town under the Program, post-acquisition activities required of the Town will differ significantly depending on the nature of the interest acquired, the purpose(s) for which the interest or right was acquired, the Town department that will be responsible for the parcel, and whether the town intends to dispose of any portion of the property subsequent to acquisition.

We envision three types of interests that might be acquired in a parcel: conservation restrictions, development rights (agricultural or other) and outright purchase.

For a conservation restriction, the Town should prepare baseline documentation, monitor compliance by the landowner with the terms of the conservation restriction, and take action when necessary to enforce such compliance. Many of the specific details of a conservation restriction can be unique to a parcel. We believe that the ConComm should usually be responsible for the monitoring of conservation restrictions, including periodic inspections, communication with the landowner concerning any detected problems or concerns, and following up as necessary to obtain and maintain compliance. The effort is envisioned as largely a staff function of the ConComm. If necessary to take legal action to enforce the conservation restrictions, the Town Manager should refer the matter to Town Counsel.

When the Town has acquired development rights, as with a conservation restriction, some oversight is required, but enforcement should be less difficult. Otherwise, the same procedures would be followed and by the same parties as with a conservation restriction.

Outright purchases present the most significant management challenges. When the Town acquires title to a parcel, it is the Town's responsibility to manage it. There are five phases to the process.

- Establish the Town entity or agency that will have management responsibility. Generally this will follow from the purpose of the acquisition. If for conservation, open space or wildlife habitat purposes, the responsible entity will be the ConComm; if for water supply protection, the Water Department/Utilities Department; or if for recreation, the Cemeteries and Parks Department. Action by the Town Meeting to allocate the land to the control of the specific department may be required.
- Develop a Management Plan for the property based on the intended use, such as the Land Use and Management Plan recently developed for the acquisition of Nichols Field. During this phase, public participation in and input to the development of the plan seems appropriate.
- When necessary, develop and adopt regulations as may be required by the management plan.
- Develop a budget for implementation of the plan, and its funding by the Town's usual budget process, involving the Town Manager, Finance Committee, and the BOS.
- Implement the management plan. This responsibility will run with the land, and will continue in perpetuity. However, no plan should be regarded as static. Regular reviews of plans should be undertaken.

We recommend that the BOS establish an oversight process covering all land use management plans, to ensure that plans are sound, current, updated as appropriate, and properly implemented.

**Appendix III
Town Budget Open Space Bond**

<u>Project</u>	<u>Description/Project</u>	<u>Amount</u>	<u>Subtotal for Category</u>
Capital Expense	Willowdale	(\$400,000)	
	Scott Farm CR purchase	(\$1,450,000)	
	Smolenski - fee acquisition	(\$29,900)	
	Wendel - fee acquisition	(\$2,000,000)	
	Wendel DEM/EOEA contribution: to be reimbursed	(\$410,000)	
	Ross Parcel	(\$195,000)	(\$4,484,900.00)
Legal Services	Kopelman & Paige, P.C. - Town Counsel	(\$33,656)	
Staff Salary	Open Space Program Manager 01/01-05/02	(\$46,075)	
Consultants	Surveys and appraisals through 05/02	(\$12,503)	
Other	Training, map making, mileage reimbursement through 05/02	(\$677)	
Title Insurance	Wendel Property	(\$1,350)	
Total Bond Expenses FY 01 and 02		(\$4,579,161)	

<u>Grants and Reimbursements (to offset Town's cost)</u>	<u>Description</u>	<u>Amount</u>
Willowdale - \$\$ from Topsfield	Expected June, 2002	\$100,000
Wendel - DEM Reimbursement	Expected FY03	\$500,000
Smolenski - DEP Aquifer Grant	Expected June, 2002	\$17,760
Ross - DEP Aquifer Grant	Expected June, 2002	\$117,000
TPL - profit share reimbursement for Wendel	amount unknown; expected summer 2002	\$0
Total		\$734,760
Net Cost to the Town after reimbursements		\$3,844,401
Remaining Bond /Available for New Projects*		\$5,420,840

*Bond counsel has given the opinion that reimbursements cannot be used to fund new projects, but must be used to pay down the debt. The \$10 million authorization is thereby reduced by the total expended, regardless of reimbursements.

Appendix 4

Project Budgets – Including Outside Funding Sources

<u>Project</u>	<u>Acres</u>	<u>Grants and Donations</u>	<u>Ipswich Open Space Bond (net)</u>
Willowdale	40	\$2.2 million	\$300,000
Scott Farm Conservation Restriction	83.5	0	\$1.45 million
Wendel	106	\$1.5 million	\$1.91 million
Smolenski	16.9	\$17,760	\$12,140
Bush Hill Trust	13	\$0	\$0
Ross	29.5	\$117,000	\$78,000
TOTAL (Capital Expense)	288.9	\$3,834,760	\$3,750,140
Total Admin Costs (legal, staff, consultants, etc.)			\$94,261
TOTAL Open Space Bond (net)			\$3,844,401

Grants, Donations and Reimbursements - Source

	<u>Project</u>	<u>Amount</u>
Friends of Willowdale State Forest	Willowdale	\$100,000
Department of Environmental Management (DEM)	Willowdale	\$1,000,000
Essex County Greenbelt Association	Willowdale	\$600,000
Town of Topsfield	Willowdale	\$100,000
Massachusetts Legislature: Special Legislation	Willowdale	\$400,000
US Fish and Wildlife Service: Grant to DEM	Wendel	\$1,000,000
Executive Office of Environmental Affaris	Wendel	\$250,000
Department of Environmental Management (DEM)	Wendel	\$250,000
Department of Environmental Protection	Ross	\$117,000
Department of Environmental Protection	Smolenski	\$17,760
TOTAL		\$3,834,760

