



# A Handbook for Public Financing of Open Space in New Jersey

REVISED BY:

**anvec**

with permission from  
THE TRUST FOR PUBLIC LAND  
DECEMBER 2001



# Introduction

The New Jersey Field Office of the Trust for Public Land (TPL) published the first edition of the *Handbook for Public Financing of Open Space in New Jersey* in 1994, at a time when reduced and inconsistent federal and state open space funding was sparking an increased demand for local governments to step up their open space preservation efforts. TPL created the *Handbook* to provide local officials and leaders of nonprofit environmental and land trust organizations with an overview of basic techniques for financing open space preservation at the county and municipal levels. At that time, only a few counties and municipalities had established local open space taxes and trust funds pursuant to the New Jersey enabling legislation enacted in 1989.

The Association of NJ Environmental Commissions (ANJEC) updated the publication and reprinted it as this edition. We hope that this *Handbook* will continue to generate the interest of local government agencies and nonprofit open space organizations in expanding their programs to preserve additional open space. In every part of the state the need is clear and urgent, and the opportunities are present but rapidly disappearing to preserve permanently open lands that the public relies on for recreation and for quality-of-life, environmental and natural resource functions.

## Acknowledgements

We thank the Victoria Foundation, for funding the revision and republication of this document. The Fund for New Jersey supported the preparation of the first *Handbook* in 1994. We are also grateful to Edward McManimon and Joseph Baumann, both partners at the firm of McManimon & Scotland in Newark, and to Daniel P. O'Connell, President of Evergreen Advisors in Harvey Cedars, for their editorial assistance in the preparation of the original version. Mr. O'Connell also contributed a new lease-purchase case study for the 2001 revision.

*Revised by*  
**Association of**  
**NJ Environmental Commissions**  
with permission from  
The Trust for Public Land  
*Funded by the Victoria Foundation*

December 2001

*Original document prepared by*  
**The Trust for Public Land**  
New Jersey Field Office  
20 Community Place, 2nd floor  
Morristown, NJ 07960

# Table of Contents

***Background: Government Financing of Open Space...3***

***Public Financing of Open Space in New Jersey...5***

*Pay-As-You-Go Funding...5*

*Open Space Taxes...5*

*State Funding...7*

*Financing Through Borrowing...8*

*Installment Purchases...11*

***Campaigning for Voter Approval of Open Space Financing...14***

***Sample Open Space Resolutions and Ballot Questions...21***

***Sample Flyers on Open Space Tax...25***

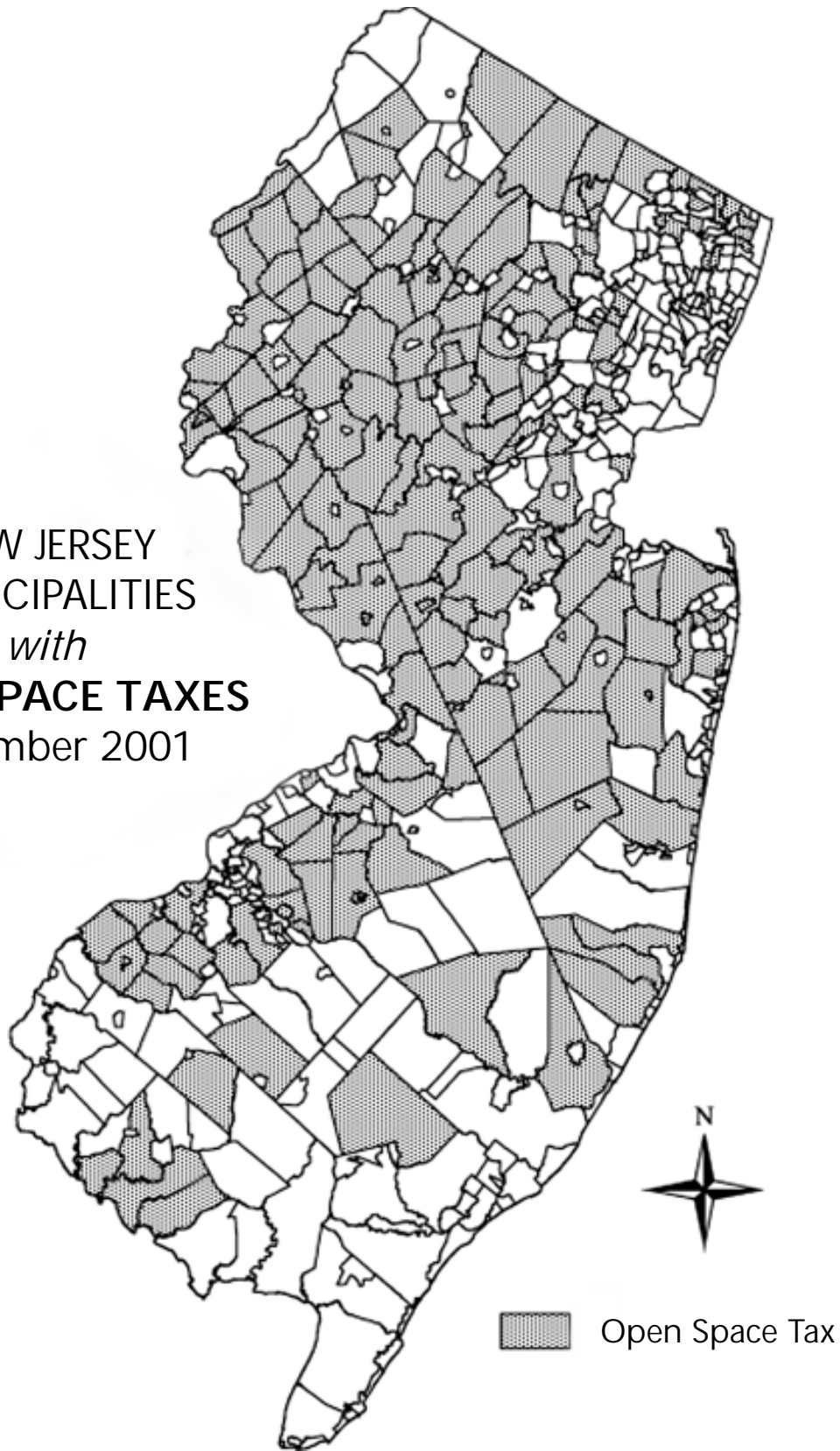
***NJ Statute Authorizing Local Open Space Taxes & Trust Funds...27***

***NJ Counties & Municipalities with Open Space Trust Funds...35***





NEW JERSEY  
MUNICIPALITIES  
*with*  
**OPEN SPACE TAXES**  
December 2001



# Background: Government Financing of Open Space

**F**rom the 1960s through the mid-1980s, the federal *Land and Water Conservation Fund (LWCF)*, a pot of revenues derived primarily from offshore oil and gas drilling leases, provided most of the funding for open space land acquisition by the federal government through agencies such as the Bureau of Land Management, US Forest Service, and the National Park Service. States could also obtain LWCF funds as matching grants, to help finance their own open space purchases. LWCF funding added significant new areas within the Pinelands and four National Wildlife Refuges in New Jersey.

However, as the federal budget deficit widened in the late 1980s and early 1990s, Congress began to reduce its appropriations to the LWCF, and the federal government became progressively less reliable as a source of funding for open space. Annual appropriations for the LWCF, as high as \$805 million in 1978 (\$306 million for the states, \$490 million for federal projects), declined to a low of \$150 million in 1997, and all of that amount was reserved for federal projects.

In the late 1990s, conservationists and concerned citizens began a nationwide campaign to persuade Congress to restore LWCF funding levels for open space preservation, and to strengthen the matching grants program for the states. As a result of the campaign, Congress authorized special LWCF

appropriations in 1998 totaling over \$900 million, but did not allocate funds for the state matching program until 2000. As of this writing, conservation advocates are pressing Congress to pass the *Conservation and Reinvestment Act (CARA)*, legislation that would guarantee stable, annual funding of the LWCF at the \$900 million level. CARA also includes additional provisions for funding urban parks and recreation, historic preservation and wildlife restoration.

As federal open space funding diminished in the 1990s, Americans were increasingly reacting to the loss of open space resulting from growth and sprawl. Many state, county and municipal governments responded by establishing new funding programs and other mechanisms, such as tax incentives, for open space preservation.

In most cases, state or local governments ask voters to approve special allocations, dedicated taxes, or bonding for open space preservation, either through binding or non-binding referenda. Nationwide between 1998 and 2000, voters designated more than \$17.5 billion for open space protection, approving 85 percent of 459 state, county and local open space ballot measures. Twelve of thirteen state measures, including New Jersey's, were approved during those years, nine by 2-1 or greater majorities. The various state measures proposed budget allocations, bonding, or

dedication of sales tax, transfer tax or lottery funds, in amounts ranging from \$15 million (RI) to \$3 billion (FL).

The explosion in state and local government open space funding reflects increased public concern about the environmental, fiscal and quality-of-life problems created by uncontrolled growth. Even in times of taxpayer rebellion, voters have repeatedly supported funding for open space preservation. Property owners increasingly recognize that preserved open space enhances property values and reduces the need for

additional municipal services and infrastructure such as sewers, roads, schools and police that would be required if open lands were developed.

This taxpayer support of funding for open space, born of both altruism and self-interest, is having a profound impact on the way open space preservation is accomplished in the United States. As local governments become a major source of funds, open space transactions will depend increasingly on the traditional legal and financial mechanisms of public finance. ■



# Public Financing of Open Space in New Jersey

**I**n the past, New Jersey local governments — counties and municipalities — funded their open space acquisition and development either through grants and loans from state programs and private sources; on a “pay-as-you-go” expenditure basis from available revenues; or with proceeds from the issuance of general obligation bonds whose principal and interest were repaid over a period of years. Local governments determined their use of one or more of these approaches based on their acquisition goals, access to resources, and attitudes toward debt.

## Pay-as-You-Go Funding

“Pay-as-you-go” funding means expending only general revenues available as part of the current annual budget. Paying cash avoids finance costs and debt service that otherwise would encumber future generations of taxpayers. However, “pay-as-you-go” is the most conservative of funding alternatives, and is not adequate for an ambitious open space preservation program.

In New Jersey, a major constraint on pay-as-you-go is statutory; local governments are forced under the Cap Law (*N.J.S.A. 40A:4-45.1 et. seq.*) to limit the annual increase in their budget to 5 percent or the “Index Rate”, a rate that is tied essentially to inflation, whichever is greater. Without a dedicated open space tax, local governments can rarely provide revenue sufficient in any one year to complete

significant land acquisitions. Even with a dedicated tax, it is unlikely that sufficient money will accumulate quickly enough to initiate all the open space projects that have merit. Debt service, however, is an exception to the 5 percent cap, so municipalities can avoid Cap Law problems if they issue bonds or notes to pay for open space acquisition.

Pay-as-you-go funding also makes long-range open space planning difficult. Landowners often want or need to sell their property on short notice; annual budgeting limits the capacity of local governments to respond to such opportunities as they arise.

The final constraint on pay-as-you-go funding is political will. Funding open space acquisitions as part of the annual budget process forces open space projects to compete for available funding with every other spending category each year. Concerned local citizens, conservation groups and elected officials may find it difficult to sustain constituency interest throughout repeated annual funding campaigns.

## Open Space Taxes

In recent years, many New Jersey counties and municipalities have, with voter approval, established dedicated open space taxes. The revenues from an open space tax can support a pay-as-you-go strategy for open space preservation, or can go toward debt service on

money that is borrowed to pay for open space. By 2001, 19 of New Jersey's 21 counties and 180 of its 566 municipalities had voter-approved open space taxes.

Experts in public finance often oppose dedication of specific revenues to "shoeboxes" of program support. They argue that such dedication reduces the flexibility needed to allocate funds in ways that reflect the current electorate's priorities and constraints, rather than those of earlier electorates. On the other hand, many advocates of open space preservation note that voters who resist general tax increases invariably support dedicated taxes devoted to worthwhile and quantifiable purposes such as land acquisition.

The ideal source of dedicated funding should expand with a growing economy and at the same time be reasonably buffered from economic declines. It should also be equitable and easily collected. In New Jersey, local governments derive most of their revenues from taxes based on the value of property. The municipality assesses property at some regular interval, and applies the tax rate uniformly across properties. Historically, rating agencies and investors have looked favorably on property taxes because their broad base assures stable collections regardless of economic cycles. Most, though not all, local dedicated open space funding mechanisms take the form of a uniform additional levy on assessed property.

As an alternative, several local and state governments outside of New Jersey have levied open space taxes on the value of property when it is transferred. Transfer taxes may generate less voter opposition because taxpayers typically realize cash at the time of property sale. However, real estate and housing interests will oppose strongly the transfer tax as a direct threat to their livelihood. Such taxes have an intrinsic appeal for open space advocates because they are tied in part to the pace of development; conversely, that

tie also renders them somewhat unreliable as a steady annual source of funding when the pace of development slackens.

The State enabling legislation for a county or municipal open space tax is set forth beginning on page 27. The law provides that a county or municipality may levy an annual tax after the voters have approved, in a regular or special election, a ballot proposition for such a tax. Referenda submitted to voters are non-binding; that is, county or municipal governing bodies are not compelled to levy the tax, although that is rarely the case. Often, the ballot question is phrased to allow the governing body to set the rate of the open space tax within a certain range (for example, "up to 2 cents per hundred dollars of assessed value"). The ballot question must state the type or types of open space preservation for which the funds may be used (i.e., conservation lands; recreation lands; farmland; historic sites; maintenance or development of recreational facilities), and also whether they may be used to pay debt service on borrowings for open space.

To levy the tax after voters have approved a ballot question, the county or municipal governing body must adopt an ordinance that establishes the dedicated tax, sets up a separate trust fund to hold the tax proceeds, and states the purposes for which they may be used, as proposed in the ballot question. In addition to funding a county's open space acquisitions, county open space tax revenues may be dispersed as grants to municipalities or charitable conservancies for open space preservation within the county. However, the state enabling legislation requires that any expenditures of county open space tax monies must be in accordance with a duly adopted county open space, farmland preservation, historic preservation, or recreation plan.



## State Funding

The State of New Jersey has been funding and administering open space grant and loan programs for 40 years. The State administers two principal programs that provide open space funding to local governments:

- The ***Green Acres Program*** carries out the State's purchases of conservation and recreation lands, and provides open space matching grants and loans to municipal and county governments, and grants to tax-exempt non-profit organizations that qualify as "charitable conservancies" (*N.J.S.A. 13:88-1 et. seq.*). Generally, counties and municipalities can obtain grants for 25 percent of the purchase price, but local governments that have a dedicated open space funding mechanism can qualify for 50 percent grants if they complete certain planning tasks (see "*Planning Incentive*" at right). The Green Acres Program offers loans to local governments, currently at a 2 percent interest rate, payable over 20 years, for purchase of open space and also for the development of recreational facilities.
- The ***Farmland Preservation Program*** was established in 1983 to preserve agriculture as an industry in New Jersey through the preservation of agricultural lands. This program, administered through the County Agricultural Development Boards (CADB), provides grants of up to 80 percent to local governments for the purchase of development rights on high quality agricultural lands. (When landowners sell or donate the development rights to a parcel of land, they retain ownership of the land but permanently give up the right to use it for anything other than agricultural pursuits.) The State also uses Farmland Preservation funds for the outright purchase of farms. After purchase, a farm is deed-restricted for farming and resold to a private owner for agricultural use only. As of summer, 2001,

the Farmland Preservation Program had preserved over 450 farms covering more than 75,000 acres.

Between 1961 and 1995, nine separate State bond issues totaling \$1.39 billion financed the Green Acres and Farmland Preservation programs. In 1998, New Jersey's voters approved a ballot measure for a constitutional amendment that dedicates \$98 million annually for ten years from the State's General Fund for open space preservation, and authorizes the issuance of up to \$1 billion in revenue bonds to finance open space. This revenue, deposited into and administered by the *Garden State Preservation Trust*, supports the Green Acres Program, the Farmland Preservation Program, and also historic preservation.

New Jersey's open space grant and loan programs have been highly successful. However, the length of the application process and the timing and uncertain nature of the award process can make it difficult for local governments to negotiate open space purchases with private landowners if the purchases are contingent on state grant funding. In an effort to simplify the process of obtaining state grants for open space, both the Green Acres and the Farmland Preservation programs established ***Planning Incentive*** programs in 1999. Local governments that have a dedicated source of open space funding, such as an open space tax, and a formal open space or farmland preservation plan approved by the appropriate Program (Green Acres or Farmland Preservation), can now apply for grants in a manner that is similar to a credit line. The parcels designated in the approved preservation plan are pre-screened in some respects, so the local government does not have to start from scratch in the application process for each purchase. Participation in a Planning Incentive Program offers the greatest benefits to municipalities and counties that will be making repeated applications for Green Acres or Farmland Preservation funds.

## Financing through Borrowing

Local governments borrow money for the same reason that the private sector does--to pay for expensive capital assets over the term in which they are used. Although taxpayers are obligated to provide the tax revenues to pay principal and interest on previously incurred bond obligations, they also benefit from the projects funded by these bonds.

The issuance of long-term general obligation bonds to finance open space acquisitions has a compelling rationale: *undeveloped land, or easements on such land, may not be available in the future at any price.* Using bond proceeds today for acquisition assures that future generations will enjoy the fruits of preservation. Even if enough good lands are expected to be available in the future, the rate at which land values generally appreciate will likely exceed the tax-exempt interest rate at which local governments can borrow. This disparity in rates makes acquisitions now, even with borrowed money, less expensive in today's dollars than acquisition in the future at inflated prices.

An additional rationale for incurring indebtedness to fund the acquisition of open space is rooted in numerous studies that demonstrate that residential development rarely generates enough new taxes to pay for the cost of the municipal infrastructure and services needed to serve it. Confronted with the certainty of increased taxes, taxpayers have a choice of either paying increased taxes for new infrastructure and services, or paying for open space preservation. The preservation of open space is the alternative that will assure the quality of life that attracted residents to an area, and also enhance existing property values.

Finally, as indicated above, the principal and interest on municipal bonds issued to finance the acquisition of open space do not need to be included under the annual spending limits imposed by the Cap Law.

***Tax Exempt Interest.*** Investors who buy obligations of New Jersey local governments accept lower interest rates because the interest they receive is exempt from federal and New Jersey income taxes. The federal government strictly regulates the use, timing of use, and reinvestment by local governments of tax-exempt obligations, which include bonds, notes, certificates of participation (COPs), leases and installment purchase agreements. For the interest to qualify for tax exemption, the municipal obligations must benefit public purposes exclusively. For example, a local government can sell bonds to buy land from a property owner for a park, but that park cannot then be leased to a private corporation or other entity for its exclusive use.

The Internal Revenue Code and regulations govern local governments' use of tax-exempt obligations. However, issuers rarely go to the IRS for guidance. Instead, they rely upon the advice of bond counsel who have expertise regarding the laws and regulations affecting tax-exempt obligations. Investors buy tax-exempt obligations only if they receive an opinion of a reputable bond counsel that the obligations are legal, valid and binding and that the interest paid on them is exempt from state and federal income taxes.

***Term and Repayment of Borrowing.*** When a local government borrows money, it obligates itself to repay that money according to a schedule of principal and interest due over a period of years. Most debt amortization schedules resemble payments on home mortgages, with level payments that are comprised in the early years mostly of interest and in later years mostly of principal.

Obligations that are amortized over longer periods carry higher interest rates than those maturing over shorter periods. Despite higher rates for longer-term debt, spreading payments over more years lowers the annual payment required to amortize such debt. Local governments usually schedule payments over

the shortest period within which they can afford to budget annual payments. Prudent fiscal practice requires that borrowings be amortized over periods no longer than the useful life of assets financed. Most tax-exempt obligations have amortization periods no longer than 20 to 30 years, although New Jersey law allows debt used to finance land (which lasts forever rather than for a finite period) to be amortized over periods of up to 40 years.

Obligations that mature in a relatively short term (generally less than five years) are referred to as notes. Notes are often structured so that all principal comes due at maturity rather than in installments as part of an amortization schedule. Because of this non-amortizing structure, notes are usually issued in anticipation that a subsequent financing or source of funds will repay them. Examples include bond anticipation notes, which are redeemed from proceeds of long-term bonds, and revenue anticipation notes, which are redeemed at maturity from revenues (such as proceeds of a dedicated tax) expected to be received in the interim.

#### ***Authority for Issuance of Obligations.***

Local governments pay principal and interest on obligations using tax or other revenues. Principal and interest are collectively referred to as *debt service*. New Jersey law provides for two types of local bond issuers (counties and municipalities) that have taxing power, and various types of local authorities (such as municipal utilities authorities) that rely on revenues other than taxes to pay debt service. These authorities often issue bonds on behalf of the local governments that create them.

The most widely applicable debt statute is the *New Jersey Local Bond Law* (N.J.S.A. 40A:2-1 *et seq.*), which governs the incurrence of debt by counties and municipalities and taxing entities other than school districts. Bonds issued under these laws are general obligations (G.O. bonds) of the issuers, for which their full

faith, credit and taxing power are pledged. The payment of the principal and interest on G.O. bonds is absolute and unconditional and is not subject to annual appropriations.

General obligation notes and bonds of New Jersey local governments can be issued without any prior approval of the State or the voters as long as the debt complies with the applicable statute. In the case of municipalities or counties, bonds are authorized by a duly adopted bond ordinance. Generally, in order to adopt a bond ordinance a municipality or county must:

- (1) have the ordinance read at a public meeting of the governing body;
- (2) publish notice of the ordinance;
- (3) hold a public hearing and have the ordinance adopted by two-thirds of the governing body; and
- (4) publish notice of the adopted ordinance.

G.O. bonds issued by school districts are authorized by prior voter approval at referendum. Certain G.O. bonds must be reviewed and/or approved prior to issuance, by the Local Finance Board (LFB), an agency of the New Jersey Department of Community Affairs.

***Issuance Procedures.*** New Jersey's Local Bond Law provides that counties and municipalities:

- (1) may not issue bonds to finance more than 95 percent of a project's cost;
- (2) must sell bonds at competitive sale rather than negotiating a sale with a designated underwriter;
- (3) must amortize bonds over a period no longer than the useful life of the projects financed (not exceeding 40 years for land);
- (4) must begin repaying principal within one year of issuance;
- (5) must structure principal repayments such that no annual payment is more than 100 percent greater than any earlier payment; and

- (6) may not authorize debt in an amount which exceeds 3 1/2 percent for municipalities and 2 percent for counties of the average equalized valuations of the taxable real estate, together with improvements, over the preceding three years.

However, the debt service on bonds that will be paid solely from a county or municipal open space trust fund (established to hold proceeds of a dedicated open space tax or dedicated annual budget appropriation) need not be included in the calculation of the municipality's or county's total (gross) debt (*N.J.S.A. 40A:2-44h*). This means that local governments that have a dedicated open space tax can exceed the debt limit for open space purchases that will be paid for with the proceeds of that tax.

A notable exception to these procedures applies in the case of installment-purchases of land or easements. A 1992 amendment to the *Local Lands and Buildings Law* (*N.J.S.A. 40A:12-1 et. seq.*) authorizes local governments to negotiate binding long-term contracts, effectively General Obligation bonds, directly with landowners to acquire land or easements. One financing method that utilizes this exception is discussed on page 11 under the heading *Installment Purchases: An Innovative Alternative to Conventional Borrowings*.

To avoid debt restrictions, local governments may legally use obligations that are not technically binding from year to year and are therefore subject to annual appropriation. Significantly, debt service on bonds, payments to authorities under leases or loan agreements and subject-to-appropriation payments on COPs are not subject to the budgetary limitations of the Cap Law.

***Participants in the Process of Borrowing.*** When local governments borrow for any capital purpose, the process involves many players. The local government will likely retain *bond counsel*, a specialized attorney(s)

with expertise in the laws affecting tax-exempt obligations. The *financial advisor* offers bond market expertise. An *underwriter* is typically an investment banking firm that agrees by contract to purchase an entire issue of bonds or notes, which it then sells to investors. *Rating agencies* are firms, such as Moody's Investors Service, Standard & Poor's Corp., and Fitch Investors Service, that rate the credit worthiness of local government units. *Investors* rely on these ratings to make decisions about purchasing local government obligations.

The rating agencies are sensitive to quality-of-life issues when reviewing municipal credits. Adequate provision of open space and recreational lands contributes to the "livability" of a community, and a solid open space preservation plan can contribute in a general way to a favorable bond rating for a municipality. On the other hand, the setting aside of an excessive amount of open space will result in a reduction of the tax base and may have a negative effect on a municipality's credit.

Nationwide, state and local governments and their agents sell over \$250 billion of tax-exempt obligations annually. Investors in local governmental obligations are generally looking for federal and state tax-exempt income. Individuals are the major investors in tax-exempt obligations, and most participate by purchasing units of municipal *bond funds* managed and sold by investment companies. In addition to the funds, other institutional investors include banks and insurance companies, although their interest waxes and wanes depending on their applicable tax rates. Pension funds are not a significant buyer of local government obligations because they are not subject to taxes and are therefore do not invest in tax-exempt obligations that carry lower yields than those of taxable obligations.

***Landowners*** and their financial and legal representatives also are players in the process of borrowing for open space. The landowner's



needs may determine the type and the timing of borrowing that a municipality must pursue in order to acquire a desired parcel of land. Landowners who understand the tax benefits in the various forms of structured transactions may be induced to sell their land or conservation easements on the land to a government entity at a discounted price.

*Local government officials* make the decisions about financing for open space, but they are advised and influenced by the municipal administrative and finance officers, planning and parks staff, and possibly by prominent residents. Every local government is different in the interrelationships that characterize its decision-making. Open space advocates must understand this interplay in order to influence the outcome.

## **Installment Purchases: An Innovative Alternative to Conventional Borrowing**

In transactions that involve the preservation of open space or farmland, landowners generally receive payment in cash at the time of closing. In instances where the land's value has appreciated substantially over the landowner's original cost, the landowner will incur federal and state capital gains taxes that can amount to a significant portion of the appreciation in value. One way to defer the tax is to structure the transaction as an *installment purchase*. This should result in significant advantages to both the landowner and the government entity that is acquiring the land or interest in land.

In an installment purchase the government entity enters into an agreement with the landowner that provides for transfer of fee title to the land (or an easement) in exchange for the payment of the purchase price over a period of time — which might be up to 30 years. The agreement provides that each payment, usually made semiannually, be

separated into components of principal (the purchase price) and interest. Or, the agreement may be structured to provide a balloon payment of principal at the end of the term of the agreement, with semiannual payments of interest on the principal outstanding. If the transaction is structured through an appropriate government entity, such interest may be exempt from federal and state income taxes. The most appealing form of obligation, from the landowner's perspective, is a *general obligation* of the local government entity. By law, the entity is *unconditionally* obligated to pay both principal and interest throughout the term of the obligation. However, the law in many states imposes many strict requirements on government entities that issue such obligations, such as competitive bidding or approval of the issue by either referendum or the state legislature.

Installment purchase obligations have two components: interest and principal. Interest will most likely be funded out of the general revenues of the government entity. Principal might be funded through unspecified future funds or through bonds issued at the time the principal is payable. Alternatively, principal might be funded at the inception of the transaction through the purchase of zero-coupon US Treasury Bonds by the government entity. These sell at steep discounts from their face value and increase in value each year until their maturity, when they achieve full face value. As an example, depending on market conditions at the time of purchase, 30-year zero-coupon bonds having a value at maturity of \$10 million might be purchased at 8 percent of their face value, or a total purchase price of \$800,000. Through the use of installment agreements and the purchase of \$800,000 of zero-coupon bonds, a local government might fund the purchase price (excluding interest) of open space having a current total value of \$10 million. There are significant tax issues that must be analyzed in a transaction of this nature in order to obtain the tax benefits that have been described.

An installment purchase agreement between the government entity and the landowner may be structured in a way that will assure that the landowner is “securitized” so that at any time he or she can liquidate for cash the installment purchase obligation. The government entity generates the liquidation funds through the public sale of certificates of participation (COPS) to pay the amounts due under the installment purchase agreement. When issued, these COPS are traded and quoted by municipal bond dealers throughout the country.

Landowners who sell fee title or conservation easements under installment purchase agreements may realize several tax benefits. They can receive interest, payable semiannually, on the value of the fee title to real property or conservation easement that they sell and such interest may be exempt from both federal and state income taxes. They can defer the recognition of federal and state capital gains taxes until they receive payment of the full purchase price. If the landowner dies before the deferred capital gains taxes are due, the municipal obligation to pay the purchase price will pass into the landowner’s estate and as a result the federal tax basis of the title or easement may be increased to the value at the date of death, thereby eliminating any obligation to pay capital gains tax on the appreciation in value from the time of acquisition to the date of death. If a landowner sells an interest in real property for less than its appraised fair market value, the difference between the appraised value and the price paid by the government entity may be claimed as a charitable deduction on the landowner’s federal tax return.

The government entity benefits in three ways from an installment purchase. It will (a) establish a price that is payable in 30 years and, as a result, the government entity will acquire open space or a conservation easement that should appreciate substantially in value over the term of the installment purchase

obligation; (b) as the result of the payment of interest over 30 years and principal at the end of 30 years, the government entity is spreading the payment for the open space over part of the period during which the general public will enjoy it; and (c) the value of the tax and other benefits that are afforded to landowners through an installment purchase should induce landowners to sell their fee title or an easement at a price below, and in some instances substantially below, the appraised fair market value of such interests.

Howard County, Maryland used the installment purchase method extensively in the 1990s for farmland preservation. In New Jersey, Mercer County used it to acquire a farmland easement on the Niederer Farm in 1992, and Burlington County has completed a number of open space installment purchase transactions. One is described below.

## **Case Study of Innovative Open Space Financing: Installment Purchase**

One of Burlington County’s land preservation goals is to acquire adjacent tracts along the Rancocas Creek, from the Delaware River to Rancocas State Park, in order to create a connected network of open space, a greenway, on the Rancocas Creek. This greenway will provide county residents with the opportunity to bike, walk or canoe from park to park and enjoy passive recreational activities such as bird-watching and hiking. The varied habitats along the greenway, including wetlands, mature woodlands and open fields, will also create environmental education opportunities.

The Anderson Farm was a key acquisition in the greenway, and was the first major transaction in New Jersey involving the installment purchase of land for parks and open space. This active peach farm totaled 130 acres, and featured scenic views of the

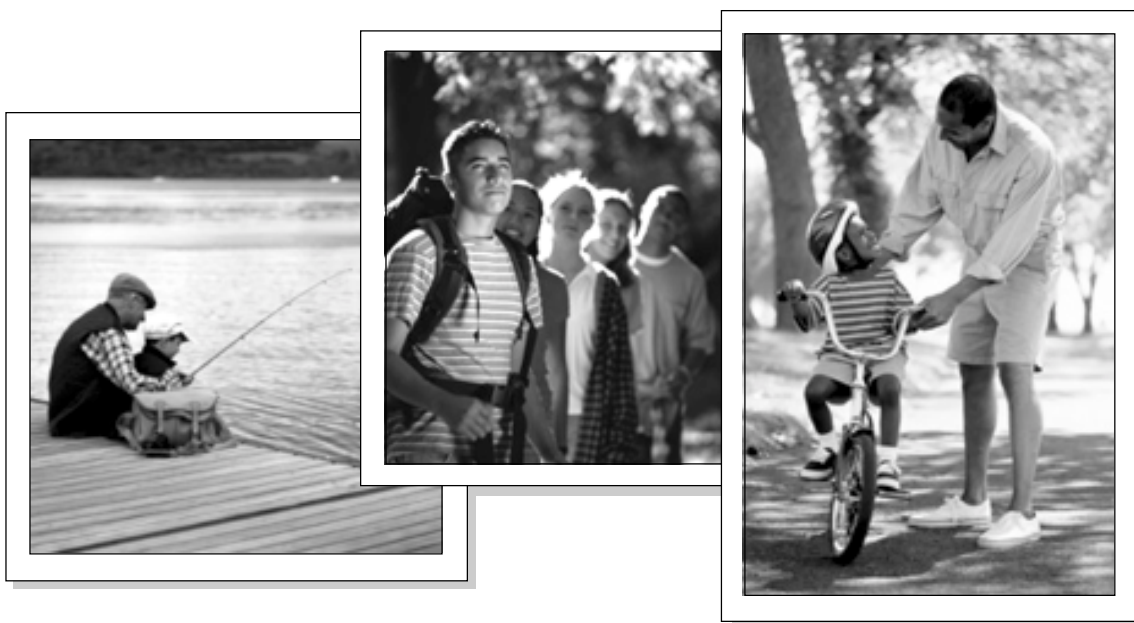
Rancocas Creek. After negotiations with County Freeholders Bill Haines and Jim Wujcik, the Anderson family agreed to sell the property to the County for \$5 million rather than to encircling developers. This sale was contingent on the County addressing the Andersons' personal and business needs.

The County agreed to purchase the development rights and conservation easement on the property under an installment purchase agreement. The agreement provided for payment of the value of the development rights/easement (\$4 million) on February 16, 2006 (approximately five years after the closing of the transaction) and interest on the unpaid principal semiannually on August 15 and February 15 each year at the rate of 6 percent. In addition, the County purchased the remaining deed-restricted land for a \$1 million cash payment on January 22, 2001 subject to a three-year lease that the Andersons had with their son allowing him to harvest and sell peaches at a farm market on the property.

The County will make the semi-annual interest payments from its voter-authorized farmland and open space trust funds. The \$4 million principal payment in 2006 will be made

from proceeds of a stripped-coupon (or zero-coupon) US Treasury obligation purchased by the County at closing for \$3.1 million. (A Green Acres grant for approximately \$2.5 million will reimburse a substantial portion of the cost of the Treasuries.) For tax purposes, the yield on the U.S. Treasury investments could not exceed the yield on the installment purchase agreement. The County is unconditionally obligated to make all payments due under the agreement, and the full faith, credit and taxing power of the County is pledged to secure such obligation.

The installment purchase agreement was structured so that (a) the sellers may defer capital gains tax applicable to the sale of that portion of the easement until the principal has been paid and (b) interest on the agreement is exempt from federal and New Jersey state income taxes. This tax exemption was available to the sellers in part because the agreement was used to purchase an easement rather than the deed-restricted land that their son continued to farm. After an initial holding period, the Andersons are permitted to sell their interest in the payments made under the agreement as a way to liquidate their interest for cash. ■



# Campaigning for Voter Approval of Open Space Financing

## **T**he Goal Is to Win... and Win Big

The need for open space preservation may not be apparent to the voting public. If the goal is to win approval for open space financing, a campaign must be strategically crafted to appeal to the voters. There is no point in developing a measure that has no chance of being passed. Conversely, approval by a sweeping majority creates additional momentum, focuses the issues and provides the local governing body with a mandate that the time is right to acquire public open space. When New Jersey voters approved, by a 2-to-1 margin, a 1998 referendum that proposed a constitutional amendment for a stable source of State open space funding, they delivered a clear message that spurred quick and decisive action by the State on open space preservation.

Many people feel powerless to affect land use control at the local and regional level. An open space campaign gives voters a hand in protecting land for the long term. However, even the most important referendum will fall short if its campaign is not well organized, planned and carried out. Voters are inundated with information from all directions, so a successful campaign must be creative in order to capture their interest. It must convey a sense of urgency and provide information sufficient to assist them in making their decision.

## **The Core Group**

Usually, an open space campaign begins as the brainchild of a core group. The group might be anything from a random collection of concerned neighbors or trout fishermen to members of an environmental commission or other municipal body. In some cases, the core group has the legal, financial, public speaking and political skills and resources necessary to achieve passage of an open space referendum. If not, the group must recruit additional members of the community who can provide those skills and resources.

While the group's initial focus is unified around preserving open space, the campaign will likely be a lengthy effort, and the core group may eventually face the challenges of diverging purposes and shifting responsibilities. For this reason, it is probably best to select one person who will direct the campaign on a day-to-day basis. Tasks will include planning and scheduling, coordinating volunteers, communicating with the media and the public, and managing finances. The members of the core group will need to give the director a great deal of support, and the director must remain focused on the goal of waging a campaign that will ensure passage of the measure by the largest majority possible.



## What Information Is Needed?

Early research is critical because organizers will face increasing demands as the campaign progresses. A thorough survey of the community and its resources will serve several purposes. It will arm organizers with the information they need to make their case, give organizers credibility, initiate contact with a wide number of individuals (and hopefully engage them in the effort), and allow organizers to gauge community support and their chances for success.

Campaign organizers need a solid basis of information about existing open space (both preserved and unpreserved); current and projected open space needs and preferences for recreation, conservation, agriculture and historic preservation; existing local and regional open space initiatives; land values; tax rates; and open space funding sources and financing strategies.

If a town has a comprehensive open space plan in place, much of the land information should be contained in that document, although it may need to be confirmed and updated. An open space plan is invaluable because it shows exactly what an open space tax would be supporting. If a municipality has an environmental commission, the commission may have compiled an "index of open lands", as required by the state enabling legislation for environmental commissions (*N.J.A.C. 40:56A et seq.*). Also, the recreation, conservation or historic preservation elements of the municipal master plan, if they exist, may contain plans and information related to open space.

## The Municipal Open Space Plan

Before an open space campaign, residents may be unaware of the extent and status of remaining open spaces in their community. If land is not visible from a main road, chances are that many people don't know it is there, and voters certainly will not support an open space tax if they mistakenly believe that there is no more open space! Depending on the community's level of open space awareness, it may be prudent for the local government (through an open space committee) to compile a comprehensive open space plan for the town before lobbying for an open space tax.

Once completed, the maps contained in the open space plan will be invaluable as a tool to educate the public about the need for action. A picture, or in this case a map, really is worth a thousand words. Also, a comprehensive open space plan prioritizes land parcels based on various natural resource, recreation, agricultural, scenic or other qualities valued by residents, and provides a clear, reasoned and orderly approach to preserving the parcels that best meet the community's needs. An open space plan may reassure voters that open space tax revenues will be spent wisely by the local government.

Campaign organizers will need to meet with representatives from county government, local government, park and conservation-related citizen groups, taxpayer groups and other relevant organizations. This will allow them to directly assess local issues and generate a potential project list.

## Listening to Voters: Public Opinion Polls

No matter how well campaign organizers think they know their area, a public opinion poll can provide valuable information. Polls focus on voters rather than on the entire community. A campaign that bypasses polling and relies only on instinct invites surprise and failure. If carried out by an experienced pollster, public opinion surveys will accurately reflect voter sentiment regarding questions such as:

- What types of park, recreation and natural land projects would the public finance?
- What specific types of projects are disliked?
- What total dollar amount of projects would be supported?
- What increase in taxes would be supported?
- What other issues are most (and least) important?

## What Is the Voting History on Similar Issues?

Past election results for ballot measures related to natural resources give an indication of the level of voter support (or opposition) that can be expected for a local open space tax. Research should include statewide bond measures such as Green Acres referenda. Analysis of the results provides campaign organizers with an assessment as to whether or not to proceed, and where to focus their efforts. Considerations should include:

- Measures that have passed or failed;
- Margins by which measures have been approved or rejected;
- Analysis of county-wide measures and factors causing concentrations of support or opposition;
- Likelihood of success of placing the measure on the ballot in an election for federal or state offices versus an election for local offices, including freeholders and municipal officials.

## What Tax Will Be Supported and Affordable?

The amount of money generated by a given property tax levy will determine what level of bonding or pay-as-you-go funding can be achieved. For instance, an annual tax of one cent per \$100 of property value in a town with a tax base of \$1 billion will generate \$100,000 per year. If it is apparent that voters will only support a tax that will be insufficient for open space needs, then the campaign must evaluate the alternatives: (1) Will a year of voter awareness increase willingness to support a larger dedicated tax? (2) Will a contentious campaign for a marginally effective tax lead to defeat and possible long-term delay of open space financing? (3) Are there extenuating circumstances that have sensitized voters against taxes in general or dedicated open space taxes in particular? (4) Should the tax be instituted as a variable tax with the first year basis set very low?

An open space property tax will either fund open space acquisitions directly, or pay the debt service on bonds issued to fund acquisitions. A campaign must demonstrate to voters and financial experts that a local government unit (municipality or county) can afford the proposed tax and borrowing program. In making the case for a tax to support borrowing, campaign organizers should develop information on the following:

- The credit rating of the local government unit, established by Moody's Investors Service, Standard & Poor's Corporation or Fitch Investors Service. This information is available upon request from the local government unit's financial director;
- The total assessed value of property in the local government unit;
- Total taxation (county and municipal) on property that will be affected;
- Debt service, both currently and after the proposed open space borrowing program is implemented, as a

percentage of annual governmental expenditures and of per capita income. A local government's debt service level may be compared to indices provided by rating agencies;

- Other funding measures planned for the ballot by the state, county or municipal governments.

Obviously, voters will want to know how much the tax will cost them each year. They will want clear information on:

- The proposed rate of the tax per hundred dollars of assessed value of property. Some ballot questions propose a range of rates ("up to \$.04"), giving the governing body discretion to adjust the annual rate up to a maximum as it sees fit for a given year. Also, some ballot questions propose two rates, giving voters the option to defeat a high tax but still approve a lower one.;
- How much additional tax the owner of a median-priced home in the community would pay at the rate(s) proposed;
- The term of the open space tax, if finite.

In addition to this information, the campaign should explain the financial benefits of open space preservation. Taxpayers may believe that open space preservation is a financial drain for the town because it takes parcels of land off the tax rolls. This is usually not true. New residential development (and sometimes even new retail development) requires services and infrastructure that can cost a town more in the long run than the additional tax revenue that the development brings. In many cases, buying and preserving a parcel of open space is cheaper for a town than providing schools, police, sewers and other services that would be needed if homes were built on the land. Also, New Jersey's Payment in Lieu of Taxes Program helps to make up for the loss of property taxes when the State or a nonprofit organization purchases land for conservation or recreation.

## Building a Coalition

Early in the campaign, before the specifics are developed, campaign organizers should assemble a broad-based coalition of supporting organizations. This will help build public support for preserving and improving park, recreation and natural resources.

A citizens advisory committee whose members represent a range of age, business and interest groups in the community helps to keep a campaign grounded and generate support for the open space tax measure. Interests represented by members on an advisory committee might include:

parks and recreation;  
conservation;  
senior citizens;  
urban development and planning;  
youth services;  
municipal government;  
builders, developers and realtors;  
business leaders and employers;  
bankers and other financial experts;  
community group leaders;  
media leaders; and  
influential citizens.

The advisory committee should set a schedule to meet regularly throughout the development of a measure. Its mission should be clearly stated and the campaign director should work to maintain the committee's focus. Whenever feasible, members should receive agendas and background material to review prior to meetings. In addition to gathering endorsements and support for placing the measure on the ballot, the committee should approve the criteria for proposed projects and the wording of the ballot measure.

The committee members can form the basis of the community coordinators, who are essential to the grassroots effort. The coordinators provide the direct connection with citizens within their district, township or neighborhood. They distribute information, contact local media, listen to issues and answer questions. Good communication between the

director and coordinators will go a long way toward winning big on campaign day.

## Working with Local Officials

Although voters may petition to force a county or municipal referendum (ballot question) on open space funding in New Jersey (*N.J.S.A. 40:12-15.7*), building support among local officials is critical because *an open space referendum is not binding on the governing body*. Even if voters approve an open space tax ballot question, the governing body can opt not to assess the tax. Also, municipal or county staff can provide essential support and expertise for the campaign, including research, evaluation of voting trends in prior campaigns, material production, communication with organizations and individuals, and drafting the ballot measure and subsequent ordinance to establish a dedicated tax.

## Working with Potential Opposition

Hold meetings with influential individuals or groups who might oppose the measure. By addressing their concerns and by communicating with them regularly, potential problems can be averted.

## Budgeting

An open space campaign does not necessarily require a large budget to be successful, but it certainly helps. A healthy budget will make it easier to reach more people with your message, and that is job one in any campaign. Whatever your means, you will need to tailor the campaign to make the most of the funding or other resources that are available to you. The campaign budget should include the cost of all planned activities prior to placing the measure on the ballot, including:

- salaries, if any;
- office space and supplies;
- printing and postage;
- public opinion polling;
- legal advice; and
- travel expenses.

## Private Fund-Raising

Whatever financial assistance for the campaign is available initially, inevitably it will not be sufficient to run the entire campaign. It is reasonable to expect that you will receive a number of small contributions on the basis of the general merit of the issue, but attracting larger contributions will require precise budgeting and accounting of expenditures. Before initiating an open space campaign, the core group should evaluate the level of financial support available from the community.

## Organizing Information

As the project proceeds, the base of information will grow quickly. Keep all pertinent information in a central, accessible location, and establish a filing system for both hard copy and computer data. Committee members will need accurate information, sometimes on short notice, for media contacts, public outreach, endorsements and advertising throughout the development and campaign phases. An ever-expanding list of individuals, media, agencies and organizations should be kept abreast of the campaign's status. Keep and update a contact list with mail, phone and e-mail addresses.

## Developing the Message: Public Relations Materials

A campaign must explain clearly what is being proposed and how individuals and interest groups will benefit. Take time to communicate with all groups of potential supporters.

Materials for distribution should summarize the different aspects of the measure in an easily comprehensible format. More detailed, technical information should be available on request. Supporters and voters will rely on the campaign for information. The more voters and community groups are educated, the greater the chance they will support the campaign. Include the following types of information in promotional materials:



- A summary explaining the measure and showing public need;
- Cost to an average homeowner;
- Amount of revenue that the measure will raise;
- Kinds of projects the measure will fund;
- Answers to “frequently asked questions”;
- Economic and other benefits of preserving open space; and
- Information on components of the measure, such as natural resource protection or facilities for seniors and youth.

Promotional materials should be concise. A one- or two-sided flyer is sufficient (see the sample flyers on pages 25-26). You can provide additional information on an individual basis to those who request it.

Utilize all means and opportunities to reach the public, including:

- letters to the editor (local and weekly);
- editorials/guest columns;
- newspaper ads;
- local television or radio interview programs;
- speakers bureau to address local groups at regular or special meetings;
- lawn signs;
- newsletters;
- telephone calls;
- press conferences or other PR events; and
- targeted mailings.

## Election Deadlines

The election information below comes from the *Chronological Elections Index: Filing Petitions. Duties of Election Officers, Etc.*, available from a County Elections Bureau or the New Jersey Division of Elections (609-292-3760). In addition, County Clerks can provide answers to questions regarding the acquisition of voter mailing lists, filing of a campaign organization and other election matters. For questions regarding the reporting of money

collected and spent for a public question campaign, call the Division of Elections.

**Election Day:** The Tuesday after the first Monday in November. All other dates for deadlines are based on that date.

**Voter Registration:** No later than 29 days before Election Day. In order to vote, an individual must have turned 18 years of age by the day of the election.

**Absentee Information:** A mail request for an absentee ballot must be received by the county clerk no less than seven days before the election. If voters receive an absentee ballot, they are not allowed to vote at the polls.

## Referendum with Voter Petition

**Support:** In the event of a referendum supported by petition signatures equaling not less than 15 percent of the votes cast at the last preceding general election, the petitions must be filed with the governing body at least 90 days before the election. The governing body must file with the county clerk at least 60 days before the election.

**Local Government Referendum:** Not less than 74 days prior to the election, a local governing body must file a request for a proposition to appear on the ballot.

Depending on the municipality or county, the amount of time necessary to get the initiative written and on the agenda for discussion and vote will vary from one month to several months. Therefore, a referendum campaign must allow at least four months (July 1) for the process of approval and filing of the question. Allowing a two month window of safety, the ballot question should be presented to the local governing body by May 1.

## When Is the Campaign Over?

An open space campaign begins with coalition building. It continues with placement of a non-binding referendum on the ballot and approval of the referendum by the voters. Because such approval does not obligate the local governing body to proceed, the next step is to assure adoption by the governing body of an ordinance establishing an open space trust fund and levying the tax.

In some instances, the open space tax is an annual appropriation. Advocates must reinforce the importance of creating the fund, adding capital to it and assuring its reauthorization. Therefore, open space advocates need to continue to express the voice of the voters after Election Day. In short, the campaign never ends.

Open space advocates should press for adoption of an open space plan if one is not in place. An open space plan is a comprehensive document that lays out a community's open space resources, needs and goals, and establishes criteria for evaluating and prioritizing parcels for preservation. At the county level in New Jersey, the enabling legislation for an open space trust fund *requires* that open space selected for acquisition be in accordance with a park, recreation and open space plan prepared by the county. Although not mandatory for municipalities, a comprehensive open space plan is vital to assure continuing, orderly, cost-efficient preservation of open spaces that meet the recreation and conservation needs of the community. ■



# Sample Open Space Ballot Questions for Referenda and Sample Resolutions to Place Question on Ballot

# O

## **PEN SPACE TAX**

### **Montgomery Township (Somerset)**

Shall Montgomery Township establish an annual levy at the rate of \$0.04 per \$100.00 of assessed value of real property located in the township and annually appropriate that revenue for any or all of the following purposes, or any combination thereof:

- a. acquisition of lands for recreation and conservation purposes;
- b. development of lands acquired for recreation and conservation purposes;
- c. maintenance of lands acquired for recreation and conservation purposes;
- d. acquisition of farmland for farmland preservation purposes;
- e. historic preservation of historic properties, structures, facilities, sites, areas or objects, and the acquisition of such properties, structures, facilities, sites, areas or objects for historic preservation purposes; or
- f. payment of debt service on indebtedness issued or incurred by the Township for any of the purposes set forth in paragraphs (a), (b), (d), or (e) herein above? YES [ ] NO [ ]

**Interpretive Statement:** A "yes" vote on this question would allow Montgomery Twp. to preserve remaining tracts of open space which are rapidly being developed by establishing a "Municipal Open Space, Recreation, and Farmland and Historic

Preservation Trust Fund" to be funded annually through the collection of a dedicated open space tax in the amount of four cents per one hundred dollars of assessed value. This tax would be dedicated to the maintenance, improvement or acquisition of land for recreation and conservation purposes, the acquisition of farmland for farmland preservation purposes, and the acquisition and preservation of historic properties, structures, facilities, sites, areas or objects, or for payment of debt service or indebtedness issued or incurred by the Township for any of these purposes. Approval would also enhance the Township's ability to qualify for NJ State Green Acres funds under the Planning Incentive Acquisition Program and enable the Township to qualify for any future programs, presently not in existence, which might condition a municipality's eligibility to receive open space funds on the adoption of a tax levy and the creation of a "Municipal Open Space, Recreation, and Farmland and Historic Preservation Trust Fund."

## **OPEN SPACE TAX INCREASE**

### **Washington Township (Mercer)**

Shall the Township of Washington acquire land for conservation, public recreation and farmland preservation purposes, develop lands acquired for recreation and conservation purposes, maintain lands acquired for recreation and conservation purposes, acquire

farmland for farming and preservation purposes, acquire for historic preservation properties, structures, facilities, sites, areas or objects, and increase the annual levy from one cent (\$.01) to five cents (\$.05) per \$100 of assessed valuation and annually appropriate that revenue for that purpose?

YES [ ] NO [ ]

## **OPEN SPACE TAX INCREASE**

### **Boonton Township (Morris)**

Shall the Township of Boonton adopt an ordinance to amend its Open Space Trust Fund, to provide for an "Open Space, Recreation and Farmland and Historic Preservation Trust Fund" which shall be funded through the collection of local property taxes in an amount not to exceed \$.04 per one hundred dollars of assessed value. Said fund will be authorized to accept donations or any other source of revenue.

The amendment will also provide that the "Open Space, Recreation and Farmland and Historic Preservation Trust Fund" shall be used exclusively for the purposes of acquiring lands and easements, for recreation and conservation purposes and acquiring farmland for preservation purposes, and the historic preservation of historic properties, structures, facilities, sites, areas, or objects, and the specific acquisition of such properties for historical preservation purposes within the Township of Boonton." YES [ ] NO [ ]

**Interpretive Statement:** If this question is approved by the voters, the Township of Boonton may increase the annual open space trust fund levy to not more than four cents per one hundred dollars of assessed valuation. Currently, the Township of Boonton may impose an annual levy of not more than two cents per one hundred dollars of assessed valuation. If this question is approved, the annual levy that the Township may impose will be four cents per one hundred dollars of assessed valuation. This means that during

2001 and subsequent years, a house assessed at \$300,000 may pay up to \$120 a year in property taxes for open space acquisition, an increase of \$60 over the 2000 levy. This money will be deposited into the "Open Space Recreation and Farmland and Historic Preservation Trust Fund" and shall be used exclusively for the acquisition of lands for recreation and conservation purposes; acquisition of farmland for farmland preservation purposes; historic preservation of historic properties, structures, facilities, sites, areas or objects and the acquisition of such properties, structures, facilities, sites, areas or objects for historic preservation purposes; or payment of debt service on indebtedness issued or incurred by the Twp. of Boonton for any of the purposes set forth above. Lands acquired by the Twp. of Boonton using these revenues shall be held in trust and shall be used exclusively for the purposes described above.

## **GOVERNING BODY RESOLUTION AUTHORIZING REFERENDUM FOR OPEN SPACE TAX**

### **Township of Blairstown (Warren)**

Whereas, *New Jersey Statutes Annotated, N.J.S.A. 40:12-15.7* authorizes the governing body of any New Jersey municipality to submit to the voters of the municipality in a general election a referendum question authorizing imposition of an annual levy for an amount or at a rate deemed appropriate for the following purposes:

- a.) acquisition of lands for recreation and conservation purposes;
- b.) acquisition of farmland for farmland preservation purposes;

Whereas, the Township Committee has determined that it would be in the public interest to place a non-binding referendum question on the November 2000 general election ballot for the purpose of assessing voter preference with regard to the question as

to whether Blairstown Township shall create a municipal open space recreation and farmland preservation trust fund for the purposes aforesaid funded by an annual levy, i.e. Tax, at an annual rate not to exceed \$.02 per \$100.00 of total municipal equalized real property valuation shall be imposed in Blairstown Township.

Now, therefore, be it resolved by the Township Committee of the Township of Blairstown, Warren County, New Jersey, that the Township cause the following referendum question to be placed on the November 2000 general election ballot:

- “Shall the Township of Blairstown consider establishing a Municipal Open Space, Recreation and Farmland Preservation Trust Fund, pursuant to N.J.S.A. 40:12-15.7, to be funded at a rate not to exceed \$.02 per \$100.00 of total municipal equalized real property valuation and used exclusively for:
- a.) acquisition of lands for recreation and conservation purposes;
  - b.) acquisition of farmland for farmland preservation purposes.”

## **RESOLUTION & BALLOT QUESTION TO BOND \$1M FOR OPEN SPACE**

### **Mansfield Township (Burlington)**

Resolved by the Township of Mansfield, County of Burlington that the Clerk of the county is hereby formally requested pursuant to the provisions of *N.J.S.A. 19:37-1 et seq.* to print the following non-binding township referendum question upon the official ballots to be used in the 2000 General Election for the Township of Mansfield, County of Burlington.

- “Shall the Township of Mansfield, County of Burlington raise the sum of one million dollars through the sale and issuance of General Obligation Bonds to be used to fund the purchase for preservation purposes, of farmland,

farmland preservation easements, and open space acquisition, together with any residual preservation or development credits that may exist, as needed to preserve agriculture and open space in the Township of Mansfield.”

***Interpretive Statement:*** The purpose of this question is to determine the opinion of the voters of the Township of Mansfield concerning whether the Township should raise the sum of one million dollars through the sale and issuance of General Obligation Bonds for the purchase of Agricultural Land, Agricultural Preservation Easements, Open Space Acquisitions, and preservation or development credits attached to the agricultural land or open space within the Township of Mansfield, County of Burlington. The Agricultural Preservation Easements and Open Space Easements will take the form of deed restrictions which would indefinitely restrict the right to develop the real property involved so as to insure the preservation of its present agricultural or open space use. The action proposed would constitute a further positive step toward the preservation of agricultural land and open space within the County of Burlington.

Be it further resolved that a certified copy of this Resolution shall be filed immediately with the Clerk of the County of Burlington with direction that the aforesaid question and explanatory statement be printed and appear on the Official Ballot to be used in the Township of Mansfield this November 7, 2000.

## **County Ballot Measure**

From a “Morris County Citizens for Open Space” flyer regarding the November 3, 1992 Morris County Open Space Trust Fund Referendum:

Shall the County of Morris consider establishing an open space trust fund to be

used exclusively for the purpose of acquiring open space areas such as protecting sources of drinking water, providing outdoor recreation and the preservation of farmland in accordance with Chapter 283 of the Public Law of 1991 to be funded at a rate not to exceed \$.02 per \$100 of total County equalized real property valuation?

***Interpretive Statement:*** This non-binding referendum will give the elected officials of the County of Morris the sentiment of the voters concerning the establishment of an "Open Space Preservation Trust Fund" to be used exclusively for the acquisition of land or water areas for the purposes of providing and/or protecting parkland or green spaces, protecting ecologically sensitive areas such as wetlands, stream corridors, sources of drinking water, water aquifers and recharge areas, to provide for public outdoor recreation and to preserve farmland. The County will annually determine the yearly rate which can vary from nothing to \$.02 rate per \$100 of total County equalized real property valuation, but it could not exceed the \$.02 rate established by the referendum. As an example, at the \$.02 rate, the owner of a property assessed at \$100,000 would be contributing \$20 to the Open Space Preservation Trust Fund. It has been recommended that the rate for the first year be set at one-half cent. Money raised by this fund could only be used to acquire land which will remain as open space. Once the objectives of the program have been achieved, the tax will discontinue. ■



# Sample Flyers on Proposed Open Space Tax

## PRINCETON ENVIRONMENTAL COMMISSION

*Presents*

### **INFORMATION ON OPEN SPACE TAXES IN PRINCETON BOROUGH & TOWNSHIP**

**What is the issue?** On November 7, 2000, residents of Princeton Borough and Princeton Township will vote on referenda that will permit their respective town governments to collect funds for open space, recreation, and historic preservation purposes.

**How will it be funded?** In the Borough, an Open Space Trust Fund would be funded by a local property tax of \$.01 for each \$100 of assessed property value. For a house assessed at \$200,000, the tax would be \$20. Princeton Township already has an open space tax of \$.01; the current proposal increases the tax to \$.02 for each \$100 of assessed property value. Thus, for a Township house with a value of \$200,000, the tax would be \$40.

**What are Princeton's needs?** The Master Plan of the Joint Princeton Regional Planning Board has the goal of preserving 25 percent of Princeton's land. The municipal Open Space Trust Funds, together with State, County and private sources give the community the funding mechanism to meet this ideal and to maintain those lands into the future. Without a plan and the resources to preserve the few remaining large properties in the Township, development of those lands is inevitable. Princeton Borough's priority will be to expand its playgrounds and small urban parks and to develop much needed recreational fields in the Township or in other nearby localities.

**Does the State encourage such initiatives?** Yes. In November 1998, New Jersey voters approved the establishment of a stable source of State funding for open space acquisition and park development, farmland preservation, and historic preservation. The legislation signed by Governor Whitman in 1999 appropriates about \$98 million annually from the sales tax to be used to preserve one million acres over the next 10 years. The Garden State Preservation Trust, thus created, will help communities to buy and maintain open space, recreation areas, and historic sites. Towns with their own dedicated funds [and an approved open space and recreation plan can receive grants of up to 50% of the purchase price of open space parcels in the plan.]

**Can this fund be supplemented with funds from other sources?** Yes. Such dedicated funds create leveraging power for city governments. Communities whose voters have approved open space trust funds and which have state-approved open space plans become eligible for fast-track approval and matching grants from the Garden State Preservation Trust Fund. County and private funds are also available.

**Have other communities established such funds?** Yes. Thus far, 119 communities and 17 counties have established open space taxes. This includes Mercer County (\$.02) and a number of Princeton's neighbors:

Hopewell Township, \$.02  
Lawrence Township, \$.01

Montgomery Township, \$.04  
West Windsor, \$.07

Pennington Borough, \$.01

**Additional information and full text of Princeton Borough's and Princeton Township's open space tax referenda are posted on the Princeton Environmental Commission website: [www.princetontwp.org](http://www.princetontwp.org)**



**E**lection Day this year means more than selecting the President. Passage of Blairstown's "Open Space Tax" ballot referendum assures that our small town can take some big steps to preserve its traditional rural character. Recent events show that suburban sprawl and overzealous development are literally at our doorsteps. This plan can reduce that impact and safeguard our quality of life.

### **What is so special about an Open Space Tax?**

It demonstrates to Trenton that our community is willing to make sacrifices to preserve open space - but in this case sacrifice comes with rewards. If we vote to assess this tax on ourselves, then Blairstown becomes eligible for up to 90% funding from state and county programs-that greatly enhances our spending power. We would also have access to special 2% interest loans to finance the purchase of qualifying properties.

### **What can Blairstown's Open Space Tax do?**

The dedicated tax would allow Blairstown to preserve open space, farmland and historic structures. It is a unique opportunity for us to protect vanishing vistas and our agricultural heritage.

### **How would the Open Space Tax work?**

It is a special, dedicated tax assessment on property value. It can only be spent for Open Space, Farmland Preservation, and Active and Passive Recreation, and it can ONLY be spent in Blairstown.

### **How much would it cost?**

The referendum would allow the Township Committee to assess up to two cents per \$100 property valuation. On a typical \$200,000 home, that would mean an additional tax of \$40 per year.

### **How much would the tax generate?**

Based upon current property valuations, the tax would collect approximately \$84,400 per year on two cents assessed tax. Add that to the grant money available and special 2% interest loans, and considerable property can be purchased.

### **How can open space preservation help my tax bill?**

Statistically speaking, each new home built in Blairstown adds to the cost of running our town. It takes the form of school use, road use, administration, emergency services, etc. Surprisingly, the taxes generated by those new homes fall short of the expenses they create. In the long run, the cost to preserve open space is an undeniable bargain compared to the ongoing - and escalating -

expense of additional residents.

### **What about my property value?**

Towns like Blairstown draw attention because of their small town feel and rural character. A big part of Blairstown's appeal would be jeopardized if development ran rampant. By preserving open spaces, we reduce the number of potential home sites. The economic rules of supply and demand suggest that your home would appreciate thanks to open space preservation.

*There are many important decisions to make on Election Day. However, none of them is as likely to have the immediate, direct and long-term impact of Blairstown's Open Space Tax Referendum. On November 7th, vote **YES** for Blairstown Open Space.*

*For more information, contact Blairstown Citizens for Open Space at XXXX.*

# NJ Statute Authorizing County and Municipal Open Space Taxes and Trust Funds

P.L. 1997, CHAPTER 24, approved February 28, 1997

AN ACT concerning recreation and conservation, farmland preservation, and historic preservation, amending R.S.40:12-14 and P.L.1992, c.157, supplementing Title 40 of the Revised Statutes, and repealing parts of the statutory law.

## **N.J.S.A. 40:12-15.1**

1. As used in this act:

“Acquisition” means the securing of a fee simple or a lesser interest in land, including but not limited to an easement restricting development, by gift, purchase, installment purchase agreement, devise, or condemnation;

“Charitable conservancy” means a corporation or trust exempt from federal income taxation under paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986 (26 U.S.C. sec.501(c) (3)), whose purposes include (1) acquisition and preservation of lands in a natural, scenic, or open condition, or, (2) historic preservation of historic properties, structures, facilities, sites, areas, or objects, or the acquisition of such properties, structures, facilities, sites, areas, or objects for historic preservation purposes;

“County trust fund” means a “County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund” created pursuant to subsection c. of section 2 of this act;

“Development” means any improvement to land acquired for recreation and conservation purposes designed to expand and enhance its utilization for those purposes;

“Farmland” means land actively devoted to agricultural or horticultural use that is valued, assessed, and taxed pursuant to the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.);

“Farmland preservation purposes” means the long-term preservation of farmland for agricultural or horticultural use;

“Historic preservation” means the performance of any work relating to the stabilization, repair, rehabilitation, renovation, restoration, improvement, protection, or preservation of a historic property, structure, facility, site, area, or object;

“Historic property, structure, facility, site, area, or object” means any property, structure, facility, site, area, or object approved for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.);

“Land” or “lands” means real property, including improvements thereof or thereon, rights-of-way, water, lakes, riparian and other rights, easements, privileges and all other rights or interests of any kind or description in, relating to or connected with real property;

“Municipal trust fund” means a “Municipal Open Space, Recreation, and Farmland and Historic Preservation Trust Fund” created pursuant to subsection c. of section 7 of this act;

“Public indoor recreation” means public recreation in enclosed structures or facilities, and includes but is not limited to swimming pools, basketball courts, and ice skating rinks open for public use; and

“Recreation and conservation purposes” means the use of lands for parks, open space, natural areas, ecological and biological study, forests, water reserves, wildlife preserves, fishing, hunting, camping, boating, winter sports, or similar uses for either public outdoor recreation or conservation of natural resources, or both, or the use of lands for public indoor recreation.

***[Submission by County of Proposition Authorizing Annual Levy]***

- 2.a. (1) The governing body of any county may submit to the voters of the county in a general or special election a proposition authorizing imposition of an annual levy for an amount or at a rate deemed appropriate for any or all of the following purposes, or any combination thereof, as determined by the governing body:
- (a) acquisition of lands for recreation and conservation purposes;
  - (b) development of lands acquired for recreation and conservation purposes;
  - (c) maintenance of lands acquired for recreation and conservation purposes;
  - (d) acquisition of farmland for farmland preservation purposes;
  - (e) historic preservation of historic properties, structures, facilities, sites, areas, or objects, and the acquisition of such properties, structures, facilities, sites, areas, or objects for historic preservation purposes; or
  - (f) payment of debt service on indebtedness issued or incurred by a county for any of the purposes set forth in subparagraphs (a), (b), (d) or (e) of this paragraph.
- (2) The amount or rate of the annual levy may be subdivided in the proposition to reflect the relative portions thereof to be allocated to any of the respective purposes specified in paragraph (1) of this subsection or may be depicted as a total amount or rate, to be subdivided in a manner determined previously, or to be determined at a later date, by the governing body of the county after conducting at least one public hearing thereon.
- b. Upon approval of the proposition by a majority of the votes cast by the voters of the county, the governing body of the county may annually raise by taxation a sum not to exceed the amount or rate set forth in the proposition approved by the voters for the purposes specified therein. If the amount or rate set forth in the proposition was not subdivided among the various purposes, the governing body of the county may determine the appropriate amount or rate to be allocated to each purpose after conducting at least one public hearing thereon.
- c. Amounts raised by the levy imposed pursuant to this section shall be deposited into a “County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund” to be created by the county, and shall be used exclusively for the purposes authorized by the voters of the county. Any interest or other income earned on monies deposited into the county trust fund shall be credited to the fund to be used for the same purposes as the principal. Separate accounts may be

created within the county trust fund for the deposit of revenue to be expended for each of the purposes specified in the proposition approved by the voters of the county.

- d. (1) (a) Selection of lands for acquisition for recreation and conservation purposes shall be in accordance with an open space and recreation plan prepared and adopted by the county.
  - (b) Selection of projects to develop or maintain lands acquired for recreation and conservation purposes shall be in accordance with a open space and recreation development and maintenance plan prepared and adopted by the county.
  - (c) Selection of farmland for acquisition for farmland preservation purposes shall be in accordance with a farmland preservation plan prepared and adopted by the county or pursuant to the provisions of the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1 C-11 et al.) or any other law enacted for the purpose of preserving farmland, or any rules or regulations adopted pursuant thereto.
  - (d) Selection of historic preservation projects shall be in accordance with a historic preservation plan prepared and adopted by the county.
  - (2) Monies in the county trust fund may be used to pay the cost of preparing and adopting the plans required by this subsection.
  - e. The governing body of a county may submit to the voters of the county in a general or special election a proposition amending or supplementing a proposition previously submitted, approved, and implemented as provided pursuant to this section either (1) changing the amount or rate of the annual levy, or (2) adding or removing purposes authorized pursuant to this section for which the levy may be expended. Upon approval of the amendatory or supplementary proposition by a majority of the votes cast by the voters of the county, the governing body of the county shall implement it in the same manner as set forth in this act for implementation of the original proposition.
  - f. Upon petition to the governing body of a county signed by the voters of the county equal in number to at least 15 percent of the votes cast therein at the last preceding general election, filed with the governing body at least 90 days before a general or special election, the governing body of the county shall submit to the voters of the county in the general or special election the proposition otherwise authorized pursuant to subsection a. or subsection e. of this section, as the case may be.
- 3.a. Any county whose voters, prior to the effective date of this act, approved pursuant to P.L.1989, c.30 (C.40:12-16 et seq.) a proposition authorizing the acquisition of lands for conservation as open space or as farmland shall be deemed to have approved a proposition for the purposes specified in paragraph (1) of subsection a. of section 2 of this act, but excluding the purpose specified in subparagraph (c) of that paragraph if the proposition was approved prior to the 24 months immediately preceding the effective date of P.L.1997, c. 24 (C.40:12-15.1 et al.) at the amount or rate specified in the original proposition, which purposes shall be determined by adoption of a resolution or ordinance, as appropriate, by the governing body of the county after conducting at least one public hearing thereon and subject to the requirements of subsections b., c. and

- d. of this section. The county open space and farmland preservation trust fund created for the purposes of P.L.1989, c.30 (C.40:12-16 et seq.) shall be dissolved and any monies remaining therein shall be deposited into the "County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 2 of this act to be utilized for the purposes determined by the governing body of the county as authorized pursuant to this subsection.
- b. A county shall not expend more than \$100,000 for any proposed project or use to be undertaken pursuant to a resolution or ordinance adopted pursuant to subsection a. of this section authorizing a purpose specified in subparagraphs (b), (c), or (f) of paragraph (1) of subsection a. of section 2 of this act unless the governing body of the county first conducts a public hearing on the proposed project or use and adopts a resolution or ordinance, as appropriate, authorizing the expenditure. Any public hearing required pursuant to this subsection shall be held at least 45 days before the governing body of the county takes action to adopt the resolution or ordinance authorizing the expenditure.
- c. In addition to any other applicable requirements of law, rule or regulation, the governing body of the county shall provide notice of the public hearing required pursuant to subsection b. of this section at least 30 days before the date of the hearing as follows:
- (1) By mailing or otherwise providing a copy of the notice to: (a) the county clerk and to the municipal clerk of every municipality in which the land or lands affected by the proposed project or use are located; and (b) any person who requests in writing of the governing body to receive in advance such notices; and
  - (2) By publishing the notice in a daily or weekly newspaper of general circulation in the county and each municipality in which the land or lands to be affected by the proposed project or use are located.
- d. The governing body of the county shall include the following information in all notices required pursuant to subsection c. of this section: (1) a general description of the proposed project or use and the location of the land or lands to be affected; (2) the aggregate amount of monies to be utilized for the proposed project or use; (3) a schedule setting forth the anticipated commencement and completion date for the proposed project or use; (4) the date, time, and place of the public hearing; (5) a statement that the public may submit written comments to the governing body of the county on or before the date of the public hearing; and (6) the name and address of the person designated by the governing body of the county to receive the written comments and to contact for additional information.
- e. Any county whose voters, prior to the of this act, approved effective date pursuant to R.S.40:12-10 et seq. a proposition authorizing the establishment, maintenance, and improvement of a system of public recreation shall be deemed to have approved a proposition for any or all of the purposes specified in paragraph (1) of subsection a. of section 2 of this act at the amount or rate specified in the original proposition, which purposes shall be determined by adoption of a resolution or ordinance, as appropriate, by the governing body of the county after conducting at least one public hearing thereon. Any fund created for the purposes of R.S.40:12-10 et seq. shall be dissolved and any monies remaining therein shall be deposited into the "County Open Space, Recreation, and Farmland and Historic

Preservation Trust Fund" created pursuant to subsection c. of section 2 of this act to be utilized for the purposes determined by the governing body of the county as authorized pursuant to this subsection.

4. Lands acquired by a county using revenue raised pursuant to this act shall be held in trust and shall be used exclusively for the purposes authorized under this act.

After conducting at least one public hearing thereon and upon a finding that the purposes of this act might otherwise be better served or that any land acquired by a county pursuant thereto is required for another public use, which finding shall be set forth in a resolution or ordinance, as appropriate, adopted by the governing body of the county, the governing body may convey, through sale, exchange, transfer, or other disposition, title to, or a lesser interest in, that land, provided that the governing body shall replace any land conveyed under this section by land of at least equal fair market value and of reasonably equivalent usefulness, size, quality, and location to the land conveyed, and any monies derived from the conveyance shall be deposited into the "County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 2 of this act for use for the purposes authorized by this act for monies in the county trust fund. Any such conveyance shall be made in accordance with the "Local Lands and Buildings Law," P.L.1971, c.199 (C.40A:12-1 et seq.). In the event of conveyance by exchange, the land or improvements thereon to be transferred to the trust shall be at least equal in fair market value and of reasonably equivalent usefulness, size, quality, and location to the land or improvements transferred from the trust.

5. Amounts raised by taxation for the purposes of this act shall be apportioned by the county board of taxation among the municipalities within the county in accordance with R.S. 54:4-49. The amounts so apportioned shall be assessed, levied and collected in the same manner and at the same time as other county taxes. The tax collected pursuant to this act shall be referred to as the "County Open Space, Recreation, and Farmland and Historic Preservation Tax."

6. a. The governing body of any county in which the voters of the county have approved a proposition in accordance with this act may adopt a resolution authorizing the distribution of monies deposited into the "County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 2 of this act, in such portions as deemed appropriate, to municipalities within the county or to charitable conservancies, to be used in the county by those municipalities or charitable conservancies for the purposes of this act in accordance with the provisions, conditions, and requirements thereof, provided that any municipality or charitable conservancy receiving such monies has presented a plan to the county documenting the proposed use, of the monies.
- b. Lands acquired by a municipality pursuant to this section shall be held in trust and shall be used exclusively for the purposes authorized by this act.
- c. The governing body of a municipality acquiring lands using monies received pursuant to this section shall have full control of the lands and may adopt an ordinance providing for (1) suitable rules, regulations, and bylaws for use of the

lands, (2) the enforcement of those rules, regulations and bylaws, and (3) when appropriate, the charging and collection of reasonable fees for use of the lands or for activities conducted thereon.

- d. In order to qualify to receive monies from a county trust fund pursuant to this section, the board of directors, board of trustees, or other governing body, as appropriate, of an applying charitable conservancy shall:
- (1) demonstrate to the governing body of the county that it qualifies as a charitable conservancy;
  - (2) agree to use the monies only in connection with lands located in the county and for the purposes authorized by this act;
  - (3) agree to make and keep the lands accessible to the public, unless the governing body of the county determines that public accessibility would be detrimental to the lands or to any natural or historic resources associated therewith;
  - (4) agree not to sell, lease, exchange, transfer, or donate the lands for which the monies received were allocated for use pursuant to this section, except upon approval of the governing body of the county under such conditions as the governing body may establish; and
  - (5) agree to execute and donate to the county at no charge (a) a conservation restriction or historic preservation restriction, as the case may be, pursuant to P.L.1979, c.378 (C.13:8B-1 et seq.), or (b) a development easement, as defined pursuant to section 3 of P.L.1983, c.32 (C.4:1c-13), as appropriate, on the lands for which the monies received were allocated for use pursuant to this section.

***[Submission by Municipality of Proposition Authorizing Annual Levy]***

7. a. (1) The governing body of any municipality may submit to the voters of the municipality in a general or special election a proposition authorizing imposition of an annual levy for an amount or at a rate deemed appropriate for any or all of the following purposes, or any combination thereof, as determined by the governing body:
- (a) acquisition of lands for recreation and conservation purposes;
  - (b) development of lands acquired for recreation and conservation purposes;
  - (c) maintenance of lands acquired for recreation and conservation purposes;
  - (d) acquisition of farmland for farmland preservation purposes;
  - (e) historic preservation of historic properties, structures, facilities, sites, areas, or objects, and the acquisition of such properties, structures, facilities, sites, areas, or objects for historic preservation purposes; or
  - (f) payment of debt service on indebtedness issued or incurred by a municipality for any of the purposes set forth in subparagraphs (a), (b), (d) or (e) of this paragraph.
- (2) The amount or rate of the annual levy may be subdivided in the proposition to reflect the relative portions thereof to be allocated to any of the respective purposes specified in paragraph (1) of this subsection or may be depicted as a total amount or rate, to be subdivided in a manner determined previously, or to be determined at a later date, by the governing body of the municipality after conducting at least one public hearing thereon.



- b. Upon approval of the proposition by a majority of the votes cast by the voters of the municipality, the governing body of the municipality may annually raise by taxation a sum not to exceed the amount or rate set forth in the: proposition approved by the voters for the purposes specified therein. If the amount or rate set forth in the proposition was not subdivided among the various purposes, the governing body of the municipality may determine the appropriate amount or rate to be allocated to each purpose after conducting at least one public hearing thereon.
  - c. Amounts raised by the levy imposed pursuant to this section shall be deposited into a "Municipal Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" to be created by the municipality, and shall be used exclusively for the purposes authorized by the voters of the municipality. Any interest or other income earned on monies deposited into the municipal trust fund shall be credited to the fund to be used for the same purposes as the principal. Separate accounts may be created within the municipal trust fund for the deposit of revenue to be expended for each of the purposes specified in the proposition approved by the voters of the municipality.
  - d. The governing body of a municipality may submit to the voters of the municipality in a general or special election a proposition amending or supplementing a proposition previously submitted, approved, and implemented as provided pursuant to this section either (1) changing the amount or rate of the annual levy, or (2) adding or removing purposes authorized pursuant to this section for which the levy may be expended. Upon approval of the amendatory or supplementary proposition by a majority of the votes cast by the voters of the municipality, the governing body of the municipality shall implement it in the same manner as set forth in this act for implementation of the original proposition.
  - e. Upon petition to the governing body of a municipality signed by the voters of the municipality equal in number to at least 15 percent of the votes cast therein at the last preceding general election, filed with the governing body at least 90 days before a general or special election, the governing body of the municipality shall submit to the voters of the municipality in the general or special election the proposition otherwise authorized pursuant to subsection a. or subsection d. of this section, as the case may be.
8. Any municipality whose voters, prior to the effective date of this act, approved pursuant to R.S.40:12-10 et seq. a proposition authorizing the establishment, maintenance, and improvement of a system of public recreation shall be deemed to have approved a proposition for any or all of the purposes specified in paragraph (1) of subsection a. of section 7 of this act at the amount or rate specified in the original proposition, which purposes shall be determined by adoption of an ordinance by the governing body of the municipality after conducting at least one public hearing thereon. Any fund created for the purposes of R.S.40:12-10 et seq. shall be dissolved and any monies remaining therein shall be deposited into the "Municipal Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 7 of this act to be utilized for the purposes determined by the governing body of the municipality as authorized pursuant to this section.

9. Lands acquired by a municipality using revenue raised pursuant to this act shall be held in trust and shall be used exclusively for the purposes authorized under this act.

After conducting at least one public hearing thereon and upon a finding that the purposes of this act might otherwise be better served or that any land acquired by a municipality pursuant thereto is required for another public use, which finding shall be set forth in an ordinance adopted by the governing body of the municipality, the governing body may convey, through sale, exchange, transfer, or other disposition, title to, or a lesser interest in, that land, provided that the governing body shall replace any land conveyed under this section by land of at least equal fair market value and of reasonably equivalent usefulness, size, quality, and location to the land conveyed, and any monies derived from the conveyance shall be deposited into the "Municipal Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 7 of this act for use for the purposes authorized by this act for monies in the municipal trust fund. Any such conveyance shall be made in accordance with the "Local Lands and Buildings Law," P.L.1971, c.199 (C.40A:12-1 et seq.). In the event of conveyance by exchange, the land or improvements thereon to be transferred to the trust shall be at least equal in fair market value and of reasonably equivalent usefulness, size, quality, and location to the land or improvements transferred from the trust.

10. R.S.40:12-14 is amended to read as follows: 40:12-14. Any two or more municipalities may jointly establish, maintain, and improve, or maintain and improve if already established, a public recreation system including parks, open space, and playgrounds [as provided in R.S.40:12-10 through R.S.40:12-13]. (cf. P.L.1993, c.37, s.3)

11. Section 7 of P.L.1992, c.157 (C.40:12-16.1) is amended to read as follows: The county agriculture development board of a county in which the voters of the county have approved, in a general or special election, a proposition authorizing the acquisition of lands for farmland preservation purposes pursuant to P.L.1989, c.30 (C.40:12-16 et seq.) or P.L.1997, c.24 (C. 40:12-15.1 et at.) shall, pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1 C-31), adopt a prioritized list of farmland eligible for acquisition of development easements thereon by installment purchase agreements pursuant to the provisions of P.L.1992, c.157 (C.40:12-16.1 et al.) if the county intends to acquire development easements on farmland in that manner. The governing body of the county shall annually appropriate from the "County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 2 of P.L.1997, c.24 (C.40:12-15.2) such amounts as it may deem necessary to finance the acquisition of development easements on farmland within that county by installment purchase agreement.

# NJ County & Municipal Approved Open Space Trust Funds as of November, 2001

## **COUNTIES**

Atlantic  
Bergen  
Burlington  
Camden  
Cape May  
Cumberland  
Essex  
Gloucester  
Hunterdon  
Mercer  
Middlesex  
Monmouth  
Morris  
Ocean  
Passaic  
Somerset  
Sussex  
Union  
Warren

## **MUNICIPALITIES**

### **Bergen**

Closter Borough  
Demarest Borough  
Mahwah Township  
Midland Park Borough  
Montvale Borough  
New Milford Borough  
Norwood Borough  
Old Tappan Borough  
Ridgewood Village  
River Edge Borough  
River Vale Township  
Upper Saddle River Borough  
Woodcliff Lake Borough

### **Burlington**

Bordentown Township  
Eastampton Township  
Edgewater Park Township  
Evesham Township  
Hainesport Township  
Lumberton Township  
Mansfield Township  
Medford Township  
Moorestown Township  
Mount Laurel Township  
North Hanover Township  
Southampton Township  
Springfield Township  
Westampton Township

### **Camden**

Berlin Township  
Cherry Hill Township  
Clementon Borough  
Gibbsboro Borough  
Voorhees Township

### **Essex**

Bloomfield Township  
Cedar Grove Township  
Essex Fells Borough  
Fairfield Township  
Roseland Borough  
South Orange Village Township  
Verona Township  
West Orange Township

### **Gloucester**

East Greenwich Township  
Franklin Township  
Gloucester Township  
Harrison Township  
Logan Township  
Mantua Township  
South Harrison Township  
Washington Township  
West Deptford Township  
Woolwich Township

### **Hunterdon**

Alexandria Township  
Bethlehem Township  
Califon Borough  
Clinton Township  
Delaware Township  
East Amwell Township  
Franklin Township  
Glen Gardner Borough  
Kingwood Township  
Lebanon Township  
Raritan Township  
Readington Township  
Tewksbury Township  
Union Township  
West Amwell Township

**Mercer**

Hamilton Township  
 Hopewell Borough  
 Hopewell Township  
 Lawrence Township  
 Pennington Borough  
 Princeton Borough  
 Princeton Township  
 Washington Township  
 West Windsor Township

**Middlesex**

Carteret Borough  
 Cranbury Township  
 East Brunswick Township  
 Edison Township  
 North Brunswick Township  
 Old Bridge Township  
 Plainsboro Township  
 Sayreville Borough  
 South Brunswick Township

**Monmouth**

Atlantic Highlands Borough  
 Colts Neck Township  
 Freehold Township  
 Holmdel Township  
 Howell Township  
 Little Silver Borough  
 Manalapan Township  
 Manasquan Borough  
 Marlboro Township  
 Middletown Township  
 Millstone Township  
 Oceanport Borough  
 Shrewsbury Borough  
 Tinton Falls Borough  
 Upper Freehold Township

**Morris**

Boonton Township  
 Chatham Borough  
 Chatham Township  
 Chester Township  
 Denville Township  
 East Hanover Township  
 Hanover Township  
 Harding Township

Jefferson Township  
 Lincoln Park Borough  
 Long Hill Township  
 Mendham Borough  
 Mendham Township  
 Mine Hill Township  
 Montville Township  
 Morris Township  
 Mount Olive Township  
 Parsippany Troy Hills  
 Pequannock Township  
 Randolph Township  
 Rockaway Township  
 Roxbury Township  
 Washington Township  
 Wharton Borough

**Ocean**

Barneget Township  
 Brick Township  
 Dover Township  
 Jackson Township  
 Little Egg Harbor Township  
 Manchester Township  
 Ocean Township  
 Plumsted Township  
 Stafford Township

**Passaic**

Bloomington Borough  
 Pompton Lakes Borough  
 Ringwood Borough  
 Wanaque Borough  
 West Milford Township

**Salem**

Pittsgrove Township

**Somerset**

Bedminster Township  
 Bernards Township  
 Bernardsville Township  
 Branchburg Township  
 Bridgewater Township  
 Franklin Township  
 Green Brook Township  
 Hillsborough Township  
 Montgomery Township

Peapack & Gladstone Borough  
 Warren Township  
 Watchung Borough

**Sussex**

Byram Township  
 Frankford Township  
 Fredon Township  
 Green Township  
 Hamburg Borough  
 Hampton Township  
 Hopatcong Borough  
 Sparta Township  
 Vernon Township

**Union**

Scotch Plains Township

**Warren**

Allamuchy Township  
 Alpha Borough  
 Blairstown Township  
 Franklin Township  
 Frelinghuysen Township  
 Greenwich Township  
 Hardwick Township  
 Hope Township  
 Harmony Township  
 Independence Township  
 Knowlton Township  
 Liberty Township  
 Lopatcong Township  
 Mansfield Township  
 Pohatcong Township  
 Washington Township  
 White Township





**anjec**

ASSOCIATION OF NEW JERSEY  
ENVIRONMENTAL COMMISSIONS

P.O. Box 157  
Mendham, NJ 07945  
973-539-7547 tel  
973-539-7713 fax  
[www.anjec.org](http://www.anjec.org)