

**DRAFT  
FOSP  
Financial Resources**

The charge of the Town Council included the following:

8. FOSP shall prepare, for Town Council discussion, an evaluation of the financial resources necessary to achieve the strategic conservation priorities identified. Financial resources may include, but are not limited to, funding by town taxpayers, individual donations (land or dollars), donations and grants through CELT as well as State and Federal conservation funding programs.

FOSP conducted a review of financial tools used nationally and selected the tools below for more serious consideration. Below is a summary of possible financial tools:

1. Promoting Economic Viability of Agriculture Fund (PEVA). This is a potential new program established in the local budget intended to enhance the economic of farming in Cape. Existing farms may apply annually for a grant equal to the property tax they pay on the excess land used for farming. See attached sample spreadsheet.

Benefits: This program is targeted to existing farms and provides a grant with no reporting requirements to farmers.

Limitations: The grant program relies on an approved list of existing farms. It will also proportionally increase the overall town tax rate to pay for the fund, which is what happens to fund any town service.

**Recommendation:** FOSP does not recommend a promoting economic viability of agriculture fund (PEVA) due to its limitations.

2. Pennies for Open Space. This is a commitment by the Town Council to add one cent to each year's tax commitment and dedicate that revenue to open space preservation. If one cent was added to the FY 2012 tax rate, a total of \$16,530 dollars in revenue would be generated at cost of \$3.18 per median home (valued at \$318,600). If a nickel was added, \$82,652.00 would be raised at a cost of \$15.93 per median home.

As a reference, the town budget currently includes a land acquisition account. No funds have been budgeted to this account in the last five

years. Monies have been placed in this account in the past from selected land sales, open space impact fees, etc.

**Benefits:** The town has complete authority to implement this and then chose how funds are spent.

**Limitations:** An increase in the tax rate is a fundamental basis for assembling each year's budget and adding to that rate will make the budget process incrementally more challenging.

**Recommendation:** FOSP recommends that the Town Council implement a Pennies for Open Space policy to fund the land acquisition fund.

3. **Authorize Bond Issue.** Borrowing to finance capital improvements is a routine municipal financing practice. It allows communities to spread out the cost of expensive but necessary public improvements. The Town has borrowed using bonds to purchase open space in the past. This approach would authorize bonding for an open space purchase without first identifying the property to be purchased. Once the property is chosen, bonds would be issued for the amount of borrowing already authorized.

**Benefits:** This is a proactive method of funding open space preservation and allows the town to rapidly respond to open space opportunities.

**Limitations:** Bond issues raise the same concerns with increasing costs on municipal taxpayers as any other type of public financing. Public support for open space funding can also be greater when there is a specific parcel under consideration instead of a more general open space fund.

**Recommendation:** FOSP recommends a bond issue for open space to the Town Council.

4. **Local Option Real Estate Transfer Tax.** The state and county currently collect a tax on each transfer of real estate at a rate of \$4.40 per 1,000 of the value of the transfer. A local option would allow municipalities to add to that transfer tax an amount which would be dedicated to open space preservation. This technique is used in other states, but effort to adopt it in Maine have been unsuccessful.

**Benefits:** This is a guaranteed revenue stream that could be allowed to accumulate.

Limitations: It would require a change in state law at a time where new taxation has no support and would encounter the same resistance from county government as experienced previously.

**Recommendation:** FOSP does not recommend a local option real estate transfer tax, primarily because there is very little likelihood of a change in state law.

5. Local Open Space Fee. This fee is different from an impact fee in that there is no requirement that the amount of the fee relate to a proportional impact on open space. Fees are paid by users. Short of establishing a fee and collection method for town open spaces, the fee could be piggybacked onto another fee that already exists. For example, the Building Permit fee, which is set at \$10.00 per \$1,000 of building value, includes \$3 per 1,000 that is directed into a town infrastructure fund.

Benefits: This is a technique that collects small amounts over time than could eventually accumulate into meaningful financial support for open space preservation.

Limitations: Any new fee faces opposition and Cape Elizabeth has rejected fees for trash bags and parking at Fort Williams Park. The amount of funds generated will likely be very small and a suitable fee will need to be identified to “piggyback” this fee onto. Finally, depending on the fee used, the burden for paying for open space will likely fall disproportionately from those benefitting from the open space.

**Recommendation:** FOSP does not recommend a local open space fee.

6. Open Space Impact Fee. This fee is imposed on new development to pay for the cost of new services or facilities that will be needed by the development. Two U. S. Supreme Court decisions have established strict parameters for impact fees. Fees must be based on a calculation that logically ties the fee amount to the impact from the development. Fees cannot be used to fund a backlog of needs and must be returned to the developer if they are not spent within a specified time period, usually 10 years.

Example: Cape Elizabeth Open Space Impact Fee (Sec. 16-3-1(q))

Benefits: In Cape Elizabeth, the impact fee was adopted to replace an open space donation requirement in the Subdivision Ordinance that was legally vulnerable to challenge. The open space impact fee allowed the town to

continue its practice of setting aside land as part of development review. The fee is “paid” with a land donation. Lately, the Planning Board has opted to assess the fee instead of a land donation where the potential land did not fit within the town’s open space goals. The impact fee structure provides for the town to maintain the amount of open space per capita regardless of the level of new development.

The current open space impact fee in Cape Elizabeth is \$6,729 dollars or 14,767 sq. ft. per lot/unit.

**Limitations:** Impact fees cannot be set at an amount higher than the impact from new development. They also cannot be used to increase an existing community standard. The fee is only assessed on new subdivisions.

**Recommendation:** The FOSP Committee recommends that the Town retain the current open space impact fee structure.

7. **Grants.** State and federal governments and private foundations make funding available to preserve open space. The amount of funds available fluctuates, but is usually very competitive. Most grant funding requires a substantial cash match from the grant recipient.

**Benefits:** This can be a significant source of funding on a project by project basis. Grants can make it possible to double or triple the amount of funds available to purchase open space.

**Limitations:** Grant funding also typically includes conservation requirements, some of which may be inconsistent with Town open space goals. Even with grant funding, cash matching funds are almost always required.

**Recommendation:** The FOSP Committee recommends that grants be sought at appropriate opportunities.