

The background features a stylized landscape with green, triangular mountain peaks at the top and bottom. The middle section is a bright yellow field with a textured, brushstroke-like border separating it from the green areas.

Future Open Space Preservation Committee (FOSP) Public Forum

March 6, 2012

FOSP's Creation

Implement Rec & Open Space chapter of Comp Plan ahead of Land Use chapter:

- Use a public process

- Consistent with the Town Council Communication Strategy

- Incorporate the Cape Farm Alliance and the Cape Elizabeth Land Trust

- Respects private property rights

FOSP Committee Charge #1

- Coordinate with CFA & CELT
&
- Solicit Information, inventories, etc. regarding future open space preservation priorities

FOSP Committee Charge #2

Survey

Supervise a survey of town residents identifying priorities for specific parcels for open space preservation and preferred methods of funding

FOSP Committee Charge #3

Cost of Community Services

Determine the cost and benefits to taxpayers of housing growth versus the preservation of undeveloped land, using external consultant.

FOSP Committee Charge #4

Conduct a public workshop

With the CFA and CELT, focus on actions that both protect open space and promote sustainable farming, without constraining farmers' opportunities and infringing on private property rights.

FOSP Committee Charge #5

Define:

- **Rural Areas:** deleted from charge
- **Open Space:** Land and water areas, whether public or private, maintained in an essentially undeveloped state for use as active or passive recreation areas, resource protection, agriculture, or preservation.

FOSP Committee Charge #6

“Identify specific key parcels of land in town that are of the highest priority”

Request to Town Council to Replace this charge with one focusing on the long term execution and administration of FOSP Recommendations.

FOSP Committee Charge #7

- Develop a range of tools and approaches to preserve/protect/enhance critical parcels . . .
- . . . all of the approaches that are considered and recommended have to avoid infringement on personal property rights.

FOSP Committee Charges 8 - 10

- Evaluate the financial resources necessary to achieve the strategic conservation priorities identified.
- Review Growth Area definition and location, within the context of expected growth; seek public input.
- Produce summary report for TC.

Range of Tools

FOSP Public Forum - March 7, 2012

1. Restrictive Zoning

- Essentially prohibits development of private property due to profound public safety concerns without compensating the landowner for the loss of value to their property
- Examples include Cape wetlands zoning, floodplain zoning
- Benefits include protecting public health and safety/ Limitations include potential takings of private land.
- **Recommendation:** Do not expand use of this tool

2. Clustering

- Requires that a portion of land to be developed is set aside as permanently protected open space and development is “clustered” on a portion of the lot.
- An example is the Cape Open Space Zoning/RB regulations.
- Benefits include preserving open space without a public purchase and protecting private property rights. Limitation is greater density next to some abutters.
- **Recommendation:** Retain clustering

3. Open Space Impact Fee

- Fee is charged for new development based on the amount of open space already owned for public use. Fee is used to acquire more open space.
- Example is the Cape Open Space Impact Fee
- Benefits include proportional method of increasing open space as development occurs. Limitation is that fee cannot be higher than community standard of open space.
- **Recommendation: Retain fee**

4. Transfer of Development Rights

- Moves the right to develop land to another parcel of land with preservation of the first parcel.
- Cape TDR provisions
- Benefits allow preservation of land without expenditure of public funds with limitation that “receiving” parcel is developed more densely and rarely used tool.
- **Recommendation:** Retain TDR regulations

5. Fee Ownership

- This is the classic purchase of land from a private property owner and then restricting development of the land.
- An example is the Town Farm.
- Benefit is land is completely controlled with limitation that restrictions should be placed on the parcel to permanently preclude development and funding is needed for purchase.
- **Recommendation:** Continue to purchase open space

6. Easement

- Where the right to develop the property is removed without changing property ownership.
- An example is the Fowler Rd connector easement.
- Benefit is easement may be less expensive to purchase and property owner retains ownership with limitation that easement terms may not protect property or provide public access.
- **Recommendation:** Continue easement purchases and donations.

7. Donation

- When a property owner does not want his/her land developed and donates the land with conservation restrictions.
- An example is Winnick Woods.
- Benefit is cost savings in acquiring open space with limitation that conservation restrictions allow public access and flexibility to maximize tax benefits.
- **Recommendation:** Continue donation of land for public open space

8. Tax Acquired land

- Assumption of land ownership by the town for failure to pay taxes over 3 years and then retaining the land as open space.
- An example are the Forest Rd lots.
- Benefit is public ownership of lots that are often unsuitable for development (wetlands) with limitation that acquisition process is time-consuming for Town Clerk and land may not be conveniently located for open space.
- **Recommendation:** Tax acquired land should continue to be evaluated for open space.

9. Buy / Restrict / Sell

- Purchase of a property significant for open space, removal of the development value and then resale of the lot.
- Example is Scarborough Beach
- Benefit is acquisition costs can be reduced with resale with limitation that property may not resell for anticipated amount and transfer costs.
- **Recommendation:** Use tool when appropriate.

10. Partnerships

- The Town may pool resources with others for open space conservation.
- Example is Fort Williams Park, Robinson Woods
- Benefit is advancing open space goals without shouldering the entire financial burden with limitation that partners needs must also be accommodated and may add costs.
- **Recommendation:** Partnerships should continue to be established.

11. Grants

- When the state and federal government and private foundations offer funding for open space preservation.
- Example is Robinson Woods
- Benefit is this can be a significant source of funding with limitation that grants often require matching funds.
- **Recommendation:** Grants should be sought at appropriate opportunities.

12. Reduced Taxation

- Tax programs that reduce the tax burden of private property owners of open space.
- Example is State of Maine's Open Space, Tree Growth and Agriculture Tax Programs
- Benefit is these programs reduce the base value of land upon which the tax rate is applied, resulting in a smaller tax amount with limitation that taxes will still increase as the tax rate increases and usually require restrictions on the property.
- **Recommendation:** More information on these programs should be provided to property owners.

Open Space Priority Criteria

FOSP Public Forum - March 7, 2012

Process to establish Open Space Criteria

- Survey open space criteria in 10 communities
- Matrix of common/unique elements
- Decision to use criteria to focus priorities rather than encompass all opportunities
- Committee lists criteria and votes priorities
- Effort to tighten specificity of criteria/decision to leave criteria broad

1. Agriculture

- Undeveloped lands used for agriculture

2. Greenbelt Trails and recreation areas

- Land identified in the 2001 Greenbelt Plan

3. Wildlife Habitat


- Undeveloped lands that provide a habitat for wildlife as identified by State of Maine data such as the Beginning with Habitat information and field verified.

4. Other

- Significantly scenic, cultural and/or unique properties identified by the Town Council using a public process.

Public Comment

FOSP Public Forum - March 7, 2012

- 
- Do you agree with the Range of Tools to be used?
 - Should our open space priorities be focused or broad ranging?
 - Should we create a list of specific key parcels?

Next Steps

- Monthly meetings open to public
- Materials on town website: www.capeelizabeth.com
- Public Opinion survey March/ April
- Committee work deadline December 2012