MEMORANDUM

To: Board of Selectmen
From: Alan McClennen, Jr. Chairman
Subject: Open Space in Orleans, 25 Years of Success
Date: January 9, 2013

THE BEGINNING

The Open Space Committee was created by a vote of Town Meeting under Article 72 of the Annual Town Meeting of 1985, two years before your board was created under the Town of Orleans Charter in 1987. The committee by the vote was charged, “To do a survey of potential conservation and open space land in the Town of Orleans for the purpose of future consideration for possible acquisition at a later date and to report to the Board of Selectmen prior to the next annual town meeting.”

During its first year the committee of five appointed citizens produced a document called the Open Space Acquisition Plan to guide the town’s actions in pursuing additional open space parcels. The plan listed those parcels that were still undeveloped and that if protected could contribute toward maintaining the quality of life which the town enjoyed. The Plan identified 123 parcels of land ranging in size from one to 40 acres, all of which met the criteria that the committee had established. The working list contained about 774 acres of land, which represented about 5% of the total land area of Orleans.

In the spring of 1986 the committee proposed to town meeting that three private parcels containing 21 acres be acquired at a total cost of $2.5 million. Town meeting supported the request and negotiations began with the landowners.

At the Special Town Meeting in the fall of 1986, the committee requested and received an operating budget of $920. In addition, the committee was increased in size from 5 to 7 with the addition of representatives of the Planning Board and the Conservation Commission. The committee also prepared and submitted for approval, the first Conservation, Recreation and Open Space Plan thus making Orleans eligible for state and federal financial assistance.

Having undertaken all the necessary background actions to begin the acquisition of land, the Committee consummated its first purchases in 1987, now 25 years ago. Properties we know today as Window on the Cove Park, the Dickinson property at the Monument Road
landing on Crystal Lake, Pah Wah Point, Sea Call Farm and the MacGregor/Quigley lot on Town Cove were all acquired. Records show that the Town appropriated $4,215,000 to purchase these properties, received grant assistance of $672,850, or 16% of the total for a net cost to the taxpayers of $3,542,150 or $169,887 per acre.

After this initial success, the Open Space Committee, in 1988, made a decision to emphasize "the protection of water quality" as its major focus as it looked for additional acquisitions. Clearly, the first five acquisitions were consistent with this goal as they all bordered our fresh and salt waters.

The Committee responded to this goal by partnering with Brewster to acquire and protect 35.65 acres of land bordering Baker's Pond. Fifteen acres were in Orleans, the rest in Brewster. The land to be acquired bordered Baker's Pond and therefore met the basic goal. A more detailed analysis showed that the land was also located in the Zone II of Contribution to the Gould Pond well. In addition, all 35.65 acres were located in the ground water basins of Little Namskaket Marsh and Town Cove. Thus, protection of the land from development would prevent nitrogen loading of the ground water and the ultimate degradation of the salt waters of Town Cove. Although the initial cost of the acquisition of the Orleans section was $1,456,165 a grant from the State reduced the cost to $616,665 or only $39,403 per acre.

The second major acquisition in 1988 was the purchase of what we know as Kent's Point. This 27.7 acre parcel in the upper reaches of Little Pleasant Bay fronts on Lonnie's Pond, Little Pleasant Bay and Frost Fish Creek, and has over one mile of undeveloped frontage on Little Pleasant Bay. Following the completion of negotiations, the committee noted that this acquisition, "helped to preserve the Bay, water quality and the health of a substantial critical environment of regional and state significance."

With the completion of the acquisition of Kent's Point, the town had, in two years acquired 75.9 acres of land through the appropriation of $7,758,000 at town meeting. The net cost was less, as the town was successful in obtaining grants in the amount of $1,512,350 or about 19% of the total appropriation. The cost per acre was $54,597.

In 1989, the Committee stepped back from its early success and began to look at other less costly ways of protecting our valuable natural resources. With the help of the Compact of Cape Cod Conservation Trusts, the Committee proposed to the Board of Selectmen that the town promote the idea of private property owners protecting their property by placing Conservation Restrictions (CR's) on their own land. The land could be protected in perpetuity at no cost to the town.

In 1990, the Committee also worked with town officials and the Board of Assessors to implement what is called the Chapter 61 protection program. Under this program, a landowner with more than five acres of contiguous agricultural, conservation or forestland can request a reduction in taxes in exchange for a 10-year restriction preventing development. When this program was instituted, 207.47 acres of land were protected, including Pochet, Sampson and Hog Islands. Today, 117.47 acres remain in
the program. Ninety acres have been preserved through acquisition by the town. Just 8 acres have been removed from Chapter 61 protection. In the case of the islands, which are privately held by the Payson family, the public is allowed access to all three islands.

Land preservation in Orleans made headlines in 1990 as the Conservation Commission and the Open Space Committee received a national recognition through an award called the "Take Pride in America" for their joint efforts in the acquisition of Pah Wah Point, which had been subdivided and was planned for development.

For the remainder of the 1990's, as land values began to escalate, and leading to the adoption of the Cape Cod Land Bank in 1998, the town and the committee focused on the efforts to place CR's on privately held land and to encourage donations of land to the Orleans Conservation Trust (OCT). This joint public-private partnership was successful as the Conservation Trust with the approval of the Board of Selectmen, was able to hold CR's, on 23.94 acres of land, thus protecting the property in perpetuity. The OCT was gifted an additional 89.55 acres of land which is permanently protected and will remain in OCT's portfolio in perpetuity. The actions of the OCT resulted in the permanent protection of 113.49 acres of land with no town appropriation.

**THE CAPE COD LAND BANK**

Orleans voted to adopt the Cape Cod Land Bank in 1998. The commitment to open space preservation was clearly shown as 71% of Orleans voters supported adoption of the Land Bank, the largest plurality on Cape Cod.

Orleans modified its Open Space Committee and turned it into the Open Space/Land Bank Committee and reiterated its earlier focus to preserve the waters of Pleasant Bay by proposing to acquire the Christian property on Portanimicutt Road, and Heyelman's Bog at the end of Namequit Road. The Committee also moved to protect the shoreline on Cape Cod Bay with land acquisitions and CR's. When these acquisitions were complete, the Town had succeeded in controlling a significant portion of the Cape Cod Bay frontage to go along with the complete protection of its Atlantic Coast frontage with the help of the Cape Cod National Seashore. Working with the private landowners and the Orleans Conservation Trust, the Town succeeded in protecting 4 of the 5 islands in Pleasant Bay from any development.

In 1999, the second year of the Land Bank, the Town was able to acquire the Smith property on the west shore of Town Cove, thus providing only the second public access point on the west shore of that valuable salt water resource.

In 2000, the Open Space/Land Bank Committee increased its acquisition activity with the stated purpose of "protecting the valuable waters of Pleasant Bay." In addition, the committee focused on the Zone II of Contribution to our drinking water supply, which is located primarily in South Orleans. The Town acquired 25 acres to protect the groundwater around well #7 and another 10.82 acres to protect the water supply at well #5. The Committee noted that these two acquisitions protected our water supply, but also
prevented the possible construction of 30 homes in the sensitive Pleasant Bay watershed. It also noted that the funding for the Land Bank had allowed it to protect 72 acres of water sensitive land in Orleans, at a net cost of $3,146,800 or $43,705.56 per acre.

In 2002 the use of Land Bank funds resulted in the acquisition and protection of an additional 20.7 acres of land in the Zone II of Contribution of our freshwater wells. During the same period, the Town partnered with the Orleans Conservation Trust to protect an additional 15.42 acres of land through the use of CR’s. All of this land was located in the watershed of Pleasant Bay. As in previous years, it should be noted that these two actions removed the potential development of approximately 35 homes from the watershed. By the conclusion of 2002, Land Bank funds had been used to protect 93 acres of land and CR’s had been used to protect an additional 45.8 acres from development.

In 2003 an additional 20.31 acres were acquired and protected in the Zone II of Contribution of our wells and in the watershed of Pleasant Bay. By the end of 2003 at its five-year anniversary, the Land Bank reported that it had protected 118 acres. Of that total, 86 acres were in South Orleans and protected our valuable water supply and removed potential development from the watershed of Pleasant Bay. Once again, the Land Bank partnered with the OCT and an additional 37 acres were preserved using 10 town approved CR’s.

The Land Bank continued through 2005 and concluded with the acquisition of the Peck property on Arey’s Pond where 11.16 acres were protected in that sensitive watershed. At the same time, 6.6 acres of land were protected in the vicinity of Sarah’s and Meadow Bog Ponds. At the conclusion of the Land Bank, 124.6 acres had been protected and 91 acres were removed from potential development in the Pleasant Bay watershed.

THE COMMUNITY PRESERVATION ACT

In 2006, the Town voted to switch from the Land Bank program to the Community Preservation Act. Although this new program also permitted land preservation activities, it also allowed funds to be expended for affordable housing, historic preservation and recreation.

During the first 5 years, after the conversion from Land Bank to the Community Preservation, over 120.4 acres of open space were preserved through town actions. The funding for these acquisitions was made up of local funds, state and federal grants and private contributions. The total amount expended was $7,365,320 or an average of $61,173 per acre. Town funds have amounted to $2,422,520, grants have totaled $2,352,800 and the private fundraising effort has provided $2,590,000. Thus these lands under town leadership have been protected at a net cost to the town of only $20,120 per acre.
OTHER LAND PROTECTION EFFORTS

In addition to publicly directed land acquisition and preservation efforts as the town has moved to accomplish the 400 acre goal set forth in the Local Comprehensive Plan under Goal OS-2, there have been other efforts worth noting.

The Orleans Conservation Trust has been an important partner. Together, we have protected a total of 316.93 acres since the adoption of the 400-acre goal. The Town has acquired and preserved 231.89 acres in fee since 1999. An additional 85.04 acres have been preserved through CR’s held generally by the Orleans Conservation Trust. Thus the Trust has been an important participant in our land protection program.

The Trust also works independently of the Town through its own acquisition and donation program. Since the establishment of the original Open Space Committee in 1985, the Trust has independently acquired and protected 152.83 acres of land. Since the Land Bank was adopted in 1998, the Trust has acquired 44.6 acres of land.

A second land acquisition and protection program has involved a partnership between Orleans and Brewster. Our protected watershed, which is over a square mile in area, provides our fresh water drinking supply and is bounded on the west by Brewster. A significant portion of that Brewster land is also located in the watershed of Pleasant Bay and the Zone II of Contribution of our water supply wells. In 2010, Orleans and Brewster joined forces to protect 61 acres of undeveloped land in Brewster. Earlier this report, noted that in 1987 there was a joint Orleans/Brewster effort to protect 35.65 acres of land in the vicinity of Baker’s Pond. Twenty acres of that total are in Brewster so we have collectively protected 81 acres in Brewster to protect our drinking water supply, Namskaket Marsh, Town Cove and Pleasant Bay.

If you add these three efforts we have protected an additional 125.64 acres of land, which we keep separate from the 400 acre goal since they were not technically included in the original plan.

CONCLUSION

As I have presented this summary of 25 years of success, I have focused on acres protected and the cost to achieve the 400-acre goal. However, there are effects of land acquisition that go beyond the land itself. All too often we just focus on the benefit of having an inventory of public land. Some have argued that development of the land and the resulting taxes are the better option. As part of this review, I took a careful look at the properties the town has protected, particularly their physical location.
Early in the history of the land acquisition program, the town set clear goals to evaluate the land acquisition benefits, and particularly whether or not acquisition of a particular parcel would protect our drinking water supply as well as our fresh and salt water ponds and estuaries. A copy of the land acquisition criteria is attached. To date, after excluding small independent lots, just over 260 buildable acres have been preserved. Of that land, 165 acres are physically located in sections of town that are proposed to be sewered under the provisions of our Comprehensive Wastewater Management Plan (CWMP). That plan projects that as many as 2800 properties or 52% of the current inventory of properties in town might have to be sewered during the multi decade implementation program. Thus, our land acquisition program has had the effect of removing about 6% of all properties from the need to be sewered at less than the cost some have projected to sewer each parcel.

Additionally, by removing land from development we have prevented installation of new impervious surfaces such as roofs, driveways and subdivision roads, which would require the construction of new storm drainage systems to protect our waterways. We have also prevented the installation of new lawns, which quite likely would require fertilizer.

In conclusion, as you can see on the attached maps, which show parts of our inventory, our focus has been clear, as we have emphasized land acquisition and protection in the areas of town where it can make a difference. Our entire Atlantic shore is public, the Cape Cod Bay frontage is protected, our drinking water supply is the envy of most other towns on Cape Cod and we have moved strategically to protect our fresh and salt water ponds and bays from overdevelopment. Finally, we have an active water quality testing program manned by highly trained volunteers to insure that we understand the progress we are making to protect and where necessary restore these valuable natural resources.
READ KINGSBURY
Town Conservation Area and CLAY HOLE WOODLANDS

SE Brewster MA
June 2011

Prepared for Towns of Brewster and Orleans by Mark Robinson

Preserved Acreage.
2010-11:
Town of Brewster: 42 acres
Brewster Cons. Trust: 16 acres

Proposed 2011 Open Space Acquisitions:
Town of Brewster: 3 acres

Total by 2012: 61 acres

Harrington lot, 5 acres
Map 45, Parcel 39-1
$25,400 FY11
- bought for $3,300 in 1974;
- BCT bought for $16,000 in May 2011;
- includes documented vernal pool

Jackson lot, 3.04 acres
Map 45, Parcel 58-206
$250,400 FY11
bought for $270,000 in 2002;
March 2011 asking price $260,000;
April 2011 agrees to sell to Town for $225,000; need neighbors approval; no parking area

Read Kingsbury Town Cons. Area
22.5 acres

11.5 acres Town tax title parcel transferred to ConCom in May 2011

Pozzo home, built 2010

* = vernal pool

Pye driveway, legal ROW to Cons. Area

1 inch = 500 FT

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POLICY STATEMENT
CONSERVATION RESTRICTIONS

The Orleans Board of Selectmen recognizes that preservation and protection of the Town's scenic and natural resources - including clean air; pure water; open space; natural habitat of fish, wildlife and plants; and its open, rural seaside character - is of paramount importance to the health, welfare and economic well being of its inhabitants. The Board also recognizes that the continuing development of Orleans and increasing property tax burdens on its citizens pose a dual threat to the Town's ability to protect its natural resources through the direct fee purchase of open space.

In addition to outright acquisition of open space, conservation restrictions pursuant to Massachusetts General Laws, Chapter 184, Section 31, et seq. are a proper means to implement appropriate objectives of the Orleans Five Year Conservation, Recreation and Open Space Plan (1999) and the Orleans Comprehensive Plan adopted by the May 2001 Town Meeting, which seek to preserve the unique character of the Town.

The Board of Selectmen recommends conservation restrictions be in perpetuity. Less than perpetual, or term, restrictions will be considered only where a demonstrated critical public need exists.

The Board of Selectmen, in consultation with the Open Space Committee, the Conservation Commission and the Board of Assessors, must evaluate the extent to which a conservation restriction of a particular property will yield significant public benefit of a nature described by the "Objectives and Selection Criteria of the Open Space and Conservation Restriction Program."

Therefore, it is the policy of the Orleans Board of Selectmen to accept and/or approve conservation restrictions that provide significant public benefit and that conservation restrictions may be held by the Town of Orleans or state or federal agencies or qualified conservation organizations within the meaning of Section 170 of the Internal Revenue Code; and that conservation restrictions held by the Town will be administered and enforced by the Conservation Commission; and that approval of conservation restrictions by the Board of Selectmen as required by Massachusetts General Laws, Chapter 184, Section 31 et seq. shall be conclusive confirmation that the same yields significant public benefit of the type cited herein.

Date revised: May 7, 1997
Date adopted: November 5, 1997
Dates revised: 30 October 2002, 13 April 2005
OBJECTIVES AND SELECTION CRITERIA OF THE OPEN SPACE ACQUISITION AND CONSERVATION RESTRICTION PROGRAM

In order to meet the objectives mentioned herein, the following criteria for the acquisition of conservation restrictions are adopted consistent with the Orleans Open Space Acquisition Criteria outlined in the Orleans' Five Year Conservation, Recreation and Open Space Plan, updated to 1994.

It shall be the Town's objective to:

A. Protect the Town's present and future public water supply and its quality by means of acquisition of, or protection of, lands which:

1. Abut or expand the Town's wellfields.

2. Abut or are adjacent to the Town's watersheds.

3. Are within the zones of contribution for one or more of the Town's public water supply wellfields.

4. Are within the Town's Water Resource District as shown on the zoning map.

5. Would jeopardize the Town's water supply or quality if inappropriately developed.

B. Protect the Town's environmentally sensitive lands and water bodies which are:

1. Within the Areas of Critical Environmental concern (A.C.E.C.) designated by the Secretary of Environmental Affairs for Inner Cape Cod Bay and for Pleasant Bay.

2. "Other Areas of Environmental Concern", defined as lands that are adjacent to or otherwise outside of defined A.C.E.C.'s such as beaches, (salt and fresh water), wetlands, (marshes, swamps, bogs, meadows, ponds, and creeks), floodplains, and surrounding uplands.

3. Wildlife Habitats

   a) Providing a refuge to federally or state-listed endangered, or threatened species, or species listed as of special concern.

   b) Having significant indigenous species, which provide a strong and diverse genetic base for the species preservation.

   c) Providing "wildlife corridors" for wildlife indigenous to Orleans and considered part of its amenities.

C. Protect the water quality of the Town's salt and freshwater bodies by acquisition of lands such as:

1. Lands abutting marsh and wetlands.

2. Watershed lands.

3. Buffer strips of natural vegetation or other lands which could provide for drainage of road runoff, and other pollutants.

Cons. Rest. Pkg.
Adopted 11/5/97
4. Lands, the development of which, present an unacceptable risk of increased-pollution in the form of road runoff, septic leachates, or the disturbance of the natural landscape or wildlife habitats.

D. Protect the Town's recreational amenities, outdoor educational amenities, and economic resources by acquisition or protection of lands which:

1. Abut Town landings where development would be incompatible with the use of Town landings or to expand access.

2. Would contribute to, or provide a "Town Common Area".

3. Would promote fishing (fin fish and shellfish) by protecting habitat, limiting pollution, preventing inconsistent uses, expanding access.

4. Would promote the Town's farming or agricultural resources such as small farms, cranberry bogs, community gardens, forest resources such as tree farms and tree harvesting.

5. Protect or expand walking and bicycling trails as well as waterway/canoe trails by providing launching or haul-out locations, or lands which could provide locations for other activities usually associated with passive recreation as defined by Massachusetts Division of Conservation Services.

6. Provide for expanded recreational and open space facilities in various geographic areas in Town presently under supplied and including lands within a subdivision.

7. Expand existing public and private conservation recreation and open space lands.

E. Protect the Town's Scenic Resources by acquisition or protection of lands.

1. Which are plotted and defined by the Massachusetts Scenic Landscape Inventory as "noteworthy", "distinguished" and "common".

2. From which the public may enjoy outstanding views of water, wetlands, or other natural scenery.

3. Along the navigable waterways or scenic byways which are part of the "Cape Cod" landscape and which protect the rural seaside character of the community. Such byways may be designated by the Town or State as "Scenic Roads".

F. Protect historical and archeological sites situated on lands which:

1. Contribute to the unique Cape Cod character of the Town.

2. Provide historical, prehistoric or educational perspectives.

3. Meet the criteria of the National, Register of Historic Places or the Massachusetts Historical Commission.