

# Town of Bethlehem Open Space Program

March 2014

Open space planning has been actively discussed in Bethlehem for over a decade. It was identified as a goal in the 2005 Comprehensive Plan, and has been raised in Town Board discussions and by a number of advisory committees. Most recently, the Comprehensive Plan Assessment Committee's report in June 2013 summarized the work of earlier groups including the Citizens Advisory Committee on Conservation (CACC). CACC produced several invaluable tools that provide the framework for the Town to move forward with open space planning. Over the years, open space discussions have always recognized participation of willing landowners as a fundamental ingredient, which continues to be the basis of this program. The Program will be guided by the Comprehensive Plan's goal to work with willing landowners to conserve quality open spaces throughout the town.

A review of studies of the costs and benefits of open space protection conducted by the Office of the State Comptroller finds that open space can be financially beneficial to local governments by reducing costs for public infrastructure and programs, and that well planned open space protection measures need not conflict with economic development. The Town's long-term interests and its policies should reflect the positive economic, environmental and quality-of-life effects of open space found in many reports. Improved planning for open space can also encourage private land conservation.

While there are diverse views on the topic, it is time to move forward with a reasonable open space planning program that paves the way for a more proactive approach by the Town of Bethlehem in light of continuing development pressure, dwindling open space and rural areas, and a broadly shared view that steps should be taken to preserve the quality of life and character of our Town. It is widely recognized that voluntary cooperation from willing landowners is an essential component of the program.

**Now, therefore, the Town of Bethlehem adopts an Open Space Program as described below.**

**As an initial step in this program, the Town is establishing an Open Space Technical Advisory Working Group.**

These volunteers will work with the Director of Planning to provide the Town with guidance on criteria and mechanisms for conserving lands. This is the first step in developing the Open Space Program as described below. This group, working with the Director of Planning, will produce additional outlines, resolutions, and suggestions for local laws to be considered by the Town Board, which is the decision making body for the Open Space Program.

Members initially recommended to the group include: Mark King, Joseph Castiglione, Maureen Cunningham, and David VanLuven. At the discretion of the Director of Planning, members may be added as work advances and particular areas of technical expertise are needed.

## **Elements and Tools of the Program**

The working group will address the following open space tools and elements, and provide the Town Board with a format for implementation (as desired). Additional Program descriptions and information will be created over time, as Town Board decision making progresses. Following are the elements and tools of the Open Space Program:

1. **Develop objective criteria for evaluating lands.** Such criteria, after development, would require Town Board approval via resolution or local law. The criteria would serve as the measurement for identifying potential conservation lands with the cooperation of willing landowners; as a guide for the Planning Board in reviewing conservation subdivisions and considering Parkland set-asides; and as a screening tool for lands put forth by landowners. In addition, the criteria could help identify features, characteristics, and general qualities of land (i.e., not parcels) that could be prioritized. The development of criteria would not

restrict a landowner from developing their property pursuant to the Zoning Law and Subdivision Regulations.

2. **Incorporate new conservation tools into Town planning.** Bethlehem currently employs several tools to support open space planning (e.g. conservation subdivision, PDD, etc.). The following concepts could be incorporated into the Town planning process in order to enhance its approach to open space planning.
  - Add Amenity Zoning to Town code. Amenity Zoning encourages developers/landowners to provide amenities for open space in exchange for zoning incentives. It has a dual benefit to provide either onsite conservation, offsite parcels or cash in lieu of that could be dedicated to an open space fund. This could be incorporated into Town code now.
  - Formalize a process for working with area land trusts. For example, in instances of conservation easements, the Town should have an established, formal process for working with land trusts in order to reduce Town costs and staff resources, as well as benefit all involved parties.
3. **Set up a Capital Reserve Fund as a designated fund for open space funding opportunities** (e.g. land acquisition or development rights). The reserve fund can be established at any time, as the Town considers means to acquire funds, through advice from the Technical Advisory Group, Town Board discussions, and public input. Funding streams to consider include:
  - Private Donations and collaboration with private and non-profit entities with mutual interests in open space protection.
  - State and Federal grant funds, including: NYS Local Government Efficiency and Performance grants, NYS Environmental Protection Fund, Clean Water State Revolving Fund, US Department of Interior, Land and Water Conservation Fund; Farm Security and Rural Investment Act.
  - Municipal funds, including: Parkland set-aside funds; direct appropriation from General Fund monies, e.g. from unanticipated surplus funds; new bonding, and other methods recommended by the advisory committee.
  - Cooperative agreements with other municipal entities to share funding of open space protection where there are mutual benefits, overlapping jurisdiction, or management or operational efficiencies (e.g. connectivity, access, maintenance, etc.).
4. **Select mechanisms for preserving open space.** Once land preservation criteria are developed (see Item 1) the working group will need to evaluate the mechanisms that could be used to preserve open space. The mechanisms listed below will be considered by the working group. Many of these mechanisms can occur in collaboration with local land trusts, or other voluntary efforts.
  - Municipal ownership: Outright purchases of land by the Town, which is then responsible for maintaining it.
  - Conservation Easements (including possibly term conservation easements): A conservation easement restricts or eliminates the development potential of a property. Easements may be purchased, with the price based on the value of the development rights extinguished or donated with the landowner utilizing tax deductions based on the value of the restrictions. A combination of purchase and tax deductions is also possible. With the exception of term easements, conservation easements are perpetual and run with the land regardless of ownership. Properties encumbered by conservation easements remain privately owned and taxable. Term conservation easements are most useful in circumstances when time is needed to secure or finalize acquisition of permanent easements or purchase. They can provide property tax relief to landowners agreeing to conserve open space resources on their land for a given term of years, but are not eligible for income tax deductions.

- Purchase of Development Rights (PDR): this term usually refers to a government-run conservation easement program. PDR's allow willing landowners to sell the development rights of their property but leave the land to be used as farmland or other non-developed purposes.
  - Transfer Development Rights (TDR) or Inter-municipal TDR. TDRs allow willing landowners to transfer the right to develop an area of land to a different area of land through permanent conservation easements. This can happen within Bethlehem or across neighboring municipalities. TDRs require zoning code amendments and the rights for development are bought and sold on the open market. The benefit of inter-municipal TDRs is it broadens the areas for identifying attractive sending and receiving lands.
5. **Educate and outreach.** Bethlehem residents are interested in open space. However, contention often stems from miscommunication and misinformation, and community engagement is important. The Town with assistance from the Technical Advisory Group could develop materials and organize informational sessions to educate residents on the benefits of open space planning, and promote existing conservation and stewardship options to interested landowners. Education and outreach is also essential to explain options available to those interested in pursuing a more formal mechanism of open space conservation.