



SUDBURY
VALLEY
TRUSTEES

Conservation, Collaboration, and Community since 1953

February 20, 2013

Roland Bartl, Planning Director
Town of Acton
427 Main Street
Acton, MA 01720

Dear Mr. Bartl,

Twelve years ago, Massachusetts adopted the Community Preservation Act (CPA), providing municipalities with a valuable financial tool to protect open space. It enables citizens to make decisions about the character and future of their communities and to ensure a quality of life that will sustain a healthy environment and local economy. We at Sudbury Valley Trustees applaud Acton for being one of the communities that had the foresight to adopt this valuable legislation.

There have been a few recent changes to the CPA that might benefit your community. Listed below are some of the key changes that apply to CPA open space and recreation projects and you can find additional information about these changes at <http://www.communitypreservation.org/content/advocacy>:

- Additional municipal revenues, such as hotel/motel excise taxes or cell tower mitigation funds, may be dedicated to a CPA Fund up to the full 3% of the real estate levy against real property. Communities may lower their surcharge percentage in order to dedicate these additional revenues to their CPA Funds.
- The changes redefine the term "deed restriction" to the more appropriate "permanent restriction," and clarify that a real property interest acquired by a municipality using CPA funds must be bound by a permanent restriction recorded at the Registry of Deeds. A permanent restriction can be held only by a governmental body or charitable organization and cannot be held by the landowner.
- The changes also confirm that the municipal legislative body may appropriate CPA funds to compensate a non-profit organization for its costs to hold, monitor, and enforce CPA-required permanent restrictions.

In 2012, changes were also made to the Massachusetts LAND grant criteria pertaining to CPA acquisitions. Now, ***any municipality that has ever acquired open space using CPA funds must place the required permanent restriction on the property in order to be eligible to receive LAND grant funding for any future projects.***

For six decades, SVT has facilitated land conservation projects large and small. Since the CPA's passage, SVT has partnered with municipalities numerous times to acquire conservation land or conservation restrictions. Most of those projects would not have been possible without CPA Funds. Please see the enclosed document for more information on permanent restrictions, their associated costs, and SVT's potential role in facilitating such projects.

If SVT may be of help to Acton with a particular CPA open space project, please contact me at 978-443 -5588 x115 or at ccollins@svtweb.org. We would be pleased to collaborate with you.

Sincerely,

Christa Collins
Director of Land Protection



The Community Preservation Act and Conservation Restrictions

When a municipality purchases land with Community Preservation Funds, a permanent restriction, usually a Conservation Restriction (CR), must be recorded on the property and held by a qualified third party, such as Sudbury Valley Trustees. SVT holds CR's on a number of properties that municipalities in our region have acquired with CPA funds, a few of which are described below. SVT staff is also available to consult in the early stages of a land protection project to help towns determine the best steps in moving forward with a conservation land transaction. This overview explains permanent restrictions and SVT's roles in land protection and long-term property stewardship.

PERMANENT RESTRICTIONS

Permanent restrictions under Mass. Gen. Laws Ch. 134, Secs. 31-33, are legal agreements entered into between a landowner (in the case of CPA, a municipality) and a qualified conservation organization or a government entity. Restrictions may be co-held by two such entities.

Permanent restrictions can be used to protect sensitive natural resources or unique habitats, working farmland, historic resources, drinking water supplies, and scenic views. A Conservation Restriction (CR) is the type of restriction most commonly used in open space protection, as it can be written to protect not only natural resources but also the other resources listed above.

In Massachusetts, CRs must be approved by the municipality *and* by the Massachusetts Executive Office of Energy and Environmental Affairs (EOEEA).

SVT'S LAND PROTECTION ROLE

SVT land protection staff has assisted many landowners and municipalities with conservation projects. Our staff can help in the transaction stage of a project, by providing input into designing a project to accommodate various public interests, helping with outreach around Town Meeting votes, and coordinating due diligence. Covering SVT costs are a permissible use of CPA project funds.

Financing the purchase of a CR is not always possible with CPA or other municipal funds alone. SVT staff can also assist by identifying appropriate grant opportunities, applying for grant funding and engaging in private fundraising.

The first step in planning for a CR is to determine the geographic coverage of the restriction, the prohibited uses and the allowed uses. For CR's over municipal lands, including parking and trails among the allowed uses may be an important consideration. After a preliminary draft of the CR has been approved by the municipality and the CR holder(s), it must be sent to EOEEA's Division of Conservation and Recreation for review and comment. Once the terms have been agreed upon by all of the parties involved, signatures must be obtained from municipal officials, the CR holder, and EOEEA. The fully-executed CR must then be recorded at the Registry of Deeds.

LONG-TERM STEWARDSHIP

SVT can also serve as holder of the CR. The holder of a CR has a perpetual obligation to monitor the property annually for compliance with the CR terms and to legally enforce the terms of the CR, if ever necessary. Annual monitoring is also a good way for the holder to stay in touch with the municipality about any stewardship issues that may have arisen over the course of the year. CR holders do not have any maintenance responsibilities, though SVT does contract separately with municipalities to do trail work and other stewardship activities on conservation land.

Contemporaneously with the recording of a CR, SVT stewardship staff will create a "Baseline Documentation Report," consisting of maps, written and photographic documentation of land conditions at the time the CR is written, and the CR itself. Each year, conditions on the land will be compared with those described in the Baseline Documentation.

In order to fulfill its obligation to monitor CR's annually, SVT allocates funds to its permanent stewardship

endowment for every CR it accepts. These funds are most often provided by the municipality granting the CR, in recognition that SVT is providing a valuable and ongoing service to ensure that the conservation values are maintained.

CPA funds can be used for stewardship endowment contributions, the costs of creating the baseline documentation, and for other costs incurred by SVT in assisting with a project and holding a CR.

Note that Community Preservation Funds can also be used by municipalities to purchase CR's over land that stays in private ownership. A municipality that purchases a CR from a landowner (as opposed to an outright, or fee purchase) may also want to consider contracting with SVT for annual monitoring if town staff or volunteers are not able to do so.

SVT CPA PROJECTS

Pantry Brook Farm, Sudbury, 2012. SVT and the Town of Sudbury partnered on the protection of 94 acres of open field and woodland on both sides of Concord Road, in two conservation restrictions. The project was funded with a combination of \$7.76 million in Sudbury CPA funds and a generous grant of \$150,000 from the Sudbury Foundation. The CR's are co-held by SVT and the Town of Sudbury. Approximately 6 months after purchase, the Town was awarded a \$400,000 LAND (Local Areas for Natural Diversity) grant, which offset that amount of the Town's portion of the purchase price.



Sweetwilliam Farm, Upton, 2011. SVT and the Town of Upton partnered to protect a 96 acre historic farm through a combination of fee purchase and conservation restriction. For a total of \$1,275,000, the Town purchased 64 acres of the farm outright, and a 23 acre CR on the agricultural areas. The Town and SVT co-hold the CR on the working farm portion, and SVT holds a CR over the Town-owned portion. The project was funded by a \$500,000 LAND (Local Areas for Natural Diversity) grant and a \$74,000 contribution from SVT with the remaining \$701,000 funded by CPA funds.

George & Lucy Yapp Conservation Land, Littleton, 2009. The Town of Littleton, SVT, and the Littleton Conservation Trust (LCT) partnered to protect the 54-acre Yapp property on Newtown Road. SVT was hired by the Town to complete a state LAND grant. Purchase of the property for \$930,000, using the \$500,000 LAND grant award and CPA funds, was nearly unanimously approved at Littleton Town Meeting. The Town granted the CR to SVT. Six acres of the property is being used by the Town for community gardens and the remainder will be used for passive recreation and will enhance existing trail networks.



Fruit Street, Hopkinton, pending. In 2003 the Town of Hopkinton purchased approximately 250 acres of land along Whitehall Brook, with a portion of the purchase price coming from the Town's CPA fund. The Town developed a 25-year Master Plan for the site, which were to include an active recreation facility, affordable housing, potential future well sites, a DPW facility, wastewater disposal, and approximately 145 acres of open space for passive recreation and three wellhead areas. A CR is to be granted over the 145 acres of open space, to be co-held by SVT and the Hopkinton Area Land Trust. It is anticipated that this will be completed by June, 2013.