

CONNECTICUT
Land Conservation Council

Testimony on Proposed Senate Bill No. 181
Planning and Development Committee
Submitted by Amy Blaymore Paterson, Esq., Executive Director
Connecticut Land Conservation Council
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Co-Chairs Cassano, Lemar, and Logan, Ranking Member Zawistowski, and Members of the Planning and Development Committee:

Thank you for this opportunity to present testimony on behalf of the Connecticut Land Conservation Council (CLCC) in strong support of **Senate Bill No. 181 (SB 181), AN ACT ESTABLISHING A PILOT PROGRAM FOR THE PRESERVATION OF OPEN SPACE, with three modifications as detailed below. We thank the Planning and Development Committee for raising this bill to provide the city of New London and the towns of Bethany, Bolton, and Lyme with the option to establish a local source of funding for the acquisition and stewardship of open space, farmland and water resources (collectively referred to herein as “land conservation and stewardship”).**

As the state’s umbrella organization for the land conservation community, including its 137+/- land trusts, the Connecticut Land Conservation Council (CLCC) advocates for land conservation, stewardship and funding, and works to ensure the long-term strength and viability of the land conservation community in Connecticut. Establishing a local funding option for land conservation has been a top priority for CLCC for several years.

The problem: Most cities and towns across Connecticut do not have a permanent, reliable source of funding to use in their land conservation and stewardship efforts. CLCC is contacted on a regular basis by land trusts and the municipalities with which they partner, seeking advice on funding sources to use for their conservation and stewardship projects. In most cases, the need for funding arises from a match requirement from state or federal grant programs; or to cover expenses for the due diligence associated with land transactions (appraisals, legal, surveys, environmental assessments); or, after the deal has closed, the municipality’s need to implement land management planning, invasive species control (both terrestrial and aquatic) or other stewardship - related work to protect and enhance the land and/or water.

The solution – a pilot program: SB 181 would enable, but not require, four municipalities with an option to establish their own dedicated source of land conservation and stewardship funding by adopting a local program to impose a conveyance fee of up to 1% on the purchase of real estate. The first \$150,000 of the purchase price would be exempt from the fee. Unlike iterations of the bill proposed in previous legislative sessions which sought to provide the enabling authority statewide, SB 181 would only apply to municipalities that have asked for the option.

The benefits of a local option: SB 181 does not impose a mandate upon the four municipalities to establish the program; rather, if enacted, this legislation would merely allow these communities to decide through their



respective local public approval processes, whether to take advantage of this mechanism for raising revenue to acquire, preserve and protect open space, including parks and water resources, and farmland. These funds could be used to match available state and federal grants, leverage additional funds for open space, and/or to help repay local bonding for open space.

Positive Precedent: The concept of a local conveyance fee program is one that has been tried and tested in neighboring states – and the precedent is quite positive. States including Massachusetts, New York, Rhode Island, Pennsylvania and West Virginia have allowed some municipalities to enact a buyers' conveyance fee, with the income dedicated to conserving and caring for local natural areas. These programs have proven successful, resulting in the protection of thousands of acres of open space, forests, meadows and farms.

Attached to this testimony are case studies compiled by Audubon Connecticut from information from several of these states. Of significance is a February 2017 article reporting on the success of the program a decade after it had been adopted by the town of Warwick, New York.

Local impact – Community Choice: SB 181 is about local impact and community choice. Since the funds are collected and expended locally, there is no adverse fiscal impact on the state budget. Indeed, considering the current budget crisis -- impacting both state and local economies -- there perhaps has never been a better time to allow these municipalities – all of which have asked to be included in the pilot program – with the option to pursue alternative funding mechanisms to help them achieve their land conservation, stewardship, and community planning goals.

To that end, we request the following modifications of the bill:

1. Section 1 (a): Add the following towns whose chief elected officials have requested inclusion in the pilot program: Bozrah, Colchester, Coventry, North Stonington, and Ridgefield.
2. Section 1 (a): Delete the phrase “*for a two-year period beginning July 1, 2018.*” This restricted timeline would not provide the municipalities with sufficient time to either implement the program or evaluate its effectiveness: and
3. Section 1 (d): Delete the entire section requiring an evaluation of the pilot program by OPM. As a purely local option, with no statewide impacts, the municipalities choosing to adopt the program are in the best and most logical position to evaluate the efficacy of the conveyance fee upon their communities. This provision provides an unnecessary responsibility on the state.

On behalf of the Connecticut Land Conservation Council, I commend the Committee for recognizing and respecting the desire of these municipalities to allow their residents the choice to decide whether a local conveyance fee program is the right option for their respective communities. We thank you for this opportunity to provide our comments and would be happy to answer any questions you may have and provide additional information about the wonderful conservation work undertaken every day in every community across the state.

The Warwick Advertiser

A decade of success for Warwick's farmland and open space has been a success

The Warwick Advertiser, February 9, 2017

By Roger Gavan

Thousands of acres have been preserved while also bolstering the area's agri-tourism economy.



File photo by Roger Gavan Bellvale Dairy Farms: Today almost every resident is within a short drive or even a walk to a picturesque view of a farm, a mountain, a lake, a park or a forest.

WARWICK — In the late 1990s many residents and farmers were lukewarm about the idea and the expense of farmland preservation and quite a few were dead against it.

Although purchasing development rights had been successful in Long Island, local farmers were hard to convince.

In those days, development rights, which for the past 10 years have been funded by county, town and home sales, were purchased through an approved bond referendum. And in 1998, the Sweetman Farm became the first of many to sign on.

“Go up by the creamery on Mount Peter and lookout on a thousand acres of undeveloped property in the Warwick Valley,” said Al Buckbee, owner of Bellvale Farms and the second farmer to join the Property Development Rights (PDR) program. “That’s a magnificent view and a terrific benefit for all the people who live here. And I’m always amazed by the number of people who choose to run or walk along the picturesque roads adjacent to my farm instead of a track.”

Buckbee explained that PDR gave farmers an opportunity to do what they love and still benefit from the appreciation of their land.

The legacy of Seymour Gordon

Much of Orange County's beauty has been preserved thanks to the work of the late Seymour Gordon, who was involved in the promotion of agriculture and open space preservation since the 1940s.

Gordon spearheaded the Warwick Purchase of Development Rights Alliance, which subsequently labored to achieve the authorizing of a bond issue that not only permanently preserved more than 2,500 acres of Warwick farmland and saved 17 farms at that time, but also resulted in other local improvements including the development of a Town beach at Greenwood Lake. There are now 21 farms preserved by the bond referendum. .

Gordon, who passed away in 2010, was also involved with Warwick Conservancy and he became a founding member of Sustainable Warwick.

Ten years ago this coming April, homebuyers in the Town of Warwick began paying a real estate transfer tax.

In November 2006, voters had approved the measure that called for 0.75 percent of the purchase price on new real estate sales be used by a Community Preservation Fund (CPF), which would preserve open space by buying the development rights to farms.

"I always believed the Community Preservation Transfer Tax would benefit Warwick and only increase the value of our community, making it an even more desirable place to live," said Warwick Supervisor Michael Sweeton. "Since it's passage by our residents the fund has allowed us to preserve more than 2,000 acres of farmland that to this day remain in farming.

"Many of these farms have diversified thereby bolstering our agri-tourism economy, adding millions to our local economy with very little added tax burden," the supervisor added. "Newcomers recognized the special place Warwick is and gladly contributed to continue the efforts of those who came before them."

Sweeton cited examples of agri-tourism including the popular Bellvale Farms Creamery, Pennings Orchard and Farm Market and other farms attracting numerous tourists during the apple and pumpkin-picking season.

Defining community

Home sellers and real estate agents, however, were not pleased with the tax at that time. But although not everyone is on board, some now see the value of preserving open space as a unique quality of life consideration for buyers in this area compared to neighboring communities.

"I must admit that I was initially against the Warwick Preservation Fund Transfer Tax, not because I didn't believe in its merits, but because I am against most taxes in general," said Geoff Green, owner of the Green Team Home Selling System. "With that said, I did what I could to keep a lid on my opinion because I knew smart people were at the helm. Sure enough those smart people were right and it has turned out to be a huge success for Warwick. We all really owe a debt of gratitude for those who pushed it through."

Farsighted individuals, community organizations and public and private agencies played key roles in this success. And today almost every resident is within a short drive or even a walk to a picturesque view of a farm, a mountain, a lake, a park or a forest.

There are currently nine farms, totaling approximately 770 acres, in various stages of land preservation.

"Warwick's bold and far reaching efforts to preserve open space have been a win-win proposition," said Town of Warwick Historian Professor Richard Hull. "Through extraordinary foresight, we have saved critical aquifers, lakes and streams, productive farmlands, natural forestlands and wetlands and scenic landscapes for ours and future generations. These visionary and synergistic efforts have strengthened our sense of common identity and are helping to make our community a safer, healthier, happier and more beautiful place in which to live and to raise our families."

Municipal Open Space Funding Option

Case Study: Warwick, NY

Warwick NY is a rural town of 32,000 people in southeastern NY State. It includes several villages and hamlets nestled in a landscape of rich flat farmland framed by forested mountains reflected in its scattered lakes and ponds.

In 1999, facing the rapid development of subdivisions, the town adopted a Comprehensive Town Plan that included a commitment to protect open space and agricultural farmland “in perpetuity.” A citizen survey had indicated that “maintaining the rural character” of Warwick was the goal of the Plan which got the most support. The Plan’s strategy for meeting this goal included the purchase of land and/or development rights within the town, guided by a citizen’s committee set up to prioritize open space and farmland protection.¹

In 2000, the town approved a \$9.5 million bond issue to pay for this proposed land conservation. An additional \$5.5 million was pledged from county, state and federal partners, as well as from private foundations and donations¹. In 2005, to help pay off the bond and to expand the program, the town was granted enabling legislation by NY State that allowed the town to impose a real estate buyer’s transfer fee of 0.75%, with receipts from the fee dedicated to land conservation.¹

Since inception of the plan, and augmented by income from the transfer fee, Warwick has now protected over 3,200 acres and holds the development rights (conservation agreements that prohibit development) on 32 farms. **Warwick is meeting its goal of maintaining its rural character and its land value**, while surrounding towns have lost many farms and forests to development, according to an Orange County Land Trust land agent who works in partnership with the town.

Supervisor (Mayor/Selectman) Michael Sweeton of Warwick sums up the transfer fee program after 10 years: **“By all measures the program has been a huge success in preserving our working farms and protecting our quality of life. While the local realtors saw doom and gloom when it was proposed they now all seem to acknowledge it has enhanced rather than diminished values in our town. During the crash of 2007-2008 property values in Warwick fell less than in other towns in Orange County.”**

The fee brings Warwick about \$50,000/month, funding land conservation, monitoring and oversight (provided by the Orange County Land Trust).

The proposed enabling legislation aims to achieve similar land conservation and stewardship success in select towns throughout Connecticut.

¹ Town Board of the Town of Warwick, NY, *Community Preservation Project Plan*. 17 August 2006. Retrieved from <http://www.townofwarwick.org/agriculture/pdr.shtml>.

Municipal Open Space Funding Option

Case Study: Jefferson County, West Virginia

In 2002 the West Virginia legislature passed the Voluntary Farmland Protection Act, which allows every county in the State which has formed a Farmland Protection Program to fund farmland conservation by means of a county transfer fee of up to 0.22 % on buyers of real estate.¹ As of November 2017, **Farmland Protection Programs in 21 counties in WV are using the fee to fund the acquisition of the development rights (easements) on a total of 26,242 acres of agricultural lands**, with many farms currently in negotiation.²

Jefferson County, the easternmost county in West Virginia, is in the beautiful Shenandoah Valley, famous for civil war battles, John Denver's song "Take Me Home, Country Roads," and Punxsatawny Phil. Half of the 200-square-mile area is considered farmland (mountain ridges are excluded). Its population of 44,000, with a median household income of \$56,000, is concentrated in several small cities and dozens of small villages.³ Development pressure on the County stems in part to its location 66 miles northwest of Washington, DC.

Jefferson County was one of the first in West Virginia to take advantage of the option to place a transfer fee on real estate conveyances. **To date, 4028 acres (40 farms) have been protected from development in perpetuity by the Jefferson County Farmland Protection Board**, using \$14 million in funds from the transfer fees augmented by partnerships with the USDA, historic preservation groups, and donations of land and cash from individuals and foundations.⁴ An excellent website for the Board is found at <http://jefferson.wvfp.org> and provides a link to its ambitious 2017 program.

Note that this program is only for farmland protection, on farms over 20 acres in size. Farms usually include a variety of wildlife habitats, but other organizations are required to protect open space in county areas with habitats that primarily have non-farmland soil types (including steep slopes, rock outcrops and wetlands). Agencies devoted to historic preservation, on the other hand, have provided additional funding support for preserving farms on historic battlegrounds. This is important for protecting the tourist industry, which is an important economic engine in the county.

A realtor at Pearson Smith Realty said the housing market is currently strong in Jefferson County, after a difficult time in the recession, especially when gas prices were high (affecting commuters to the Washington DC area). He feels **there is no significant impact on the market from the transfer fee**. Land values have steadily increased recently, and the beauty of the farms preserved is a major selling asset for realtors attracting buyers to the area.

¹ Voluntary Farmland Protection Act, WV Code §8A-12-1 et seq, 2000

² "Yearly Statistics." West Virginia Farmland Protection, 2016, wvfp.org/about/statistics/#.WnIeGq6nGM8.

³ "QuickFacts Jefferson County, West Virginia." United States Census Bureau, 1 July 2016, quickfacts.census.gov/qfd/states/00000.html.

⁴ "Jefferson County's Protected Farmland Grows to 4,028 Acres with 40th Farm." Jefferson County Farmland Protection Board, 19 Aug. 2014, jefferson.wvfp.org/2014/08/20/jefferson-countys-protected-farmland-increases-4028-acres-40th-farm/#.WnIj3q6nGM8.

Municipal Open Space Funding Option

Case Study: New Shoreham (Block Island), RI

At a Special Town Meeting in 1986, voters of the Town of New Shoreham, RI (Population ca. 1000, median household income \$44,000) adopted a resolution establishing the quasi-municipal Block Island Land Trust (BILT.)¹ The resolution, enabled by an act of the Rhode Island Legislature, authorized the collection of a transfer fee on sales of real property on Block Island, which is currently set at 3% for funding conservation by the BILT.

The BILT has been authorized by the Town to issue up to \$6,000,000 in bonds, paid for with the fee income. Five unpaid Trustees, elected by the town for staggered four-year terms, administer the Land Trust.¹

The BILT's mission is to acquire and preserve open space on Block Island for conservation, recreation, aquifer protection and agricultural uses, acting on behalf of the Town, based on the Town's Comprehensive Plan.² Protection can be by acquiring the land outright or acquiring the development rights or easements on the land (a land use agreement that restricts certain and uses).

The Block Island Land Trust works in close cooperation with The Nature Conservancy and the Block Island Conservancy, both with offices on the island. After 40 years, BILT is nearing the Town's Comprehensive Plan goal of protecting 50% of its land. This includes land held by Block Island Land Trust, Block Island Conservancy, The Nature Conservancy, Town of New Shoreham, Rhode Island Department of Environmental Management, Audubon Society, United States Government, and United States Fish & Wildlife Service.

As an indication of popular support, the most recent town-wide survey indicated over 80% of respondents support the BILT program.² Moreover, despite a conveyance fee that is higher than in other towns surveyed, the real estate market in New Shoreham appears strong, resulting in increased income over the from the 3% transfer fee (about \$1.5 million last year). Tourism continues to be a major draw, due to the beauty of the natural landscape and farmland being protected by conservation.

Kate Butcher, a realtor and owner of Block Island Realty, said that **the 3% transfer fee has been "really good" for Block Island** and has not interfered with the real estate market since there is an exemption for affordable housing and first time homebuyers.

¹ Tarbox, Heidi. "Block Island Land Trust." Town of New Shoreham, 2007, www.new-shoreham.com/displayboards.cfm?id=14.

² New Shoreham Planning Board, *New Shoreham Comprehensive Plan*. 12 October 2016. Retrieved from <http://www.new-shoreham.com/displaynews.cfm?id=267>