

Town of Ipswich, Massachusetts

Policy Directive

Date Adopted 01/29/01

Policy Name: Acquisition of “Interests” in Land for Open Space Preservation, Water Supply Protection, Recreation, or Limited General Municipal Purposes

Policy Description:

This policy directive establishes a set of procedures and criteria for acquiring “interests” in land identified on a “Listing of Properties and Parcels of Priority Interest”, on file with the Office of the Town Clerk and the Department of Planning and Development. The hierarchy of "interests" begins with conservation restrictions, agricultural preservation agreements, and development rights, and extends to the purchase of title or fee interest in the land.

Policy Objectives:

The reasons for having an established procedure and set of criteria are to:

provide a clear and uniform method for acquiring interests in real property for open space preservation, water supply protection, recreation, or limited general municipal purposes

ensure that decisions regarding the acquisition of real property interests for the reasons described above are well-considered and address the concerns and needs of all relevant Town departments and boards, as well as the general citizenry

Procedures:

1. The procedure for considering the acquisition of an interest in land identified on a “Listing of Properties and Parcels of Priority Interest” may be initiated in any of the following ways:

- a) Property owner or agent offers interest in land to the Town through the Office of the Town Manager, Board of Selectmen, or the Office of Planning and Development.
- b) A notice of intent to change the use of, develop, or sell for development property subject to Chapter 61, 61A, or 61B is transmitted to the Town in accordance with the requirements of Chapter 61 of the M.G.L.
- c) The Board of Selectmen, acting on their own initiative, vote to instruct the Department of Planning & Development (DPD) to initiate discussions with a property owner relative to the possible acquisition of a land interest. To the extent permitted by State Law, the Board may conduct some of this discussion in executive session to protect the privacy of the property owner or for other reasons cited in the relevant statutes.
- d) The DPD, using the ranking system developed by the Open Space Committee as a guide, initiates discussions with a property owner relative to the possible acquisition of a land interest. The DPD shall keep the Board of Selectmen updated as to what properties are being actively pursued in this category.

2. For properties identified under 1a) or 1b) the Board of Selectmen shall, within fourteen days of receiving an offer or notice of intent, refer the offer or notice to DPD for review and recommendation.

3. The DPD shall transmit its comments and recommendations to the Board of Selectmen within forty-five (45) days of the Selectmen's request, or within a shorter period of time if specifically requested by the Selectmen.

4. In deciding whether or not to acquire interest in a specific parcel of land, the Board of Selectmen shall consider the recommendation of the DPD as well as the following:

a) Environmental Due Diligence for Hazardous Materials. Has an environmental site assessment been conducted for the property? If not, does the Board of Selectmen believe that such a study is warranted?

b) Title Investigation. Has the property owner provided the Town with title documents to ensure that they are the legal owner(s), and have any liens, mortgages, or other encumbrances been uncovered that may affect the transaction? Is it necessary for the town to obtain an independent title commitment?

c) Property Evaluation. The Board of Selectmen reviews the evaluation form (including any summary comments) prepared by the Open Space Committee for the specific property.

d) Risk/Benefit Assessment. If site assessments identify existing or potential environmental problems, the Board of Selectmen make a determination whether or not the benefits of obtaining the property outweigh the risks.

e) Lowest Cost Option. Does the recommended manner of protection/acquisition achieve the objectives of the policy in the most cost effective manner possible?

f) Consequences of No Action. Has the Board of Selectmen considered the consequences of the Town taking no action regarding the protection of this particular property?

5. Prior to acquiring an interest in land identified on a "Listing of Properties and Parcels of Priority Interest", the Board of Selectmen may hold a public hearing. The Board of Selectmen shall consult the DPD regarding whether a public hearing will adversely affect negotiations with a property owner. Notice for the hearing shall be pursuant to Board of Selectmen regulations, M.G.L. Chapter 30B and any other applicable requirements and shall also include a written notice of meeting to the requestor, abutting property owners and any other individuals/organizations with interest in said property, as determined by the Board of Selectmen.

Criteria:

In making recommendations to the Board of Selectmen regarding the acquisition of land interests, the DPD shall:

1. Solicit comments from various groups and organizations, which may include the following;

- Open Space Committee
- Planning Board
- Conservation Commission

- Historical Commission
- Town Departments (e.g., Finance, Utilities, DPW, Recreation)
- Parks & Cemeteries Commission
- Essex County Greenbelt Association
- The Trustees of Reservations
- Massachusetts Audubon Society

2. Consider the following;

- the ranking system developed by the Open Space Committee
- level of imminent threat to the property
- outside funding opportunities
- other criteria relevant to the specific property (e.g., status of abutting parcels)