

# PLACE

Fall 2010

Brookline GreenSpace Alliance is a non-profit membership organization dedicated to the enhancement of open space in Brookline by supporting citizens in caring for their green spaces.

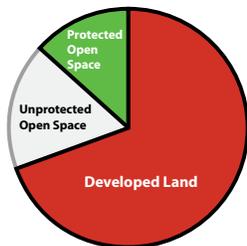
## PRIORITIZING Land Protection

by Edward Hsieh



### In this issue Land Protection

More than half of unbuilt land in Brookline is unprotected. How can it be preserved?



Land Use in Brookline

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The Asian Longhorn Beetle was discovered in Jamaica Plain this summer. Parts of Brookline are quarantined. Latest information at <http://tinyurl.com/29rkd86>



In the last two years, challenges faced by environmentalists have changed dramatically. Increasing nationwide economic difficulties have shifted attention away to other issues. Volunteer energy, grants and funding have been diverted, leaving only hot button environmental topics like climate change at the forefront of the public's awareness, while other still relevant battles are forgotten or given less significance.

In Brookline, this shift has affected open space advocates, further compounded by the fact that we currently have a good, strong Town of Brookline Division of Parks and Open Space, recognized as such by the community. The good work of the Town, combined with several prevalent misconceptions about open space in Brookline, has led many citizens to become complacent about land protection.

But there are still major green space problems that we as a community need to face. Despite the good state of our parks and public open spaces and the strides made towards protecting those spaces, there are still many valuable spaces, including some treasured by all like Al-landale Farm, that could be lost if we lose focus. If anything, now is the time to adopt more innovative and even aggressive tactics toward land protection.

### Now is the Time

The biggest hurdle currently facing open space advocates and concerned citizens is constricting budgets on all levels. Grantmakers and municipal officials frequently respond to advocacy for open space issues with the hard line that money is too tight.

Increasing amounts of data show that investing in green space is a viable, and sometimes more economical alternative to new construction for municipalities seeking to bolster their coffers.

### Increasing the Tax Base

Frederick Law Olmsted suggested that parks pay for themselves due to the increased tax revenue raised from property values of parcels adjacent to the parks. Several studies have corroborated this "proximate principle" and shown that proximity to a park correlates to, on average, a \$100 per square foot increase in property value.

For example, a Trust for Public Land's study of Philadelphia properties showed that parcels within 500 feet of a public green space were worth 5% more, resulting in an aggregate increase in property value citywide of \$688.8 million. This translated to an additional \$18.1 million in property taxes for the city.

Studies from MIT and Texas A&M further corroborate the "proximate principle," and also showed that a greater increase can be seen in urban areas, like Brookline, where space is at a premium. It is also important to note that the studies showed that passive natural space raises values more than active recreation spaces.

This "proximate principle" applies to commercial areas too. The Boston Globe used tax-assessing records to show that commercial properties along the Rose Kennedy Greenway experienced nearly double the increase in assessed value compared to commercial properties not along the Greenway, 79% versus 41%. A similar result was shown at Bryant Park in Manhattan and in Vancouver, Washington.

### Reducing the Burden on Municipal Services

Despite the increase in property value and tax revenue generated by proximity to open spaces, development is still often viewed as the quickest and best way to increase revenue for a municipality. It is becoming clear that development comes with its own set of burdens and that conserving land can actually be less burden-

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## Emerald Necklace Recognized as Great Place in America



Arlene Mattison, Brookline GreenSpace Alliance President, Richard Sullivan, Massachusetts Department of Conservation and Recreation Commissioner, and Antonia Pollack, Boston Parks Commissioner accept recognition of the honor given by American Planning Association, declaring the Emerald Necklace Park system, which is located in Boston and Brookline, one of the Great Places in America.

See <http://www.planning.org/greatplaces/spaces/2010/index.htm#MA>.

Mattison accepted the award on behalf of Brookline and its Division of Parks and Open Space at the Emerald Necklace Conservancy annual meeting where the presentation was made. She is the co-founder of Friends of Leverett Pond (FoLP), founded in 1978. FoLP has been working ever since to improve the park and attract outside money for restoration and they have worked with the Town to keep maintenance a priority. FoLP is a member organization of BGSA.

## In Memoriam: Irene Gillis

Irene Gillis passed away on September 23 after a long illness. Her group, ROW, Restore Olmsted's Waterway, was one of the prominent mid 20th century environmental groups in Brookline. Her message to us was a simple one: no matter how tempting to make things pretty, don't try to pretty up the environment without looking deeper into causes of pollution and contamination. ROW's emphasis was on finding out what the pollutants were in the Muddy River and tracing their roots. This was a difficult task as both public and private institutions were emptying waste into our water system and all were denying their part

in polluting our river and harbor. It took many years and scientific probing to prove the illegal dumping of chemicals and waste into the River, but today the connections are being corrected and the Muddy River Restoration Project has as a major goal dredging the river to remove remaining contaminated sediments.

Irene's message was one of persistence and the importance of acting locally as stewards of nature. She believed in the local mission of BGSA and, as a person trained in journalism, believed in keeping citizens informed and a light shining on the work that needed to be done.

## From the President

1/2 of Brookline's open space is private land. We may not be able to walk upon it, but we benefit from it as habitat that nourishes animal life and flyways, as watershed and water purifier, as air cleaner and cooler, and as visual relief from urban pressures. Its loss would be a loss for us all. We might not feel an impact from a loss of some of this open space, but at some point the character and health of our town will be forever changed.

BGSA wants to seek solutions that save delicate areas of green space that, once built upon, may never play the important role of enhancing nature within the city. Thoughtful zoning and sensitive development can save some of the elements of precious open spaces but there are some particularly significant parcels of land, either because of their location or special environmental benefit, that should be protected in as natural a state as possible. Brookline is considering planning that would include outreach to the owners of this land that would explain the benefits to them and to the community at large of conservation restrictions or gifts that could provide legal perpetual protection of the land. The Open Space Plan 2010 could provide a guide to such an effort and a means for town leaders to provide for the future. The new Conservation Commission guidelines for accept-

ing conservation restrictions makes this more plausible. As a next step, Brookline needs an active funding mechanism for purchasing green space.

This year BGSA became part of the process that will protect the land of the former state owned Fisher Hill Reservoir. As a requirement for the sale of the land, the state required its protection by a conservation restriction to be held by a third party outside local government. In addition to providing a place-based educational program to the public schools, and lobbying for important positions within the Open Space Division, BGSA has worked with the Town to protect the land on Fisher Hill.

To whatever extent is possible, we are all protectors of the land—if we see its value and answer the call, while it is still possible.

*Arlene Mattison, President BGSA*



The campus of Pine Manor College. One of the large unprotected open spaces in Brookline. Photo by Marian Lazar

## Conservation Restrictions in Brookline

by Marian Lazar

Open space in Massachusetts is being lost at an astounding rate. Sprawl and development are destroying the natural habitats of wildlife and plants as well as areas of respite for humans. Nature is threatened. And yet, even in a town as densely built as Brookline, natural areas still remain. Some of these are protected as parks or sanctuaries; many are not. The Brookline Open Space Plan 2005 and the Brookline Comprehensive Plan 2005 -2015 called for establishing a strategy to allow property owners to protect parcels with significant conservation value. In 2008 the Brookline Conservation Commission, Board of Selectmen and Board of Assessors approved a Conservation Restriction Policy for the Town.

### What is a Conservation Restriction (CR)?

A CR is a legal agreement between a landowner (Grantor) and the holder of the restriction (Grantee). The Grantee may be the Town or other governmental body, or a qualified conservation organization. The agreement describes the land

to be preserved and activities that may take place on that land, consistent with its protection. **The landowner retains ownership of the property.** Restrictions are registered with the Norfolk Registry of Deeds and are generally permanent. When land is sold, the CR remains on the property. The Town prefers permanent restrictions.

### Why is there a CR policy?

CR's benefit residents by protecting land with environmental value. The Town gains the ability to protect, in a natural state, land that it could not afford to buy. The landowner has the ability to permanently protect land from development. This may be especially desired if the land has family or historical meaning.

### What are the benefits and disadvantages of a CR?

In addition to knowing that land is protected, the landowner may benefit from reduced real estate taxes. The amount of reduction generally depends

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some and more fiscally sound. For every new home or condo, Brookline has to provide water, sewer, waste disposal, fire, police and school services.

Economists have long assessed “cost of community services” (COCS), which compare benefits gained from development against the costs of infrastructure and municipal services. Using data from 128 COCS studies across 25 states carried out by the American Farmland Trust, it was shown that on average, a municipality would have to spend \$1.16 for every dollar realized from residential developments as opposed to \$0.37 for every dollar for agrarian lands.\*

Similarly, in Brookline, a similar fiscal impact study was undertaken for the proposed contentious Hancock Village development. The study shows that the Town would have to provide just under \$2 million in municipal and school services yearly while taking in just over \$1 million in taxes from the development. This translates to a COCS of \$1.68 for every dollar realized from the development, a net loss of over \$763,450 annually if the development is fully built out. Obviously, development is not always the answer to revenue generation.

### **Now is the Time to Invest in Our Land**

The benefits of increased tax revenue and the relatively lower burden on municipal services that conserved land offers, do not even take into account the more obvious additional benefits offered by open space, such as ecological buffering, protecting against flooding, providing outdoor classrooms and play areas to battle the nature-knowledge deficit and obesity trends, and of course community bonding. It is time to overcome the misconception that conserving green space is expensive and less attractive financially than development. It is time to make smart investments in properties deflated due to the economy. These investments are more sustainable and beneficial in the long run.

Long-standing misconceptions about the costs and benefits of development versus conservation should be set-aside in a context of the current economic situation, if we are to maximize the preservation of open space in Brookline.

\*Gies, Erica. *Conservation: An Investment that Pays*. The Trust for Public Lands, 2009.

### **Land Acquisition Fund and Committee**

The Town of Brookline currently has a land acquisition fund, but the fund has no income and no designee to apply the fund. The current Town of Brookline Open Space 2010 Planning Committee, co-chaired by Brookline GreenSpace Alliance, will recommend that those oversights be addressed within the next five years.

It is important that a committee or group regularly examines the real estate market to ensure that vital, high-value open spaces do not get sold and developed without some consideration by the Town. This group cannot act without funding.

The most politically feasible way to fund the land acquisition fund would be to earmark part of new revenue streams specifically for the fund. Several new sources of revenue may be created in the near future; it will be important for some of these to be designated for open space use

This can be taken even a step further, if the community supports land acquisition and protection efforts. Some communities with a strong sense of green space stewardship and a strong environmental ethic have chosen to earmark a percentage of the annual budget for their land acquisition fund. Either approach will require advocacy to Town officials to ensure that they recognize the fiscal benefits of land protection and acquisition and that purchasing land is a savvy and sustainable practice.

### **Conservation Restrictions** (continued from page 3)

Land in Brookline protected by a Conservation Restriction and kept in a natural state. Photo by Frances Shedd Fisher.



# Article 97 and No Net Loss of Conservation Land

by Senator Cynthia Stone Creem

Massachusetts residents can be justly proud of the commitments made by our state government to preserve the natural environment, mitigate and prevent harm to ecosystems from human activities, and enhance the growth and stability of wild flora and fauna. As State Senator, I have been pleased to support legislation calling for a 20% reduction in greenhouse gas emissions by 2020, to promote alternatives to non-renewable energy resources, and I have supported the Cape Wind project and several environmental protection and energy use reduction measures (including my "Dark Skies" bill which would limit and redirect roadway lighting.)

But, of course much more remains to be done. The Legislature will consider many environmentally friendly bills in the coming 2011-12 session; I will re-introduce the updated Bottle Bill, and plan to co-sponsor producer responsibility and toxic chemicals use reduction legislation among others. I will also again co-sponsor one of the most important bills yet to be enacted- the 'no net loss' bill which will guarantee protection of publicly owned lands under Article 97.

Open space preservation is part of our state's mission. One amendment to state law has been particularly effective, I believe, in helping local communities own and preserve open space. Article 97 of the Massachusetts Constitution was enacted by popular referendum in 1972; it explicitly identifies the right of the people to have "clean air and water, freedom from excessive and unnecessary noise, and [protection for] the natural, scenic, historic and aesthetic qualities of their environment". Article 97 recognizes the inherent public purpose that must be considered when allowing the use, development, or conservation of natural resources (identified as agricultural land, mineral deposits, forests, air, water and other natural resources); and the law seemingly sets the bar high for any disposition or change in the use of locally owned public conservation land.

Under Article 97, once a municipality acquires land or holds an easement on property with a 'conservation restriction', this restriction can only be reversed after a unanimous vote of the local Conservation Commis-

sion or Parks Dept., followed by approval at Town Meeting or a City Council session, and then enactment by a 2/3rd's vote in both the State Senate and House of Representatives. When Article 97 became law, it is likely that the public believed sensible, environmentally conscious legislators would step in to prevent local communities from unnecessarily disposing of protected land. But, as local pressure increased to add new school buildings and provide other public uses (e.g., highways and hospitals, and later, also private development), the Legislature often turned into a rubber stamp, deferring to what seemed to be a locality's reasonable request for a change in use based on need.

This pattern of increasingly unchallenged change in land use caused great concern within the environmental community, and in 1998, the Executive Office of Environmental Affairs under Gov. Weld issued a "Land Disposition Policy" of no net loss of Article 97 lands. This policy requires that in instances where municipalities agree to a change in the use of an Article 97 property (removing the conservation restriction), the municipality is required to transfer the restriction to a similar property of equal or higher value. This protective policy has been continued to some extent through the following administrations, including Gov. Patrick's, but because it has not been enacted as a law, it is more easily evaded at times and is always subject to complete administrative reversal.

Almost every community has some Article 97 land. In Brookline, the 32 acres at the Brookline Reservoir, 15 acres at the newly created Skyline Park, and in part, Amory Woods and Hall's Pond, are all Article 97 properties. These lands provide the public with an improved quality of life, and protection for our fragile urban ecosystems, as intended by the voters in 1972. I look forward to advocating again for the Article 97 "no net loss" bill, also called the "Public Lands Preservation Act", to guarantee these and other properties throughout the state will remain protected for the indefinite future.



Lost Pond, Brookline; protected under Article 97.

**Yes! I want to support the local environment.**

Please sign me up.

Join online: click the [Join Us](#) link on our home page [brooklinegreenspace.org](http://brooklinegreenspace.org)

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As a member of the Alliance you'll receive our publication PLACE, periodic e-mail alerts to keep you informed of meetings and issues affecting local open space, notice of walks, talks, tours and educational forums, as well as an invitation to our spring garden event.

## Stay Connected

Visit [www.brooklinegreenspace.org](http://www.brooklinegreenspace.org) to learn about open space issues and upcoming events. Sign up for e-mail updates at [info@brooklinegreenspace.org](mailto:info@brooklinegreenspace.org)

Edward Hsieh conducted this interview with Tom Brady, Brookline Conservation Administrator

E - Thank you Tom for taking time out of your busy schedule for this interview. We are currently focusing our upcoming publication around land conservation, with a heavy emphasis on conservation restrictions. During the Open Space Plan 2010 process, you mentioned Pat Black's Pond on several occasions as a prime example of how having a CR Policy at that time would have helped. So where is this property? You mentioned Clyde Street.

T - Yes, 145 Clyde Street, formerly owned by Patricia Black.

E - Is that currently still visible, the pond from an orthomap?

T - It is visible from an orthomap.

E - Why was that parcel originally valuable in the Town's eyes when it initially came on the market?

T - As you travel down through the Clyde Street corridor, it was a significant piece of open space. It had a good mix of habitat, it had the open field, it had the mainly coniferous border, consisting mainly of white pines, and it had the pond habitat in the middle. So it was a series of habitats on a fairly decent size piece of land.

E - How big would you say that piece of land was?

T - We would have to confirm it, but I would say it was 7 or 8 acres or so.

E - That's pretty big, almost as big as Fisher Hill. So in its current state, is it still one large parcel or has it been divided?

T - It is not, but I am not sure how many parcels it has been divided into. I know that the main house at 145 Clyde Street was broken off as a separate parcel and sold. The remaining front portion was broken into two or three different lots, I believe two, which were purchased by the new property owners and developed into a house, that faces Clyde Street.

E - How did the Town approach the situation originally? What was the procedure at that point?

T - When Patricia owned the property, when it was one entire property, she did a great job managing the property and managing the natural resources. As she was managing the natural resources, she needed to get the proper permits in place from the Conservation Commission to do applications or management techniques in the pond itself. And as she did those in the course of the discussion, we would talk about the parcel as a whole, and what possibilities there were for any preservation of that large parcel.

E - During that time that Patricia Black was com-

ing in regularly, the Commission discussed with her possible ways of conserving the parcel.

T - Yes, the big unknown then was what were the big implications for the tax side of placing a conservation restriction on the property, which was one of the driving factors that led to the drafting of the Conservation Restriction Policy.

E - OK, but at that time, how was the Conservation Commission handling CR's as they were brought to the Town?

T - When a property owner came to the Town, we would primarily be in a reactive mode. We didn't have a tool to go out and proactively reach out to folks.

E - So what were the guidelines used at that point when the Town was approached for a CR?

T - Well, we would use guidelines based on the general overarching principles of land conservation and prudent use of resources. It was really coming from the seven members of the Conservation Commission.

E - So did the Conservation Commission then decide at that point what the tax breaks would be?

T - Absolutely not.

E - So who would decide at that point?

T - At that point, if someone placed a CR on a property, it was up to the person who placed the restriction on the parcel to go speak to the assessor, and the Board of Assessors would make that decision on a case-by-case basis.

E - So how is that different now that the policy is in place?

T - Now that the Conservation Restriction Policy is in place, we have a restriction policy that has been reviewed and approved and adopted by the Conservation Commission, which is significant, by the Board of Selectmen, which is significant, but probably most significant, by the Board of Assessors. And it now says in essence, that if you place a conservation restriction on your property, you will receive a consideration on your taxes. If there is no public access, you will receive a 75% reduction in your tax for the property. If there is public access, you will receive a 95% reduction in your tax. Which is a significant incentive for folks, both in terms of the percentage in reduction but also in having a real solid set of guidelines of what exactly the implications will be.

E - So does the CR policy set forth what is a property parcel eligible for a restriction?

T - It does. It sets forth a series of guidelines and

*(continued on back page)*

# Notes from the Field



June 5<sup>th</sup> reopening of renovated Dane Park. (left to right) Ann Blair, landscape designer, Town of Brookline and Abby Coffin, President, Friends of Dane Park.



Ron Brown, BGSA Treasurer and annual Pan-Mass Challenge participant, helps BGSA Executive Director, Edward Hsieh, sign in participants at the annual 10 Hills of Brookline Bike Tour. Photo by Bruce Wolff.

Participants set off on the 10 Hills of Brookline Bike Tour, a moderate to challenging bike tour of the scenic open spaces of Brookline. BGSA thanks the Brookline Police for their support of this event and the Park & Recreation Commission. Photo by Bruce Wolff.



Hall's Pond Sanctuary/Amory Woods was closed for quite some time this summer. In June a storm took out nearly a dozen significant trees. Clean up and removal of the trees and required workers to climb the trees and work from the top down in order to not damage surrounding plants. As this work was completed a flash flood washed out many portions of the boardwalk, including one of the overlooks, and the sanctuary remained closed. Finally the sanctuary was reopened! The Friends offer a big thanks to all who helped keep the sanctuary safe, in good repair and beautiful.



At left, repairing the boardwalks. Photo by Ellen Forrester

Above, removing trees from the top down. Photo by Bruce Wolff.



Gerrit Peterson, a volunteer with Friends of Minot Garden pruning roses. Other volunteers, Susan Ford and Joe Sheehan on bench. Photo by Linda Olson Pehlke

Friends of the Old Burying Ground hosted third annual Halloween Treasure Hunt in Brookline's Old Burying Ground on Walnut Street. Photo by Frances Shedd Fisher.



An expanded article on friends groups' activities can be found on the BGSA website, [www.brooklinegreenspace.org](http://www.brooklinegreenspace.org)



145 Clyde Street before development.  
Photo by Marian Lazar

guiding principles which primarily came from the Moderator's committee set up to look at further setbacks from sanctuaries that was chaired by Nancy Daly. And that discussion grew into this issue of conservation and a restriction policy and how do we do that. So there are a series of principles and some guidance documents in the CR policy itself, which tell you what are the factors and considerations when you look at whether to accept a CR.

E - With the new CR's policy, have you noticed a definite change in how the process is handled?

T - It's a much cleaner discussion with folks, and it's a much clearer path to folks whether CR benefits are worthwhile to them and if they want to move forward. So there is a specificity there that we didn't have before, and that makes all the difference.

E - So can you recall other parcels, other than Pat Black's, where a lack of guidelines made it difficult?

T - Well when we looked at the open space planning process in the past, we always looked at parcels we considered to be perhaps at risk or parcels that were large open tracts of land that may be suitable for development. And I think that the Commissioners at times have felt held back because it is tough to go to folks and say "if you offer a CR, that will restrict opportunities for your land, and then you have to go talk to

the Assessor separately and see what the benefit will be." If you have very real solid information, you now have the capability to go out and talk to folks. So that's huge.

E - And at this point, even with the policy, do you see any further gaps or needs that need to be filled in the near future?

T - From the CR point of view, I think we are in pretty good shape. I think as part of the ongoing open space plan process, we are certainly going to look at land use, and parcels across the town, to see what may or may not need further protection.

E - So at this point, are you taking further steps to publicize the CR policy?

T - The CR policy is on the website, it is available here at the DPW office, and it is available at the Assessor's office. Those are the three primary venues it has been out to at this point.

E - OK, well I think that gives us a good brief look at the before and after. Thank you again for taking your time to chat with me.

Note: Attempts to contact Patricia Black for further comment on whether having a CR policy at the time of her sale would have helped streamline the situation were unsuccessful at the time of publication of this article.



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