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**Cape Cod Land Trusts
featured on page 20**

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LOCAL CULTURE FOR THE PLANET





Loving THE LAND

PRESERVING OPEN SPACE AGAINST THE ODDS

BY SUSAN SPENCER

EVERYBODY NEEDS BEAUTY AS WELL AS BREAD, PLACES TO PLAY IN AND PRAY IN, WHERE NATURE MAY HEAL AND GIVE STRENGTH TO BODY AND SOUL ALIKE.

— JOHN MUIR



Photo © Paul Scharff

WIND SWEEPS GENTLY FROM THE BAY ACROSS THE VAST SALT MARSH, RUSTLING THE LEAVES OF TALL TUPELOS THAT OFFER SHADE IN THIS ROADSIDE REST. FOLLOW THE GRASSY TRAIL THROUGH THE TREES AND FIELD TO A PICNIC TABLE OVERLOOKING QUIVETT MARSH AND SAVOR THE BIRD SONGS, THE SALTY AIR AND THE SERENITY OF THE VIEW.

The 4-acre Quivett Marsh Vista Conservation Area and its scenic landscape, once the site of the Skyline Motel, came perilously close to being developed as two waterfront house lots. But in 2008, the Brewster Conservation Trust teamed up with local and state resources, and with contributions from individuals, private foundations and government grants, purchased the property and preserved it forever.

Open spaces like the Quivett Marsh Vista, or wooded uplands along kettle ponds, the ecologically rich habitats of estuaries and marshes, and the fascinating terrain of cranberry bogs provide protection for water quality, recreation, wildlife corridors and connections to cultural heritage. Conservation makes economic sense too, compared to alternative uses. For every dollar received in tax revenue, the average cost to towns to provide services for residentially developed land is \$1.19, compared to \$0.37 for open and agricultural land.

"The perception is that conservation land is sitting there doing nothing. Actually, it's doing the most important thing of all — it's preserving the essence of Cape Cod and why we live here," says Mark

Dawn at Wing Island

Right: Quivett Marsh Vista Conservation Area.



Photo © Paul Schaffi

Robinson, who for 25 years has served as executive director of the Compact of Cape Cod Conservation Trusts. He observes, "If you scratch the surface of somebody who lives on Cape Cod, they're most comfortable in the outdoors: walking in the woods, around bogs or being out on the water. The Cape is a great place to be outdoors and be refreshed."

Sixteen percent of Cape Cod's land is neither developed nor protected, and pressures are mounting to use open space for its prime real estate value. Some parcels of what conservationists call "perceived open space," including camps, farms and golf courses, could easily be gone in a quick transaction.

Competing municipal purposes also put pressure on unprotected land. "We are approaching build out on the Cape; there's just less room for everything," Robinson says. The real threat is not from subdivisions, but from town agencies looking for sites to develop ball fields, cemeteries, public safety complexes, renewable energy and wastewater treatment plants. "I really believe that in this century, we're going to be fighting rear-guard action to preserve the land we thought we preserved in the last century."

How communities address land use is becoming a defining issue. People need housing and space for their activities. Property owners have rights to

Above: Quivett Marsh Vista Conservation Area.

develop their land within the law. As open space becomes more scarce, people on Cape Cod wrestle with tough choices so that in balancing human interests, we don't lose sight of the land that draws us here and sustains us.

THIS IS NOT YOUR FATHER'S LAND TRUST

The old ways of conserving land don't work anymore, in face of these growing pressures. Partnerships between private nonprofit land trusts, town conservation commissions and the passionate energy of individuals dedicated to saving the land are needed to pull together complicated, often multimillion-dollar real estate deals. "We used to just sit back and collect gifts," says Brewster Conservation Trust President Peter Johnson. "Now we're actively going out and seeking land-saving opportunities."

Cape Cod has been at the forefront of strategic land preservation, starting with the Compact of Cape Cod Conservation Trusts, a unique collaboration among 23 land trusts, which provides technical support and information-sharing to its largely volunteer members.

Another regional mechanism, the Barnstable County Land Bank, financed through a surcharge on



Photo © Paul Scharff

local property taxes, allowed towns to purchase nearly 4,500 acres of open space between 1999 and 2007. "When the Land Bank happened, it gave the town that vital stream of revenue and changed how we operate. It opened up partnerships," says Barnstable Land Trust Executive Director Jaci Barton. The Community Preservation Act superseded the Land Bank, and in addition to open space, it allocates funds for affordable housing and historic preservation.

Partnerships between public and private entities have enabled communities to purchase land they couldn't have otherwise negotiated and have opened doors to significant state Local Acquisition for Natural Diversity (LAND) and Drinking Water Protection grants. Access to state funding is crucial for purchasing parcels that often go for half a million dollars or more. In fiscal 2011, eight Cape Cod towns were awarded LAND grants totaling \$3

million and a ninth town, Chatham, received a \$500,000 Drinking Water grant to purchase 18.7 acres at Mill Pond, abutting its wellfield, which it is protecting together with Harwich.

Strategic alliances are the new face of conservation throughout the Cape. Leonard Johnson, president of the Falmouth 300 Committee, says, "We find ourselves partnering with just about anybody we can find – the state, town Community Preservation Committee and donors. We've had to cobble together resources to make these things happen."

The results of this collaborative approach are inspiring. A few years ago, the 300 Committee worked with landowners, the town, donors, grantmakers and a local teen working on his Eagle Scout badge to turn a 7-acre parcel along the Coonamessett River into an accessible trail and conservation area. "It's had good use by seniors and people who are handicapped and need easy

access," says Johnson. The former Bartolomei family property is also a link in a growing Coonamessett River Greenway, an initiative of the 300 Committee to piece together open space. Johnson adds, "That's the kind of thing we wouldn't have been involved with 25 years ago."

THE ART OF THE DEAL

The new conservation frontier requires not only partnerships, but also fresh ways of thinking about land preservation. The large estates that were once conservation priorities are largely gone, either through the demise of old families or by being subdivided and developed because of the tax burden. "The low-hanging fruit has been plucked," says Wellfleet Conservation Trust President Dennis O'Connell. "We have to be more creative in putting multiple transactions together and working with multiple landowners at one time."

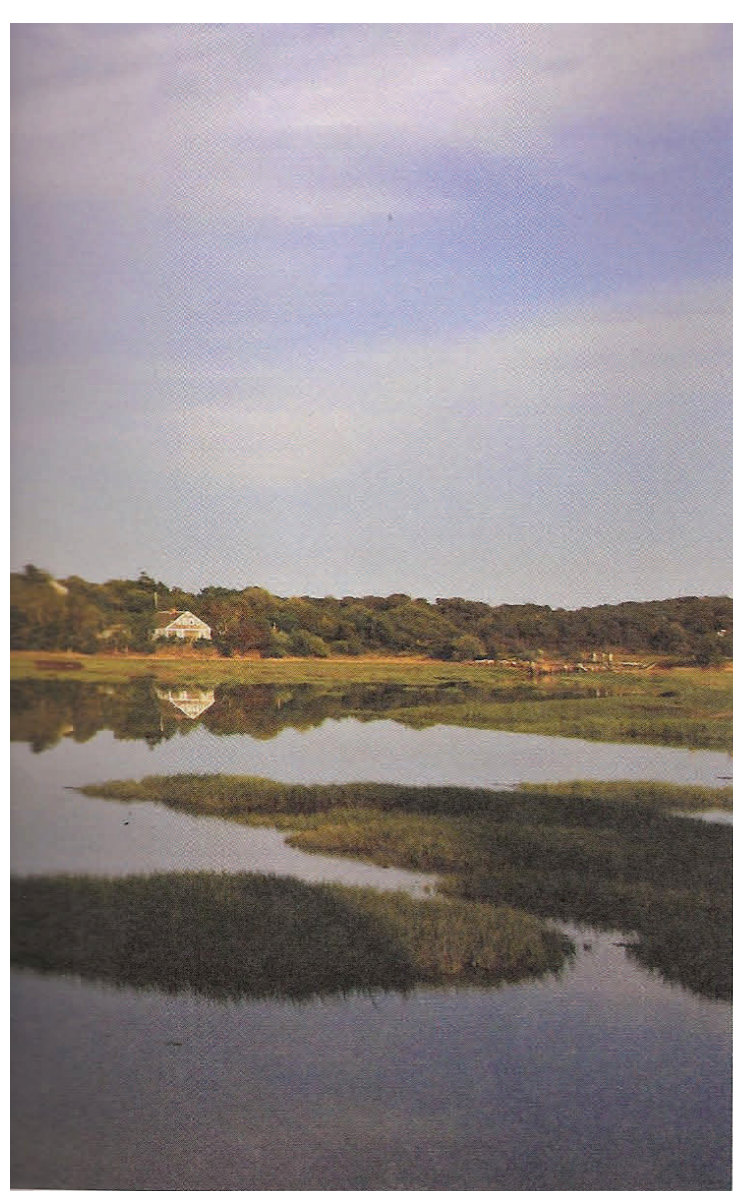


Photo © Paul Scharff

Above: Duck Creek in Wellfleet.
Right: Slough Pond in Brewster.

One far-reaching success story is Pilgrim Spring Woodlands Conservation Area, 181 acres of woodland, marsh and waterfront on Wellfleet Bay. The area is a prime nesting spot for diamondback terrapins and habitat for shorebirds and raptors. Aquaculture grants operate just off shore. For more than a decade, Wellfleet Conservation Trust spearheaded efforts by numerous groups to piece together open space from at least half a dozen landowners. The total cost came to \$4.2 million, but thanks to the land trust's enthusiastic private fundraising and pursuit of grants, only \$1.3 million came from local taxpayers. All but nine acres is open to the public; and with two miles of walking trails, including an enchanting view from Whale Bone Point, visitors can immerse themselves in the

historic landscape rather than face potentially dozens of house lots.

There's no strict formula for who plays what role in conservation these days, either. At Pilgrim Spring, Wellfleet Conservation Trust manages the trails with the town Conservation Commission, but the town and the Massachusetts Division of Fish and Wildlife own the land and conservation restrictions. O'Connell says that's OK. "Our mission is to preserve open space. It doesn't mean we have to own it."

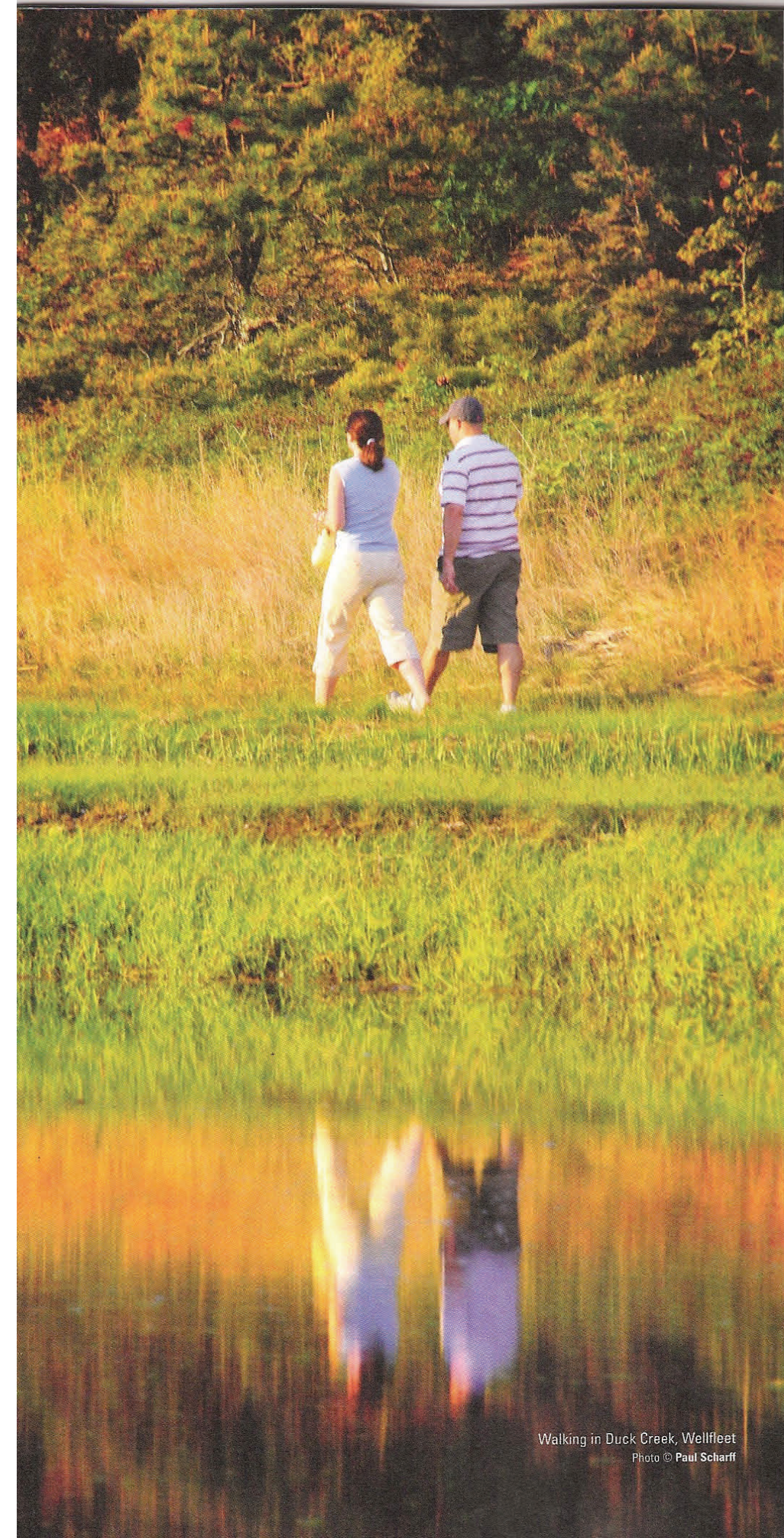
NAVIGATING THE CHALLENGES

Robinson says that the Compact's expertise in helping local groups negotiate and fund land acquisition is vital in today's environment. "It's very hard for land trust volunteers—even with their high level of sophistication—to keep multiple balls in the air, particularly with complicated land deals like they all are now."

Most transactions are complicated; some require extra-savvy legal guidance. In addition to being expensive, Cape Cod property that has been owned for generations may have title flaws dating back centuries. A share passed down in a will might not have been recorded correctly or a property line's reference might have changed. Occasionally, unscrupulous investors will exploit these flaws to stake a claim on undeveloped land. "The instances of it are eye-opening, but it doesn't happen all that often," says Robinson. Still, land trusts and towns negotiating for open space need to be prepared for all sorts of setbacks—and have the resources to respond.

SAVING THE SECOND COAST

"Ponds are the new gold coast," says Peter Johnson of Brewster. They've become a target both for sought-after residential development and land preservation. A decade ago, the Compact initiated



the Priority Ponds project, recognizing that as oceanfront parcels were largely developed or unaffordable, private land surrounding freshwater ponds was growing in value. It's also critical for filtering groundwater and serves as an important wildlife habitat. The Compact and its members mapped out 200 priority pond-front properties and contacted landowners to explain various open-space options. Brewster Conservation Trust, which targeted 48 of the Cape's top properties, has worked with conservation-minded landowners to acquire a number of parcels recently on Walkers, Slough, Rafe and Smith ponds.

UNDEVELOPMENT

With so much of the land already developed, land trusts are eyeing blighted properties in environmentally sensitive areas for "undevelopment." The Wellfleet Conservation Trust, for instance, has submitted a grant proposal to undevelop land behind the Mobil gas station, which comes to the head of Duck Creek. O'Connell says the group plans to put a bench in the new park to provide a peaceful respite. "I don't care how much noise is on Route 6; you're going to solve the problems of the world there," he says.

Falmouth's 300 Committee worked with the town to purchase a former concrete facility on Little Pond, an estuary to Vineyard Sound, which had been slated for development of 168 residential units. The 21-acre parcel now serves multiple community purposes, with 20 to 30 units of affordable housing being developed on 10 acres and preserved conservation land, with trails, canoe and kayak access on the other portion.

CONSERVATION TRUSTS' ROLE

In the potent mix of high finance and grassroots conservation, the role of a land trust to protect open space becomes crucial. But what is the trust's role when protected land could be harmed by a neighboring land use? Communities are facing this issue more and more as competing interests collide.

Gary Furst, who owns 18 acres bordering Cape Cod Bay and Namskaket Marsh in Orleans, gladly worked with the Orleans Conservation Trust to provide a 14-acre conservation restriction to the town for an easement along the waterfront, so



Preserve YOUR LAND

Twilight over Paine's Creek
Photo © Mark Preu

Landowners have many options for preserving their land, including some that allow continued use of the property. Consult your attorney and the local land trust before entering property transactions.

Outright donation (fee simple): Making a gift of land to a land trust will preserve the land and offer tax benefits. Consult your local land trust first before transferring the deed.

Donation by will (bequest): Transferring the property from an estate will reduce potential inheritance taxes.

Donation with a reserved life estate: Allows the property owners and family to live on the donated land during their lifetime.

Sale of land at fair market value: No tax benefit.

Bargain sale of land: Part donation and part sale, the difference between selling price and market value results in reduced capital gains and federal income taxes.

Conservation restriction: A legally binding agreement that allows the landowner to retain title to the property but extinguishes certain development rights. The restricted land can be sold, but it retains the conservation restriction. Landowners receive significant property tax reductions.

Source: Brewster Conservation Trust. Contact your local land trust or the Compact of Cape Cod Conservation Trusts to learn more.

www.thecompact.net

people could walk from Brewster to Eastham. "We felt with the restriction, it would be protected," he says. "Until now, that has worked well."

But a proposal to expand the Tri-Town septage treatment plant nearby, at the headwaters of Namskaket Creek, has Furst concerned that the resulting 20-fold increase in freshwater-treated effluence would irreparably alter the salt marsh's ecosystem, and then affect the waters of Skaket Beach. Furst is among those advocating for less environmentally damaging alternatives to centralized systems.

The adjacent 50-acre parcel of Namskaket Marsh, donated to the Orleans Conservation Trust by Douglas Hofe, Jr. in 1982, would also be harmed by the discharge plume, according to local citizens and scientists who have studied the Comprehensive Wastewater Management Plan. "We're hoping the Orleans Conservation Trust will stand by us and insist that we not put the marsh at risk," Furst says.

Linde MacLeod, president of the Orleans Conservation Trust says, "We have similar concerns. We're trying to work through those concerns individually and see what role to take." She says the board is digging into the research and evaluating what role it might play as an organization. "Our charter stipulates that we can't lobby, so we have to tread carefully."

THE FUTURE: CARING FOR THE LAND

"Fifteen years ago, it was almost all about acquisition. Now it's about stewardship and outreach," says Leonard Johnson of Falmouth. Land trusts across the Cape are focusing on caring for the land they have and reaching out to the next generation to continue the legacy. In Falmouth, 55 volunteer stewards care for the properties managed by the 300 Committee. And nature walks with experts like writer Beth Schwartzman have proved popular.

The Barnstable Land Trust employs a part-time land manager supported by many volunteers, including some from AmeriCorps. "Land management is becoming a bigger role of our land trust. So is education," says Jaci Barton.

The Orleans Conservation Trust hosts neighborhood work parties and involves the community in keeping an eye on conservation properties. MacLeod says that partnering with students at the Cape Cod Lighthouse Charter School, scout groups and the Cape Cod National Seashore helps people of all ages reconnect with the land and appreciate what they're preserving.

"As people find themselves more separated from the natural environment, education is really huge," MacLeod says. "In the long term, that's going to be the key to the success of the conservation movement." **cha**

Susan Spencer is an award-winning freelance writer and photographer who lives in Whitinsville and Brewster, Massachusetts. She writes frequently for CHA Magazine about health, environment, and energy issues.