

CONSERVATION FINANCE FEASIBILITY STUDY | JUNE 2018

WESTTOWN TOWNSHIP, PENNSYLVANIA



THE
TRUST
FOR
PUBLIC
LAND



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May 9, 2018

Ms. Stacey McCormack
Director of Conservation Finance and Government Affairs
The Trust for Public Land
20 Community Place
Morristown, NJ 07960

Dear Ms. McCormack:

Westtown Township requests technical advice and assistance from the Trust for Public Land in connection with our efforts to decide whether to develop and sustain ongoing sources of funding for land acquisition, parks and recreation. As part of this assistance, we understand you will undertake feasibility research, including studying local laws, recent election results and gain a better understanding of Westtown Township, and conduct a public opinion survey of Westtown Township residents.

We understand you will be working with the Board of Supervisors at several key decision points throughout this process. The board would like to discuss with you the type of resident survey. There are reservations in utilizing a phone survey as so many residents do not have land lines or answer their phones. We suggest other means such as utilizing super voter lists and a mail survey. We also understand you would analyze funding methods, strategies and financial implications of various scenarios and priorities given resident feedback.

The Board hopes to gain a better understanding of our resident's appetite, desires and comfort levels in their providing supportive funding for certain project types, and what levels of funding they may or may not support.

The Board of Supervisors would like to meet with you to begin this process. The Board holds regular workshops prior to our board meetings on the first and third Mondays of each month. We set aside workshop time to handle actions that require more discussion, and no minutes are taken.

We also understand that prior to any actual campaign and affiliate activities being undertaken, that the Board of Supervisors will decide whether to undertake a campaign based on the professional data and analyses, and resultant advice and feedback gathered.

We look forward to collaborating with you on this feasibility research phase. Please contact the township manager at rpingar@westtown.org to schedule a workshop date and time.

Sincerely,

Carol De Wolf, Chair
Westtown Board of Supervisors

Cc: Stephen Johnson, President, North American Land Trust
Robert Pingar, Township Manager
Scott Yaw, Vice Chair
Michael DiDomenico, Police Commissioner

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INTRODUCTION

The Trust for Public Land (TPL) is a national nonprofit organization dedicated to conserving land for people to enjoy as parks, gardens, and natural areas. Since 1972, TPL has conserved more than 3.5 million acres of land nationwide. In Pennsylvania, TPL has helped protect almost 3,600 acres.

To help state agencies and local governments acquire land, TPL assists communities in identifying and securing public financing. TPL's Conservation Finance program offers technical assistance to elected officials, public agencies, and community groups to design, pass, and implement public funding measures that reflect popular priorities.

Since 1996, TPL has been involved in more than 530 successful ballot measures and over twenty successful legislative campaigns that have created nearly \$68 billion in new public funding for parks, land conservation, and restoration. Voters have approved 81 percent of the ballot measures that have been supported by TPL.

In Pennsylvania, TPL has been involved in the efforts to preserve and increase funding for the Growing Greener program and Keystone Recreation, Park and Conservation Fund. In May 2005 voters approved a \$625 million Growing Greener 2 bond, which included \$300 million for open space and farmland preservation, as well as brownfield redevelopment. The measure passed statewide with 61 percent support, 76 percent support in Chester County and 71 percent support in Westtown Township. TPL is currently working as part of the Growing Greener III Coalition to increase state funding for conservation in Pennsylvania.

Locally in Pennsylvania, TPL most recently assisted in the passage of a \$2 million bond in Smithfield Township (Monroe County). The funds are used for open space, farmland, and watershed protection. The measure passed with 76 percent support in November 2016. TPL also assisted Adams County, in the passage of a \$10 million bond for open space in November 2008. The measure passed with 75 percent support. TPL has recently completed conservation finance feasibility studies for Monroe, Lackawanna, and Lehigh Counties, Upper Saucon Township in Lehigh County, the Sand Hills Area in Dauphin County and the Conewago Mountains Area in York County. Since 1996, TPL has guided nine local conservation measures in Pennsylvania and all nine have passed generating almost \$311 million for new land acquisitions for open spaces and parks.

This study presents several viable local public options for funding parks and land conservation in Westtown Township and provides analysis of which local options and funding levels are feasible, economically prudent, and likely to be publicly acceptable. This research provides a stand-alone, fact-based reference document that can be used to evaluate financing mechanisms from an objective vantage point.

NOTE: the term “dedicated funding” refers to any consistent and stable funding stream for land acquisition and operations, programming, and maintenance for open space, parks, wildlife habitat, farmland, trails and other recreational amenities whether that funding is in perpetuity or is provided with sunset provisions.

This feasibility study is not a legal document and should not be relied upon for legal purposes.

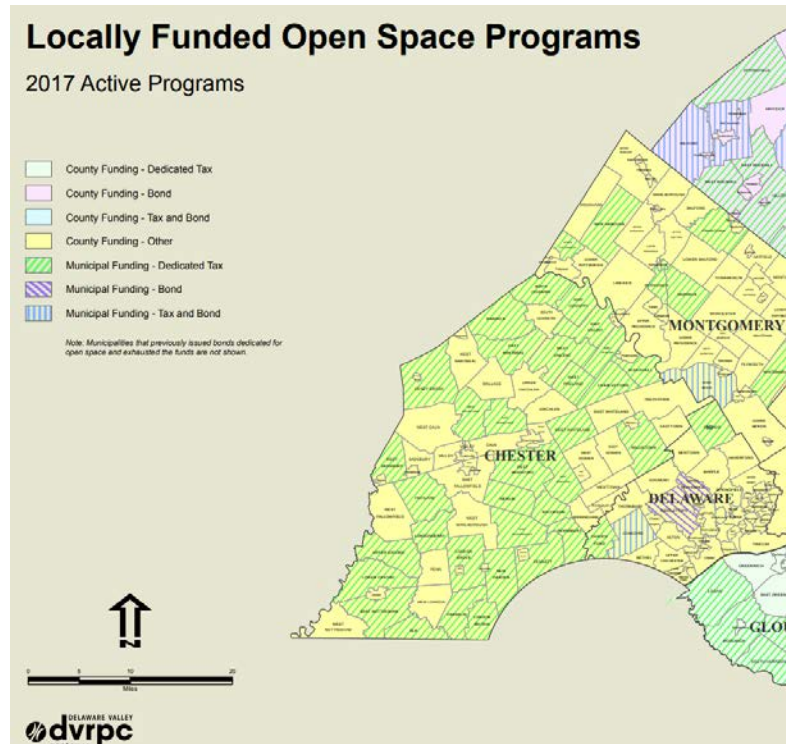
EXECUTIVE SUMMARY

Most funding for parks and land conservation in United States comes from local governments. A dedicated source of local revenue often serves as the key to long-range efforts to conserve and maintain land and water and the stable funding source to leverage grant money offered by state and federal programs.

Since 1988, over 125 county and municipal ballot measures were passed in Pennsylvania that support the acquisition of land for open space, farmland, and recreational purposes, generating over \$1.1 billion. The overall passage rate for local ballot measures in Pennsylvania is 79 percent. Pennsylvania voters have approved 90 percent of 64 bond measures, 70 percent of 87 earned income tax measures, and 86 percent of 14 property tax measures.¹ Of eleven county conservation finance measures (all bonds), only one (Delaware County, 1996) has failed.

In addition, voters in Philadelphia have overwhelmingly passed 8 bond measures over the past decade, which include some portion of funds for park and recreation funding. Our ParkVote database estimates this park and recreation funding near \$190 million since 2008.

Most municipalities in Chester County have a voter-approved source of funding for conservation. Most recently, West Bradford Township passed a quarter of one percent earned income tax increase for open space. The measure passed with 67 percent support.



In Pennsylvania, general

¹ The Trust for Public Land. "LandVote database." <http://www.landvote.org> Accessed January 24, 2018. Measures in LandVote record only measures for new land acquisitions.

obligation bonds are utilized most often by counties for parks and land conservation. A bond issue provides up front funds that will allow for the immediate purchase of land while it is still available, or for immediate capital needs, and distributes the cost over time so that future beneficiaries also share in the burden. In addition, bond issues are a familiar form of public financing for local capital improvements including park development in Pennsylvania.

At the municipal level, pay-as-you-go taxes such as the property tax, earned income tax have been used, in addition to bonds, to finance land conservation and parks by Pennsylvania townships, mostly in the southeastern portion of the state.

There are several local finance options—from taxes to bonds—that could be considered as tools for financing parks and land conservation in Westtown. Specifically, this report analyzes the revenue raising capacity of bonds, property taxes and the earned income tax as conservation finance mechanisms and their associated cost to taxpayers.

- ❖ Westtown could issue \$3 million in general obligation bonds for the protection of natural areas at a cost of about \$52 for the average homeowner. This could be done through voter approval, or non-electoral means.
- ❖ Westtown could seek a voter-approved increase in its property tax to fund land acquisition for parks and conservation under the open space act of 1996. An increase of .3 mill would generate about \$230,000 annually and cost the average homeowner about \$60 annually. Act 115 of 2013 expanded the use of open space property taxes for the development, design, improvement, and maintenance of acquired open spaces up to 25 percent annually.
- ❖ Westtown could seek a voter-approved increase in the earned income tax rate for land conservation under the open space act. An increase of .05 percent could generate about \$255,000 annually and cost the average household about \$58 annually. Act 115 of 2013 expanded the use of open space earned incomes taxes for the development, design, improvement, and maintenance of acquired open spaces up to 25 percent annually.

Next steps should include tailoring a funding source to the needs identified by the township and testing voter attitudes toward a specific set of funding proposals. TPL recommends conducting a public opinion survey that tests funding options, ballot language, tax tolerance, and program priorities of voters.

DEMOGRAPHICS, GOVERNMENT AND BUDGET

The current population of Westtown Township is 10,827. The rate of population growth has declined considerably since 1990, which marked the end of a period of considerable growth over the previous three decades for the township. Population continues to grow, but at a much lower rate of around 4 percent ² per decade. Despite the township’s slower growth, Chester County was the 6th fastest growing county in Pennsylvania (out of 67) between 2010 and 2017.³ Census data show the county population is expected to increase in the coming years.⁴

Year	Population	Change	% Change
2015	10,913	NA	NA
2020	11,426	513	4.7
2025	11,936	510	4.5
2030	12,454	518	4.3
2035	12,902	448	3.6
2040	13,271	369	2.9
2045	13,583	312	2.4

Source: DVRPC, 2016

Notwithstanding slow growth in Westtown, some surrounding municipalities have experienced double digit growth potentially impacting Westtown.

Population Change, Westtown Township and Surrounding Municipalities, 2000-2010

Municipality	2000 Population	2010 Population	Numeric Change	% Change
Westtown Township	10,352	10,827	475	4.6
Thornbury Township	2,678	3,017	339	12.7
Birmingham Township	4,221	4,208	-13	-0.3
East Bradford Township	9,405	9,942	537	5.7
West Goshen Township	20,495	21,866	1,371	6.7
East Goshen Township	16,824	18,026	1,202	7.1
Willistown Township	10,011	10,497	486	4.9
Thornbury Township (DC)	7,093	8,028	935	13.2
Edgmont Township (DC)	3,918	3,987	69	1.8
Chester County	433,501	498,886	65,385	15.1

Sources: U.S. Census Bureau; 2000 Census of Population and Housing; Summary Tape File 1

U.S. Census Bureau; 2010 Census of Population and Housing; Summary File 1A.

² [Westtown Township Comprehensive Plan Update 2016, Demographic Analysis](#)

³ USDA Economic Research Service

⁴ [“Population growth in Chester County slowed, but is set to pick up again”, by Michael Rellahan March 27, 2017, The Mercury.](#)

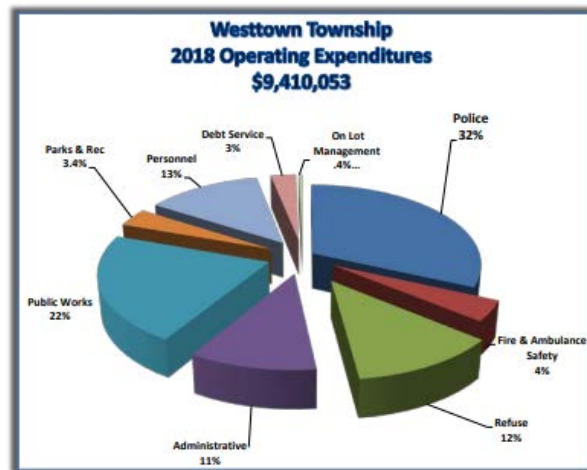
Westtown Township is governed by a three-member Board of Supervisors.

Westtown Township Elected Officials		
Seat	Name	Term Ends
Chair	Carol R. De Wolf	2021
Vice Chair	Scott E. Yaw	2023
Police Commissioner	Mike T. Di Domenico	2019

In 2013, the Board of Supervisors deemed it necessary to increase taxes to enable the township to regain structural balance and improve its financial position, given three years of operating deficits and a deteriorating infrastructure. The 2013 budget approved an increase in millage from 2.5 to 3.5 mills on the assessed value of property. As a result of this decision, the General Fund Unrestricted Reserves have increased to a level that is recommended by the Government Finance Officers Association of the United States and Canada as well as the National Advisory Council on State and Local Budgeting. As a means to assist elected officials in framing resource allocation decisions, it is recommended that a target of 17-25 percent, but no less than 15 percent of budgeted revenues, be reserved.⁵

The 2018 operating budget allocated 3.4 percent to parks and recreation which includes park maintenance, Oakbourne Mansion, recreation programs and fees and permits, forestry management, and open space. This 3.4 percent represents about \$320,000.

The majority of the operating revenues come from property, earned income, and realty transfer taxes.



⁵ [Excerpted from Westtown Township 2018 Budget Memo](#)

CURRENT OPEN SPACE AND CONSERVATION NEEDS AND OUTLOOKS

Many municipalities create an interconnected open space network, linking municipally owned properties, privately owned lands under conservation easement, lands owned by land trusts or conservancies, and land owned by other government entities such as county, state or national parks. In Westtown Township, no other government entities, land conservancies or private landowners have protected land in the township. However, opportunities abound for existing township parks to connect with Homeowners' Association (HOA) open space, public rights of way and schools, extending access to an open space network to many more township residents.⁶

Over the past 30 years voters in Chester County have been extremely supportive of funding land conservation. In November 1989, 80 percent of voters supported the following question:

“Shall debt in an amount not to exceed \$50,000,000 for the purpose of financing the preservation of open space in Chester County through the acquisition of interests in land and related facilities (including but not limited to environmentally sensitive areas, natural or scenic resources, farm land, forests and historic sites, and the development of parks and recreational facilities) be authorized to be incurred and approved by the voters?”

The following is excerpted from the township's 2014 Open Space, Recreation, and Environmental Resources Plan Update.

“Westtown Township residents treasure the community's scenic character, natural resources, and opportunities for recreation and sports. Through a robust public participation process, many residents and community organizations participated in voicing their ideas, concerns, and suggestions regarding the kinds of facilities and services that are important to them as well as their ideas for supporting the parks and recreation system in the future. The public participation process included an Open Space Task Force, online questionnaire for public comment, key person interviews, focus groups, and public meetings. The online questionnaire, although not statistically valid, provides an insight to the opinions of 648 households who chose to complete the questionnaire. Over 80 percent of the respondents to the online questionnaire about parks, recreation and open space reported using Oakbourne Park. About 52 percent were willing to pay more in taxes ranging from \$5 to \$15 per person annually for parks and recreation. About 42 percent want to support parks and recreation at its current level. Only five percent wished to decrease support for parks and recreation.”

⁶ [Excerpted from Westtown Township Chester County, PA Open Space, Recreation, and Environmental Resources Plan Update May 5, 2014](#)

Since 1998, there have been 43 municipal open space measures on the ballot in Chester County, and only five failed to implement an open space funding source. The successful measures generated almost \$250 million for open space, farmland, and other natural lands.

Successful Chester County Municipal Open Space Measures Since 1998				
Municipality	Date	Finance Mechanism	Conservation Funds	% Yes
West Bradford Township	11/7/2017	Income tax	\$22,000,000	67%
Newlin Township	11/8/2016	Property tax	\$380,000	60%
East Nottingham Township	11/3/2015	Income tax	\$14,000,000	56%
East Coventry Township	11/2/2010	Income tax	\$7,650,000	53%
Pennsbury Township	11/3/2009	Property tax	\$5,000,000	62%
Charlestown Township	4/22/2008	Income tax	\$20,000,000	77%
West Pikeland Township	11/6/2007	Income tax	\$11,000,000	61%
East Pikeland Township	11/7/2006	Income tax	\$5,000,000	65%
East Vincent Township	5/16/2006	Income tax	\$4,000,000	55%
Elk Township	11/7/2006	Income tax	\$2,500,000	65%
London Grove Township	5/16/2006	Income tax	\$5,500,000	51%
Pocopson Township	5/16/2006	Property tax	\$5,500,000	64%
Schuylkill Township	11/7/2006	Income tax	\$18,000,000	64%
West Vincent Township	5/16/2006	Income tax	\$3,700,000	70%
Honey Brook Township	11/8/2005	Income tax	\$10,000,000	51%
Kennett Township	5/17/2005	Income tax	\$14,000,000	76%
New Garden Township	5/17/2005	Income tax	\$8,000,000	67%
East Nottingham Township	11/2/2004	Income tax	\$8,800,000	50%
Highland Township	11/2/2004	Income tax	\$2,000,000	62%
East Nantmeal Township	11/4/2003	Income tax	\$2,000,000	58%
Londonderry Township	11/4/2003	Income tax	\$1,340,000	63%
Lower Oxford Township	11/4/2003	Income tax	\$6,000,000	61%
Upper Oxford Township	11/4/2003	Income tax	\$3,423,020	54%
Warwick Township	5/20/2003	Income tax	\$1,700,000	56%
West Brandywine Township	11/4/2003	Income tax	\$4,000,000	54%
West Sadsbury	11/4/2003	Income tax	\$1,420,000	53%
East Brandywine Township	11/5/2002	Income tax	\$3,500,000	74%
East Vincent Township	5/21/2002	Income tax	\$13,600,000	80%
Franklin Township	11/5/2002	Property tax	\$2,400,000	70%
North Coventry Township	5/21/2002	Income tax	\$8,000,000	77%
West Vincent Township	5/21/2002	Property tax	\$2,900,000	63%
East Bradford Township	11/7/2000	Income tax	\$6,000,000	65%
London Britain Township	11/7/2000	Property tax	\$720,000	63%
East Marlborough Township	11/2/1999	Property tax	\$1,900,000	69%
Willistown Township	11/2/1999	Income tax	\$5,000,000	81%
East Bradford Township	11/3/1998	Income tax	\$14,000,000	68%

WESTTOWN TOWNSHIP LOCAL CONSERVATION FINANCING OPTIONS:

Generally, there are five primary types of revenue sources available to municipalities in Pennsylvania to pay for land conservation. Municipalities can use discretionary annual spending, electoral and non-electoral debt financing, a voter-approved property tax, or the earned income tax. This report will look primarily at voter-approved general obligation bonds, the property tax, and earned income tax, with brief mention of non-electoral debt. The financing options utilized by a community will depend on a variety of factors, such as taxing capacity, budgetary resources, voter preferences and political will. The ability of local governments to establish dedicated funding sources depends upon state enabling authority. These funding options are not mutually exclusive and can be used in combination—for example, bonds can be issued supported by revenues from a property tax increase.

In 1996, Act 153 was enacted as an amendment to Act 442 of 1967, Pennsylvania’s Conservation and Land Development Act. This law broadened the ability of local governments to acquire interests in real property, including development rights. The purposes include the provision of recreation land, as well as the conservation of scenic resources, historic resources, natural resources, farmland, forestlands, and areas for pure and adequate water supply. Local governments may levy a tax on real estate or earned income above the existing limits of the Commonwealth’s laws, but they must first receive referendum approval.⁷

Electoral and Non-electoral debt

Non-electoral debt is bonds the municipality issues directly, without voter approval. Non-electoral debt is limited by law. The Local Government Unit Debt Act establishes the limits for non-electoral debt by type of local unit. The amount of non-voted debt that can be issued by a municipality is limited to 250 percent of their borrowing base.⁸ The Act defines the borrowing base as the average annual revenue taken over the last three years.⁹ According to the most recent bond statement in 2016 the Township has a capacity to borrow nearly \$25 million non-electorally.¹⁰ Though this is an option for parks and land conservation, it is not ideal, as it must adhere to debt limits, receive majority approval from the township Board of Supervisors, and the alternative, voter-approved general obligation bonds, have enjoyed support in the Commonwealth. Westtown’s credit rating was upgraded in March 2016 by Moody’s Investors Service to Aa2 from Aa3. “The Aa2 reflects the sizeable growth in the township’s General Fund reserve levels over the past three years, strengthening its financial position and liquidity levels. The rating further

⁷<http://www.heritageconservancy.org/wp-content/uploads/2012/02/opportunity-knocks.pdf>

⁸ Local Government Unit Debt Act Section 8022 (a)(2) <http://www.newpa.com/get-local-gov-support/technical-assistance/request-assistance/local-government-unit-debt-act/index.aspx>

⁹ There are some provisions for the issuance of additional debt for certain purposes.

¹⁰ Westtown General Obligation Bond Statement July 2016 <https://emma.msrb.org/IssueView/Details/ER375576>

incorporates the township's manageable debt burden, moderately sized tax base, and high wealth level.”¹¹

Requirements for borrowing ¹²

Once a decision has been made to incur debt for a capital project, the municipality must comply with a number of requirements imposed upon it by the Local Government Unit Debt Act for non-electoral debt.

Before a municipality can borrow funds, the governing body must enact an ordinance or a resolution in the case of small borrowings. The ordinance is both an information tool for the municipality's citizens and a means to officially begin the process of incurring debt. Notice of the ordinance must be published both before and after its enactment. ¹³ As with counties, the law requires that the ordinance contain certain items, which include the following:

- an indication of the type of debt to be incurred (electoral, non-electoral, or lease rental debt);
- an indication of the form of debt (general obligation, revenue or guaranteed revenue);
- a repayment schedule and interest rates;
- a covenant;
- a notice whether the bonds will be sold at public or private sale;
- authorization for an officer of the municipality ¹⁴ to prepare a debt statement (which must be submitted to the Department of Community and Economic Development), to execute and deliver the bonds or notes, and to take other official action as may be needed;
- an identification of the project/purpose for which the debt is being issued and its useful life.

Several counties and municipalities in Pennsylvania have gone this route to fund parks or land preservation.

Issuing debt for land conservation

A general obligation bond in Westtown would provide the means to raise a significant amount of money upfront to protect land that might not be available years down the road. A bond could provide the most readily accessible means to meet the Township's park and conservation goals. Bond funds may only be used for capital expenditures, including acquisition of lands or easements, and development or improvement of park and recreational facilities, and not for operations and maintenance expenses.¹⁵

The chart on the next page includes the general obligation bond projections from a range of potential debt issuances displaying the average annual household cost for each. For example, the Township could issue \$3 million in general obligation bonds at a cost of about \$52 annually per average single family home.

¹¹ <http://www.westtownpa.org/wp-content/uploads/2015/05/Moodys-Opinion-2016.pdf>

¹² Section 8102 and 8103

¹³ Section 8003. Must be 3 to 30 days prior to legislative enactment.

¹⁴ Counties are also considered municipalities in Pennsylvania.

¹⁵ Federal IRS rules governing the issuance of tax-exempt bonds limit the use of proceeds to capital purposes such that only a small fraction of bond funds may be used for maintenance or operations of facilities. State and local laws may further limit the use of bond proceeds.

Westtown Township Bond Financing Costs			
<i>Assumes a 20-year bond issues at 3.0% Interest Rate</i>			
<i>Total Assessed Valuation 2018 (AV)=\$773,026,621</i>			
<i>2018-19 Common Level Ratio of 51.3%</i>			
Bond Issue	Annual Debt Svce	Mill Levy Increase	Cost/Year/ Avg./ House*
\$ 1,000,000	\$67,216	\$0.09	\$17.40
\$ 2,500,000	\$168,039	\$0.22	\$43.49
\$ 3,000,000	\$201,647	\$0.26	\$52.19
\$ 4,500,000	\$302,471	\$0.39	\$78.28

**Based on average taxable assessment of \$200,070, using Common Level Ratio. Does not include exemptions.*

The Trust for Public Land’s bond cost calculations provides a basic estimate of debt service, tax increase, and cost to the average homeowner in the community for potential bond issuances for land conservation. Assumptions include the following: the entire debt amount is issued in the first year and payments are equal until maturity; 20-year maturity; and 3 percent interest rate. The property tax estimates assume that the jurisdiction would raise property taxes to pay the debt service on bonds however, other revenue streams may be used. The cost per household represents the average annual impact of increased property taxes levied to pay the debt service. The estimates do not take into account growth in the tax base due to new construction over the life of the bonds. The jurisdiction’s officials, financial advisors, bond counsel and underwriters would establish the actual terms of any bond.

Authority ¹⁶

For all local government units, except Philadelphia, the Local Government Unit Debt Act provides the authority and procedure for issuing local government debt. There are no statutory debt limits on the amount of voter-approved (electoral) debt, or self-sustaining debt.

Procedure ¹⁷

To obtain voter approval, the governing body of the municipality must first adopt a resolution signifying its intent to issue electoral debt. A copy of the resolution and the form of the question must be certified to the county board of elections at least 45 days before the election. ¹⁸

¹⁶ PA Local Government Unit Debt Act Section 8022

¹⁷ Local Government Unit Debt Act, sections 8041 through 8049 and Center for Local Government Services “Referendum Handbook”

¹⁸ Section 8043 Personal Conversation with Bernadette Barattini, Deputy Chief Counsel, PA Dept. of Economic and Community Development 6/16/2008

The question must be phrased substantially as follows:

Shall debt in the sum of [amount] dollars for the purpose of financing [insert brief description of project] be authorized to be incurred as debt approved by the electors?

While the description of purposes should be brief, it should also be clear to the voters and it should authorize all of the intended activities.

Notice of the referendum must be published in one or two newspapers of general circulation beginning no earlier than 21 days before the election and no later than 14 days before the election. The County Board of Elections shall prepare a statement in plain English, which indicates the purpose, limitations and effects of the ballot question to be included in the notice along with the date of the election and the question to be submitted to the voters.

Voter Approved General Obligation Bond

Voter-approved general obligation bonds have enjoyed widespread support in communities throughout Pennsylvania and the country. The passage rate for all land conservation ballot measures in the Commonwealth is 79 percent, which is above the national passage rate of 76 percent for such ballot measures. Over the past two and a half decades, bonds have an even higher success rate in Pennsylvania at 93 percent. In Pennsylvania, 33 counties and municipalities passed land conservation funding bond measures, most with overwhelming support, generating over \$650 million for land conservation. Below is a list of Pennsylvania counties that have placed land conservation general obligation bonds on the ballot.¹⁹

Pennsylvania Local Conservation Bond Measures					
Jurisdiction Name	Date	Finance Mechanism	Conservation Funds Approved	Status	% Yes
Smithfield Township (Monroe)	11/8/2016	Bond	\$2,000,000	Pass	76%
Patton Township (Centre)	11/4/2014	Bond	\$3,500,000	Pass	64%
Warrington Township (Bucks)	11/6/2012	Bond	\$3,000,000	Pass	66%
Plumstead Township (Centre)	11/3/2009	Bond	\$4,500,000	Pass	51%
Lower Makefield Township (Bucks)	11/4/2008	Bond	\$15,000,000	Pass	69%
Upper Dublin Township (Montgomery)	11/4/2008	Bond	\$30,000,000	Pass	67%
Adams County	11/4/2008	Bond	\$10,000,000	Pass	75%
Buckingham Township (Bucks)	4/22/2008	Bond	\$20,000,000	Pass	82%
Bucks County	11/6/2007	Bond	\$87,000,000	Pass	74%
Milford Township (Bucks)	5/15/2007	Bond	\$5,000,000	Pass	62%

¹⁹ The Trust for Public Land, LandVote®, 2018. www.landvote.org

Voter-approved Property Tax for Land Conservation

The property tax is a familiar revenue source for local governments. Property taxes are usually measured in “mills,” where 1 mill equals \$1 of tax for every \$1,000 of assessed property value. Property taxes provide a steady annual source of revenue regardless of changes in the economy. They are relatively easy to administer at the local level, and the burden is broadly distributed across the tax base. Generally, local property tax rates have limits, requiring voter approval if these limits are exceeded. Statutory rate limitations on property taxes have been established for all classes of taxing jurisdiction in Pennsylvania, except the cities of Philadelphia, Pittsburgh and Scranton and the Philadelphia School District.²⁰ Jurisdictions which have adopted home rule charters under the Home Rule Charter and Optional Plans Law are no longer subject to property tax limits imposed by the legislature in the various local government codes.²¹ Voters of individual home rule municipalities may establish their own real estate tax rate limits in their local charters.²²

Voters in many communities have been willing to use a property tax increase when revenues are specifically earmarked for parks and open space protection.²³ Under Act 153 of 1996 (32 P.S. Sections 5001 to 5013), the majority of the funds may only be used for the purposes of acquiring land, including development rights, for open space benefits.²⁴ Funds from a voter-approved property-tax increase can also be used to finance revenue bonds for these purposes. The chart on the following page includes projections for various potential mill increases in Westtown displaying the cost to the average homeowner. For example, the Township could increase its property tax by .3 mills, which would generate almost about \$230,000 annually for land conservation, while costing about \$60 annually for the average home assessed at \$200,070.²⁵

²⁰ 53 P.S. 12553, 53 P.S. 23104; First Class City Code, Article XVII, Section 3, Second Class City Code, Article XX, Section 3.

²¹ 53 Pa. C.S. 2962.

²² [Pennsylvania Department of Community and Economic Development Taxation Manual Updated January 2016](#)

²³ Excerpted from the Heritage Conservancy's <http://www.heritageconservancy.org/wp-content/uploads/2012/02/opportunity-knocks.pdf>

²⁴ 32 P.S. Section 5002 defines open space benefits as follows:

The benefits to the citizens of the Commonwealth and its local government units which result from the preservation or restriction of the use of selected predominantly undeveloped open spaces or areas, including but not limited to: (i) the protection and conservation of water resources and watersheds, by appropriate means, including but not limited to preserving the natural cover, preventing floods and soil erosion, protecting water quality and replenishing surface and ground water supplies; (ii) the protection and conservation of forests and land being used to produce timber crops; (iii) the protection and conservation of farmland; (iv) the protection of existing or planned park, recreation or conservation sites; (v) the protection and conservation of natural or scenic resources, including but not limited to soils, beaches, streams, flood plains, steep slopes or marshes; (vi) the protection of scenic areas for public visual enjoyment from public rights of way; (vii) the preservation of sites of historic, geologic or botanic interest; (viii) the promotion of sound, cohesive, and efficient land development by preserving open spaces between communities.

²⁵ Pre-determined ratio is 51.3 percent for most homes in Chester County.

Estimated Revenue and Cost of Additional Mill Levy				
Mill Increase	Taxable Valuation*	Annual Revenue	25% for O and M**	Cost /Year/ Avg. Home ***
0.10	\$773,026,621	\$77,303	\$19,326	\$20.01
0.20	\$773,026,621	\$154,605	\$38,651	\$40.01
0.25	\$773,026,621	\$193,257	\$48,314	\$50.02
0.30	\$773,026,621	\$231,908	\$57,977	\$60.02
0.40	\$773,026,621	\$309,211	\$77,303	\$80.03
0.50	\$773,026,621	\$386,513	\$96,628	\$100.04
0.60	\$773,026,621	\$463,816	\$115,954	\$120.04
*Total assessed valuation for 2018.				
**Allowable under Act 115 of 2013				
***Based on median assessed value of \$200,070 with Common Level Ratio of 51.3% applied. Does not include exemptions.				

Voter-approved Earned Income Tax for Land Conservation

The earned income tax (EIT) is an important source of revenue for local governments.²⁶ The EIT may be more acceptable than the property tax in communities with a large population of retired seniors, since the tax is only applied to earned income, not to real estate assets or pensions. Pennsylvania law caps the EIT at 1.0 percent, and in most jurisdictions the local school district claims half of this amount. Regardless, Act 153 of 1996 authorizes voters to approve the levy of an increased earned income tax beyond the 1.0 percent limit, exclusively for the purpose of financing purchases of land or development rights for open space uses which includes existing and planned park, recreation and conservation sites. Funds can also be used to finance revenue bonds for these purposes. The amount of the additional tax is set by the voters in a referendum.²⁷

Westtown currently collects a 1 percent earned income tax where .5 percent of this tax goes to the Township school district. The .5 percent tax for the Township generated approximately \$2.5 million in 2017.²⁸

If Westtown were to place an EIT measure on the ballot, a .05 percent increase would generate about \$255,000 annually for parks and land conservation and cost the average household \$58 annually.

²⁶ Earned income is defined as salaries, wages, commissions, bonuses, incentive payments, fees, tips and/or other compensation for services rendered, whether in cash or property, and whether paid directly to an individual or through an agent.

²⁷ Excerpted from the Heritage Conservancy's <http://www.heritageconservancy.org/wp-content/uploads/2012/02/opportunity-knocks.pdf>

²⁸ Personal communication with Westtown Township Finance Director, June 2018

Estimated Revenue and Cost of Additional EIT			
EIT Rate	Annual Revenue*	25% for O and M	Cost /Year/ Avg. Household **
0.025%	\$127,405	\$31,851	\$29.24
0.05%	\$254,810	\$63,703	\$58.47
0.1%	\$509,620	\$127,405	\$116.95
0.125%	\$637,025	\$159,256	\$146.19

* Based current .5 percent EIT revenue in Westtown of \$2,548,100 **Based on median household income of \$116,949

Referring Tax Measures to the Ballot

The method for placing an earned income or property tax referendum question on the ballot is set forth in the Pennsylvania Election Code (P.L. 1333, No. 320). First, the governing body must pass an ordinance to have the question placed on the ballot. For property and earned income tax measures, the ordinance is then filed with the County Board of Elections at least 13 Tuesdays before the next primary or general election. The question for approval of a dedicated tax must be phrased in the following words:

*“Do you favor the imposition of a [describe the tax in millage or rate] by [local government unit] to be used to [purpose]?”*²⁹

The deadline to place a measure on the November 6, 2018 ballot is Tuesday August 7th, 2018.³⁰

Funding for Park Development, Operations and Maintenance

Act 153 of 1996 contemplates the acquisition of real estate interests for open space uses, which includes park sites. However, that law was amended by Act 115 of 2013 to expand the use of open space property taxes for the development, design, improvement, and maintenance of acquired open spaces. Act 115 of 2013 (32 P.S. § 5007.1) provides that the open space property tax or income tax may be used to develop, design, improve, and maintain open space.³¹

Specifically, Section 5007.1(a)(4) provides as follows:

Revenue from the levy may only be used for the following:

- (i) annually, up to 25% of any accumulated balance of the fund from the levy authorized by referendum, to develop, improve, design, engineer and maintain property acquired pursuant to this act for an open space benefit or benefits; or

²⁹ <https://www.heritageconservancy.org/images/news/publications/pdf/pub-fin.pdf>

³⁰ Personal communication with Director of Voter Services, Chester County

³¹ <http://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2013&sessInd=0&act=115>

(ii) alternatively, for purposes of allocation, the local government unit may create a maintenance fund into which the local government unit may deposit in an amount up to 25% of the annual revenue from the levy authorized by referendum, to develop, improve, design, engineer and maintain property acquired pursuant to this act for an open space benefit or benefits.

(a.1) in no event, however, shall any revenue in a particular year be used to develop, improve, design, engineer and maintain the property acquired unless the annual debt service under subsection (a)(1) or acquisition fees under subsection (a)(2) will be satisfied. The acquisition fees shall be paid in their entirety at the time of acquisition.

(a.2) nothing in subsection (a)(4) shall prevent a local government unit from using funds set aside for development, improvement, design, engineering and maintenance of real property for acquisition of real property to secure an open space benefit or benefits pursuant to subsection (a)(1).

This section would allow a portion of the funds from either the property tax or earned income tax to be used for maintenance. However, without changes to state law, the bulk of the funding would still have to be used for land acquisition.

TPL recommends that the public opinion survey gauge voter support for varying levels of property and EIT tax increases, with information on the annual cost to the average household, to determine how much voters are willing to pay, and their preferences for different funding mechanisms.

VOTER REGISTRATION, TURNOUT AND ELECTION RESULTS

As of May 2018, Westtown had approximately 7,953 registered voters.³² Of these voters, 51 percent are Republicans, 33 percent are Democrats and 16 percent are unaffiliated. On November 8, 2016, the Township supported Hillary Clinton with 52 percent support.

Westtown Township Voter Turnout				
Date	Election Type	Westtown Regist. Voters	Ballots Cast	% Turnout
May-18	Primary Election	7,953	1,588	20%
Nov-17	General Election	7,877	2,388	30%
May-17	Primary Election	7,854	704	9%
Nov-16	General Election	8,118	6,478	80%
Apr-16	Primary Election	7,715	3,525	46%
Nov-15	General Election	7,507	1,997	27%
May-15	Primary Election	7,474	1,183	16%
Nov-14	General Election	7,750	3,809	49%

Over the past several years, Westtown voters have not seen any local referenda by which to gauge their support for public spending. In November 2008 voters in Chester County overwhelmingly supported a statewide \$400 million Water and Sewer Improvements Bond with 61 percent support.

In summary, Westtown is fortunate to have multiple viable funding options for parks, trails, farmland and land conservation that can generate significant revenues at a reasonable cost to taxpayers. The next step is select discrete finance mechanisms and conduct a public opinion survey to gauge voter preferences and support.

³²<http://webapps.chesco.org/election/lib/election/results/720f.htm> Chester County Elections

APPENDIX A

Recent Successful Ballot Language

<i>Jurisdiction</i>	West Bradford Township, Chester County
<i>Election Date</i>	November 7, 2017
<i>Ballot language</i>	WEST BRADFORD TOWNSHIP OPEN SPACE REFERENDUM "Do you favor the imposition of a tax on earned income of Township residents by West Bradford Township at the rate of one-quarter of one percent annually to be used to preserve, conserve, and acquire open space property interest and benefits?"
<i>Results</i>	EIT, passed 67% yes
<i>Jurisdiction</i>	Smithfield Township, Monroe County
<i>Election Date</i>	November 8, 2016
<i>Ballot language</i>	Smithfield Township Water Quality, Forest and Wildlife Habitat Fund "Shall debt in the sum of Two Million Dollars (\$2,000,000.00) for the purpose of financing the acquisition of land, development rights and/or conservation easements in the township for the protection of drinking water supplies; water quality in lakes and streams; wetlands that provide flood protection; forest and wildlife habitat be authorized to be incurred as debt approved by the electors?"
<i>Results</i>	Bond, passed 76% yes
<i>Jurisdiction</i>	Newlin Township, Chester County
<i>Election Date</i>	November 8, 2016
<i>Ballot language</i>	NEWLIN TOWNSHIP OPEN SPACE REFERENDUM "Do you favor the imposition of an increase in the existing real property tax at the rate of 0.15 mills (\$.15 per \$1,000.00 assessed valuation) to be used by Newlin Township to raise revenue for purposes of securing open space benefits?"
<i>Results</i>	Property tax, passed 60% yes

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