PECONIC BAY COMMUNITY PRESERVATION FUND
ADVISORY OPINIONS BUREAU

Advisory Opinion 2013-2

Opinion Requested By: Town of Southampton
Issued June 24, 2013

Town Law Section 64-e 3 (D), 4 (C), 4 (L)

Community preservation funds may not be used to fund four poster deer tick control programs. Four poster deer tick control programs are only incidentally related to the purposes and policies of CPF stewardship. In reality they address unrelated issues of public health, which must be funded from general town funds, not the CPF budget.

The Town of East Hampton has requested an advisory opinion as to whether CPF funds may be used to implement a program of four poster tick control. The Town provided no detail about the proposed program such as the locations in which it would be operative, the target deer population, the duration of the program, or whether it involved any follow up evaluation or assessment.

Four poster tick control devices are actually passive feeding stations designed with four vertical rollers. The rollers are impregnated with a pesticide toxic to ticks. They are located such that when deer feed, they rub their head, neck and shoulders against the rollers, thereby administering a dose of the pesticide in the locations vulnerable to feeding ticks.

Ticks and tick borne disease are serious health concerns on the East End of Long Island. However, their connection to the actual stewardship of CPF properties is incidental. The simple presence of ticks alone is not directly and clearly linked to CPF stewardship policies. In themselves, ticks do not impair eco-systems or affect their maintenance on CPF properties.

Two principal methods of deer tick management have typically been considered. One is the four poster application program. Others involve deer population control though hunting or other means.

Arguably, controlling deer populations might have a direct link to CPF stewardship policies, if there were reliable empirical evidence that increasing deer population posed a direct threat of harm to existing eco-systems on CPF lands. For example, in some circumstances, deer might threaten native vegetation and habitat by over-browsing. However, the mere presence of ticks on CPF lands does not have the same direct link to damage or preservation of existing eco-systems.

Although CPF policies include a preference for public access, that policy does not mean that CPF expenditures for four poster tick control programs are proper. Public access is encouraged to the extent that it is environmentally acceptable. That policy does not authorize CPF expenditures for every measure which might make public access easier, safer or more acceptable. Absent a direct showing of some harm to the eco-systems which CPF stewardship is intended to protect, measures such as the eradication of mosquitos, or the clearing of poison ivy or poison oak could not be funded, although they would likely make public access more convenient, healthy and perhaps marginally safer.

Also, the use of four poster tick control stations does involve the introduction of pesticides on CPF lands. While not a decisive factor, that fact suggests that the funding of four poster tick control is not necessarily benign and free of environmental risk.

It is our opinion, that in the absence of some identified impact to the eco-systems located within CPF lands, subject to stewardship, that the mere presence of ticks, and the health risk they pose, do not in themselves authorize the expenditure of CPF funds on tick control programs, no matter how well intended. Ticks and tick borne disease are serious problems on Eastern Long Island. However, health issues can be directly and properly addressed by the legislature, and funded from the general fund.