

FINAL APPLICATION

N.J.A.C. 7:36-26.11

(Major disposals or diversions of parkland)

PRIOR TO SUBMITTING THE FINAL APPLICATION: The pre-application must be reviewed by the Green Acres Program and the applicant must be given permission by Green Acres to file the final application. (*N.J.A.C. 7:36-26.9(h)3*) The applicant shall submit the final application within 180 days of the date of approval to proceed to Final Application. (*N.J.A.C. 7:36-26.11(a)*)

THE FINAL APPLICATION SUBMISSION AND APPROVAL IS DIVIDED INTO TWO PARTS. Please note that the public hearing can only be scheduled following review and approval of Part 1 of the Final Application. (*N.J.A.C. 7:36-26.11(d)*)

THE COMPLETE FINAL APPLICATION (PART 2) MUST BE SUBMITTED AT LEAST 75 DAYS PRIOR TO THE STATE HOUSE COMMISSION MEETING: The State House Commission usually meets around the 1st of March, June, September, and December; these dates are to be used ONLY as guidelines. The Green Acres Program will notify the applicant of the scheduled State House Commission meeting once the meeting date is announced. (*N.J.A.C. 7:36-26.11(i)*)

COMPLETION OF THE FINAL APPLICATION IN NO WAY GRANTS ANY APPROVAL FOR THE PROPOSED DIVERSION OR DISPOSAL OF PARKLAND. FINAL APPROVAL OF AN APPLICATION TO DIVERT GREEN ACRES ENCUMBERED PARKLAND MAY ONLY BE GRANTED BY THE DEP COMMISSIONER AND THE STATE HOUSE COMMISSION.

Note: Please check our web site at www.nj.gov/dep/greenacres/pdflaunch.html#legal_stewardship for updated versions of this application form prior to filing the final application.

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Major Disposal/Diversion Final Application Requirements

PART 1 (To be submitted prior to scheduling the public hearing)

- 1. **Appraisals** for the parkland proposed to be disposed of or diverted and the replacement land proposed as compensation (if applicable), performed in accordance with the requirements of N.J.A.C. 7:36-8.3 or 19.3, as applicable. (*N.J.A.C. 7:36-26.11(b)1*). **Note:** No appraisal is required if the applicant has obtained an appraisal waiver pursuant to *N.J.A.C. 7:36-26.10(l)*
- 2. A **title report** for the proposed replacement land, as applicable, to determine existing restrictions, encumbrances, easements, liens, or other factors which may affect the market value of the land. (*N.J.A.C. 7:36-26.11(b)2*).
- 3. **Land survey plan** for the parcel(s) of land to be disposed of or diverted and the proposed replacement land(s), if applicable, prepared in accordance with *Appendix II* of the Green Acres Program Rules *N.J.A.C. 7:36*. (*N.J.A.C. 7:36-26.11(b)3*).
- 4. **A metes and bounds description** for the parcel(s) of land to be disposed of or diverted and the proposed replacement land(s), if applicable, prepared in accordance with *Appendix II* of the Green Acres Program Rules *N.J.A.C. 7:36*. (*N.J.A.C. 7:36-26.11(b)4*).
- 5. The **Final Compensation Proposal** prepared pursuant to *N.J.A.C. 7:36-26.10*. (Please refer to Attachment III: Preliminary Compensation Proposals for Major Disposals or Diversions of Parkland of the Pre-application package for guidance) (*N.J.A.C. 7:36-26.11(b)5i-iv*)
- 6. The **Proposed Public Notice** for the public hearing and the proposed location of and language to be placed on the Public Notice Sign required pursuant to N.J.A.C. 7:36-26.11(h). (**Attachment I: Sample Public Notices**) (Please also review the **Public Hearing Sign Guidance Document** – available at www.nj.gov/dep/greenacres/pdflaunch.html) (*N.J.A.C. 7:36-26.11(b)7*)
- 7. Any additional information requested by Green Acres to clarify the final application requirements including any portions of the Pre-application package that have been revised. (*N.J.A.C. 7:36-26.11(b)8*)
- 8. Maps. (**Attachment II: Map requirements; and Attachment III: Sample Reference Map**) (*N.J.A.C. 7:36-26.11(b)6*)
- 9. **Please attach this cover sheet and Attachment II: Map Requirements checklist.**

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10. **Please provide the following copies:**
- **Two printed copies of the entire application excluding Items 1-4 and 8**
 - **The original, one printed, and one digital copy of Items 1 and 2**
 - **Three printed copies and three digital copies, one each in .dxf and .dwg file formats and a .pdf file format of the scanned signed survey, as outlined in *Appendix II* of the Green Acres Program Rules, of Items 3 and 4**
 - **Items 5 and 6 in Microsoft Word Format**
 - **One printed set and one digital set, in .pdf file format, of maps submitted under Item 8 (note that one set constitutes the number copies indicated in Attachment II: Map requirements)**
 - **All other application material in .pdf format**
- Digital copies may be submitted on a Standard or Mini CD-R produced to be read by any CD-ROM drive or on a USB Flash Drive.**

NOTES:

- The applicant shall submit the first part of the final application within 180 days of receiving permission to proceed to final application. (*N.J.A.C. 7:36-26.11(a)*)
- The final application must be deemed complete for public hearing purposes by Green Acres before a public hearing on the application is scheduled. (*N.J.A.C. 7:36-26.11(c)*)
- This package is also available at:
www.nj.gov/dep/greenacres/pdflaunch.html#legal_stewardship.

Submit the above items prior to advertising or holding the required public hearing. The Green Acres Program will review the submission and determine if the submission is complete for the public hearing. After the public hearing is held, please submit the following items to complete the application:

PART 2 (To be submitted following completion the public hearing and public comment period)

1. **Proof of publication, mailings and postings** of the notice of public hearing required under *N.J.A.C. 7:36-26.11(e)* & *N.J.A.C. 7:36-26.6(h)1-3*. (*N.J.A.C. 7:36-26.11(i)1*) (**Attachment IV: Public Notice Requirements**)

Note: For a county's convenience a portion of Attachment IV details how counties can couple the requirements of N.J.S.A. 40A:12-13.5 et seq. with Green Acres requirements.

2. **The transcript** of the public hearing. (*N.J.A.C. 7:36-26.11(i)2*)
3. **A summary of public comments** made at the public hearing and/or provided in writing during the public comment period and the applicants response to the public comments. (*N.J.A.C. 7:36-26.11(i)3*)

4. **Governing body resolution.** (**Attachment V: Sample Resolution**) (*N.J.A.C. 7:36-*

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26.11(i)4)

- 5. **Attorneys Opinion Letter. (Attachment VI: Attorney Opinion / Review Form)**
(N.J.A.C. 7:36-26.11(i)5)

- 6. The **Conflict of Interest Disclosure** form as required by the State House Commission pursuant to the "New Jersey Conflicts of Interest Law" (N.J.S.A. 52:13D-12 et seq.) **Note:** Green Acres will provide the current form prior to the State House Commission meeting. This form submission is only required when a private entity will benefit from the parkland diversion/disposal.

- 7. **Please provide the following copies:**
 - **Two printed copies and one digital copy in .pdf file format of all application material (Items 1-6)**
 - **Item 3 in Microsoft Word Format**
 - **Any revised maps, print and/or digital copies as requested by Green Acres**
 - **All other application material in .pdf format****Digital copies may be submitted on a Standard or Mini CD-R produced to be read by any CD-ROM drive or on a USB Flash Drive.**

- 8. **Please attach this cover sheet and Attachment IV: Public Notice Requirements checklist.**

NOTES:

- The applicant shall submit the first of the final application within 180 days of receiving permission to proceed to final application. *(N.J.A.C. 7:36-26.11(a))*
- The final application must be deemed complete for public hearing purposes by Green Acres before a public hearing on the application is scheduled. *(N.J.A.C. 7:36-26.11(d))*
- If authorized to proceed, the second part of the final application must be submitted to Green Acres 75 days prior to the next scheduled State House Commission meeting. *(N.J.A.C. 7:36-26.11(i).)*
- This package is also available at:
www.nj.gov/dep/greenacres/pdflaunch.html#legal_stewardship.

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ATTACHMENT I: SAMPLE PUBLIC NOTICES

Pursuant to *N.J.A.C. 7:36-26.11(h)3*, all public notices are required to include the following information:

- The name of the applicant and the date, time and location of the public hearing;
- A description of the proposed disposal or diversion and a statement of the purpose for which it is proposed;
- The street address (if available), municipality, County, tax map block and lot and size of the property that is the subject of the proposed diversion or disposal and the proposed replacement land (if any);
- A description of the parkland compensation;
- A statement that an application for Commissioner and State House Commission approval of the disposal or diversion has been submitted to Green Acres and is available for review at the municipal offices and the library serving the municipality(ies) in which the parkland proposed for disposal or diversion is located and at the Green Acres Program offices; and
- A statement inviting participation in the public hearing and notifying the public that, in the alternative, written comments may be submitted to the applicant during a public comment period that will close on a date that is two weeks after the hearing date. The statement shall provide an address for submittal of written comments to the local government unit or nonprofit and shall require that copies of any written comments also be sent to:

New Jersey Department of Environmental Protection
Green Acres Program
Bureau of Legal Services and Stewardship
501 East State Street, 1st Floor
Mail Code 501-01, P.O. Box 420
Trenton, New Jersey 08625-0420

Note: Please review the Sign Guidance Document – available at www.nj.gov/dep/greenacres/pdflaunch.html for information regarding the Public Notice Sign.

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The following is provided as a **Public Notice Template**. Please complete all areas indicated in bold and fill in any blanks as necessary. (N.J.A.C. 7:36-26.11(e)3)

Date

Adjacent Property Owner or Interested Party Name
Adjacent Property Owner or Interested Party Address
Adjacent Property Owner or Interested Party Block X, Lot X

Re: Project Name
Block & Lot of Diversion
City, Borough or Township of _____, _____ County, NJ
Notice of Green Acres Public Hearing
CERTIFIED MAIL

Dear **(Adjacent Property Owner or Name)**:

This letter is to provide you with written notification that the **(Applicant)**, located at **(Applicant's Address)**, will hold a public hearing to obtain comments regarding its application to the NJDEP Green Acres Program, for the proposed major **(disposal / diversion)** of parkland owned by **(Landowner)**. This application is subject to NJDEP Commissioner and State House Commission approval, and is available for review at **(Clerk's Office Address)** and **(Local or Regional Library Address)** and at the NJDEP Green Acres Program offices (address below).

The public hearing will be held **(date, time, and location)**. All interested parties are invited to attend and participate in the public hearing. In addition to oral comments presented during the hearing, written comments may be submitted to the agencies listed below. All written comments must be received within two weeks following the hearing by **(date)**.

The proposed parkland disposal would involve the **(description of diversion)**. In accordance with NJAC 7:36-26.10(X), **(description of compensation)**.

All written comments should be submitted to the **(Applicant)**, with copy to the NJDEP Green Acres Program, at the following addresses:

(Applicants Address)	NJ Department of Environmental Protection Green Acres Program Bureau of Legal Services and Stewardship 501 East State Street, 1st Floor Mail Code 501-01, P.O. Box 420 Trenton, NJ 08625-0420 <u>Attention: (NJDEP County Steward)</u>
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Should you have any questions, please contact me at **(XXX) XXX-XXXX**.

Very truly yours,

(Project Manager, Municipal Official)
(Address)

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ATTACHMENT II: MAP REQUIREMENTS

For all Final Application submissions please submit the following (# of copies):

Location Maps (8½" x 11" in size):

- County Road Maps: Showing the proposed disposal/diversion parcel or area and the proposed compensation area **(2)**

Tax Maps (8½" x 11" or 11" x 17" in size):

- A) Showing the proposed disposal/diversion parcel(s)/area and any adjacent parkland; depict the entire park boundary and separately depict the proposed disposal/diversion area **(2)**
- B) Showing the proposed compensation parcel(s)/area and any adjacent parkland **(2)**

Aerial Site Maps* (11" x 17" or larger in size):

- A) A small scale site map showing the proposed disposal/diversion parcel(s) or area; depict the entire park boundary and separately depict the proposed disposal/diversion area **(18)**
- B) A small scale site map showing the proposed compensation (parcel(s)/area) and any adjacent parkland **(18)**

****If the Project is of such size/scale that the Aerial Site Map(s) also show the proposed disposal/diversion in relation to the proposed compensation, you do not need to include a large scale Reference Map requested below. If this is the case, please include 15 copies of the Aerial Site Map instead.****

Reference Map* (Attachment III) (11" x 17" or larger in size):

- A large scale site map showing the proposed disposal/diversion in relation to the proposed compensation. Please include aerial imagery. **(18)**

If the proposed disposal or diversion will result in the loss of any development, additionally submit:

Park Facilities Maps (11" x 17"):

- A site plan showing all recreational facilities and identifying those facilities proposed to be removed **(18)**
- A site plan showing all proposed replacement recreational facilities **(18)**

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Notes:

- To the extent possible, please show the following on the Aerial Site Maps, Reference Map and Park Facilities Maps:
 - Tax map block and lot number(s) (current as of the date of request),
 - The owner(s) of record,
 - The approximate dimensions and area (in acres),
 - Existing improvements and easements,
 - Road rights-of-way,
 - Wetlands (as approved by DEP Land Use Regulation Program through issuance of a Letter of Interpretation or as shown on maps prepared by the Department under the Wetlands Act of 1970, N.J.S.A. 13:9A1 et seq., and the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B1 et seq. and available from the Department at www.nj.gov/dep/gis/lists.html),
 - Floodplains (as shown on the New Jersey State Flood Hazard Area maps prepared under the Flood Hazard Area Control Act, N.J.S.A. 58:16A50 et seq. and available from the Department at www.nj.gov/dep/gis/lists.html or as determined from other State or Federal mapping or from a site delineation), and
 - Tidelands (as determined from New Jersey Tidelands claim maps, conveyance overlays, and atlas sheets and available from the Department at www.nj.gov/dep/gis/lists.html).

- Please utilize the most current digital color infrared (CIR) orthophotography of New Jersey for the Aerial Site Maps and Reference Map, available online at https://njgin.state.nj.us/NJ_NJGINExplorer/jviewer.jsp?pg=2012_OrthoImagery. If the development of such maps is beyond your technological capabilities please substitute appropriately.

- In the event that you do not have access to a standard desktop GIS product that supports available imagery, such as ESRI's ArcView, freeware programs which allow viewing of the image files may be downloaded and installed to your computer. A list of open source GIS is maintained and made available from https://njgin.state.nj.us/NJ_NJGINExplorer/jviewer.jsp?pg=gis_links#gis_software

Another option is a web-based application, NJ-GeoWeb, made available by the NJDEP at www.nj.gov/dep/gis/geoweb splash.htm.

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Attachment III: Sample Reference Map



PROJECT NAME

YOUR COUNTY

SHC #

YOUR MUNICIPALITY

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
GREEN ACRES PROGRAM



1 inch = 400 feet

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ATTACHMENT IV: PUBLIC NOTICE REQUIREMENTS

Once the Department has determined that the application is complete for public hearing purposes under N.J.A.C. 7:36-26.6(b), the applicant shall hold a public hearing on the complete application and provide for a public comment period during which written comments may be submitted.

The applicant shall provide notice of the public hearing and of the opportunity for the public to submit written comments in accordance with the following and shall maintain a record that documents that the notice requirements were met:

At least **30 days** prior to the hearing, the applicant shall:

- Publish a **legal notice** in the official newspaper of the municipality (or municipalities) in which the parkland proposed for disposal or diversion is located and, if the applicant is a County or a regional nonprofit, also in a local newspaper of general interest and circulation;
- Post notice of the hearing on an official web site (if available) in the same manner as other public hearing notices are posted;
- Provide written notice of the hearing to the following entities:
 - Green Acres Program
 - municipal governing body*
 - local planning board*
 - environmental commission*
 - open space advisory committee*

* If the project is located in multiple municipalities notify each municipality accordingly

If the local government unit is a county, also to the:

- county governing body
- county planning board
- county environmental commission
- county open space advisory committee

As applicable also to the:

- Council on Affordable Housing
- Highlands Council
- Pinelands Commission
- any other regional regulatory agency identified by the Department

- Provide written notice of the hearing via certified mail (return receipt requested) to:
 - all persons who own land located within 200 feet of the parkland that is the subject of the proposed major disposal or diversion
 - any easement holders for that land who are listed in the tax records for the municipality(ies) in which the land is located

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- Post and maintain in a legible condition until the public comment period is concluded, a sign on the parkland that is the subject of the proposed diversion or disposal. Such sign shall advise the public of the proposed diversion or disposal, the public hearing on the proposed disposal or diversion and the opportunity for public comment on the proposed disposal or diversion. **Please review the Public Hearing Sign Guidance Document – available at www.nj.gov/dep/greenacres/pdf/launch.html for information regarding the location and content of the Public Notice Sign.**

At least **15 days** prior to the hearing, the applicant shall:

- Publish a **display ad**, a minimum of 4 inches in width, in the official newspaper(s) of the municipality(ies) in which the parkland that is the subject of the proposed disposal or diversion is located and, if the applicant is a county or regional nonprofit, also in a local newspaper of general interest and circulation; and

In order to provide **Proof of Publication of the Notice of Public Hearing**, please submit the following information with Part 2 of the Final Application (*N.J.A.C. 7:36-26.6(f)1*):

- Proof of Publication of the legal notice required to be published 30 days prior to the hearing in the official newspaper of the municipality;
- A dated copy of the official Township web site posting, if applicable;
- Proof of publication of the display ad required to be published 15 days prior to the hearing in the official newspaper of the municipality;
- Copies of and proof of mailing of the notices required under NJAC 7:36-26.6 (e)1iii and iv;
- Proof of the posting and maintenance of a sign on the parkland that is the subject of the proposed diversion or disposal.

NOTE: For diversion of county lands only:

Pursuant to *N.J.S.A. 40A:12-13.5*, when a **county** intends to sell or lease land for a term of 20 years or more, or exchange any real property or capital improvement for any purpose, public notice and hearing requirements apply to the transaction regardless of whether there is a Green Acres restriction on the property or not. Some of the information compiled for purposes of the Green Acres pre-application will be useful in preparing the report required by *N.J.S.A. 40A:12-13.5a(1)*. In addition, the two public hearings required under *N.J.S.A. 40A:12-13.5a(3)* may be combined with the public hearing required under *N.J.A.C 7:36-26.6*, as long as the applicant complies with the more stringent notice requirements of *N.J.A.C 7:36-26.6(e)*. Pursuant to *N.J.S.A. 13:8C-35(b)*, the Department is required to verify compliance with *N.J.S.A. 40A:12-13.5* prior to approving a diversion or disposal of Green Acres encumbered parkland.

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ATTACHMENT V: SAMPLE RESOLUTION

(insert: Local Unit)

**RESOLUTION
*(insert: #)***

**RESOLUTION SUPPORTING THE STATE HOUSE COMMISSION FINAL
APPLICATION TO THE NJDEP GREEN ACRES PROGRAM FOR
*(insert: DESCRIPTION OF DISPOSAL/DIVERSION)***

WHEREAS, Block *(insert: #)*, Lot *(insert: #)* is part of the *(insert: Local Unit)* *(insert: Park name)* which is encumbered with restrictions against disposal or diversion from recreation and conservation uses by the New Jersey Department of Environmental Protection's Green Acres Program; and

WHEREAS, in conjunction with the proposed *(insert: project description)*, it is necessary to remove the Green Acres restrictions from a *(insert: size)* acre portion of *(insert: Park name)*; and

WHEREAS, the removal of Green Acres restrictions from parkland requires the approval of the Commissioner of the Department of Environmental Protection and the State House Commission pursuant to *N.J.A.C. 7:36-26*; and

WHEREAS, the *(insert: Local Unit)* wishes to apply for approval for *(insert: project description)* as a major disposal or diversion of parkland under *N.J.A.C. 7:36-26*; and

WHEREAS, resolution *(insert: resolution number)* was passed on *(insert: date of resolution)* supporting the pre-application submission pursuant to *N.J.A.C. 7:36-26.9(d)11*; and

WHEREAS, a public hearing was held on *(insert: date of public hearing)* and public comment was accepted until *(insert: date of close of public comment period)*; and

WHEREAS, in accordance with *N.J.A.C. 7:36-26.11(i)4*, it is necessary for *(insert: Local Unit)* to submit as part of the final application a Resolution endorsing the application to divert or dispose of parkland;

NOW THEREFORE, BE IT RESOLVED by the *(insert: Local Unit governing body)* of the *(insert: Local Unit)*, in the County of *(insert: County Name)*, State of New Jersey as follows:

1. The *(insert: Local Unit)* endorses the filing of a final application for the *(insert: park name/description of disposal or diversion)* pursuant to *N.J.A.C. 7:36-26*;

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2. The *(insert: Local Unit governing body)* has reviewed both oral and written comments accepted during the public comment period and have made a finding that the major disposal or diversion of parkland is still in the public's best interest.
3. The *(insert: Local Unit)* hereby finds that *(insert: park name/description of disposal or diversion)* would meet the minimum substantive criteria at N.J.A.C. 7:36-26.1(d) by *(insert: explanation of how project will fulfill a compelling public need or yield a significant public benefit)*;
4. The *(insert: Local Unit)* acknowledges that in order to obtain the approval of *(insert: park name/description of disposal or diversion)*, all substantive and procedural requirements of N.J.A.C. 7:36-26 must be met, including compensation requirements at N.J.A.C. 7:36-26.10.
5. Upon approval of *(insert: park name/description of disposal or diversion)* by the Commissioner of the New Jersey Department of Environmental Protection and the State House Commission and proof that all terms and conditions of the approval have been satisfied or will be satisfied in a timely manner, the *(insert: Local Unit governing body)* hereby authorizes and directs the *(insert as applicable, either: Mayor or Freeholder Director)* and *(insert as applicable, either: Local Unit Clerk or Administrator)* to execute 1) a Green Acres Release and Compensation Agreement and 2) a *(insert as applicable, either: Deed of Restriction or Deed of Easement)* for any replacement land serving in whole or in part as compensation for the diversion, in accordance with N.J.A.C. 7:36-26.11(m).

DATE: *(insert: date)*

(insert: Local Unit Name)

BY: _____
(insert: Title)

ATTEST: _____
(insert: Title)

BY: _____
(insert: Title)

ATTEST: _____
(insert: Title)

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ATTACHMENT VI: ATTORNEY OPINION / REVIEW FORM

Pursuant to *N.J.A.C. 7:36-26.11(i)5* and part 2 of the application checklist a letter from the applicant's attorney must be provided with the final application stating the following:

- The attorney has reviewed the entire application for Commissioner and State House Commission approval;
- It is the attorney's opinion that the applicant is empowered to proceed with the application;
- It is the attorney's opinion that the applicant is not in violation of any applicable Federal, State, or local laws, rules, regulations, codes, or ordinances pertaining to the proposed major disposal or diversion of parkland or to the project for which the disposal or diversion is sought; and
- If the applicant is a local government unit, it is the attorney's opinion that the local government unit has complied, to the extent applicable, with:
 - the Local Lands and Buildings Law, *N.J.S.A. 40A:12-1 et seq.* (including, but not limited to, *N.J.S.A. 40A:12-13.5 et seq.* if the local government unit is a county),
 - the statutory provisions governing municipal parks and playgrounds (*N.J.S.A. 40:61-1 et seq.*),
 - the statutory provisions governing county parks and playgrounds (*N.J.S.A. 40A:37-1 et seq.*),
 - the statutory provisions governing boards of recreation commissioners and the establishment of municipal and county parks and playgrounds (*N.J.S.A. 40:12-1 et seq.*),
 - the local open space tax statute, *N.J.S.A. 40:12-15.1 through 15.9*, and
 - any other statute governing the conveyance, disposal or diversion of land or parkland held by a local government unit.