

Land Trusts' Role in Procuring Public Funding for Conservation

by Ernest Cook

THE RURAL COLORADO TOWN OF BASALT SITS AT THE JUNCTION OF THE

Fryingpan River, a world-class trout stream, and the Roaring Fork River, which drains a watershed the size of Rhode Island. The confluence point, covered in cottonwood trees and willows, is a patch of untrammeled nature in the heart of the town, and a prime local fishing spot. Thanks in part to the Roaring Fork Conservancy, the confluence point and other natural lands along the rivers will be protected from destruction.

In November 2001 Basalt's residents voted to increase their property taxes by \$3 million to fund land conservation. The Roaring Fork Conservancy, a local land trust, education and research group, built support for the measure with a quiet but effective campaign. In each neighborhood, it found a volunteer who supported the measure, and sent him or her out to talk to neighbors about it.

"It was right after 9/11, and there was a lot of nervousness about the economy, but it passed with pretty overwhelming local support," says Jeanne Beaudry, executive director of the Roaring Fork Conservancy. "We were able to lend our name to it," giving confidence to local voters that "if the conservancy is behind it, they've done their homework."

Local and state ballot measures have become a major source for land conservation funding in recent years, and



Westchester Land Trust

A ceremony in October 2002 marked the signing by Westchester Land Trust of the contract to protect the 112-acre Old Field Preserve. Among those pictured are Westchester County Executive Andy Spano (second from left), and then, third to fifth from left: NYS Department of Environmental Conservation Commissioner Erin Crotty; Paul Gallay, executive director of the land trust; and Jeff Doynow, the seller.

land trusts have often played key roles in their creation and passage. These land trusts range from large groups near big cities—like Montgomery County Lands Trust in suburban Philadelphia, which helped win passage of a \$150 million bond measure in 2003—to the Gallatin Valley Land Trust, which helped win passage of a \$10 million measure to

purchase development rights from ranchers, the first program of its kind in Montana.

The benefits from this involvement flow in both directions. Land trusts bring to the ballot efforts important assets and skills, including local political connections, credibility, expertise in land conservation and networks of committed volunteers. In return, by working on the referendums land trusts advance their core mission of protecting land, while increasing their own visibility.

"We got involved in this because we saw a unique opportunity to have public support for preservation in the wake of a very long period of heavy-duty development," says Paul Gallay, executive director of Westchester Land Trust in suburban New York. "The benefit to Westchester Land Trust and the county as a whole is that the referendums, and the resulting citizen interest in preservation, have spilled over into more savvy planning laws. It's had tremendous benefits in our more core tasks of seeking conservation easements and

working with municipalities and developers on better planning and land use project design.”

Public funding offers a large and growing source of funds for land conservation. In 2003 voters approved 100 state and local measures in 22 states, creating \$1.8 billion in new conservation-related funding. That comes on top of \$21.3 billion raised in such measures between 1999 and 2002.

These ballot measures have enjoyed strong community support: 78 percent of such measures were approved in the five-year period 1999 to 2003. Despite widespread anti-tax sentiment, voters across the country have demonstrated they are willing to raise their own taxes to protect open space in their communities.

Land trusts have a strong motivation to get involved now: With sprawling development threatening open space around the country, the window of opportunity for protecting important lands is beginning to close.

“People are looking at the size of the challenge of dealing with development in their communities,” says Russell Shay, director of public policy at the Land Trust Alliance. “Sooner or later they come to the conclusion that they need help, that they can’t do it by themselves, and that the broader the community involvement, the more likely it is that there will be success.”

Land Trusts Able to Lobby

Once a measure is put on the ballot, the effort shifts to campaigning for support. Since governments are restricted in their ability to lobby their own voters, land trusts and groups organized by land trusts play an important role.

Many land trusts labor under the misconception that, as nonprofit organizations, they can’t get involved in lobbying. In fact, they can lobby, with some limitations. Under the Internal Revenue Code, 501(c)(3) nonprofit organizations (public charities) can participate in ballot measures by endorsing questions, contributing money and making in-kind contributions of resources, such as employee time and office space.

The general IRS rule is that a public charity cannot spend a “substantial part of [its] activities” on lobbying, though the IRS hasn’t clearly defined “substantial.” However, charities can clearly determine their lobbying limits by making an “H election”—filing a simple form under Section 501(h), which sets specific limits on the percentage of their budgets that can be spent on lobbying. [See “Can Land Trusts Lobby?” on page 24 for details on lobbying rules.]

Case Study: The Conservation Foundation (IL)

Land trusts are uniquely well situated to play a leading role in local and statewide campaigns. They know the territory and understand the concerns of local voters. Their boards often consist of community leaders who can influence voters and enlist the support of key political and business leaders.



The Conservation Foundation

The Conservation Foundation helped to promote a measure that when passed, produced funds that were used to protect 3,000 acres, including the three-mile-long Forked Creek Preserve shown here.

In Chicago’s suburbs, The Conservation Foundation reached out to the Illinois political leadership to build support for the first measure it backed, a \$75 million referendum in DuPage County in 1997.

“We were sticking our neck out on this one, because DuPage County is as anti-tax as they come,” says Brook McDonald, president and CEO of The Conservation Foundation, in Naperville, Illinois.

McDonald telephoned Illinois Senate President James “Pate” Philip, who represented DuPage County and who at the time was the most powerful Republican in the state. Philip said he had just had breakfast with the chairman of the DuPage County Board, an opponent of the plan.

“The DuPage County Board chairman told him all kinds of bad things about the measure,” McDonald says. “I refuted every single one. By the end of the conversation, he not only agreed to endorse it, he wrote a letter to the editor” of local papers expressing his support. The measure passed with 58 percent of the vote.

In deciding to support the measure, Philip demonstrated an important political fact: Land conservation is a bipartisan issue. Voters in Republican-dominated, anti-tax counties like Chicago’s suburbs are often willing to raise their own taxes to protect land. While many Republicans are strong supporters of conservation in its own right, land preservation also appeals to anti-tax voters.

In his letter to the editor, Philip wrote that “It’s not often I find myself endorsing a tax increase.” But he urged support for the measure, saying that “the cost for purchasing this open space is much cheaper to the taxpayers than the alternative if this land is developed.” If the land is developed, he wrote, “more schools will have to be built; more police, fire and community services will have to be provided; and more traffic-congested streets will be gridlocked. And our quality of life will decline.”

The Conservation Foundation called on the Trust for Public Land for help with the DuPage County bond proposal. TPL helps land trusts and local governments across the country to research and design programs to fund land conservation. After the success of the DuPage County bond, The Conservation Foundation and TPL went on to win passage of three additional measures in Chicago-area counties, raising a total of about \$270 million. The referendums raised funds for the county park systems, called Forest Preserve Districts.

Though the referendums were put on the ballot by the Forest Preserve Districts, the districts needed help both in designing the measures and getting them approved. Across the country, land trusts have pitched in with technical assistance, including polling and helping to craft ballot language.

In Will County, Illinois, The Conservation Foundation helped tweak the language of a 1999 referendum to raise \$70 million for land protection. The Board of Commissioners of the county's Forest Preserve District had initially decided to place before voters an eye-glazing referendum "to acquire land and to develop land for the purpose of protecting and preserving such land, for the education, pleasure and recreation of the public and for other purposes authorized by the Downstate Forest Preserve District Act of the State of Illinois, as amended."

With help from the Trust for Public Land, The Conservation Foundation polled voters on their response to the ballot language, and found that it tested poorly. The foundation helped rewrite the referendum. The final version promised "to improve existing forest preserves, wetlands and prairies, and to acquire and improve forests and other natural lands for purposes of preserving wildlife habitats, protecting natural resources, improving flood control, providing educational programs, and increasing access to trails, fishing, and other recreational areas."

The measure passed with support of 57 percent of voters. The funds have been used to preserve 3,000 acres of land in 47 properties. Among them is the three-mile-long Forked Creek Preserve, spanning one of Will County's most scenic valleys and connecting to the coast-to-coast American Discovery Trail. The preserve protects native prairie grasses standing up to five feet tall in the summertime, and gives local residents a place to fish, camp and cross-country ski.

In 2002 The Conservation Foundation and TPL polled Kendall County residents to gauge their level of support for conservation funding. It tested the response to campaigns for \$5 million, \$7.5 million and \$10 million, and found sufficient support only for a \$5 million measure. The Forest Preserve District put a \$5 million bond measure on the November 2002 ballot, which passed by 64 percent. The Conservation Foundation was "an extraordinary help," says Kay Hatcher, president of the Forest Preserve District of Kendall County.

Case Study: Alachua Conservation Trust (FL)

With government bodies in many states barred from lob-



Anne Nelson/Trust for Public Land

Blues Creek Ravine was acquired by Alachua Conservation Trust in 2002, in partnership with the Trust for Public Land, Alachua County and the State of Florida. "What we're about is saving land, however it happens."—ACT board member Pegeen Hanrahan

bying for referendums, land trusts across the country have stepped up to fill the resulting void. They help by raising funds, by educating voters, and sometimes by forming and coordinating political action committees to back the measures.

Florida's Alachua County, which includes Gainesville, has a rich and diverse landscape of pineland, grassland, swamp, marsh, hardwood hammocks, and sandhill. The land provides important habitat for the southern bald eagle, sandhill crane, gopher tortoise and Florida black bear. But the open space is rapidly being devoured by new housing subdivisions.

In 2000 Alachua Conservation Trust helped win passage of Alachua County Forever, a \$29 million referendum to fund land acquisition through a property tax. The trust held a fundraising dinner that collected \$10,000 for the Legacy Lands Political Action Committee. The PAC, in turn, paid for a substantial chunk of the \$60,000 advertising and public education campaign backing the measure. The Nature Conservancy also supported the campaign, with polling and campaign strategy. The referendum passed with the approval of more than 60 percent of voters.

In addition to helping achieve the primary purpose of saving land, involvement in the campaign provided direct benefits to the Alachua Conservation Trust. "It certainly helped us raise public awareness of what the land trust does," says Pegeen Hanrahan, who was executive director of the trust when it worked on the measure, and is now on the board of the group.

Alachua Conservation Trust was also hired by Alachua County to develop the land acquisition plan for the program, to develop a computer program to evaluate proposed acquisitions, and to collect information on state and federal pro-

grams that could provide matching grants for acquisitions. The expertise of land trusts makes them an important source of technical assistance for government entities tasked with land conservation.

Hanrahan says some land trust backers fear public land acquisition programs as unwelcome competition, but she rejects that view. "In the long run what we're about is saving land, however it happens," Hanrahan says. With the rapid pace of development in Florida, "we don't have time to sit around having turf wars. From my perspective, the more people we have worrying about how to save land, the better."

Case Study: Westchester Land Trust (NY)

In Westchester County, a suburb north of New York City, Westchester Land Trust helped propel a series of land conservation measures to victory by partnering with open space advocates in local communities across the county.

Between 1986 and 1996 Westchester County saw a quarter of its privately owned open space swallowed up by development. Many local residents had begun to fear that the county's scenic, tree-covered character would soon be lost forever.

In February 2000 Westchester Land Trust established Westchester Open Space Alliance (WOSA) as a central organization for community open space advocates. Its strategy was to raise money for preservation through ballot measures, and to use the resulting public awareness and momentum to encourage reforms in master development plans, zoning ordinances and building codes.

The alliance initially set up local WOSA organizations in eight municipalities. With help from Westchester Land Trust and the Trust for Public Land, local WOSA organizations carried out public opinion polls that showed strong majorities were willing to allocate tax dollars to open space protection. The polls also identified the main concerns of residents: water quality, preserving local identity and saving wetlands.

By September 2000 seven communities had put on their November ballots open space measures funded by small tax increases. WOSA members and the Westchester Land Trust then went to work building support for the measures, holding community meetings and a central pre-election rally and press briefing. Westchester Land Trust enlisted state senators, state assembly members, county legislators, and town and village board members to urge local voters to approve the measures.

In the November election the seven measures all passed, by an average 2-to-1 margin.

"People shared information, and they all succeeded

together," says Paul Gally of Westchester Land Trust. "We wouldn't have had so much of a bounce if we hadn't gotten together in this alliance."


Since 2000, 13 communities in Westchester have set up open space funds, most of them through referendums. The 13 communities have raised \$35 million for local land acquisition, and seven of the communities have either closed on acquisition deals or signed contracts to do so.

In all, the 13 communities have preserved a total of 483 acres, using \$10.2 million of their own money and combining it with \$17.2 million from New York state, Westchester County and private sources. "The communities that haven't spent the money yet have all gotten open space inventories completed, and they're creating priority lists," Gally says.

Perhaps the most significant property protected so far is the Old Field Preserve, 112 acres of habitat, trails and important watershed land in the town of Lewisboro. The land had been slated to be torn up for residential subdivisions. It contains meadows that are increasingly rare in Westchester, supporting species such as the field sparrow, prairie warbler and indigo bunting.

While 483 acres may not sound like much, protecting it is a significant achievement in a county with some of the nation's highest property prices. Still, the task has just begun: More than 50,000 acres of privately owned open space in Westchester County remain open for development.

Bright Future for Public Financing

Communities in many states around the country are learning how to use public financing through ballot initiatives as a way to conserve important lands. Recent successes, along with highly supportive polling, show that use of this conservation tool is likely to grow in the future. But as with any conservation transaction, success depends on the details. With public financing, that means solid training and preparation, sophisticated drafting and polling, strong partnerships and public education. 

Ernest Cook is director of the Trust for Public Land's national Conservation Finance Program, which advises state and local governments on the feasibility and design of legislation and ballot measures. Cook is also president of the Conservation Campaign, a lobbying and campaign organization that sponsors ballot measures. Together, the two organizations have helped to pass \$36 billion in conservation funding since 1996. For information on a new book by Cook on conservation funding, see page 36.

In 2003 voters from around the country spoke out in support of land conservation, generating \$1.8 billion for the cause. Review the results in *LandVote 2003*, the sixth annual report of election results on conservation measures by the Trust for Public Land and the Land Trust Alliance. TPL will send one report to every LTA member land trust, but if you can't wait, go to www.tpl.org/download_landvote_03.cfm to download your free copy today.