

# **Designing Conservation Finance Ballot Measures in New York State**

## **A Guide for Town Government Officials**

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February, 2004

# Introduction

Local governments around the country are using land conservation to manage growth, and they are creating new parks to promote a better quality of life for their citizens. In order to finance parks and land conservation, local governments in the past ten years have adopted special funding measures – such as bonds and dedicated taxes – in unprecedented numbers. In particular, *ballot measures* have become very popular.\* Ballot measures give voters a direct opportunity to make judgments on the amount and purposes of government spending for land conservation. The majority of ballot measures for parks and open space are successful, but some are painful failures.

The Trust for Public Land (TPL) tracks and analyzes conservation finance measures across the nation. TPL also provides advice and technical assistance to local governments in designing these measures. We've condensed our experience into a simple 5-step guide for town officials in New York State. This guide should help you proceed with more confidence and avoid common pitfalls that can imperil the success of your conservation finance proposals.

In addition to the steps recommended in this guide, TPL sometimes suggests a public opinion survey to accurately evaluate voter preferences before designing a ballot measure. But surveys are expensive and often not feasible. Also, a good survey requires expertise that is beyond the scope of this guide. If you think you might need a survey in your community, please contact us for advice.

This guide will take you through to the point of referring a measure to the ballot. After that, citizens who care about parks and open space will often form a campaign committee and raise money to run a campaign to support the measure. TPL publishes *The Conservation Finance Handbook* to help local activists run a successful campaign. This is available at [www.tpl.org](http://www.tpl.org).

In New York, TPL is one of many organizations that are working together to help create more local government funding for land conservation. Their help has been essential in creating this guide. Our thanks go to:

Highlands Coalition  
Land Trust Alliance  
The Nature Conservancy  
New York League of Conservation Voters  
Open Space Institute

Palisades Interstate Park Commission  
Regional Plan Association  
Scenic Hudson  
Westchester Land Trust

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\*See [www.landvote.org](http://www.landvote.org) for data over the last several years.

## Step 1: Develop a Compelling Conservation Vision (Figure out what people care about)

- **Define the community's conservation goals**
  - Create an inventory of natural resources (water resources, trails, riparian areas, wildlife corridors) that might be candidates for protection.
  - Determine how development patterns relate to current protected land and targeted priority lands.
  - Examine the broad range of potential open space purposes that might be funded through a conservation finance measure.
    - Parks, greenways, recreation lands.
    - Lands that safeguard key environmental resources such as wetlands, watershed and wildlife habitat.
    - Lands that support important industries - tourism, forestry, and farming.
- **Assess the demand for protected land**
  - Understand what members of the community want in terms of open space preservation, not just what open space advocates and elected officials want.
  - Design a process that encourages public participation and responds to the concerns of all interested parties.
    - Include a broad base of leadership from the community –government, business, neighborhood, and environmental representatives.
    - Meet with a variety of constituencies to help assess demand.
- **Remember that protection of water resources is always a compelling reason to protect open space**
  - The number one reason that voters support open space measures across the country is to protect water resources. The Trust for Public has conducted dozens of polls that demonstrate that voters overwhelmingly support conservation for drinking water protection and the water quality of rivers, lakes, and streams.
- **Listen to the people**
  - Open space advocates are often so focused on their specific areas of interest (greenways, trails, nature preserves) that they may lose sight of the reasons that rank and file voters would support an open space ballot measure, such as water resource protection.

## Step 2: Choose a Funding Option – Bonds are the Primary Option

- **New York local governments – almost exclusively towns-- have an unparalleled record of passing conservation finance ballot measures**
  - 95% of measures (40 of 42) were approved in New York State between 1998 and 2003; nationwide 70% were approved.
- **There are three primary funding options that local governments have used to fund land conservation in New York State**
  - General Obligation Bond
  - Property Tax
  - Real Estate Transfer Tax
- **General obligation bonds and dedicated property tax levies are preferred over the real estate transfer tax for several reasons:**
  - No state legislative approval is required for bonds or the property tax.
    - Bonds are the most commonly used local mechanism, accounting for 28 of 42 ballot questions between 1998 and 2003; 3 towns have used the property tax.
  - State approval is required to levy the transfer tax.
    - Several towns in Orange Co. were denied legislative authority in 2003.
  - There is no track record of success for the transfer tax in areas that lack a dominant second home/vacation home population.
    - The transfer tax has been approved (twice) by five towns on the East End of Long Island.
  - The real estate transfer tax has a built-in, well-funded opposition from realtors.
    - The National Association of Realtors opposes the imposition of real estate transfer taxes or fees under any condition and encourages its members to oppose any increases.

## Step 3: Decide How Large a Ballot Measure to Seek (What is the spending threshold for voters?)

**Choose a reasonable funding level (i.e., total bond issue sought) that doesn't unduly burden taxpayers**

- The Trust for Public Land has found that voter support drops off when the annual cost per household exceeds \$30.
- In metro New York and in affluent communities, an annual cost of \$50-\$100/household may work.

**The funding level for a bond can be determined using the following method:**

Step 1: Determine the annual debt service required for a range of bond issues. Using the pmt formula on Microsoft Excel, it is possible to determine the annual debt service required based on the total amount of bonding sought (i.e., \$1m), the interest rate (i.e. 5%), and the term of the bonds (i.e., 20 yrs.).

Bond Amt.	Rate	# Years	Annual Debt Svce.
1,000,000	5%	20	\$80,243
3,000,000	5%	20	\$240,728

Step 2: Determine the tax rate required to pay the debt service. Divide the annual debt service by the total assessed value ("the tax base") and multiply by 1,000. This provides the tax rate in standard terms. (In New York, tax rates are expressed in \$/\$1,000 of assessed value). This is a conservative method of calculation since it does not anticipate increases in the assessed value, which are probable.

Bond Amt.	Rate	# Years	Annual Debt Svce.	Assessed Value (AV)	Tax Rate/\$1,000 AV
1,000,000	5%	20	\$80,243	250,000,000	0.3210
3,000,000	5%	20	\$240,728	250,000,000	0.9629

Step 3: Determine the average annual cost per household, using recent figures for average assessed home valuation. Divide the Tax Rate by \$1,000 and multiply the result by the average home valuation.

Bond Amt.	Rate	# Years	Annual Debt Svce.	Assessed Value (AV)	Tax Rate/\$1,000 AV	Avg. Assessed Home Value	Cost/Household
1,000,000	5%	20	\$80,243	250,000,000	0.3210	100,000	32.1
3,000,000	5%	20	\$240,728	250,000,000	0.9629	100,000	96.3

Step 4: Redo steps 1-3 in order to find out the bond amounts that will yield the costs/household at \$10, \$20, \$30...\$100.

## Step 4: Choose an Election Date

- **Determine when the local governing body must take action to place a measure on the ballot**
  - Confer with the town counsel and the town clerk to determine exactly when the town board must approve a resolution to refer a question to the ballot.
  - According to the Trust for Public Land's research, the following provisions apply to local ballot measures (currently being reviewed by legal counsel).
    - According to Article 7 of the Town Law (New York Consolidated Laws), the town clerk must provide for notice of a special election within 10 days after the town board adopts a resolution calling for a permissive referendum.
    - According to Chapter 17, Article 4 of the Election Law, the town clerk must submit a ballot measure to the election board at least 36 days prior to the election.
- **Start early to develop a winning ballot measure; ideally six months to one year before the anticipated election**
  - The statutory requirements noted above reflect the absolute deadlines that govern action by the town to get a measure on the ballot.
  - A town may also choose to discuss and debate a resolution over several meetings, negotiate and revise ballot language, hold public hearings, and solicit public comments. All of these activities would push back the process by several weeks or months.
- **Research voter turnout, election history, and potential competing measures**
  - Research historical voter turnout for all potential election dates.
  - Examine voter support levels for recent fiscal and environmental ballot measures.
  - Determine if there are potential competing measures likely to be on the ballot.
    - Avoid elections with a competing measure that is complex or controversial.
- **Pursue a higher turnout election (November general election) rather than a special election**
  - From a public policy perspective, general elections provide the greatest number of voters with the opportunity to vote.
  - On a practical level, open space ballot measures have historically been more successful on general election ballots.
  - Low-turnout special elections can often magnify the impact of groups that oppose an open space ballot measure.
    - Fiscally conservative, anti-tax voters are high propensity voters.

## Step 5: Develop Clear, Concise and Compelling Ballot Language

- **Drafting the strongest, most effective ballot language is critical to success**
  - The ballot language may be the primary (or only) source of information for voters, and can have a significant impact on undecided voters.
- **What are the elements of effective ballot language?**
  - Clear expression of voter priorities/public purpose as quickly as possible (see step 1).
  - A funding level in line with voters' spending thresholds (see step 3).
  - Fiscal safeguards that reassure voters that money will be spent wisely.
    - Independent audits, sunset clauses, citizens advisory committees.
  - An absence of unnecessary technical jargon (technicalities or legalities) that is not required by law.
  - A ballot title that clearly conveys the essence of the ballot measure.
- **What are the legal requirements for ballot language in New York?**
  - According to Chapter 17, Article 4 of the New York Consolidated Laws, a ballot measure must be clear and coherent, using words with common and everyday meanings. An abbreviated ballot title is also permitted.
    - There are no specific requirements for word length, or specific language that must be included in the ballot language.
    - Despite the absence of specific ballot language requirements, many of the examples TPL has reviewed contain a range of complicated elements that are not required by law, but have become the custom in drafting ballot measures. These elements are not required and can usually be negotiated during the drafting of ballot language by local officials (usually in consultation with outside bond counsel).
- **Base ballot language upon successful examples**
  - Language should come from a comparable level of government in New York. Two examples of ballot language are listed below: an effective example from the Town of Warwick and a less effective example from the Town of Goshen.

**Warwick:** "In order to preserve farmland and other open spaces and areas, shall the Town of Warwick Bond Resolution in the amount of \$9.5 million for the acquisition of open space and areas be approved?"

**Goshen:** "Shall the Resolution entitled: 'Bond Resolution of the Town of Goshen, New York, adopted August 28, 2003, authorizing the issuance of \$10,000,000 bonds of said Town to finance the acquisition of interests or rights in real property in the Town for the preservation of open spaces and farmland, and determining that this bond resolution shall be subject to a mandatory referendum', be approved?"

- The Warwick question is less than half as long, and it does not introduce technicalities (such as the date the underlying resolution was adopted) or legalities (“interests or rights in real property”)
- Most importantly, the Warwick question states the public purpose in the first eleven words: “In order to preserve farmland and other open spaces and areas...” The Goshen question buries the public purpose “for the preservation of open spaces and farmland” in an obscure position two-thirds of the way through a long and complicated question.
- Finally, to the average voter, which measure sounds like it will have a bigger tax bite, “\$9.5 million” or “\$10,000,000”?