

Lake Wentworth Foundation Policy Guidelines for Land Acquisition and Management

ISSUES

The protection of property for conservation purposes involves a number of considerations, including the legal obligations brought on by ownership or management commitments, tax considerations for landowners and conservation groups, demands on resources (financial and volunteer time), the desires of the community, the impact and benefits to the community, and issues of land use.

LAND PROTECTION OPTIONS

An organization such as the LWF can protect property in a number of ways. It is worth noting that, in just about every case, the interests of the property owner and those of the conservation organization are not identical, and it is important that all parties understand the relative advantages and obligations of each method.

- Conservation easement – The property owner gives up development rights but retains ownership and financial responsibility for a property. Under strict IRS guidelines, the property owner may qualify for a federal income tax deduction for a donation of a conservation easement. Local property taxes are still due, but application may be made to the Town for a reduced assessment pursuant to NH RSA 79-B Conservation Restriction and the property may qualify for a current use assessment under NH RSA 79-A. The easement holder accepts responsibility for monitoring compliance with the conditions of the easement.
- Donation – Under strict IRS guidelines, the property owner may qualify for an income tax deduction for a donation of the property. Although title to the property is held by a charitable organization, it will still be subject to local property taxes, unless the property is deemed to be used for the tax-exempt purposes of the organization, which do not include maintaining the property as open space. The organization also needs to provide liability coverage for the property.
- Outright purchase – The property owner obtains all or some percentage of fair market value. For the conservation organization, the tax and liability obligations are the same as with donated property.
- Executory easement – This is essentially a backup easement held by one organization on another's conservation easement. It provides for takeover of responsibilities and obligations should the holder of the conservation easement be unable to fulfill its obligations.

I. GUIDING PRINCIPLES FOR LAND ACQUISITION AND MANAGEMENT

A. The LWF shall protect land that contributes to the preservation of the water quality of the Lake Wentworth and Crescent Lake watershed and nearby areas. Conservation of such lands shall preserve open space, protect natural habitat of wildlife or plants, protect water quality within the watershed, or preserve natural areas for passive outdoor recreation and scenic enjoyment by the general public.

B. The LWF shall seek donations of land and conservation easements as the principal means of land and water quality protection. In appropriate circumstances, the LWF may agree to purchase land or conservation easements through targeted fundraising or by using funds raised through its periodic fundraising appeals.

C. The LWF shall focus its land protection efforts primarily within the Lake Wentworth and Crescent Lake watershed. Lands located within the watershed may also be considered.

D. Land protection efforts shall focus on but not be limited to lands that are vulnerable to development within the following land categories:

1. Shorefront and island properties.
2. Land important for protecting quality or quantity of surface or underground waters, or for providing natural control of flooding.
3. Back lands adjacent to protected properties.
4. Back lands composing viewshed around lakes.
5. Land that meets one or more of the LWF Conservation Criteria (see Attachment A)
6. Historic landmarks that reflect the unique character of the area.

E. The natural qualities that the LWF strives to protect include

1. Waterfront land.
2. Wetlands, streams, and vernal pools.
3. Important plant or animal habitat.
4. Scenic viewshed.
5. Open space, particularly if public benefit can be demonstrated
6. Areas with historical, agricultural, or architectural significance.

F. LWF may consider gifts of lands that can be sold to generate funds for supporting the mission of the LWF.

G. An easement must protect a property's resource in perpetuity.

II. REQUIREMENTS

A. An Initial Assessment Report shall be prepared for a proposed property or proposed conservation easement showing the condition of the property and describing the conservation values being protected. This report shall include maps (survey, sketch, or generated by office staff) showing all man-made and natural features of the property, photographs if available, and a written narrative explaining the unique qualities of the property. (See Attachment B)

B. The title to a property or conservation easement shall be examined by the LWF's attorney prior to acquisition. A title insurance commitment will be obtained for any purchased interest in land.

C. Purchase of an interest in land may require a qualified independent appraisal. However, the LWF may accept a letter of opinion from a qualified real estate professional on occasion, for example in the limited circumstances when the purchase price is demonstrably below fair market value.

D. Any property that is a candidate for acquisition should be assessed for hazardous waste contamination.

If physical evidence or history of the property suggests potential site contamination, the LWF may choose to contact qualified personnel to determine whether further investigation by a hazardous waste consultant is warranted.

E. Properties shall have permanent, legal access to enable monitoring, management, and enforcement by the LWF. Public access to lands protected by conservation easements shall be left to owners' discretion and is not required.

F. To help defray costs of monitoring and enforcement of conservation easements, donors may be asked to contribute to the LWF, or an alternative funding plan may be developed if projected costs are

estimated to be significant.

G. A recommendation from the Lands Committee or Officers of the LWF Trustees shall be obtained prior to a vote by the Board of Trustees to accept or acquire a conservation easement or fee simple ownership of a parcel.

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