

Designing Winning Conservation Finance Ballot Measures in New Jersey

A Guide for Local Government Officials

Prepared by
The Trust for Public Land

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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. For example, New Jersey voters approved 14 of 27 county and local land conservation ballot measures in 2007, lower than historical success rates, so it is important to understand the key steps that will give you the greatest chance of success.

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 local officials in New Jersey. 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. In addition, the Conservation Campaign (<http://www.conservationcampaign.org>) can provide technical expertise to mobilize public support to run a successful campaign.

Finally, if there are particular properties in mind, TPL's project staff stands ready to help municipal officials on all aspects of those transactions, including negotiating with landowners, seeking state, federal and private funding, and working to develop the political consensus necessary to achieve a municipality's land-use objectives.

Tom Gilbert
Conservation Finance Director, New Jersey
The Trust for Public Land
tom.gilbert@tpl.org

Matthew Zieper
Conservation Finance Research Director
The Trust for Public Land
matt.zieper@tpl.org

*See 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 Land 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.
 - Protecting water quality was the top voter priority in an April 2004 national public opinion survey¹.
 - Protecting water quality was also the top voter priority in a January 2007 New Jersey statewide poll.
 - A statewide poll conducted in November of 2007 found that 73% of New Jersey voters agree with the statement: “nothing is more important than having clean water to drink, and clean water in our lakes, rivers, and streams.”

¹ A survey of 1,500 registered voters nationwide was conducted from April 3 to April 12, 2004 for the Trust for Public Land and the Nature Conservancy by Fairbank, Maslin, Maullin & Associates (D) and Public Opinion Strategies (R).

Step 2: Make the Case for Conservation Finance: Is this Really Possible... “YES”

Why Local Conservation Funding is Essential

- Local funding is the foundation of any long-term land conservation effort because it is the only source of funding that a local government has any control over. External funding – federal, state, private– can be an important, but secondary, means of completing a land conservation project and often requires upfront matching funds that need to come from a local government
- Competition for external funding is fierce and may not be reliable due to ever-changing state and federal budget circumstances; Funding for New Jersey’s Garden State Preservation Trust programs will run out in 2009 if not replenished (for more information, see <http://njkeepitgreen.org/>).

Why Attempt a Conservation Finance Ballot Measure?

- While most local governments can create funding for land conservation through their budgetary process, this either happens very infrequently or does not yield adequate funding.
 - In so-called “emergency room conservation” a city or county may rally to make an emergency appropriation to purchase a piece of land to stave off impending development. How often can this take place though? It is a high-risk strategy and one that leads local governments to paying a high price to conserve land that is usually fully permitted.
 - In TPL’s experience, local governments that create funding via the legislative process provide substantially less funding than those that create funding through ballot measures. As elected officials go through the process of making critical budgetary decisions, funding for land conservation lags behind other public purposes, and well behind what voters would support.
- One of the driving factors behind the growing conservation finance ballot measure movement is the desire to move funding for land conservation front and center as a critical public purpose that requires funding now, before important lands are lost to development.
- Underlying this movement is a partnership between local elected officials and the electorate. Elected officials recognize that conservation finance ballot measures are a powerful way to give voters the chance to weigh in on their community’s future.

Will Local Governments in New Jersey support conservation finance ballot measures?

New Jersey local governments are un-matched in the extent of their participation in local ballot measures

- All 21 counties and 234 municipalities in New Jersey (41% of total) have approved local conservation finance ballot measures since 1988
- The approval rate for NJ ballot measures was 80% (364 of 453) compared with 75% of local ballot measures nationwide.
- More than 2/3 of the municipalities in Mercer, Warren and Morris counties have approved open space taxes
- More than 1/2 of the municipalities in Hunterdon, Somerset and Sussex counties have approved measures
- Fewer than 10% of municipalities in Atlantic, Hudson, Cape May (0%) and Cumberland (0%) have approved measures (overall 5 of 75 municipalities have open space taxes here.

Municipal Open Space Ballot Measures Breakdown by County

	Share of Total Municipalities w/OS Tax	Municipalities with OS Tax
Warren	77%	17
Morris	74%	29
Mercer	69%	9
Somerset	62%	13
Hunterdon	62%	16
Sussex	54%	13
Essex	50%	11
Burlington	48%	19
Salem	47%	7
Gloucester	46%	11
Passaic	44%	7
Middlesex	40%	10
Bergen	39%	27
Monmouth	38%	20
Ocean	36%	12
Camden	19%	7
Atlantic	13%	3
Union	10%	2
Hudson	8%	1
Cape May	0%	0
Cumberland	0%	0

Many local governments will repeatedly increase their support for land conservation over time

- There have been 73 municipalities that have approved multiple local ballot measures, with 17 having approved three or more measures and 56 having approved two measures
- There have also been 16 local governments with multiple failed measures, including six that have failed more than 3 times

Municipalities with Multiple Measures

County	Municipality	# Measures
Burlington	Mount Laurel Twp.	4
	Moorestown Twp.	3
	North Hanover Twp.	3
Gloucester	Harrison Twp.	3
Hunterdon	Delaware Twp.	3
	Readington Twp.	3
	West Amwell Twp.	3
Mercer	Hopewell Twp.	3
	West Windsor Twp.	4
Middlesex	Carteret Boro.	3
Monmouth	Millstone Twp.	3
Morris	Chatham Twp.	3
	Jefferson Twp.	3
	Mendham Twp.	4
Somerset	Branchburg Twp.	3
Warren	Franklin Twp.	4
	Harmony Twp.	3

There are also 56 municipalities with 2 measures

However, support for local ballot measures has steadily declined every year for the past 8 years

- Between 1998 and 2000, there were 127 successful municipal ballot measures in New Jersey and voters approved 91% of these measures

New Jersey Local Ballot Measure Summary

	1988-2005	1996	1997	1998	1999	2000
Pass	11	7	8	47	36	44
Total	14	8	10	57	38	45
% Rate	79%	88%	80%	82%	95%	98%

- Between 2000 and 2005, there were 46 successful ballot measures and voters approved 58% of these measure

	2001	2002	2003	2004	2005	2006	2007
Pass	43	24	28	29	20	14	12
Total	53	30	37	41	29	24	26
% Rate	81%	80%	76%	71%	69%	58%	46%

- The reasons behind this decline are unclear, but one strategy to boost this approval rate is to be very thoughtful in the design of ballot measures, as described in this guide. One can no longer assume that just placing a measure on the ballot will result in the high success rates that New Jersey has enjoyed in the past.

○ Step 3: Assessing Readiness to Move Forward

Political leadership is essential to advance the effort to consider a ballot measure as a viable option (and ultimately to win a ballot measure)

- The first two steps in the process (conservation visioning and “making the case for conservation finance”), if done well, lay the groundwork to move forward.
 - Hopefully, your local government is now armed with a well-defined conservation vision based on the input of a broad base of citizens. By developing such a plan, in conjunction with citizens, you have will have infused them with an expectation that the vision will be implemented (which of course takes money!)
- The next step in the process is for elected officials (mayors, county chairman, county executives, others) to explore the feasibility of placing a measure on the ballot.

Feasibility research and polling are essential components to evaluate whether a ballot measure may be a viable option

- Feasibility research will highlight what is possible – the land conservation financing options available and the legal parameters for proposing a measure – and what has worked in your local government and neighboring local governments in the past. Feasibility research will examine the revenue capacity of different funding options and what these options will cost the typical taxpayer.
- Research will examine whether your local government has the fiscal capacity to undertake a measure or whether other priorities should take precedence.
- Finally, research can help guide the development of a scientifically based, public opinion survey (or poll) if funds are available to test the potential support of a ballot measure, alternative funding levels, public priorities and fiscal safeguards; a poll will help guide the development of a ballot measure that reflects public priorities and has a good chance to succeed.
- Occasionally, proponents will decide, based on results of the research, that the time is not right to pursue a measure. For instance, voters may have rejected recent public spending measures at the ballot box. In other cases, economic and political indicators may suggest a more favorable time may be in the future.
- The Trust for Public Land can provide technical assistance to local governments on feasibility research and polling, so please contact us if you are interested in these services.

Step 4: Choose a Funding Option – Property Taxes are the Primary Option in New Jersey

- **Property taxes are the primary mechanism that local governments have used to fund land conservation in New Jersey**
 - More than 95% of the ballot measures approved since 1988 were property tax measures
 - The remaining measures (10 total) were general obligation bonds
- **To levy a local property tax for open space (and related purposes) requires local legislative approval, followed by approval by a majority of local voters at a general election or special election** (*Disclaimer: This general information is provided by the Trust for Public Land. This is not to be relied upon as legal advice. Please seek legal advice from your counsel.*)
 - Counties and Municipalities all have been granted universal enabling authority by the legislature (Ch. 24 of the Acts of 1997) to levy a property tax, subject to voter approval at a general or special election.
 - While special elections are possible, only 5 of 453 local ballot measures have been placed on a non-November ballot (all 5 were in May)
 - The tax may be used for a defined set of purposes (spelled out in the ballot question) that include: conservation lands, recreation lands, farmland, historic sites, maintenance or development of recreational facilities and debt service on borrowings (bonds) for open space acquisition
 - For example, voters in Wayne Township (Passaic County) approved a November 2003 ballot measure that allows the township to levy up to two cents/\$100 assessed value for the following purposes:
 - Acquisition of land for recreation, conservation and farmland, development of recreation and conservation land, historic preservation and debt service for open space acquisition
 - These ballot measures are legally non-binding advisory measures but effectively have been used by local governments to levy the maximum amount of property taxes authorized by voters (i.e., the full 2-cents in Wayne Township above)
 - A ballot measure can express the tax levy in different ways – such as “not to exceed two cents/\$100 assessed value” or “between one and two cents/\$100 assessed value
 - A referendum can contain a sunset provision – i.e., that a tax will be collected for a ten-year period and will then be subject to renewal

Step 5: Decide How Large a Ballot Measure to Seek (What is the spending threshold for voters?)

Choose a reasonable funding level that taxpayers will likely support

- In the Northeast, the Trust for Public Land has found that voter support drops off when the annual cost per household exceeds \$30-\$50 annually
- In New Jersey, the average property tax rate for the 323 municipal ballot measures was 2.18 cents/\$100 of assessed value
- The median annual cost/household for a municipal open space tax \$43 in 2007; when county open space taxes are factored in, this figure rises to \$105/household
 - This \$105 reflects 1.6% of an average homeowner's \$6,527 tax bill
- It is always better to choose a modest amount and succeed then overreach and be defeated the first time; there is a long track record of local governments approving additional future ballot measures for open space (1/3 of municipalities in NJ have done this.)
- Information on ratables (the tax base or taxable assessed value) can be obtained from the municipal tax assessor in order to find out the average assessed value of a home, the annual revenue raising projections and the annual cost per household. The example below illustrates how to calculate these figures.

Property Tax Revenue Raising Projections

Annual Revenue projected at \$30 and \$50 per household per year

Municipality	County	Taxable Assessed Value (2006)	Avg. Res. Property Value (2006)	Annual Revenue Raising Projections			
				\$30/HH Annual Cost		\$50/HH Annual Cost	
Wayne Township	Passaic	\$ 5,363,356,637	\$ 227,369	\$ 0.0132	\$ 707,663	\$ 0.0220	\$ 1,179,439

Step 1: We first need to figure out what tax rate (per \$100 of assessed value) will = \$30/household per year. \$30/household per year is the lower end of the benchmark range that voters will support in annual costs for a conservation finance ballot measure.

We need to solve this equation to find out the Tax Rate (Tax Rate/\$100)* Avg. Residential Property Value

The Tax Rate = (\$30* \$100)/Avg. Residential Property Value or \$3,000/Avg. Residential Property Value

In the Wayne example above, we take \$3,000/\$227,369 and we get a Tax Rate of 0.0132 or 1.32 cents/\$100 of taxable assessed value

Step 2: We multiply the Tax Rate of 0.0132 * the Taxable Assessed Value (i.e. the "tax base") of \$5,363,356,637

In the Wayne example, this yields \$707,663 in 2007; over 20 years, it would yield \$14.1 million

Repeat Steps 1 and 2 at \$50/household or some other amount as appropriate.

Step 6: 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; it is also the last thing voters see before they cast their ballot

- **What are the elements of effective ballot language?**
 - Clear expression of voter priorities/public purpose as briefly as possible (see step 1).
 - A funding level in line with voters' spending thresholds (see step 4).
 - An absence of unnecessary technical jargon (technicalities or legalities) that is not required by law.
 - Inclusion of provisions that ensure accountability, such as an annual independent audit, oversight by a citizen advisory committee, etc.

- **What are the legal requirements for a ballot measure**
 - There can be a title (ex: Sussex County, Ocean County)
 - The rate of the tax can go at the end (ex: Dover Township)
 - The question can be several sentences in a paragraph (ex: Sussex County) or in a numbered list (ex: West Milford Township, Hamburg Borough)
 - The purposes can be set off in a lettered list from A-F above as worded in the statutes (ex: Sayreville Borough) or all run together in a shortened form (ex: Princeton Township)
 - The interpretive statement can be quite lengthy, and can explain how the rate works, how much the tax will raise, and how much the increase will be for an average property owner (ex: City of Vineland)

- **Base ballot language upon successful examples in New Jersey**
 - Shall the Borough of Point Pleasant establish the "Point Pleasant Borough Open Space Recreation and Farmland and Historic Preservation Trust Fund" to be used for the purposes of acquiring, developing and maintaining conservation and recreational properties, acquiring farmland for farmland preservation, acquiring or preserving historic properties or for the payment of debt service incurred by the Borough for these purposes to be funded at a rate not to exceed 1 (one) cent per \$100 (One Hundred Dollars) of total Borough equalized real property valuation?

- **A local government must file a request to hold a referendum 74 days prior to Election Day**