Protecting What Matters:
WHAT ALL LAND TRUST BOARD MEMBERS NEED TO KNOW
Presented by Henrietta Jordan – Connecticut Land Conservation Conference
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The basics:
• Characteristics of an effective board member
• Land and easement acquisition means diligence!
• Protecting lands in perpetuity
• Community engagement with your land trust’s mission
• Land trust board members never stop learning!

All nonprofits/charities must serve a public interest
• Mission achieves a public good
• No private benefit or private inurement
• Public support test: must receive at least 1/3 of its revenues from the public
• Tax benefits: don’t pay corporate income taxes; contributions are tax deductible
• In essence, nonprofits are public trusts
Becoming an effective board member

• Duty of Care: the care that an ordinarily prudent person would exercise in a like position and under similar circumstances.
• Duty of Loyalty: your undivided allegiance to your land trust
• Duty of Obedience: fidelity to your mission, your bylaws, and applicable laws and regulations

Evaluating your board & and your effectiveness as a board member

Handouts:
• Evaluation of the Board of Directors and Key Functions of the Board
• Land Trust Board Member Self-Evaluation

What do YOU need to be a more effective board member?

How will you get what you need?
How Land Trusts Protect Land

- Own it outright (fee ownership)
- Conservation easement
- Acquire & transfer
- Perform stewardship on land owned by government agency, others

Fee Land Acquisition

- Deed from owner (grantor) to land trust (grantee)
- Unless deed restriction or easement, land trust can do what it wants with the property
- Public trust doctrine may restrict uses of donated property
- Tradelands: non-conservation property (frequently donated)

Conservation Easements: the basics

**Owner (grantor) retains:**
- Ownership of the property
- Right to do anything not prohibited by the easement
- Obligation(s) as spelled out in deed
- Right to lease, convey, bequeath property to others
- Obligation to pay taxes
- Right to keep property private

**Land trust (grantee) acquires:**
- Obligation to monitor annually
- Obligation to enforce the terms of the easement
- Obligation to maintain constructive relationship with landowner and successors
- Obligation(s) as spelled out in deed
- Obligation to protect conservation values

Easement deed: extinguishes all or some development rights
What lands to protect?

• What is your mission?
• What are the conservation values?
• Do you have criteria (negative as well as positive)
• Who are you protecting it for?
• What will you need to do to keep it protected?

Sample Land Protection Guidelines (example)

Our Land Trust protects land that has significant conservation value and public benefit and that generally falls into one of the following four categories.

1) Community and Scenic Lands – Lands that give community residents and visitors a “sense of place.”
   - Community and Recreational Lands
     • Land that helps define a community’s sense of place and heritage or community character, such as a treasured vista or landscape, gateway, or historically important lands.
     • Land where people come together for a common activity, such as trails and community recreation lands.
     • Lands that provide access to stream corridors and public access for swimming, paddling, fishing, and other water-related recreational opportunities.
     • Land that offers opportunity for experiential education.
     • Land with natural attributes to which the public gains substantial and meaningful legal access.
   - Scenic Lands
     • Land that is prominently visible from public lands, trails, waterways, or roadways; and
     • Features scenic views and/or viewsheds; and
     • Makes a significant contribution to the character of the town or county.

2) Lands with unique features and land protecting biological diversity – Land that possesses unique or valuable natural resources and contributes to biological diversity
   - Undeveloped lands along streams, rivers, lakes and ponds.
   - Significant geological sites or outstanding water resources such as waterfalls, cliffs or gorges.
   - Grasslands.
   - Biological diversity
     • Land that offers habitat for rare, endangered, or threatened animals or plants.
     • High quality habitat for flora and fauna, including game species.

3) Water protection lands – Land that protects watershed and/or water quality
   - Land lying within the aquifer protection area or recharge areas of public water supplies.
   - Land bordering a tributary of the Big River.

4) Working lands – Land that currently supports or contributes, or has the potential to support or contribute, to productive forestry and/or farming enterprises.
   - Land that supports the wood products industry.
   - Land that features prime agricultural soils or otherwise promotes agriculture.
Sample Land Protection Guidelines (cont.)

Characteristics Enhancing Conservation Value
Our Land Trust will give higher priority to land conservation projects that
• Consist of a single large parcel or several contiguous ones
• Advance principles of smart growth and community and neighborhood revitalization
• Contain steep slopes
• Are threatened by imminent or near-term development
• Contain lands of high conservation value that other conservation organizations are unable or unwilling to protect
• Expand or buffer OLT’s protected lands
• Abut state-owned protected lands

Characteristics Diminishing Conservation Value
Our Land Trust will generally not participate in conservation projects
• That OLT cannot feasibly maintain and/or steward – land with buildings provide special challenges for maintenance and stewardship;
• That do not have clear title;
• Involving the retention of reserved rights, which, if exercised, would threaten or degrade conservation values;
• Potentially containing hazardous wastes or other forms of contamination;
• Containing degraded conservation resources that cannot feasibly be restored;
• Having little or no public benefit and primarily benefit a single landowner or developer.

Due Diligence
• Site inspection
• History of past uses
• Confirmation of conservation value
• Confirmation that proposed tool will protect CVs
• Investigation of potential threats, hazards
• Investigation of costs—for stewardship as well as acquisition
• Title report (owner’s interest, mortgages, easements, etc.
• Deed preparation – legal expertise needed!

Baseline Documentation Report
• Required for easements
• Condition of property at the time easement was transferred
• Map, photos
• Information relevant to easement restrictions
• Prepared prior to closing
• Signed by both landowner and land trust representative
• May need to be updated if easement amended
Tax Benefits

• Fee lands: like any other noncash donation
• Conservation easements: special rules
• Deduction must be substantiated by appraisal and Form 8283
• Land trusts need to be vigilant

Basics of Stewardship

• Funding
• Monitoring
• Preserving/enhancing conservation values & public benefits
  management plans
• working with landowners
• Defending conservation values
• Dealing with change

Use your land to connect with your community

• Public trails
• Guided walks & nature talks
• Wildlife demonstrations
• Community celebrations
• Use by school groups, day camps, etc.
• Outdoor skills classes
• Science learning – for all ages
• En plein air painting contests
• Woodcraft art classes (e.g. build fairy houses)

Your ideas?
Keep learning!

- Land Trust Alliance (conferences, publications)
- Learning Center
- CT Land Conservation Council
- Land Trust Accreditation Commission