

Protecting Municipally Owned Conservation Land – An Opportunity

19th Annual Land and Water Conservation Summit

July 15, 2022

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The 2022 Land and
Water Conservation
Summit is presented by:



Audubon Society
of Rhode Island

Protecting Municipally Owned Conservation Land – An Opportunity

➤ The Risk

➤ The Solution

➤ The Process

2018 – H 7425

An Act Relating to the Smithfield Land Trust

It is enacted by the General Assembly as follows:

SECTION 1. Chapter 174 of the Public Laws of 1999, entitled "An Act Establishing the Smithfield Land Trust," is repealed in its entirety.

SECTION 2. There are hereby transferred to the town council of the town of Smithfield all functions formerly performed or administered by the Smithfield Land Trust and all grants or funds, received or held by the Smithfield Land Trust.

SECTION 3. Upon passage of this act, the Smithfield Land Trust shall transfer to the town of Smithfield any and all interest it may have in any real or personal property.

Fortunately, the Act was not passed in 2018, but it highlighted a real risk to Land Trusts.

Overview

- Municipal Land Trusts generally acquire properties which are either:
 - Protected by 3rd party Conservation Easements held by RIDEM, et al., or
 - In fee purchases with state or federal funds
 - In fee purchases by private entities such as the Trust for Public Lands
 - Likely NOT protected by 3rd party Conservation Easements
 - In-fee purchases by local referendum
 - Donations
- NOTE: Just because a conservation property is Town-Owned means that it may be only three town council votes away from disaster

Questions?

And there are 19 Municipal Land Trusts in Rhode Island

- Block Island Land Trust
- Coventry Land Trust
- East Greenwich Land Trust
- Exeter Rural Land Preservation Trust
- Foster Land Trust
- Glocester Land Trust
- Hopkinton Land Trust
- Johnston Land Trust
- Lincoln Municipal Land Trust
- Little Compton Agriculture Conservancy Trust
- Narragansett Land Conservancy Trust
- North Providence Land Trust
- Richmond Rural Preservation Land Trust
- Scituate Land Trust
- Smithfield Land Trust
- Tiverton Open Space Commission
- Warwick Land Trust
- West Greenwich Land Trust
- Westerly Municipal Land Trust

Hence the issue was a focus for the Rhode Island Land Trust Council

Protecting Municipally Owned Conservation Land – An Opportunity

➤ The Risk

➤ The Solution

➤ The Process

RI Land Trust Council actions

- Attorneys at the RI Attorney General office and from private land trusts recommended we apply existing laws and continue with proposed legislation which the RILTC had been working on
- Existing: R.I.G.L Title 34, Chapter 39 – Conservation Preservation Restrictions on Real Property allows a Town Council to deem that a parcel has a “**conservation restriction**” which
 - Is not subject the 30 year limitation on restrictive covenants, and
 - Gives the RI Attorney General standing in any litigation, and
 - The law has been successfully litigated
- Proposed: Enabling legislation allowing towns to declare property as held in ‘**Public Trust**’

In the Interim

- The Narragansett Land Conservancy Trust asked the Town Council to deem certain unprotected properties as
 - Having [conservation restrictions](#) under R.I.G.L 34-39-2(b), and
 - Being held in the [Public Trust](#) – using a constitutional argument rather than waiting for the General Assembly to act.
- The Town’s Resolutions were signed on February 16, 2021
 - Protecting 40 parcels of 135 acres
 - In addition to the 17 parcels of 210 acres already have RIDEM conservation easements

General Assembly Session 2021

- The General Assembly passed R.I.G.L Title 45, Chapter 36.1, Municipal Public Trust Dedication - Enacted July 3, 2021
- **Legislative purpose:** To provide a voluntary mechanism for cities and towns to dedicate public trust land in perpetuity to ensure preservation of the natural environment
- **Public Trust Doctrine:** With roots in English common law, the colony's 1663 charter, and the RI Constitution, some resources are so important that we entrust them to the government to maintain for the people.
 - In Rhode Island, public trust is typically related to coastal and estuarine resources – until now, not used for conservation land
 - Only 2nd state in the Union to have this protection of conservation land - after Pennsylvania

In Summary

- Towns now have the means to perpetually protect conservation land:
 - Conservation Restrictions under R.I.G.L 34-39-2(b), and
 - Public Trust Declarations under R.I.G.L 45-36.1-1
- This protection can be accomplished through a town council resolution which is then recorded in the town's land evidence records.
- This protection should not be added on top of existing conservation easements
 - Do not want conflicting documents
 - Existing conservation easement are likely adequate

Protecting Municipally Owned Conservation Land – An Opportunity

➤ The Risk

➤ The Solution

➤ The Process

The Process

- Compile List of Municipal Land Trust parcels to protect
- Edit the List
 - Research parcels in Land Evidence Records
 - Check with Town Planner for property not acquired for conservation
 - Remove those parcels with existing conservation easements
- Compile legal descriptions for parcels to protect
- Prepare Town Council Resolution with attached legal descriptions
- Obtain Town Council approval of Resolution
- Record Resolution in Land Evidence Records

MapGeo – Plat Q Lot 27-21

The screenshot displays the MapGeo web application interface. The browser address bar shows the URL: `narragansetti.mapgeo.io/datasets/properties?abuttersDistance=200&latlng=41.421232%2C-71.469049&previewId=Q-27-21&zoom=16`. The left sidebar contains a navigation menu with the following items:

- Town of Narragansett, RI
- Property
- KINNEY AVENUE
- Google Directions
- Zoom
- View Details
- Property Record Card (circled in red)
- Google Maps Link
- Town of Narragansett

The main map area shows a street grid with Kinney Avenue highlighted in blue. A blue outline on the map indicates the specific property lot. The sidebar also displays the following property details:

Property	
Address	KINNEY AVE
ID	Q-27-21
Account	8763
Ownership	
Owner	TOWN OF NARRAGANSETT
Address	25 FIFTH AVENUE NARRAGANSETT, RI 02882
Valuation	
Total	\$559,800
Buildings	\$0
Land	\$559,800
Land	
Area	13.43 Acres
Zone	R-80

The bottom of the screen shows a Windows taskbar with various application icons and a system tray displaying the time as 8:06 PM on 6/27/2022.


Spoiler Alert: Not Protected by a Conservation Easement

Property Record Card Plat Q Lot 27-21


7/20/2021

Northeast Revaluation Group

9



Narragansett, RI



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Disclaimer: This information is for tax assessing purposes and is not warranted

Parcel Identification		Assessment	
Map/Lot	Q-27-21	Land	\$559,800
Assessor	8763	Building	\$0
Plat Code	903V	Card Total	\$559,800
Card	1/1	Parcel Total	\$559,800

Prior Assessments

Fiscal Year	Land Value	Building Value	Outbuilding Value	Total Value
2021	\$559,800	\$0	\$0	\$559,800
2020	\$509,700	\$0	\$0	\$509,700
2019	\$509,700	\$0	\$0	\$509,700
2018	\$509,700	\$0	\$0	\$509,700

Location and Owner

Location	KINNEY AVENUE
Owner	TOWN OF NARRAGANSETT
Owner2	
Owner3	
Address	25 FIFTH AVENUE
Address2	
Address3	NARRAGANSETT RI 02882

Building Information

Design	
Year Built	
Heat	
Fireplaces	0
Rooms	0
Bedrooms	0
Bathrooms	
Above Grade Living Area	0 SF

Sale Information

Sale Date	Sale Price	Legal Reference	Instrument
12/28/1993	\$0	308-0305	

[Click To Open Google Maps](#)

Land Information

Land Area	13.43 AC
Zoning	R-80
View	-
Neighborhood	0220

Yard Item(s)

Building Sub Areas

Picture Not Available

Sketch Not Available

Q-27-21

Sale Date	Sale Price	Legal Reference
12/28/1993	\$0	308-0305

Check for DEM Easement on RIDEM Environmental Resources – Q-27-21 – Confirming No DEM CE

The screenshot displays the RIDEM Environmental Resource Map interface. A popup window for 'Local Conservation Land: NF' is open, showing the following details:

Field	Value
DEM_ID	NA
GIS_Acre	33.02
P_Year	2005
Site	Crooked Brook
Com_Name	NF
Fee_Own	Town of Narragansett
Eas_Own_1	NA
Eas_Own_2	NA
Fee_Interest	Fee Interest
EASTYP	Not Applicable
PURP	Recreation
PUBACC	Public Access Permitted
DATSR	Town GIS Parcel Data

The 'Eas_Own_2' field is circled in red. A red arrow points from this field to the URL below.

<https://www.arcgis.com/apps/webappviewer/index.html?id=87e104c8adb449eb9f905e5f18020de5>

MapGeo – Plat X Lot 13

The screenshot displays the MapGeo web application interface. The browser address bar shows the URL: `narragansetti.mapgeo.io/datasets/properties?abuttersDistance=200&latlng=41.416968%2C-71.469736&previewId=X-13&zoom=16`. The main map area shows a large blue-outlined polygon representing the property at 0 GIBSON AVENUE, situated near Kinney Ave and Crooked Brook. The sidebar on the left contains the following information:

- Property Record Card** (circled in red)
- Google Maps Link
- Town of Narragansett
- Property**
 - Address: 0 GIBSON AVE (circled in red)
 - ID: X-13 (circled in red)
 - Account: 11044
- Ownership**
 - Owner: TOWN OF NARRAGANSETT
 - Address: 25 FIFTH AVENUE, NARRAGANSETT, RI 02882
- Valuation**
 - Total: \$1,223,600
 - Buildings: \$0
 - Land: \$1,223,600
 - Last Sale: 220,000 on
- Land**
 - Area: 45 Acres
 - Zone: R-80

The bottom of the screen shows a Windows taskbar with various application icons and a system tray displaying the time as 8:09 PM on 6/27/2022.



Spoiler Alert: Protected by a DEM Conservation Easement

Property Record Card Plat X Lot 13

X-13

Sale Date Sale Price Legal Reference
03/08/2002 \$0 479-0415

6/27/22, 8:09 PM Northeast Revaluation Group


Narragansett, RI


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Disclaimer: This information is for tax assessing purposes and is not warranted

Parcel Identification

Map/Lot	X-13
Block	11044
State Code	903V - MUNICIPAL
Card	1/1
User Account	32000300

Assessment

Land	\$1,223,600
Building	\$0
Card Total	\$1,223,600
Parcel Total	\$1,223,600

Prior Assessments

Fiscal Year	Land Value	Building Value	Outbuilding Value	Total Value
2021	\$1,223,600	\$0	\$0	\$1,223,600
2020	\$880,500	\$0	\$0	\$880,500
2019	\$880,500	\$0	\$0	\$880,500
2018	\$880,500	\$0	\$0	\$880,500
2017	\$990,500	\$0	\$0	\$990,500

Location and Owner

Location	0 GIBSON AVENUE
Owner	TOWN OF NARRAGANSETT
Owner2	
Owner3	
Address	25 FIFTH AVENUE
Address2	
Address3	NARRAGANSETT RI 02882

Building Information

Design	
Year Built	
Heat	
Fireplaces	0
Rooms	0
Bedrooms	0
Bathrooms	0
Above Grade Living Area	0 SF

Sale Information

Sale Date	Sale Price	Legal Reference	Instrument
03/08/2002	\$0	479-0415	
12/31/2001	\$220,000	471-0675	
09/22/1993	\$0	302-0172	
08/19/1987	\$0	208-0713	
12/07/1977	\$0	105-0075	
09/28/1961	\$0	050-0111	
06/28/1954	\$0	038-0281	

Conservation
Easement
Plat X Lot 13

55973
BOOK 479 PAGE 415
CONSERVATION EASEMENT

THIS GRANT OF CONSERVATION EASEMENT is made this 8th day of March, 2002, by and between the TOWN OF NARRAGANSETT, having its principal office at 25 Fifth Avenue, Narragansett, Rhode Island (hereinafter referred to as "Grantor") and the STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, acting by and through the DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, having its principal office at 235 Promenade Street, Providence, Rhode Island, and the (hereinafter collectively referred to as "Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner in fee simple of certain real property consisting of approximately 74 acres of land described as Lots 5,6,7,8,13 on Assessor's Plat X located on the northerly and southerly side of Kinney Avenue, in the Town of Narragansett, County of Washington, State of Rhode Island, more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Premises"); and

WHEREAS, the Premises possesses open, natural, scenic, agricultural, ecological, archeological, historic and educational value; and

WHEREAS, Grantor and Grantee recognize the value and special character of the Premises and acknowledge a common purpose to conserve the values of the Premises, and to conserve and protect the special plant and animal populations on the Premises, in particular the Open Space and wetland resources of the Premises, and to prevent its use or development for any purpose or in any manner that would conflict with the maintenance of the Premises, in its current, natural, scenic and open condition; and

WHEREAS, Grantor as owner of the Premises intends to convey to Grantee the right to preserve and protect the conservation values, including water resource protection, of the Premises in perpetuity.

NOW THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein and in consideration of TWO HUNDRED FIFTY

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Check for DEM Easement on RIDEM Environmental Resources – X-13 – Confirming DEM CE

The screenshot displays the RIDEM Environmental Resource Map interface. The map shows a green highlighted area, likely a conservation land parcel. A popup window provides details for this parcel:

Local Conservation Land: NF	
DEM_ID	1093
GIS_Acre	74.93
P_Year	2005
Site	Crooked Brook
Com_Name	NF
Fee_Own	Town of Narragansett
Eas_Own	State of Rhode Island (RIDEM)
Eas_Own_2	NA
PROTYP	Easement Interest
EASTYP	Recreation
PURP	Recreation
PUBACC	Public Access Permitted
Zoom to	...

The 'Layer List' on the right side of the map shows various layers, with 'Municipal_Boundaries' checked. A red arrow points from the popup window to the 'Layer List'.

Completed and Edited List of Parcels to Protect

Q-21-27

FOR INFORMATIONAL USE ONLY						
Narragansett Conservation Properties without Conservation Easements						
Parcel Number	Address		Acerage	Name/Details	FINAL Exhibit Numbers	FINAL Item Numbers
Middlebridge Conservation Land (NLCT)						
N-L 10	95 MIDDLEBRIDGE ROAD	B-C	8.44		A-1	1
N-L 9	94 MIDDLEBRIDGE ROAD	R-80	1.01		A-1	2
Kinney Avenue/Crooked Brook Area (NLCT)						
P 305	BILL SWEET DRIVE	R40	1.00		A-2	3
P 318	WANDSWORTH STREET	R40	0.96		A-3	4
Q 100	SOUTH PIER ROAD	R-40	7.12		A-4	5
Q 102	SOUTH PIER ROAD	R-10	4.40		A-5	6
Q 17	WESTMORELAND STREET	R-10	14.70		A-6	7
Q 17-6 B	WESTMORELAND ST	R-80	2.25		A-7	8
Q 27-21	KINNEY AVENUE	R-80	13.64	Crooked Brook	A-8	9
Q 30	WOODWARD AVENUE	R-40	11.05		A-6	10
Q 30-6 B	WESTMORELAND ST	R-80	1.97		A-9	11
X 1	OLD POINT JUDITH ROAD	R-80	1.15		A-10	12
X 12	GIBSON AVE/HAZARD AVE	R-80	1.08	Kendall Green	A-11	13
X 9	KINNEY AVENUE	R-80	0.25	Crooked Brook	A-12	14
X 9-1	KINNEY AVENUE	R-80	0.90	Crooked Brook	A-13	15
X 9-2	KINNEY AVENUE	R-80	0.98	Crooked Brook	A-14	16
X 9-3	KINNEY AVENUE	R-80	0.98	Crooked Brook	A-15	17
X 9-4	KINNEY AVENUE	R-80	0.97	Crooked Brook	A-16	18
X 9-5	KINNEY AVENUE	R-80	0.97	Crooked Brook	A-17	19
X 9-6	KINNEY AVENUE	R-80	0.88	Crooked Brook	A-18	20
X 9-7	KINNEY AVENUE	R-80	5.69	Crooked Brook	A-19	21
X 9-8	KINNEY AVENUE	R-80	2.40	Crooked Brook	A-20	22
Sunset Farm and Adjacent (NLCT)						
Y-2 6	FODDERING FARM ROAD	R-80	43.29	Foddering Farm Rd	A-21	24
Y-3 183	DAYTONA AVENUE	R-20	0.19		A-22	25
Y-3-176	DAYTONA AVENUE	R-20	0.19		A-23	26
Y-3-177	DAYTONA AVENUE	R-20	1.19		A-24	27

Note: X-13 is NOT on the list as it already has a DEM CE

Town Council Resolution No. 2022-04 – As Recorded



Town of Narragansett
Rhode Island
Resolution No. 2022-04



DOC: 2022001145
Bk: 1000 Pg: 87

Resolution on Protecting Municipal-Owned Conservation Properties by Deeming Conservation Properties as Being Held in the Public Trust pursuant to R.I.G.L. 45-36.1-1 et seq and as Having Conservation Restrictions pursuant to R.I.G.L. 34-39-2(a) et seq

Whereas, the Narragansett Land Conservancy Trust is a municipal land trust created by Town Charter to permanently preserve open space, farm lands, scenic vistas, wetlands, estuaries, adjoining uplands and critical habitats; and

Whereas, the Town of Narragansett operates as a municipality pursuant to the Rhode Island Constitution.

Whereas, the Rhode Island Constitution Article 1, Section 17 states the people:

"shall be secure in their rights to the use and enjoyment of the natural resources of the state with due regard for the preservation of their values, and it shall be the duty of the general assembly to provide for the conservation of the air, land, water, plant, animal, mineral and other natural resources of the state, and to adopt all means necessary and proper by law to protect the natural environment of the people of the state by providing adequate resources planning for the control and regulation of the use of the natural resources of the state and for the preservation, regeneration and restoration of the natural environment of the state."

Further Article 13, Section 2 states:

"Every city and town shall have the power at any time to adopt a charter, amend its charter, enact and amend local laws relating to its property, affairs and government not inconsistent with this Constitution and laws enacted by the general assembly in conformity with the powers reserved to the general assembly."

Further, R.I.G.L. § 45-36.1-1 et seq empowers a city or town to dedicate conservation land it owns as public trust land in perpetuity in order to ensure preservation of the natural environment and public access to the land for outdoor recreation and to ensure that the land is not converted to a use other than the use for which it was originally obtained and remains predominately undeveloped and continues to provide open space

Further R.I.G.L. § 34-39-1 et seq grants a special legal status to conservation restrictions so that landowners wishing to protect and preserve real properties may do so without uncertainty as to the legal effect and enforceability of those restrictions.

DOC: 2022001145
Bk: 1000 Pg: 88

Whereas, Town of Narragansett and Narragansett Land Conservancy Trust depends on public confidence that the properties the Land Conservation Trust conserves are held in public trust for conservation purposes consistent with the state constitution and town charter and will remain permanently protected; and

Whereas, it is in the public interest to permanently protect these conservation properties and R.I.G.L. 45-36.1-3 requires that the properties be identified, and the municipal approval recorded in the Land Evidence Records;

NOW THEREFORE, The Town Council of Narragansett hereby resolves to declare these conservation properties as further described in Exhibits A1- A34 which is attached hereto and incorporated herein to be held in the public trust for the preservation, regeneration and restoration of the natural environment of the Town of Narragansett and the Town Council of Narragansett hereby resolves these properties as having Conservation Restrictions as defined by R.I.G.L. 34-39-2 (a).

ADOPTED this 21st day of March 2022.


Jesse Pugh
Town Council President

Attest:


Janet Tarro
Town Clerk



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With 35
Exhibits

Exhibit A-8 to Resolution

For Reference Only: Plat Q Lot 21-21

EXHIBIT "A-8"

That certain lot or parcel of land located in the Town of Narragansett, County of Washington, and State of Rhode Island, and being more particularly described as follows:

Commencing at a point on the northeasterly side of Kinney Avenue, said point being 1,027.21 feet northwesterly along the northeasterly side of Kinney Avenue, from the southwest corner of land now or formerly of John W. and Carolyn T. O'Donnell; thence running 302 feet in a north-westerly direction along the northeasterly line of Kinney Avenue to a stone bound; thence continuing in a northwesterly direction along the northeasterly line of Wandsworth Street a distance of 1,257.96 feet; thence turning an interior angle $89^{\circ}43'57''$ and running northeasterly, bounded northwesterly, by an unimproved private street a distance of 483.95 feet to a point; thence turning and running in an southeasterly direction, following the arc of a curve turning to the right having a radius of 1355.539 feet and a central angle of $19^{\circ}01'25''$ a distance of 450.08 feet to a point of reverse curvature thence following the arc of a curve having a radius of 1003.64' and a central angle of $19^{\circ}23'29''$ a distance of 356.60 feet to a point of tangency said last two courses bounding the southwesterly line of Woodward Avenue; thence continuing southeasterly along the southwesterly line of Woodward Avenue a distance of 635.25 feet; thence turning at an interior angle of $89^{\circ}54'00''$ and running a distance of 104.46 feet; thence turning at an interior angle of $233^{\circ}55'00''$ and running a distance of 77.00 feet to a point; thence turning at an interior angle of $190^{\circ}30'00''$ and running a distance of 93.00 feet to a point; thence turning at an interior angle of $142^{\circ}15'00''$ and running a distance of 80 feet to a point; thence turning at an interior angle of $123^{\circ}20'00''$ and running a distance of 102.00 feet to the point and place of beginning. Said first and last courses meet to form an interior angle of $120^{\circ}00'00''$. Said parcel contains 13.425 acres and is more particularly shown on that certain plat entitled, "Plan Showing Division of Land in the Town of Narragansett, RI, for Frank N. and Rose V. DiGiacomo. December 3, 1993 - A.J. Easterbrooks, C.E., Scale: 1" = 100', Assessor's Plat Q, Lot 27: Zone R-40."

FOR REFERENCE PURPOSE ONLY:

KINNEY AVENUE
PLAT Q LOT 27-21

In Summary

- Many parcels acquired by towns as conservation properties are not protected – unless by a 3rd party conservation easement
- Town Councils may protect conservation property by a Resolution
 - By deeming them as having ‘[conservation restrictions](#)’, and
 - By dedicating them a ‘[public trust land](#)’

Resources

- General Questions - RI Land Trust Council
 - Kate Sayles - ksayles@rilandtrusts.org
 - Tom Rogers- terogers1@gmail.com
 - Barbara Rich - brich@barbararich.net
 - Steve Marsella - shmlaw@verizon.net
- Each Town's Tax appraisal and Land Evidence Records applications
- RIDEM open source Environmental Resource Map
<https://www.arcgis.com/apps/webappviewer/index.html?id=87e104c8adb449eb9f905e5f18020de5>

Question?