

# New York Land Trusts and Buyout Programs

## Summary report: interviews with regional and local land trusts

October 2020-January 2021

# Background and Methodology

Repetitive flooding is a massive challenge in many communities across New York State. One of the most effective actions communities can take to reduce the harm from flooding is to convert developed land that is in a floodplain to open space, through a process commonly referred to as managed retreat. Currently, voluntary home buyouts can be so lengthy and burdensome that homeowners are loathe to participate in them. The transactions often result in vacant land that does not achieve its ecological or community benefit potential and becomes a stewardship burden to local government.

Land trusts may be ideally situated to participate in these conversions in ways that improve the process for homeowners, the outcomes for municipalities, and benefit the land trusts by opening access to new funding and other resources.

The Nature Conservancy in New York is exploring an effort to build local land trusts' expertise and engagement on coastal/floodplain land acquisitions in partnership with each other and TNC. This expertise can then be leveraged to advocate for better practices in government agencies that administer voluntary buyout programs.

This effort is supported by the New York State Land Trust Alliance with funding from the New York State Conservation Partnership Program Grant. Alison Branco and Shameika Hanson, with help from Stevie Adams, led this effort for TNC. The TNC team hired Carri Hulet of CH Consulting to facilitate the development of the initiative, starting with exploratory interviews with a diverse range of land trusts and other organizations who could provide feedback on the concept outlined above. This report summarizes their feedback.

We express sincere thanks to the following individuals for sharing their time and thoughts.

- ❖ Megan Zack & Bill Brown, **Adirondack Land Trust**
- ❖ Jeanne Beiter, **Buffalo Niagara Waterkeeper**
- ❖ Beth Mills, **Columbia Land Conservancy**
- ❖ Ben Gajewski, **Genesee Valley Conservancy**
- ❖ Mark King and Sarah Walsh, **Mohawk Hudson Land Conservancy**
- ❖ Lisa Ott, **North Shore Land Alliance**
- ❖ Eve Boyce, **Open Space Institute**
- ❖ David Diaz, **Otsego Land Trust**
- ❖ Melanie Cirillo, **Peconic Land Trust**
- ❖ John Winter & Nick Conrad, **Rensselaer Land Trust**
- ❖ Seth McKee, **Scenic Hudson**
- ❖ Spencer Busler, **Thousand Islands Land Trust**
- ❖ Lori Ensinger, **Westchester Land Trust**
- ❖ Josh Balisteri & Rachel Chrostowski, **Western New York Land Conservancy**

# Key takeaways from the interviews

1. **Value proposition:** Land trusts' interest in potentially participating in a buyout often boils down to a "bucks for acres" assessment. Land trusts that work in rural areas where a lot of undeveloped land is still available generally said a buyout on a small, developed parcel would be a "tough sell," given the opportunity cost. Land trusts that focus on primarily developed areas are already in the business of acquiring developed properties or see it as their future. One recommendation was to focus on land trusts that generally work at neighborhood scales anyway and tend to deal with small acreage.
2. **Mission relevance:** This concept was most interesting to interviewees whose mission prioritizes lands in developed areas, either for environmental reasons, such as water quality, stream restoration, or habitat, or for reasons of providing public access to green space in communities where open space is in short supply.
3. **Cash flow and reimbursement/purchase guarantees:** Perhaps the chief concern expressed was cash flow. Most interviewees recognize that, as an intermediary, they would be carrying debt on their balance sheets for some time (and, as some said, for a very long time). Many mentioned the need for a revolving fund and/or endowments to cover the hefty transaction costs in addition to the purchase of the property. A related concern is the need for some form of reassurance from the state or federal agency sponsoring the buyout program that they would ultimately pay - a guarantee that many doubt the agencies would be willing to give. Several people mentioned the state's constantly shifting priorities and ability to "change the rules" mid-stream.
4. **Capacity:** Interviewees are concerned with who has the expertise and who does the work. Most land trusts have small staffs and currently lack the expertise to navigate a buyout process. Suggestions included working with multiple partners with expertise in different areas or designating a "traveling project manager" who could work with several land trusts in a given region.
5. **TNC's role:** Many interviewees said TNC is the "right" entity to take the lead on exploring this as an option because of TNC's statewide influence, convening power, and scientific expertise. Nearly every interviewee said they hope TNC could help with mapping and identifying priority areas to target in a buyout program. The following concerns were also expressed: TNC is known for "coming up with grand ideas" and then leaving others to do the hard work. Also, TNC does not have the relationships on the ground, and their reputation as environmentalists could deter some people from trusting the program (thus the need to support land trusts as the face of any project).
6. **Models:** Interviewees are looking for guidance on how to do this based on real experience. While everyone understands that any effort would require a lot of trial and error, no one wants to reinvent the wheel.

# Key takeaways from the interviews (cont.)

7. **Municipal and household dynamics:** Interviewees are sensitive to the needs of municipal leaders and local government balance sheets. They recognize that municipalities are between a rock and a hard place because they don't want to lose tax revenue, nor do they want people to be in danger or to continue providing municipal services indefinitely to vulnerable neighborhoods. Some also mentioned gentrification and the complicated legacies of urban renewal. Some worry about "creating a market" for properties that are built in floodplains by reducing pressure on municipalities to protect them. There are concerns about putting a "target" on certain homes and the market and social impacts that could result for owners and their neighbors. Interviewees want to be helpful to municipalities, but some are nervous about venturing into such politically complicated waters.
8. **Complexity:** Folks understand that these transactions would be complicated, from working with bureaucracies to hazardous waste challenges in demolition to assisting with relocation. Those who have already participated in buyouts or similar projects named these unique challenges: dealing with debtors, like banks or owners of large farm equipment; having a stewardship plan and funding for the "in-between" years while sorting out the ultimate disposition; knowing the history of the land (cultural resources and historic significance) and its physical condition (environmental assessment); and needing an exit strategy, including the risk that you might need to put the property back on the market. Interviewees would want any future exploration to deal concretely and frankly with all elements of this complexity.
9. **Benefits/Options to explore:** These additional ideas should be part of future discussions:
  - a. *Creating an inspirational story:* What's the vision for these areas? What could they be? How do people become persuaded that buyouts are preferable to rebuilding?
  - b. *Trade lands.* Local and state governments often end up with lands they can't use. Could these areas serve as trades for developed parcels in floodplains?
  - c. *Below-market values:* If sellers know the land is going into conservation, they may donate it or sell it for less, reducing the dollars spent from taxpayer-funded buyout programs.
  - d. *Flexibility and creativity:* Land trusts are nimble, adept at working with multiple partners, and eager to explore creative solutions. Any program would need to allow for "bottom-up" problem-solving.
  - e. *New sources of funding:* Some interest in buyouts is their potential for opening up new sources of funding for conservation work (from FEMA, HUD, etc.)
10. **Funding partners:** Interviewees named these possible sources for funding the development of this concept and/or acquisitions themselves: Conservation Fund, Peter and Carmen Lucia Buck Foundation, DEC WQIP
11. **Level of interest in exploring this concept further:** Most interviewees are interested in the potential for this concept, even if they do not see themselves as likely participants in the program in the near future.

# Previous Experience

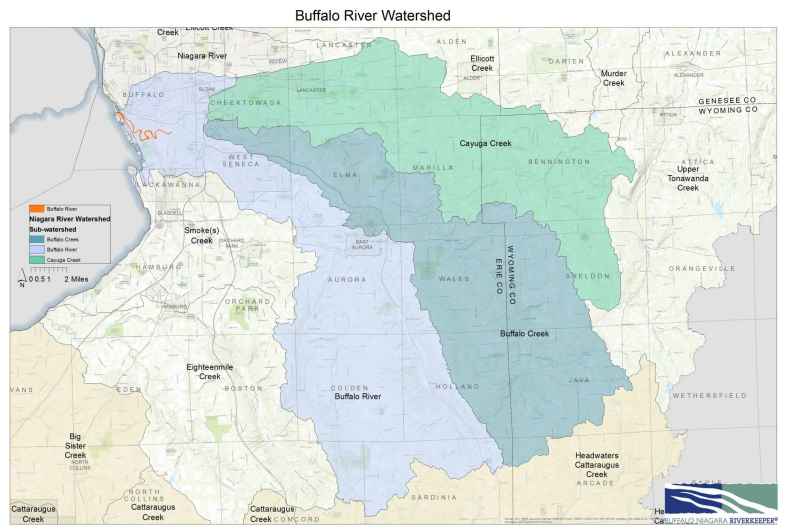
- *Buffalo Niagara Waterkeeper* has received money from DEC's WQIP (Water Quality Improvement Program) for an acquisition. It is in early stages now.
- *Thousand Islands Land Trust* has purchased properties with small cottages on them.
- *Adirondack Land Trust* has floated properties for DEC.
- *Otsego Land Trust* is currently working with a landowner who wants to make a pocket park and is trying to make the case to its board.
- *John Winter at Rensselaer Land Trust* has experience from a previous job at Woodstock Land Conservancy serving as an intermediary to purchase lands on behalf of NYC.
- *Westchester Land Trust* and *North Shore Alliance* have each worked on several projects that are relevant to this concept.
- *Peconic Land Trust* acquired a property damaged in Superstorm Sandy by leveraging an internal revolving fund, private funds, and USDA and NRCS grant funding for the sale of development rights and restoration. They have pre-acquired properties on behalf of DEC in order to preserve property in a floodplain. They have also acquired floodplain and upland parcels by working in partnership with municipalities to access the Peconic Bay Region Community Preservation funds to complement private donations from the community.
- *Open Space Institute* has years of experience developing and implementing relevant projects.

# Buffalo Niagara Waterkeeper

Jeanne Beiter

## Interview Summary

- Buffalo Niagara Waterkeeper moving away from river cleanup to “upstream” concerns (her program: headwaters initiative). One thing they’re wading into is property acquisitions.
- Have already received money from DEC’s WQIP (Water Quality Improvement Program) for an acquisition. May work with partners such as the Western New York Land Conservancy and/or Erie County Parks and Forestry.
- One big flood risk in her area is from seiches on Lake Erie that cause flooding in Buffalo, including big chunks of ice if it happens in the spring. Some local communities doing shoreline protection, but not everyone. People want to stay - not get pushed out. (DEC Great Lakes program doing good work on flooding)
- Concern about West Seneca. Confluence of two rivers and working class. Neighborhood of Lexington Green particularly hard hit. Local officials quietly discussing various options.
- Still, generally hard to justify a quarter of an acre for an acquisition. Managing/stewarding a small parcel in the middle of development does not make sense. Would need to be multiple contiguous homes.



- Funding is always an issue for local governments - that factor would make it challenging to work with them on an acquisition.
- Would like to see this conversation continue regionally. What happens in Western New York is different from what happens elsewhere.

### Assessment of potential roles in a buyout:

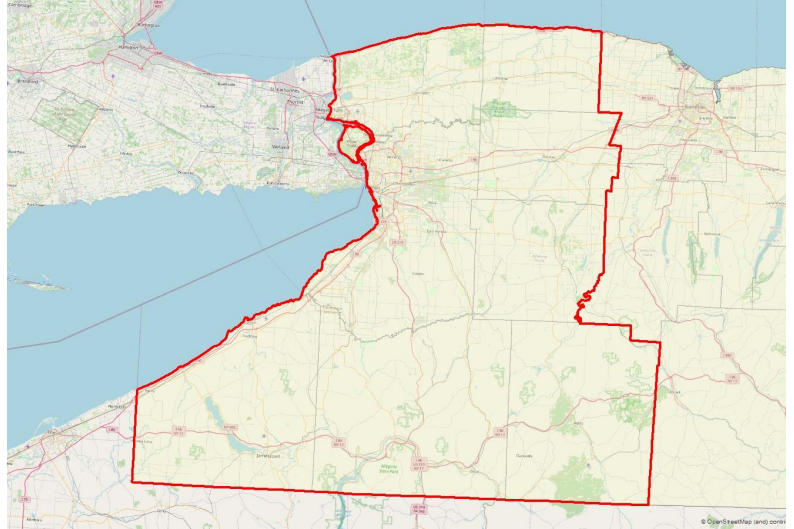
- Admin support for municipalities: Yes
- Manage interim purchase: No
- Hold and steward land: Maybe. Easier if there’s nothing on it. Wouldn’t want liability of structures.
- Demolition: No
- Restoration: Yes. Smart floodplain management is what they do.
- Relocation assistance: No

# Western New York Land Conservancy

Josh Balisteri & Rachel Chrostowski

## Interview Summary

- They can't really imagine how this concept would work for them. As a regional land trust, they are looking for large parcels with a lot of ecological value.
- The time, effort, and cost required to acquire a parcel that is less than an acre and has low possible ecological benefit is not likely to rise to the top of their list. Big opportunity cost.
- Due diligence is a big part of it. It takes a long time and a lot of work to make these transactions work. Due diligence on a small, developed parcel, with neighbors and a municipality and a departing household sounds like too much.
- Encroachment would be a big stewardship concern.
- Love the concept. Floodplain restoration is really important. Just doesn't fit with us.
- Suggests targeting smaller land trusts with very local missions.



### **Assessment of potential roles in a buyout:**

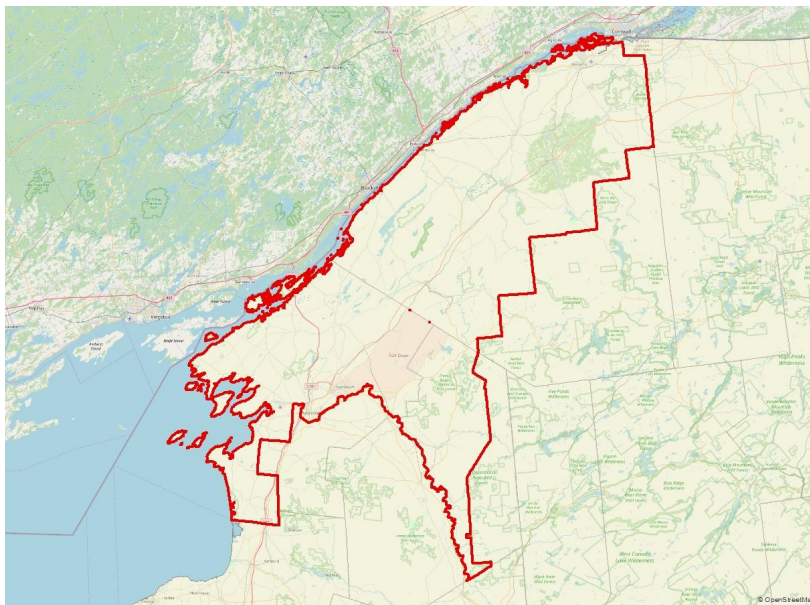
- Admin support for municipalities: Maybe. They have done “assisted transactions” with municipalities, so could probably figure it out.
- Manage interim purchase: Yes
- Hold and steward land: Maybe, if we are going to own it long-term. No precedent for this, so hard to say.
- Demolition: No
- Restoration: Yes
- Relocation assistance: No

# Thousand Islands Land Trust

## Spencer Busler

### Interview Summary

- 5 full-time staff
- Focus on islands, wildlife and riparian habitats, water quality. 40-50% of portfolio coastal wetlands and watershed protection.
- Two unique elements when working in floodplains: survey expenses are a bit higher and land owners expect higher value than they generally get because it doesn't have development potential.
- Waterfront property by far most expensive (and there are grandiose estates along St. Lawrence River) Can get much more land not much farther inland.
- They collaborate a lot with partners (neighboring conservancies, etc.) to get bigger funding.
- Have purchased properties in the past with cottages on them. Small scale. Did demo themselves. They were once stuck with a property they thought they would be able to sell, but weren't.
- Sensitive to municipal interests in tax revenue. They have done a local economic analysis to show how conservation leads to increases in property values.
- Thinking of retirees: could folks commit their property to a buyout when they retire or die?



- Smart for TNC to think about this. “Only a matter of time before floodplains are restored back to their natural state anyway.”
- Suggests we focus on the eastern end of Lake Ontario where there are single and double-wide trailers, a lot of flooding and unrest. No land trust that operates in that area, but TNC has an office close by.

### **Assessment of potential roles in a buyout:**

- Admin support for municipalities: Yes
- Manage interim purchase: Yes
- Hold and steward land: Yes
- Demolition: Yes. Stewardship crew loves demo. Great relationship with local equipment rental folks (they often donate in-kind) and have a few small tractors.
- Restoration: Yes
- Relocation assistance: No, but made him think of the relocation services provided by military (Fort Drum nearby).

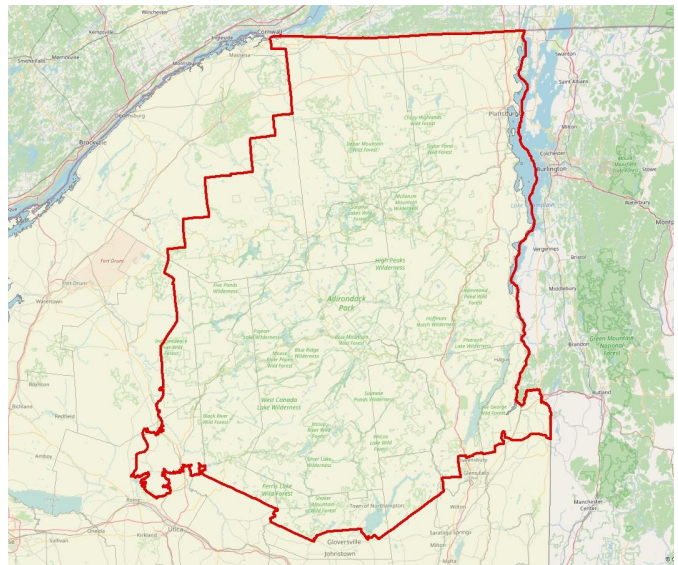


# Adirondack Land Trust

Megan Zack & Bill Brown

## Interview Summary

- The land trust started as a partnership with TNC.
- A lot of work in forests. New focus on climate (carbon). Water quality.
- Big opportunity. Lots of towns built on streams. Lots of damage. Big issue in Keene after Sandy.
- Particular challenge protecting floodplains: streams are dynamic systems, they move over time.
- They have floated properties for DEC, so some experience in this. Big issues: up-front funding, demolition (and all the complications), and guarantees that the agency will purchase at the end of the deal.
- Thinks it will take a lot of work to persuade homeowners they need the buyout.
- As a regional land trust, alignment and prioritization will often drive to less complicated areas.
- TNC can bring science, large-scale mapping/ tools, plus sway and advocacy with the state and maybe federal government to streamline processes.
- Would be interested in continuing the conversation if they understood the opportunity. Overlaying maps of potential properties with their service area would be helpful.
- A lot of effort in the Catskills to protect floodplains over the past 20 years. Might be a good case study for this work. NYC watershed reservoir protection efforts might be another source for models.



### Assessment of potential roles in a buyout:

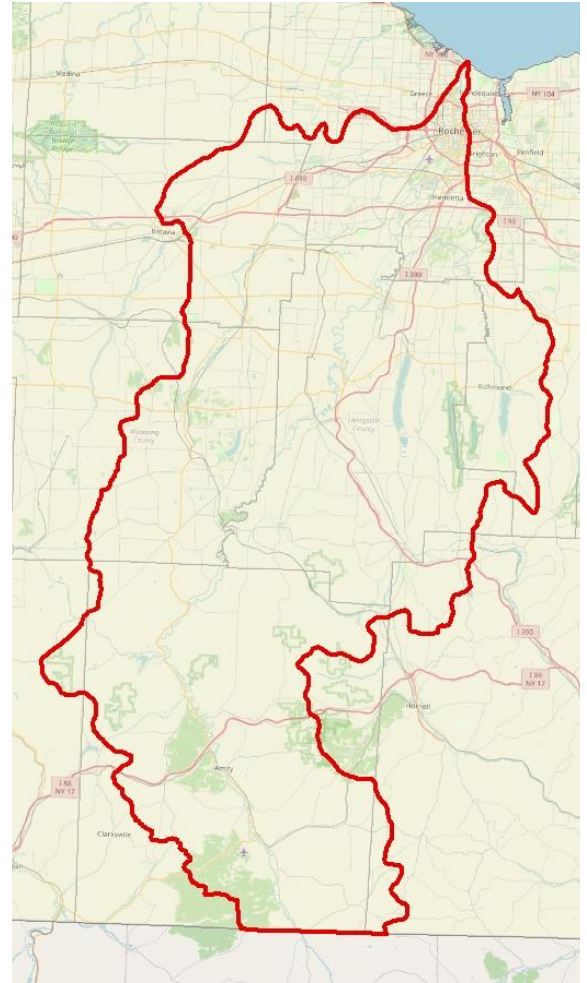
- Admin support for municipalities: Maybe
- Manage interim purchase: Yes
- Hold and steward land: Yes
- Demolition: Yes
- Restoration: Yes
- Relocation assistance: Probably not. What about community land trusts?

# Genesee Valley Conservancy

## Ben Gajewski

### Interview Summary

- Historically, they have focused on agricultural lands (for fox hunting). They preserve open space for recreation and they manage reserves for local public access.
- Their board can have a hard time deciding what to focus on. They do a lot of shoreline restoration along Genesee River.
- Has some concern about incentivizing building in the floodplain if you create a good buyout program (“tough luck” if you build in a floodplain). Would like to see a parallel program that prevents people from building in floodplains.
- Interested in data/mapping: which parcels/areas are ecologically valuable? Would need a way to justify/prioritize the properties.
- Worried about cash flow and curious about the funding mechanism: how much do you need upfront to do the survey, demo, etc.? And how much is needed to hold the property until reimbursed or sold to long-term owner? Are there grant programs for this?
- Can imagine getting a good deal on the property if the landowner knows it’s going into conservation. They have purchased for 80% of appraised value.
- Unlikely that doing these buyouts one by one will make an impact. One undeveloped parcel surrounded by other developed parcels is just a PR point.
- Will need to line up with local municipalities’ priorities/comp plans. Don’t want to fight what they want to do. They’ll need to see the cost/benefit.
- Anyone going into this should be clear-eyed about the level of restoration required and the investment short- and long-term.
- Great for TNC to engage because of statewide reach and focus on climate.
- Would continue in the conversation if there’s a good argument for it (specific locations in their service area that are great targets for the work). But would need to justify to board, relative to other opportunities.



### Assessment of potential roles in a buyout:

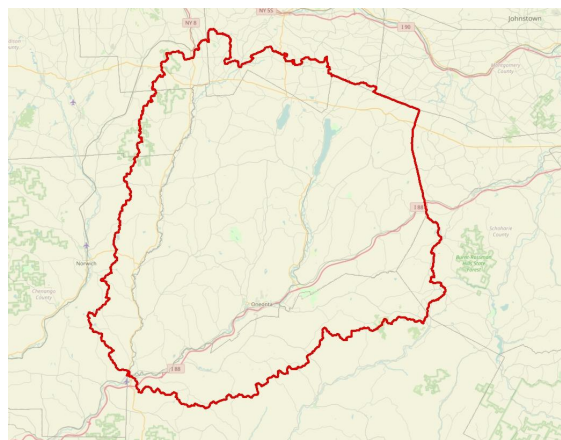
- Admin support for municipalities: Maybe. Would need additional capacity.
- Manage interim purchase: Yes.
- Hold and steward land: Yes.
- Demolition: Maybe (could figure it out).
- Restoration: Maybe. Depends on the scale and likelihood of public access.
- Relocation assistance: Maybe, but would rather not.
- Generally speaking: Would want partners to be in charge of different aspects, like a TNC project manager + a demolition partner + someone to help the family move, etc.

# Otsego Land Trust

## David Diaz

### Interview Summary

- Doesn't prioritize any particular type of land, but is trying to shift board away from a pure open space mindset to a recreation/public use mind set. Following trends in the land trust space.
- Trade lands are an important part of this conversation.
- This type of program is a tough sell to the board and donors because of the "bucks for acres" issue. Developed parcels require a lot of time and money for very little land. Especially if it's not for public access, but rather "some kind of hard-to-quantify natural resource benefit."
  - Example: Currently working with a landowner in a village who wants to make a pocket park. Not an easy sell to board, but working on it.
- Worries about the amount of time these projects take and the opportunity cost. Limited staff could be out getting other big acquisitions.
- Someone would need to build expertise on these types of acquisitions. Executive Director? Doesn't want to be the only one, but who else?
- Worries about having to work with the state and their constantly changing priorities, staff, and budget issues.
- Expertise: Needs guidance on where to do it (biggest bang for the buck in his area) and a model to follow to know how to do it. Maybe a project manager who does only this kind of work that might be shared among several land trusts.
- Need good relationships with the municipalities.
- TNC engaging on this topic introduces some reputational issues. Known to be anti-hunting and taking properties off tax roles. "Here come the tree-huggers."
- Can TNC figure out the funding piece? Start the seed fund?
- Can TNC help us figure out where to target?
- Worried about TNC's long-term commitment. Doesn't want to get drawn into something and then left to manage it on his own.



- Questions David posed that could be useful for the cohort:
  - Who identifies the projects?
  - At what point is the land trust entering the management of the project?
  - Are conservation easements an expected part of this - something the land trust holds for open space? Or does the federal government or state hold it?
- Another issue is debt: the land trust ends up dealing with debtors sometimes, like the bank that owned the house or high-value farming equipment. Can be a big part of the process.

#### Assessment of potential roles in a buyout:

- Admin support for municipalities: Maybe. Big learning curve.
- Manage interim purchase: Maybe. The question is the guarantee of reimbursement or purchase on the other end.
- Hold and steward land: Yes, but concerns about liability and insurance needs on empty structures.
- Demolition: Yes, but it's a pain. Have done it before.
- Restoration: Maybe. Have done small restoration projects.
- Relocation assistance: Maybe. No experience to date, but likes the idea of rolling some private dollars into the deal to help the family with the transition.

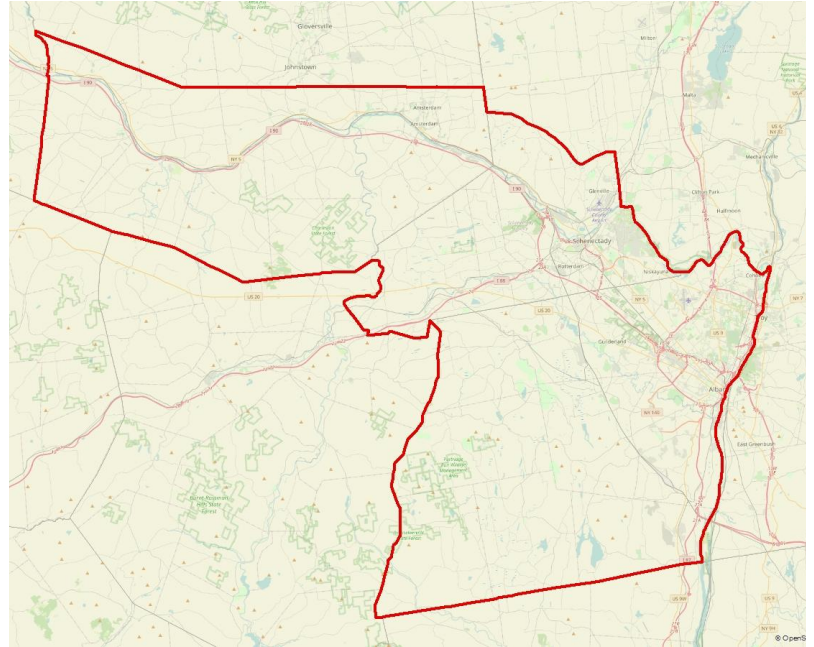
\*David notes: Each step is a huge project on its own.

# Mohawk Hudson Land Conservancy

## Mark King and Sarah Walsh

### Interview Summary

- Sarah worked at DEC and helped draft model local laws to help municipalities as waters rise as part of the Resiliency Act. Goal was to give FEMA floodplains more buffer.
- Working in floodplains raises a valuation issue: how to value only parts of properties, including those that are/will be underwater? Catskill Watershed Coalition has been talking about this a lot.
- Capacity would be the issue. Who would work on this and what resources would they have and how do you justify it next to other opportunities we have?
- MHLA anticipates working with TNC as a partner through their mutual affiliation with the Staying Connected Initiative to work on terrestrial connectivity in the Mohawk Watershed. This may or may not include protection of shorelines to facilitate animal movement.
- Big question: where to do it and why? Compares the effort to the NY Natural Heritage Program and the Statewide Riparian Opportunity Assessment (<https://www.nynhp.org/treesfortribsny>). Would need help with mapping, targeting, prioritizing. E.g., knows of an area in Schenectady that floods all the time, but how to weigh the value proposition?
- All transactional costs need to be funded; legal, appraisal, demo, etc. Also need endowment funds to steward long-term.
- What is the ultimate disposition? Owned by the land trust, the government?
- Looking at buyout properties only, or also areas that are not developed, but under threat? (The latter much more in wheelhouse.)



- Big hurdle: TNC tradition of “coming up with grand ideas” and then expecting small land trusts to hold and steward the property - leaving land trusts with the long-term work and risk.
- Interested in knowing about next conversation, but not committed to joining. Will it be abstract, or in a concrete direction?

#### **Assessment of potential roles in a buyout:**

- Admin support for municipalities: Yes, if worth it. A lot of time and effort. Need to be able to act as a trusted partner and manage municipal dynamics.
- Manage interim purchase: Yes, if we had the funding.
- Hold and steward land: Yes, and the final disposition very important to figure out.
- Demolition: Yes, with reservations.
- Restoration: Maybe. Only barely dipped toes into restoration. But see this as an opportunity to learn how to access funding/resources for restoration.
- Relocation assistance: No. Totally beyond our capacity. This is the responsibility of the municipality (who gave permission to build there in the first place)

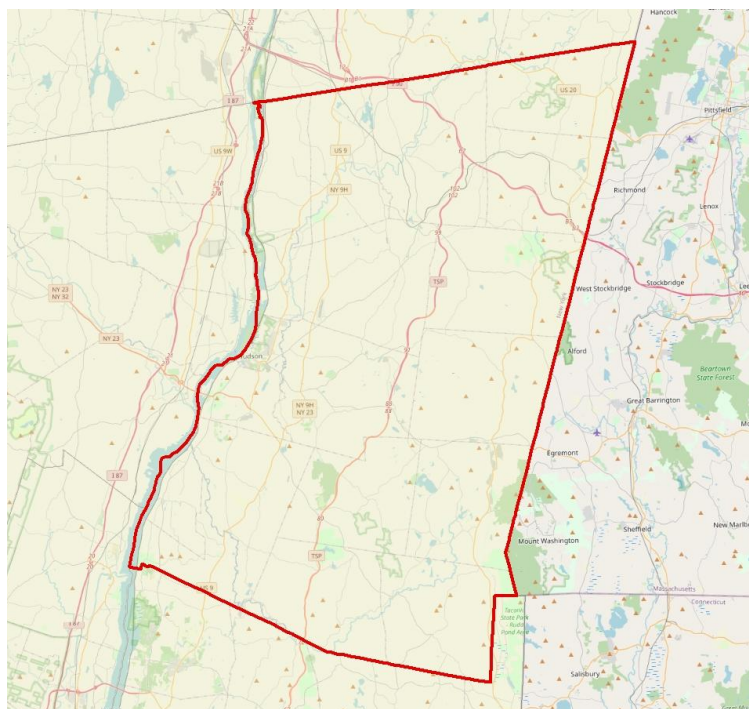


# Columbia Land Conservancy

## Beth Mills

### Interview Summary

- They do a lot of work with farms: matching land with farmers who want to work it.
- They have a big municipal support program to assist with open space planning and public access areas.
- Doesn't see a lot of opportunity for the project in her area. Not a lot of development in areas that flood. (Though did talk in detail about Hudson and the possibilities there).
- Would want to really understand the history of the land and its physical condition in terms of toxicity, etc.: environmental assessment, cultural resource, historic interests, indigenous interests.
- The proposal smacks of urban renewal. Could have serious displacement and gentrification implications. Also has lots of possible upsides, but really worried about unintended consequences.
- Would want to be part of the conversation if it goes forward.



### Assessment of potential roles in a buyout:

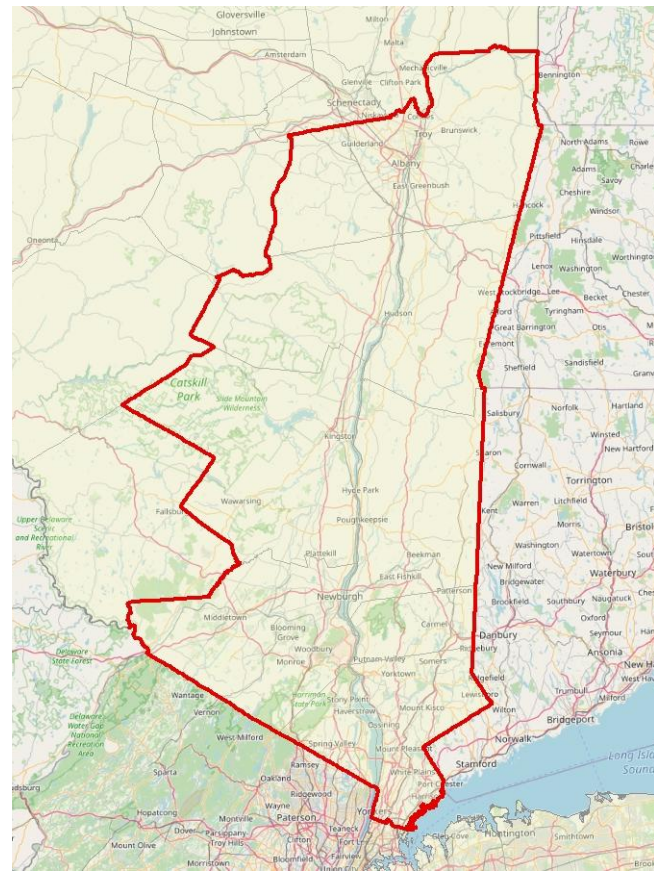
- Admin support for municipalities: Yes. Huge need. But land trusts need to focus on achieving environmental justice outcomes if they're going to act on the municipality's behalf (e.g. The City of Hudson: all their public housing is on the river).
- Manage interim purchase: Yes.
- Hold and steward land: Yes, particularly in partnership with small land trust partners, if they have the capacity.
- Demolition: No. Done it before, but it's a nightmare.
- Restoration: Yes. Big part of their work.
- Relocation assistance: Not sure.

# Scenic Hudson

## Seth McKee

### Interview Summary

- Strategic retreat has to be part of the toolbox. Only equitable way to help people at risk.
- Need an inspirational side to this: a vision for what the areas could be. What kind of green spaces can meet community needs until totally underwater?
- Need to meet human need to keep rebuilding to show resilience. Communities spending a lot of money on things that won't last, and they know it. How do we make them want this (undevelopment) more than that (rebuilding)?
- Land trusts more nimble and entrepreneurial than government. Better "bedside manner." Good agents to engage on this.
- Scenic Hudson (SH) focused on providing green space people can easily access in urban spaces.
- But also, land trusts will be intimidated because it's unfamiliar and comes with a lot of risk (holding property for an undetermined amount of time with no guarantees?)
- Program could be part of their climate resiliency work, or park/municipal greenspace project. Embracing this whole challenge as part of community building.
- Capacity-wise, they're stretched. Currently focused on acquisitions that adjoin current properties because adding acreage is more manageable than adding new locations.
- Real challenge: partnerships and the municipal and state roles. Good example: Currently looking at a property on the Hudson river that the state wants to own in a few years. SH doesn't want to hold it that long, so they've turned to the village. Village is interested, but there's a structure. So now the mayor is talking with the community college to see if they want to retrofit the structure.
- Concerns: identifying funding, understanding liability, understanding the buyout process/mechanics, being identified with a land grab (reputational risks), hazardous waste and demo generally, having to relocate people.
- Would like to know if the state is prioritizing this. So much property in the state in places that never should have been developed.
- This can't become too top-down. Pride ourselves on working with willing landowners and negotiating.
- We want to be able to talk about successes: how does this move the needle on making a more resilient region? What's the compelling "before and after" story? They converted an old lumberyard to a riverfront park 15 years ago. They tell that story a lot because it's powerful.



- TNC can play big role in making data available. Where to do this? Ecological value. Pulling in the rest of the conservation community. Funding. Policy - working with HUD and FEMA to design programs around land trusts' and communities' needs, and that scale appropriately.
- Very interested in continuing the conversation

### Assessment of potential roles in a buyout:

- Support munis: Yes, if dovetails with other goals (e.g. resilience, parks, etc.)
- Manage interim purchase: Yes.
- Hold and steward land: Yes, but worried about capacity. Depends on partnership with municipality/state.
- Demolition: Yes. Don't love to do it, but can. Board will have PTSD if we ask.
- Restoration: Yes.
- Relocation assistance: Sort of. They have worked with partners to help people find stable housing. Better if this is all taken care of before SH acquires the property. Don't want to reinvent the wheel or do jobs they aren't equipped for.

# Westchester Land Trust

Lori Ensinger

## Interview Summary

- Their goal is to preserve the most environmentally sensitive properties.
- They own and manage 30 nature preserves (half with public access)
- Trying to expand urban reach
- Big range of types of projects: big to small, urban to suburban to rural(ish). Largest, 650 acres. Smallest, ¼ acre.
- Not a lot of open space left in their area (their best estimate: 25K acres). Would like to “undo” what previous poor land use planning has resulted in. More “de-development.” Restore to natural state.
- But so, so expensive. Needs partners to do it.
- Have some experience (but unique: two wealthy landowners agreeing to buy a property that was blocking their view, then donating it. Had a \$6M house on it that the buyers were willing to demo and remove.)
- Currently working to acquire an adjoining parcel to one they already own. Has a dilapidated structure. Trying not to underestimate the remediation costs (permitting, asbestos, lead paint, demo, etc.)
- Have worked multiple times with NYS DEC and NYS Parks to be the “foster parent” of a property while the purchases get worked out. Currently have three projects like that underway, which means a bunch of debt on their balance sheets. Board supportive, but worried.
- Also, often, just dealing with development rights on leased agricultural land, not moving someone away from their home.
- Can imagine a similar situation in which FEMA or Conservation Fund provides the seed funding/partnership.
- Has worked with Peter and Carmen Lucia Buck Foundation, who has an intermediate lending facility that could work for this.



- TNC is a good convenor because of their size and resources to influence government policy and funding. Experience looking at large, multi-party problems with multi-party solutions. They're a natural choice.
- Some suspicion about TNC's motives being the big fish. Land trusts need to be recognized and valued for playing the local role.

### **Assessment of potential roles in a buyout:**

- Admin support for municipalities: No, except to be at the table to say which properties they would want.
- Manage interim purchase: Yes, in partnership with lending partners for seed money.
- Hold and steward land: Yes - our bread and butter
- Demolition: No (if we can avoid it)
- Restoration: Yes, and every property needs its own endowment to guarantee future maintenance
- Relocation: No



# North Shore Land Alliance

Lisa Ott

## Interview Summary

- Very large board, lots of staff (relatively speaking), generally dealing with very high value properties.
- Glad to be long-term partners with TNC.
- Innovative, flexible, willing to figure out any way to get the deal done. “We could play any of the roles you’re asking about if we could get the money and the technical capacity. If it’s important, we figure it out.”
- Works very closely with local municipalities and has worked hard to develop those relationships.
- Focus is on water quality, and aquifer recharge in particular.
- People form relationships with their land, so about working with willing land donors.
- The thing they would need most from TNC is mapping. They would want to create a game plan: best possible sites and why, who’s interested, etc.
- Suggests thinking about trade lands. Would be nice for people to know they have somewhere to go that isn’t too far away (e.g., tax lien properties the government ends up with that they don’t know what to do with.)
- We are looking for ways to help with climate change. She thinks there will be a lot of interest, particularly from larger, more involved land trusts near the water.

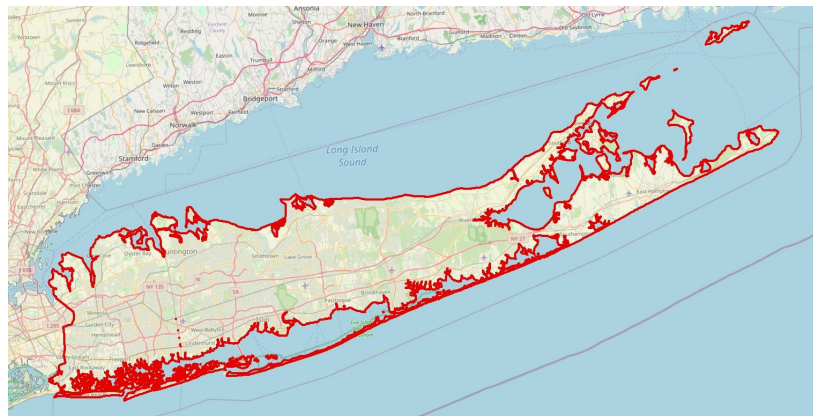


### Assessment of potential roles in a buyout:

- Admin support for municipalities: Yes
- Manage interim purchase: Yes
- Hold and steward land: Yes
- Demolition: Yes
- Restoration: Yes - Exxon-Mobile gave them lands with oil tanks. Restored it.
- Relocation assistance: Maybe. We have acquired land with tenants. Had to use some friendly and some less friendly means to help them move.

# Peconic Land Trust

## Melanie Cirillo



### Interview Summary

- Very creative in their approach. Pride themselves on doing whatever it takes to get the job done (bringing in municipal support, private funding, blending policy/regulatory tools to reduce burden on public entities, whether local, state, or federal).
- Relationship-driven (mentioned several times “family dynamics”). Build relationships with landowners, then connect them with partners to make things happen quickly.
- “We’re in the endgame. Only a few thousand acres left to preserve.”
- They have acquired properties damaged by flooding (e.g., after SS Sandy). Have worked with NRCS and USDA as partners. But has required a calculated risk. Transactions *still* not done.
- The Town’s Peconic Bay Region Preservation Fund has been very important for buying shoreline properties (2% of all land and home sales put aside so communities can buy land and development rights to preserve community character).
- The Trust has a revolving fund (Peter J. Sharp fund) that they use to buy properties, protect them and resell them. For example, purchasing farmland, selling the development rights and then selling the protected land to a farmer. In regard to floodplain buyout parcels, this same concept could be applied using the revolving fund: Purchase the land at a 20% bargain sale and then sell the development rights that are typically worth approximately 80% so they can repay the revolving fund and then retain ownership of the protected land.
- The Trust is innovative and looks for win/win solutions. Thinks about how projects can be improved/expanded to do more, For example, a foundation donated money to acquire a property for open space. The Trust donated a conservation easement to the Town to perpetually preserve the property while working collaboratively with the Town to address a pre-existing stormwater drainage issue.
- Land conservation requires flexibility. Can’t be too hamstrung by state/federal policy (e.g. for state properties you have to get two appraisals for every property over \$400K. On Long Island, that should be \$1M so that extra unnecessary costs are not incurred).

- It is important to know the Town’s priorities in their conservation plans. A tiny property might fit town priorities (related: you should know the plans, but don’t assume they’re rigid.)
- When buying properties as a pre-acquisition with state or local government, we always have three exit strategies: Best case, obtain enough funds to acquire and preserve entire property; intermediary case, raise most of the money so only a portion of the property may need to be sold for development; worst case, sell it back on the open market because no other funds could be raised, but that would be a PR problem.
- It is most important to know what the goals, needs and circumstances of the landowner are. Then ask three questions: What’s the landscape seeking to protect? What’s in your toolbox (e.g. DR, conservation easement, outright acquisition, bargain sale, installment sale)? Where’s the funding that will match this particular acquisition?
- Really value TNC thinking about this. Unclear on TNC priorities on Long Island, relative to this inquiry. Really appreciate TNC’s in-house mapping expertise. Could collaborate more.

### Assessment of potential roles in a buyout:

- Admin support for municipalities: Yes. They have helped various munis with the administrative matters on grants and transfers of development rights, etc.
- Manage interim purchase: Yes.
- Hold and steward land: Yes. If we are not going to own it, ultimately, we can come up with a collaboration plan with the municipality.
- Demolition: Maybe. Usually the town has resources to do this.
- Restoration: Yes.
- Relocation assistance: Have not done this yet.



## Land Trusts & Buyouts Workshops Phase 2 Summary Outcomes

### Introduction

In 2021 The Nature Conservancy in New York (TNC) convened a group of leaders representing land trusts in three workshops to explore the opportunities and challenges associated with government funded property buyouts in floodplains.

As flooding is a significant and increasing challenge in communities throughout New York, and one of the most effective actions communities can take to reduce the harm from flooding is to convert developed areas to open space, the objective of the convening was to explore the role land trusts might play in facilitating that conversion using funding and support from federal and state buyout programs.

Most of the participants in the workshops have not yet engaged in a buyout. This summary captures the questions, concerns, and suggestions they articulated as they learned about buyout programs from each other and expert speakers. This document is a companion to the [Summary report: interviews with regional and local land trusts](#), which conveys the concerns land trusts expressed before participating in the workshops. TNC is already using the ideas articulated in both reports to advocate for changes to policies and programs that would make it easier for land trusts to play a significant role in buyouts in New York. Others are invited to do the same.

This effort was supported by the New York State Land Trust Alliance with funding from the New York State Conservation Partnership Program Grant. Alison Branco and Shameika Hanson led this effort for TNC. Carri Hulet of CH Consulting co-developed and facilitated the workshops.

### Participants

Lee Alexander, Catskills Visitor Center	Albert Joerger, Central New York Land Trust
Jim Bonesteel, Rensselaer Plateau Alliance	Lisa Ott, North Shore Land Alliance
Eve Boyce, Open Space Institute of New York	Marisa Riggi, Western New York Land Conservancy
Spencer Busler, Thousand Islands Land Trust	Phil Selleck, National Park Trust
Melanie Cirillo, Peconic Land Trust	Dave Tobias, NYC DEP (land acquisition program)
David Diaz, Otsego Land Trust	Cari Watkins-Bates, Scenic Hudson
Steven DiFalco, Westchester Land Trust	Chelsea Welch, Land Trust Alliance
Lori Ensinger, Westchester Land Trust	Lorna Wright, Genesee Land Trust
Ben Gajewski, Genesee Valley Conservancy	

### Key Takeaways

The land trusts that participated in these workshops appreciate the potential for their role in buyouts. They see the possibility of a “win-win” for both floodplains and land trusts, as many flood-prone places should be allowed to flood, offering buffers between land and water, and providing important habitat and recreational spaces. Because land trusts have the expertise and capacity to acquire land and steward open spaces, they see that buyouts offer a new way to advance conservation generally, and to provide a

new revenue stream for their work. Many land trusts have also prioritized climate adaptation through nature-based solutions in their goals and missions, and participating in buyouts in areas that are increasingly vulnerable to climate change aligns with those objectives. Finally, land trusts appreciate the difficulty local municipalities face in managing flooding, particularly in low-income and other marginalized neighborhoods, and how poorly equipped most are to administer complex government buyout programs. Land trusts could help lift that burden if they could develop the expertise and staff to take the lead on buyouts in some communities.

In spite of these benefits, land trusts remain cautious about jumping into buyouts because of the steep learning curve and their lack of staff or expertise to engage them, low institutional or systemic support and resources, and minimal incentives to be an early adopter. Any progress on the questions and ideas articulated below would reduce these barriers and make it more likely for land trusts to become key players in buyouts in the state of New York.

#### *Whole systems/enabling conditions*

Federal and state buyout programs are designed to relieve homeowners on a parcel by parcel basis, but there is an enormous amount of capacity and expertise required to administer each transaction. Home buyouts also disrupt everything in the life of the individual or family who is taking the buyout, requiring a significant amount of planning by the homeowner and, potentially, support from the buyer for their relocation. Any structures that remain on the land after the owners leave may need to be demolished. The land may need to be remediated, or, at minimum, preserved and protected. Ultimately, the long-term stewardship of the land is a key concern for land trusts. This full range of activities - from identifying parcels to acquiring them to assisting with relocation to long-term stewardship - requires too much for most individual land trusts to imagine doing on their own, at least at first. The participants in these workshops raised several questions and proposed solutions for creating the enabling conditions or systemic support for land trusts to become more engaged in buyouts. The participants suggested that, rather than expect each land trust to develop the expertise on their own, funding could be dedicated to a multi-year project with staff to facilitate a networked, capacity-building effort to identify and fundraise for projects that would make it easier for everyone to participate. The program might include:

- Trainings on accessing and managing federal/state grant processes (or co-managing with municipal leaders)
- Understanding and using land-use tools, such as Transfer of Development Rights and different kinds of easements
- Understanding and taking advantage of state policies and programs that enable land trust participation in buyouts
- Support for the significant amount of relationship and partnership building that would be necessary to execute effectively. This includes partnership building with each other, policymakers, land acquisition specialists, community land trusts, and buyout program managers
- Mapping projects to overlay state-identified flood-prone parcels on land trust service areas with unique priorities (such as water quality or habitat or public access potential)

- Communications guidance and templates that would help land trusts engage local officials and other key players in their communities (e.g., demolition companies, real estate professionals, local philanthropists)
- Exploring relocation questions - what it might take to assist the homeowners or occupants leaving the property, and which agencies or other partners could take the lead in providing social services to assist
- Regular knowledge/experience sharing from different regions of the state
- Support for 3-4 pilot projects in distinct regions of the state

Participants also suggested that TNC and others with influence over state policy could focus on building support for a “soup to nuts” buyout program that provides funding and other resources for the whole process, from acquisition to stewardship, rather than, for example, funding from one program for acquisition, another for demolition, and another for stewardship.

Finally, the land trusts who have already engaged in buyouts noted that these buyouts require partnership with the government agencies that give out the funding, or who might acquire the land for public use in the long-term. If those agencies are understaffed or their capacity is insufficient, the whole process slows down or is otherwise compromised, so work to bolster those agencies and the staff that support buyout programs is critical, as well.

#### *Stewardship and Restoration*

Much of the discussion about buyouts focuses on the first few steps of a buyout: moving people and property out of harm’s way. But land trusts are primarily concerned with the long-term condition and state of the land *after* the buyout. In some cases, land trusts would be interested in using buyout funding and programs as a way of acquiring land they would hold and steward in perpetuity. In other cases, the land trusts would be willing to acquire and hold land until another public institution could purchase the land and steward it going forward. The workshop participants raised the following concerns and suggestions regarding long-term stewardship.

- Long-term ownership in general. Land trusts are willing to be long-term owners for properties that serve their goals, but for lands that do not meet their goals, they would be willing to manage the transactions to speed up the purchases, and hold the properties for an interim period, if a state or local entity was committed to “buying them back,” and owning them long-term. Participants were particularly interested in having a state entity own and steward these lands, as they will presumably be under water over time and may not be attractive parcels for local municipalities to own.
- Environmental liability. Land trusts would like to have safeguards in place to protect against liability exposure from environmental issues on the land. Some ideas include:
  - Land trusts across the state could share their environmental assessment processes with each other so they could learn from the best approaches to the initial, or “Phase 1” environmental work
  - Increase or utilize existing capacity across the state to read old aerial photos to identify potential problems that are no longer apparent on the property

- The state could form an entity to take on the liability if due diligence was performed in early stages of the transaction, but environmental issues are discovered later in the process. Alternatively, as stated above, the state could be the owner of these properties, while the land trusts could manage them, ensuring the liability remains with the state even if the land trust remains involved in the stewardship of the property
- Land trusts could explore creating separate entities that take on riskier properties to protect the land trusts assets overall (there is precedent for this)
- Adaptive management: For properties on coastal or tidal shorelines, land trusts recognize that the land will slowly be submerged. This raised several questions:
  - Any restoration or management plans would have to be adaptive to address sea level rise.
  - Land trusts would want to understand federal funding sources' expectations for long-term monitoring and maintenance, as they may not account for the changes to the land over time, and therefore be impossible to meet.
  - It was proposed that land trusts might look to the Land Trust Alliance or TNC for best practices on managing land that is under water. One participant noted there is precedent to build on, as many places along riverine boundaries gain and lose land over time.

### *Funding*

Funding is a key issue for land trusts from at least two perspectives: timing and purpose. On timing, the challenge for land trusts is having money up front to purchase a property when it is understood that the parcel will eventually be acquired by a public entity. Land trusts can imagine playing the role of interim buyer to speed up the process for the homeowner and relieve them of the administrative burden that often leaves a household in limbo for several years, but a simple reimbursement model will not work. The land trust needs at least the seed capital to get started. They are supportive of the idea of a revolving fund that provides land trusts with the funding to perform the first buyout, as long as it is sufficient to cover all the transactional and carry-over costs, with the promise that any revenue from the ultimate disposition would go back into the fund for the next buyout. Land trusts are open to exploring any model that would provide the start-up funds, whether as a grant or a loan, with a combination of reimbursements. They would also want the model to include measures to reduce risk; for example, guarantees that any costs incurred would be covered, even if a transaction falls through before closing.

Regarding the purpose of the funding, land trusts know very well that property acquisitions require resources well beyond the amount of the purchase price of the property. First and foremost, staff need to be paid and trained. Other significant costs associated with buyouts might include all of the real estate services (appraisal, survey, legal, other due diligence), demolition and remediation, care and maintenance for the time the land trust owns it, insurance, and potentially assistance to homeowners to ease their relocation. Funding that would cover merely the purchase of the property would disincentivize land trusts to participate in buyouts.

### *Innovative Land Acquisition Tools and Approaches*

Land trusts are also open to exploring innovative approaches to acquiring the properties. Some examples include land swaps, rolling easements, transfers of development rights (TODs), and moving ownership to Community Land Trusts or Shoreline Adaptation Land Trusts (SALTs). They suggested that municipalities could have a “right of first refusal” option to take ownership of a structure when, in the future, it is damaged by flooding. They also suggested thinking outside the box to ensure all the players in the arrangement are fairly compensated, including perhaps a percentage fee for the municipality and land trust (similar to a realtor’s fee) for facilitating the purchase and transitioning the homeowners.

#### *Open Questions for Further Discussion*

Time did not allow for the group to dig into every question raised across the three workshops. The following topics deserve additional attention and discussion.

- 1) How to ensure safety of staff when homeowners or tenants are involved. Even willing sellers can be attached to the land and structures that have been part of their lives, and potentially family legacies. Most land trust staff are not trained to work through the human dynamics as play when people leave their homes.
- 2) Related, but distinct concerns were raised about the degree to which buyouts are “voluntary,” or property owners feel “forced out.” Land trust staff recognize that nature is not the only cause for vulnerability in many cases. They see that appropriate zoning might have kept people out of harm’s way in the first place, and some marginalized groups were intentionally forced to build and own into risky places on the grounds of racism and/or economic discrimination. Land trust staff anticipate that many people taking buyouts will carry this knowledge with them into a buyout and that land trust staff are not currently equipped to address these concerns.
- 3) Reputation of the land trust. When homes and communities are involved, there is a lot more at stake there are many moving pieces. Participants raised the concern that something could go awry on any aspect of the buyout, particularly elements that are not in the land trust’s control, and potentially affect the land trust’s reputation or standing.
- 4) Potential risks to land trusts’ 501C3 status
- 5) Stewardship on multiple small parcels is a very different proposition than stewardship on one large parcel. One person said to “be a holder of 20 half-acre properties across a city [is] a nightmare scenario for our stewardship director.”
- 6) In many cities, adding “more empty lots...is a non-starter.” Land trusts recognize that neighborhoods will not see the benefit from empty “nuisance” properties that exist in a patchwork across their community.
- 7) The group learned about one potential process for evaluating parcels’ “buyout potential” from data analysts at TNC. That model used various environmental, economic, and social factors, but the group did not have a rigorous discussion of criteria for selecting or prioritizing parcels, which they think would be necessary in order to have a robust buyout strategy.