

The Truth About Conservation Easements –

An Effective Tool for Preserving BSA Properties and Generating Revenue

In recent years, several Scout Councils have opted to place portions of their Scout Camp properties into conservation easements. While conservation easements can generate significant revenue and provide for the long-term protection of the property, there are also restrictions associated with placing conservation easements on council lands. There is considerable misinformation about conservation easements within the Scouting community, and this paper attempts to provide a brief overview of accurate information and resources that may benefit Scout Councils who are considering conservation easements as a land management tool or a way to retain their camp. To sell or not to sell a conservation easement requires careful weighing of tradeoffs and benefits.

What is a Conservation Easement?

The Nature Conservancy defines a conservation easement as *a voluntary, legally binding agreement that limits certain types of uses or prevents development from taking place on a piece of property now and in the future, while protecting the property's ecological or open-space values.*

Conservation easement sales are a part of the totality of rights to use the land. Conservation easements allow landowners to continue to own and use their land while development and/or other rights are transferred to another entity in exchange for tax benefits and/or a negotiated purchase price. The conservation easement is designed to permanently protect the ecological or cultural values of the property for the benefit of the public. Most conservation easements are perpetual, meaning that they are attached to the deed, and stay with the property, even if it becomes sold to another party. Easements are typically held by government agencies or local land trust organizations. Some easement programs are very restrictive, while other easement programs can be negotiable, and can be written to provide for facility maintenance, timber harvesting and natural resource management, and potentially even limited future construction consistent with the easement and designated uses of the land.

What are the Benefits of a Conservation Easement?

Typically, the greatest benefit to the landowner is the one-time payment made to purchase the easement. Most easement programs pay the landowner for the rights that are being purchased, often at the appraised fair market value. Depending on the land value, development pressures, and values at risk, this payment can be substantial, often thousands of dollars per acre. This onetime payment can be used to offset debt or make needed improvements.

From a conservation standpoint, preserving the land with its associated resource values as a lasting legacy for future generations is a significant benefit. Positive public relations, political gains and enhanced relationships with neighbors and interest groups are all outcomes that are derived from being good stewards of our lands.

Other benefits to the property owner are associated with performing the due diligence required for the easement, such as getting the property lines surveyed, developing a conservation plan, and forming relationships with local resource professionals who may be able to assist you with future conservation and land management needs.

And the Tradeoffs?

The reality is, when you sell development rights and enter an easement, the development rights are sold forever. Depending on the easement's restrictions, construction of future camp buildings may be prohibited or permanently limited to designated areas of the land. Should you decide to sell a conservation easement, you will be paid its value at the time of the sale, which means the remaining value of the land will be lower. Even though you will retain ownership of the land, once the easement is in place, you are required to abide by the terms of the easement. Part of these requirements might include periodic monitoring by the easement holder to ensure that the agreement is upheld.

It costs money and it may take several years to enter into an easement agreement. Some programs require leveraging matching funds from a third party, or they may place the responsibility of paying for items such as property surveys, title searches, and appraisals on the landowner. Some conservation easement programs will cover the cost of these documents for the landowner. However, the landowner's legal fees are often not covered.

Other Thoughts to Consider...

What are the long term plans for the property? Will there be a future need to develop new camp facilities, or is the camp considered excess council property that may be offered for sale in the future? Could portions of the property be placed in an easement while the developed and more heavily used camp areas remain out of the easement?

Consider involving legal counsel early in the process. Recruit subject matter experts and qualified council volunteers to serve on the planning team. Foresters, surveyors, appraisers, real estate experts and attorneys are all good resources to recruit if they are available to assist with the process.



Conduct research. Visit with local land trusts or local government planners who work with easements in your area. Determine what options are available in your area and identify the program that best suits your needs. Not all easement programs are the same.

Finally, realize that you are not the first Scout Camp to consider a conservation easement. There are several councils who have successfully entered into conservation easements. Network with your Area Conservation Advocate and seek out councils who have experience in the subject. Another council's easement agreement may serve as a starting point for drafting an easement on your camp's property.

Additional information about conservation easements can be found at these websites:

[The Nature Conservancy](#)

[American Forest Foundation](#)

[Land Trust Alliance](#)

[USDA Forest Service Forest Legacy Program](#)

Photo: Several Scout properties have entered into a conservation easement through the Federal Forest Legacy Program, administered by the state and the US Forest Service. Photo by Michael Huneke