

CLARKE COUNTY
Conservation Easement Authority
Minutes – 21 January 2021

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Thursday 21 January 2021, in the A/B/Main conference room, 2nd Floor Government Center.

Present: P. Engel, R. Buckley R. Bacon, M. Jones, Terri Catlett
Absent: G. Ohrstrom, W. Thomas
Staff: A. Teetor, R. Couch Cardillo

Call to Order: Alison Teetor, Clerk to the Easement Authority, called the meeting to order at 10:00 a.m.

Election of Chairman, Vice Chairman, and Treasurer

Ms. Teetor asked for nominations of Chairman to the Authority. Ms. Jones nominated Mr. Buckley for the position of Chairman for 2021, Ms. Bacon seconded. The Authority voted unanimously to elect Mr. Buckley as Chairman of the Authority for 2021.

Mr. Buckley asked for nominations of Vice Chairman to the Authority. Ms. Bacon nominated Mr. Ohrstrom for the position of Vice Chairman of the Authority for 2021, Ms. Jones seconded. The Authority voted unanimously to elect Mr. Ohrstrom as Vice Chairman of the Authority for 2021.

Mr. Buckley asked for nominations of Secretary/Treasurer to the Authority. Ms. Bacon nominated Mr. Engel for the position of Secretary/Treasurer for the Authority for 2021, Ms. Jones seconded. The Authority voted unanimously to elect Mr. Engel as Secretary/Treasurer of the Authority for 2021.

Agenda On motion of Ms. Jones, seconded by Mr. Engel, the Authority unanimously approved the agenda with the addition of a discussion of the proposed changes to the Virginia Outdoors Foundation minimum deed terms.

Minutes On motion of Ms. Jones, seconded by Ms. Bacon, the Authority unanimously voted to approve the minutes of December 22, 2020 with corrections.

Bank Account: Ms. Teetor reviewed the financial spreadsheets. Current fund balances show a total fund balance of \$342,236 consisting of \$96,205 in the donations account, \$222,515 in stewardship/restricted, and \$23,515 in local funds. Ms. Teetor stated that the attorney's fees and the publication of the year end news appeal letter were the major expenses in December. Mr. Buckley commented that there was significant revenue from roll back tax in 2020 – nearly \$30,000. This could be attributed to an increase in land sales.

Public Relations: Ms. Cardillo stated there was a total of \$35,098 in donations from 199 donors. Mr. Buckley commended Ms. Cardillo on her great work at fundraising and keeping the Authority and the program in the public eye. Ms. Cardillo also discussed the 2020 Conservation Award. Members agreed to award the American Battlefield Trust (formally the Civil War Trust) and Shenandoah University for their preservation of the Cool Spring Battlefield, Shenandoah University River Campus. Staff has contacted Gene Lewis, Manager for the Cool Spring Campus, and Tom Gilmore, Chief Real Estate Officer, for the American Battlefield Trust, who was instrumental on acquiring the River campus property

and the Holy Cross Abbey portion of the Battle. A representative from the University and the Trust will be present at the February meeting to receive the award. Regarding the photo contest, approximately 25 persons submitted photos, Ms. Cardillo will schedule the judging and it is hoped that the winning photographs can be displayed in some fashion. Members suggested an article in Clarke Monthly as event centers or other venues are still limited due to COVID. An article in the Clarke Monthly can provide good PR for the program. She is also working on the winter newsletter. Articles will include the Land Conservation Award, potentially the policy on retaining DUR's and the summer internship.

Report on Applications for Easement Purchase/Donation

a. Lowell Pratt – Mr. Pratt has applied to the easement authority for approval of an easement donation. The properties are located at 2683 Mt. Carmel Road approximately 6/10 of a mile north of the intersection with Calmes Neck Lane. There are 4 parcels totaling 148 acres with 11 DURs. At the December meeting staff was directed to encourage the applicant to retain 2 DURs considering the size of the property and the potential need for a caretakers house or other such secondary dwelling. Ms. Teetor reported that the applicant would like to retain 2 DUR's therefore retiring 9 of the 11 remaining DURs. A site visit was conducted January 19th. On motion of Ms. Jones, seconded by Ms. Bacon members gave final approval for the easement donation and recommended approval to the Board of Supervisors.

b. Tom Wiseman – applied to the easement authority for approval of an easement donation. The property consists of approximately 29 acres. The property is the point of land where Millwood Road meets Route 50. The parcel has an existing house built in 2007 and 1 remaining DUR. The applicant would like to retire the remaining DUR. A site visit was conducted on January 19th. On motion of Mr. Engel, seconded by Ms. Bacon members gave final approval for the easement and recommended approval to the Board of Supervisors.

c. RSP Enterprises – deed sent to NRCS for final approval

d. Blue Ridge Hunt – Anne McIntosh stated that they plan to record in 2021.

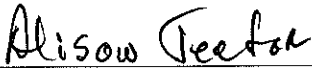
e. Kohn property update – Ms. Teetor reported that well has been installed and Broy and Son has completed the waterline installation and connection. To date \$24,726 has been spent on the well and septic improvements. Ms. Teetor explained that the only other thing that might be needed is a hot water heater as the one there is very old. Ms. Jones suggested a tankless hot water heater be considered. Mr. Engel suggested that a sediment filter be added to the waterline. Members also suggested that the Clarke County Easement Authority be recognized in any literature placed in the Cabin as a partner. Ms. Teetor said she would suggest this to the PATC.

Discussion – VOF Deed Template change – Ms. Teetor explained that she had received an email from the Piedmont Environmental Council stating that the VOF board was considering changing their deed template to mandate protection for conservation values identified by the Conserve Virginia database. She went onto explain that the Conserve Virginia database was an initiative developed by Governor Northam to help identify conservation values of properties statewide. The deed template would then mandate protection of these values by requiring stream fencing, repairs to historic homes would need to follow secretary of the interior standards for renovation or additions, and other such requirements. Though these are reasonable ideas in practice these restrictions may deter people from placing land in easement reducing the amount of protected open space. In addition, the database itself has errors including misclassification of important farmland and scenic byways. Ms. Teetor asked member to make a motion allowing her to submit a comment to oppose the incorporation of Conserve Virginia minimum deed terms into the VOF deed template. On motion of Ms. Bacon, seconded by Mr. Engel members approved the request.

Adjournment There being no further business, Ms. Bacon moved and Mr. Engel seconded that the Authority adjourn the meeting. The next meeting is scheduled for Thursday February 18th at 10:00 am. The motion was approved unanimously.



Randy Buckley, Chair



Alison Teetor, Clerk to the Authority

FEBRUARY MEETING CANCELLED - SNOW

CLARKE COUNTY
Conservation Easement Authority
Minutes – 18 March 2021

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Thursday 18 March 2021, in the A/B/Main conference room, 2nd Floor Government Center.

Present: P. Engel, R. Buckley, W. Thomas, M. Jones, Terri Catlett
Absent: R. Bacon
Phone in: G. Ohrstrom
Staff: A. Teetor, R. Couch Cardillo, C. Kuehner, C. Boies, W. Mackay-Smith

Agenda On motion of Ms. Jones, seconded by Mr. Engel, the Authority unanimously approved the agenda with the addition of an easement DUR purchase application added to as item 6f.

2020 Land Conservation Award Ceremony

Gene Lewis, Shenandoah University & Tom Gilmore, American Battlefield Trust for preservation of the Cool Spring Battlefield were present to accept the 2020 award. Mr. Buckley read a prepared script highlighting the objectives of the award, the achievements of the Authority, and the reasons for selecting the current award recipients. The awardees were recognized for the protection of the Cool Spring Battlefield. In 2011, the American Battlefield Trust (then the Civil War Trust) was approached by the previous landowner and members of the Trust realized the value of the 195-acre Clarke County property that had played a key role in the 1864 Battle of Cool Spring. After forming a public-private partnership with Shenandoah University, the two organizations acquired the property and preserved it as the educational and natural resource it is today. In selecting this year's recipient, the Authority recognized the important role the property has served by providing an outdoor recreation resource for the public during the pandemic. After Mr. Buckley's presentation Mr. Gilmore thanked the Authority for the award and described the Trusts role in securing the funding and engaging with Shenandoah University to secure the property and provide for interpretive displays describing the Battle. Mr. Lewis described Shenandoah's role as caretaker, along with providing use of the property for history and environmental classes. Ms. Mackay-Smith provided background on the use of the property for years as a golf course. She commended the recipients as the current use of the land is much more environmentally friendly and offers permanent protection to more than 10,000 linear feet of river frontage.

Minutes On motion of Mr. Engel, seconded by Ms. Thomas, the Authority unanimously voted to approve the minutes of January 21, 2021 with corrections.

Bank Account: Ms. Teetor reviewed the financial spreadsheets. Current fund balances show a total fund balance of \$339,171 consisting of \$102,953 in the donations account, \$211,526 in stewardship/restricted, and \$24,692 in local funds. Ms. Teetor stated that the expenses were for the appraisal of Smithfield Farm, waterline work for the Kohn property, and expenses related to public relations.

Public Relations: Ms. Cardillo stated that the year-end total for 2020 was \$36,822 from 209 donations. So far, in 2021 the Authority has received \$1,709 from 14 donors. The meeting followed the award ceremony; Ms. Cardillo took pictures and will have a story in the winter newsletter. The photo contest is complete. There were a total of 115 photographs from 26 photographers. The photos will be displayed on the County FB page and easement authority web page. Members discussed the potential for having an exhibit at the Barns of Rosehill, Ms. Cardillo will talk to them and see if we can get on the schedule. Other suggestions included creating a 2022 calendar and/or mugs. Ms. Catlett suggested a calendar could tell the story of a property in easement or include mission statements. Another suggestion was having a best of the best photo contest including all photos entered in the various contests. Ms. Cardillo will look

into pricing of ideas. Ms. Cardillo also asked members for ideas for the spring newsletter. This newsletter goes to all residents; she usually likes to highlight a particular property that has been placed in easement. Members will provide suggestions at the April meeting.

Report on Applications for Easement Purchase/Donation

a. Doris Stimpson – Ms. Stimpson has applied to the easement authority for approval of an easement donation. The property consists of approximately 25 acres. The property is located at 304 Nelson Road directly across from Long Branch. The parcel has an existing house built in 1981 and 1 remaining DUR. The applicant would like to retire the remaining DUR. The property meets 3 of the 4 criteria by scoring over 35, being next to an adjacent easement, and giving up 1 DUR. The parcel is less than 40 acres. The property resource score is 50.56, points were given for retiring 1 DUR, being next to an existing easement (Long Branch, Wally Brewer), and having frontage on a scenic byway. On motion of Mr. Engel, seconded by Ms. Thomas, members gave preliminary approval for the easement donation and asked staff to schedule a site visit. Ms. Catlett abstained.

b. Lowell Pratt – Mr. Pratt's attorney is reviewing the draft deed of easement.

c. Tom Wiseman – Mr. Wiseman is working on closing his father's estate. No action on the easement is anticipated until later this summer.

d. RSP Enterprises – Ms. Teetor reported that the deed review with NRCS did not go well. The deed template was not followed exactly due to requirements of the other funding source the Virginia Land Conservation Fund. Ms. Teetor is working to revise the deed and resubmit.

e. Blue Ridge Hunt – Anne McIntosh stated that they plan to record in 2021.

f. Lizzie Moon – New application requesting DUR purchase – Lizzie Moon has applied to the easement authority for approval of an easement DUR purchase. The property consists of 15.44 acres. The property is located at 773 Old Winchester Road approximately .4 miles west of Boyce. The parcel has an existing house built in 1958 and 2 remaining DURs. The applicant would like to retire the remaining DURs. The property meets 3 of the 4 criteria by scoring over 35, being next to an adjacent easement, and giving up 1 DUR. The parcel is less than 40 acres. The property resource score is 58.28, points were given for retiring 1 DUR, being next to an existing easement (Dimmel), having a perennial spring and stream (Roseville Run), and having frontage on a scenic byway. On motion of Ms. Jones, seconded by Ms. Thomas, the authority gave preliminary approval for the easement and requested staff to schedule a site visit.

Discussion

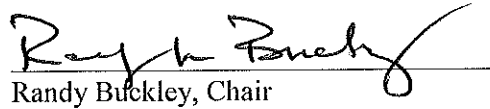
a. Suzanne Piscitelle – request for easement donation – Ms. Teetor reported that Ms. Piscitelle has contacted her with regards to donating an easement on the parcel identified as Tax Map# 23-A-1, consisting of 20.44 acres and existing dwelling and no remaining DURs. The property is known locally as Pigeon Hill. Ms. Teetor stated that the property does not meet the criteria for donation as it only meets one of the 4 criteria. As the property is surrounded on 2 sides by property owned by Dr. Reuling, who had expressed interest in placing his land in easement, members suggested contacting him to see if he might put the 50 acre parcel in easement which would then make Ms. Piscitelle's parcel eligible. Ms. Teetor agreed to send the Reulings a letter with the request.

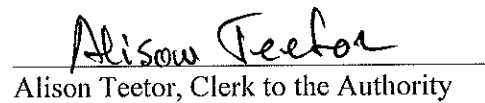
b. 2021 Easement Solicitation – Ms. Teetor reported that she had mailed out approximately 250 letters to property owners with land over 40 acres in size with at least 2 DURs remaining. To date she

had received 6 applications. Most applicants just wanted additional information. Ms. Teetor is hopeful that at least one will move forward with an easement.

c. VOF new deed template – Ms. Teetor reported that VOF has revised their deed template which is what our template is based on. One thing that was included with a caveat was the building envelope requirement. This was an area of concern and according to a document on the VOF website: “The requirement for locating buildings and structures in building envelopes arose as a result of the IRS position that, in order to obtain tax benefits when an easement is donated in full or in part to an approved holder, such buildings and structures must be located in building envelopes. The law in this area is unsettled, so that this requirement may be modified or eliminated in the future depending on changes in case law.” Ms. Teetor will review all changes and make a recommendation to amend our deed if warranted.

Adjournment There being no further business, Ms. Jones moved and Mr. Engel seconded that the Authority adjourn the meeting. The next meeting is scheduled for Thursday April 15th at 10:00 am. The motion was approved unanimously.


Randy Buckley, Chair


Alison Teetor, Clerk to the Authority

CLARKE COUNTY
Conservation Easement Authority
Minutes – 15 April 2021

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Thursday 15 April 2021, in the A/B/Main conference room, 2nd Floor Government Center.

Present: R. Buckley, W. Thomas, Terri Catlett R. Bacon
Absent: P. Engel, M. Jones
Phone in: G. Ohrstrom
Staff: A. Teetor, R. Couch Cardillo, C. Boies, B. Stidham
Others: Bill & Marcia Waite

Agenda On motion of Mr. Ohrstrom, seconded by Ms. Bacon, the Authority unanimously approved the agenda.

Discussion

a. Easement Complaint – Bouffault

Members had received the email from Ms. Bouffault with a copy of the complaint regarding use of a County eased property for an Airbnb was included in the packet. Bill & Marcia Waite own the property in question and the easement was recorded in 2017. Ms. Bouffault cites as Exhibit B Clarke County Code Chapter 72 – Conservation Easement Purchase Program that outlines the purpose of the Easement Program. Page 72-5 Section 72-9 outlines the requirements for the Deed of Easement and includes item D that requires each deed to include restrictions pertaining to uses and activities allowed on the parcel. Item (2) “states that the deed shall include a prohibition against commercial activities, but shall not prohibit agriculture, silviculture, horticulture or home occupations as defined in the Clarke County Zoning Ordinance.” In addition, the Easement Authority retains a Deed template that includes the required language. Members reviewed the relevant paragraph from the recorded deed for the Waite’s, detailing permitted Commercial and/or industrial uses. As indicated in the recorded deed some limited industrial or commercial activities are permitted including (iv) activities that can be conducted within permitted buildings without material alteration to their exterior appearance.

Mr. Buckley stated that he felt the Authority has done nothing wrong in regards allowing the use of the Waite property for an Airbnb. Mr. Ohrstrom agreed but opined that the Authority should ask Mr. Mitchell for a legal opinion. Ms. Jones was not present at the meeting but emailed staff prior to the meeting stating that Mr. Mitchell should be consulted. Ms. Bacon asked if any other properties held in easement were used for this purpose. Ms. Teetor stated that Dearmont Hall is another County easement used for an Airbnb. There maybe others that staff is not aware of. Mr. Buckley stated that he can think of countless rental properties that are held in easement, primarily by the Virginia Outdoors Foundation. Mr. Boies recommended contacting Mr. Mitchell as well. He was on the original email from Ms. Bouffault so he has the background information. Mr. Buckley asked the Waites if they had any questions. Mr. Waite stated that he didn’t feel that there was an issue and doesn’t expect any problems but would like to be notified when Mr. Mitchell responds.

On motion of Ms. Thomas, seconded by Ms. Bacon members requested staff to request a legal opinion regarding these two allegations to determine whether or not Airbnb operations are in violation of the easement.

b. Suzanne Piscitelle – request for easement donation – Ms. Teetor reported that Ms. Piscitelle has contacted her with regards to donating an easement on the parcel identified as Tax Map# 23-A-1, consisting of 20.44 acres and existing dwelling and no remaining DURs. The property is known locally as Pigeon Hill. Ms. Teetor stated that the property does not meet the criteria for donation as it only meets one of the 4 criteria. As the property is surrounded on 2 sides by property owned by Dr. Reuling, who had expressed interest in placing his land in easement, members suggested contacting him to see if he might put the 50 acre parcel in easement which would then make Ms. Piscitelle's parcel eligible. Ms. Teetor sent a letter to the Reulings after the meeting. No response has been received to date.

c. 2021 Easement Solicitation – Ms. Teetor reported that she had mailed out approximately 250 letters to property owners with land over 40 acres in size with at least 2 DURs remaining. To date she had received 6 applications. Most applicants just wanted additional information. No one has followed up.

Minutes On motion of Ms. Thomas, seconded by Ms. Bacon, the Authority unanimously voted to approve the minutes of March 18, 2021.

Bank Account: Ms. Teetor reviewed the financial spreadsheets. Current fund balances show a total fund balance of \$346,327 consisting of \$102,382 in the donations account, \$215,716 in stewardship/restricted, and \$28,229 in local funds. Ms. Teetor stated that the expenses were for the photo contest winners, award ceremony, and sponsorship of the annual Virginia Land Trust Conference.

Public Relations: Ms. Cardillo stated that so far in 2021 there have been 36 donations totaling \$3,419. This is low but typical for this time of year. She also reported on the status of the Spring newsletter. The feature story will be the partnership with the Potomac Appalachian Trail Club, the revised DUR policy, and a plug for the summer interns.

Ms. Cardillo also asked members for thoughts on using the photo contest photos for giveaways. Mr. Buckley suggested creating window stickers for vehicles. Everyone agreed that would be a good choice as it is inexpensive and will keep the Easement Authority in the public eye. Other thoughts are tote bags with the logo and or photo, notecards continue to be popular. Ms. Cardillo said she would price out some options for consideration at the May meeting. In addition, members thought it would be nice to have a show photos. The group had discussed having it at the Barns again, but Mr. Buckley stated that Long Branch would be interested in hosting an exhibit. Members agreed this would be a great venue. He will work with Ms. Cardillo to fit it into the schedule. Ms. Teetor had one other request for inclusion in the newsletter, that being a spotlight on septic pumpout highlighting groundwater protection. Members agreed that this would be fine to include in the newsletter.

Report on Applications for Easement Purchase/Donation

a. Doris Stimpson – Ms. Stimpson has applied to the easement authority for approval of an easement donation. The property consists of approximately 25 acres. The property is located at 304 Nelson Road directly across from Long Branch. A site visit was conducted on April 13th. On motion of Ms. Thomas, seconded by Mr. Ohrstrom, members gave final approval for the easement donation. Ms. Catlett abstained.

b. Lowell Pratt – Mr. Pratt's attorney is reviewing the draft deed of easement.

c. Tom Wiseman – Mr. Wiseman is working on closing his father's estate. No action on the easement is anticipated until later this summer.

d. RSP Enterprises – Ms. Teetor reported that the Virginia Land Conservation Foundation, who is providing part of the grant funding for the purchase, is requiring a survey. The survey we showed the total acreage at 194 acres, previous assessment data showed 214 acres, so the appraisal will need to be redone. The goal is to close prior to June 30th in order to use expiring VDACS funds for the purchase.

e. Blue Ridge Hunt – Anne McIntosh stated that they plan to record in 2021.

f. Lizzie Moon – DUR purchase – Lizzie Moon has applied to the easement authority for approval of an easement DUR purchase. The property consists of 15.44 acres. The property is located at 773 Old Winchester Road approximately .4 miles west of Boyce. The parcel has an existing house built in 1958 and 2 remaining DURs. A site visit was conducted on April 13th. This item will be discussed in closed session.

Report on Applications for Easement Purchase

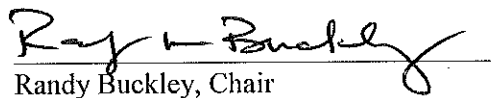
On motion of Ms. Bacon, seconded by Mr. Ohrstrom the Authority unanimously approved going into Closed Session pursuant to Section 2.2-3711-A3 of the Code of Virginia, as amended, to discuss the Acquisition or Sale of Property. On motion of Ms. Bacon, seconded by Ms. Thomas, the Authority unanimously approved reconvening in Open Session. Ms. Bacon moved, seconded by Mr. Ohrstrom, to certify that to the best of the member’s knowledge:

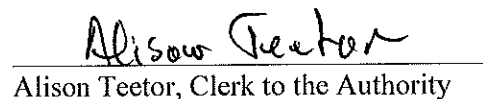
- (i) only public business matters lawfully exempted from Open Meeting requirements under Chapter 2.2-3700, et sec., of the Code of Virginia, as amended, pursuant to Section 2.2-3711-A3 of the Code of Virginia, as amended, to discuss the Acquisition or Sale of Property, and
- (ii) only such public business matters as were identified in the motion by which the Closed meeting was convened were heard, discussed, and considered in the meeting by the Authority. The vote on the above motion was:

Ms. Bacon	Aye	Mr. Buckley	Aye	Mr. Engel	Absent
Ms. Thomas	Aye	Mr. Ohrstrom	Aye	Ms. Jones	Absent
Ms. Catlett	Aye				

On motion of Mr. Ohrstrom, seconded by Ms. Thomas members voted to approve a DUR purchase of \$40,000/DUR for a total of \$80,000 for the purchase of 2 DURs on the property owned by New Moon Construction, Lizzie Moon, agent, contingent on saving the Spring House.

Adjournment There being no further business, Ms. Catlett moved and Ms. Bacon seconded that the Authority adjourn the meeting. The next meeting is scheduled for Thursday May 20th at 10:00 am. The motion was approved unanimously.


Randy Buckley, Chair


Alison Teetor, Clerk to the Authority

CLARKE COUNTY
Conservation Easement Authority
Minutes – 20 May 2021

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Thursday 20 May 2021, in the A/B/Main conference room, 2nd Floor Government Center.

Present: R. Buckley, W. Thomas, Terri Catlett R. Bacon, M. Jones
Absent: P. Engel
Phone in: G. Ohrstrom
Staff: A. Teetor, R. Couch Cardillo, C. Boies
Others: Robina Bouffault

Agenda On motion of Mr. Ohrstrom, seconded by Ms. Bacon, the Authority unanimously approved the agenda.

Minutes On motion of Ms. Thomas, seconded by Ms. Bacon, the Authority unanimously voted to approve the minutes of April 15, 2021.

Bank Account: Ms. Teetor reviewed the financial spreadsheets. Current fund balances show a total fund balance of \$356,375 consisting of \$112,058 in the donations account, \$216,336 in stewardship/restricted, and \$27,981 in local funds. Ms. Teetor stated that the expenses were for the spring newsletter, and legal review of Ms. Bouffaults complaint.

Public Relations: Ms. Cardillo stated that so far in 2021 there have been 49 donations totaling \$5,514, that is good for this time of year. The spring newsletter was mailed in the tax bills. She is starting to work on the summer newsletter, and is open to any suggestions for stories. She hopes at some point to highlight Smithfield but that may not close until later this year. Another idea she had talked about last month was ordering stickers or magnets with the Save Open Space logo, as giveaways to donors. She provided pricing, after discussion members agreed magnets would be great. Ms. Teetor reported that she received the annual request from the fair for sponsorship. On motion of Ms. Jones, seconded by Ms. Bacon Authority members approved a \$500 sponsorship for the 2021 Clarke County Fair. Ms. Cardillo suggested purchasing a rollup banner for the Fair display. Another item for discussion is the photo contest display at Longbranch. Ms. Teetor stated that the cost to frame the photos is approximately \$600 based on a previous purchase. Members suggested switching out the current photos so that new frames would not have to be purchased. Ms. Teetor stated that the current framed photos are being used to decorate the hallways of the Government Center and suggested that new frames might be a better option. On motion of Ms. Bacon, seconded by Ms. Thomas members approved the purchase of 15 new frames. Ms. Cardillo also asked if members thought an in person donor reception could be held this year. Mr. Ohrstrom stated that he would be willing to host again and felt like if the reception was held in October that most issues with the pandemic should be over. A tentative date of October 15th was approved.

Discussion – Easement Complaint

Mr. Buckley stated that a letter from Mr. Mitchell was included in the packet regarding the complaint filed by Ms. Bouffault. He summarized that Mr. Mitchell had found no violation regarding Airbnb activity on the County Conservation Easement recorded in Deed Book 622 at Page 584. He asked if members had any questions hearing none he asked staff to report on the easement applications. Ms. Bouffault stated that she thought Mr. Mitchell's determination was in error. Members disagreed and moved onto the next item on the agenda.

Report on Applications for Easement Purchase/Donation

a. Carlton Mallory – new application – Mr. Mallory has applied for an appraised easement purchase. The property consists of 3 parcels and is located on both sides of Kennel Road at the intersection with Swift Shoals Road. The property on the west side of Kennel Road is identified by Tax Map# 37-A-19, and consists of 43.5 acres with an existing house and zero remaining DURs. The property is listed under John W. Truban, Trustee, KHS Land Trust. The parcel was subdivided in 1981, the trust retains 2 - 2 acre parcels each with 1 DUR. One option is for Mr. Mallory to merge the 2 lots into one 4 acre parcel, retaining one of the DURs and retire 1 DUR with the easement. It is staff's preference that the 4 acres not be placed in easement so a boundary line adjustment maybe necessary to transfer the DUR to the larger tract. Another option discussed with Mr. Mallory is the option of merging the 2 acre lots back into the 43.5 acres. This is being considered by the applicant. On the east side of Kennel Road there are 2 tracts totaling 55 acres. The first is a 50 acre parcel with 1 exemption and 3 remaining DURs, identified as tax map# 38-A-7. The second tract is 5 acres, identified as Tax Map# 38-A-6 with 1 DUR. These parcels would be merged. The 43 acre and 50 acre tract are in landuse. The applicant would like to retire 3 of the 4 remaining DURs. It is likely that Mr. Mallory will agree to retain the existing house and 1 DUR on each parcel so that the end result will be a 55 acre tract with an existing house and 1 DUR, and a 47.5 acre tract with an existing house and 1 DUR.

Tax Map#	acres	DURs	ext. dwl	Property Res. Score	land use	#criteria
37-A-19	43.5	0	1	64	yes	4
38-A-7	50	3	1	87.23	yes	4
38-A-6	5	1	0	48.77	no	3

The properties meet at least 3 of the 4 criteria by scoring over 35, being next to an adjacent easement, and giving up at least 1 DUR. Except for the 5 acre parcel both are over 40 acres. Points were given for retiring 3 of the 4 remaining DURs, being next to existing easements, having a perennial stream (Long Branch), and having frontage on a scenic byway. Funding sources include the Federal ALE grant, Virginia Land Conservation Fund, and VDACS, in addition to local funding. A preliminary appraisal will be completed to determine the value for grant application purposes. On motion of Ms. Jones, seconded by Mr. Ohrstrom members gave preliminary approval for the easement purchase and requested staff to schedule a site visit.

b. Doris Stimpson – Ms. Stimpson received final approval for her easement donation last month. A draft deed and consent form was sent but no response has been received. Staff will continue to work with her to get the easement recorded.

c. Lizzie Moon – DUR purchase – the DUR purchase offer was approved last month. The lender had a concern over the use of the term subordination as opposed to release. Mr. Mitchell spoke with them and explained the difference and they seemed satisfied with use of the term subordination. Staff is waiting on return of the signed purchase agreement before moving forward with the appropriation of funds.

d. RSP Enterprises – Ms. Teetor stated that the revised appraisal is complete but unfortunately showed a lower value than the original appraisal. The revised appraisal has been sent to the Pritchards for review, no response has been received to date.

e. Lowell Pratt – Mr. Pratt submitted a revised deed of easement per his attorney, this was included in the packet as there were numerous changes. Most of the changes were rewording the existing language without substantive changes. A couple of paragraphs highlighted in yellow were reviewed by Mr. Mitchell and he was comfortable with the proposed language. Mr. Pratt has agreed to merge the properties into one. The main concern is that there is specific language included to allow for farm

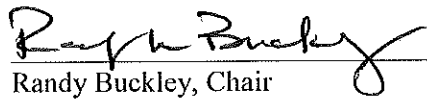
wineries, breweries, and distilleries. Staff explained that these are by right agricultural uses, but is concerned that the size and potential land clearing for growing ingredients maybe excessive for an eased property. Ms. Teetor also stated she had spoken with Leslie Grayson and Erika Richardson of the Virginia Outdoors Foundation. They have several eased properties with these types of uses and recommended that the Authority focus only on the absolutes and be clear. No building bigger than x. no building site within x. Detail the amount of raw produce that must be grown on site or some percentage but that needs to be easily measured/observed/understandable. They also suggested that the Authority think as far out in future as possible and focus less on the use and more on the infrastructure required and the impact to the land.” Members agreed that this should be reviewed carefully to fully understand the potential impact to the property, including access, building locations, and potential amount of tree clearing. Ms. Bouffault added that these types of uses may also utilize substantial amounts of water in the processing phase. Based on these concerns Mr. Ohrstrom moved to table the application to allow more time to evaluate the potential impact, seconded by Ms. Thomas members approved the motion.

f. Tom Wiseman – Mr. Wiseman is working on closing his father’s estate. No action on the easement is anticipated until later this summer.

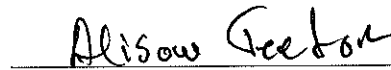
g. Blue Ridge Hunt – There has been no progress on this easement.

h. Staley – I spoke with the applicant and they haven’t had time to send the deed to their attorney so this is on hold.

Adjournment There being no further business, Mr. Ohrstrom moved and Ms. Thomas seconded that the Authority adjourn the meeting. The next meeting is scheduled for Thursday June 17th at 10:00 am. The motion was approved unanimously.



Randy Buckley, Chair



Alison Teetor, Clerk to the Authority

CLARKE COUNTY
Conservation Easement Authority
Minutes – 17 June 2021

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Thursday 17 June 2021, in the A/B/Main conference room, 2nd Floor Government Center.

Present: R. Buckley, W. Thomas R. Bacon, M. Jones
Absent: P. Engel, Terri Catlett
Phone in: G. Ohrstrom
Staff: A. Teetor

Agenda On motion of Ms. Bacon, seconded by Ms. Thomas, the Authority unanimously approved the agenda.

Minutes On motion of Ms. Thomas, seconded by Ms. Jones, the Authority unanimously voted to approve the minutes of May 20, 2021.

Bank Account: Ms. Teetor reviewed the financial spreadsheets. Current fund balances show a total fund balance of \$354,687 consisting of \$112,490 in the donations account, \$216,491 in stewardship/restricted, and \$25,706 in local funds. Ms. Teetor stated that the expenses were for the spring newsletter, and legal review of the Pratt deed and the second appraisal for RSP Enterprises, required as the survey showed a reduced acreage.

Public Relations: Ms. Cardillo was absent from the meeting so Ms. Teetor reviewed her report. Donations continue to increase, so far in 2021 there have been 63 donations totaling \$7,559.00. She continues to work with Matt Hannan at Long Branch to set up the photo exhibit of the pandemic photo contest in early July. Ms. Teetor will confirm the date of the reception and let members know. The spring newsletter was mailed in the tax bills. She is starting to work on the summer newsletter, and is open to any suggestions for stories. Currently she is planning to include stories on an easement landowner, the policy on zero DURs, grant news, the photo exhibit at Long Branch, and the donor reception. As discussed at the last meeting Ms. Cardillo has ordered Save Open Space magnets as giveaways to donors. The donor reception is still tentatively scheduled for October 15th at George's farm. Joe Sipe complained about the access road but Mr. Ohrstrom said it had been repaired.

Report on Applications for Easement Purchase/Donation

a. **James & Carmen Igoe** – new application - The Igoes have applied to the easement authority for approval of an easement donation or DUR purchase. The property is located on the mountain off Lions Lane, adjacent to Carefree Acres. It is identified as Tax Map# 38-A-40, and consists of 102.6 acres with 6 remaining DUR's. The property is entirely forested and vacant. In reviewing the parcel, it meets 3 of the 4 criteria. The parcel is over 40 acres, the property resource score was 62.53. Points were given for retiring 4 of the 6 DURs, and having 20 acres of slopes > 25%. The property touches the corner of an eased property but this was not considered adjacent. Ms. Teetor provided the applicant with information regarding the DUR purchase program and they were not aware of the income requirement so they are postponing any decision until a later time. As a result no action by the Authority is required.

Carlton Mallory – Mr. Mallory has applied for an appraised easement purchase. The property consists of 3 parcels and is located on both sides of Kennel Road at the intersection with Swift Shoals Road. The property on the west side of Kennel Road is identified by Tax Map# 37-A-19, and consists of 43.5 acres with an existing house and zero remaining DURs. The property is listed under John W. Truban, Trustee, KHS Land Trust. The parcel was subdivided in 1981, the trust retains 2 - 2 acre parcels each with 1 DUR. The Authority gave preliminary approval at the last meeting. Ms. Teetor stated that they have ordered a preliminary appraisal and will likely move forward with the grant applications in the fall. Ms. Teetor has requested authorization for applying for both an ALE and VLFCF grant. On motion Ms. Jones, seconded by Ms. Thomas members approved submittal of the grant applications.

b. Doris Stimpson – Ms. Stimpson received final approval for her easement donation two months ago. Ms. Teetor spoke with Ms. Stimpson, who seemed ready to proceed with signing the deed of easement, however, nothing has been received. Ms. Teetor will contact her again to determine if she needs any additional information.

c. Lizzie Moon – DUR purchase – the DUR purchase offer was approved two months ago. The lender is satisfied with the terms of the deed and the item will be placed on the finance committee agenda and Board agenda for final approval and funding appropriation. Once approved the closing should be able to take place in early August.

d. RSP Enterprises – Ms. Teetor stated that the revised appraisal is complete but unfortunately showed a lower value than the original appraisal. This item will be discussed in closed session.

e. Lowell Pratt – Staff continues to work with Mr. Pratt and his attorney to finalize the deed of easement. Ms. Teetor stated that she asked Mr. Mitchell to review the entire deed as there were so many changes proposed by Mr. Pratt's attorney. Mr. Mitchell had a few suggested changes to the deed but stated that most of the changes proposed by the attorney related to ensuring protection of Mr. Pratt's tax credits. Mr. Mitchell stated he had no issues with the proposed draft provided the Authority was comfortable with the w/b/d language. Mr. Pratt's attorney left in the references to the winery/brewery/distillery (w/b/d) but included language requiring all structures except for 5 <600 sq. ft. buildings be included in the building envelope. In addition, staff stated that they inserted a clause to prohibit clear cutting but are still allowing clearing for agricultural purposes. The attorney also requires Authority review and approval for all structures and activities. Mr. Ohrstrom stated he has reservation regarding the deed but as it is a donation, he was more comfortable with it. He stated he wanted to make sure the Authority could adequately explain why they would hold an easement with the potential for a commercial activity. Ms. Jones stated that she feels that the proposed use would be more intensive than 11 houses and she cannot approve the deed in its current form. Even though the Authority has authority to review and deny a proposed commercial activity the owner could say that the denial is unreasonable and the Authority could be sued. Mr. Ohrstrom added that wineries are considered a by right agricultural use but it is a fine line between agriculture and commercial use. Ms. Jones suggested either removing all language from the deed regarding w/b/d or leave the front parcel out of the easement. Mr. Ohrstrom agreed stating that the County's experience with Bear Chase Brewery highlights potential problems as it appears as though no one in Loudoun government looked at the potential cumulative impact. Staff was requested to relay the Authorities concerns and suggested changes to Mr. Pratt.

f. Tom Wiseman – Mr. Wiseman is working on closing his father's estate. No action on the easement is anticipated until later this summer.

g. Blue Ridge Hunt – Ms. Teetor spoke to Anne McIntosh, agent, for the Hunt, she stated that the deed is being reviewed by Bucky Slater, attorney, one change she noted was the need to include a building envelope. Ms. Jones explained that some recent IRS actions encourage requiring building

envelopes because if the location of a building envelope is not fixed at the time of the conveyance, the IRS may take the position that a charitable deduction should be denied based on a failure to protect the conservation purpose in perpetuity. It is probably more likely to be a problem on large multi-million dollar easements but unfortunately, it impacts all easements.

h. Staley – I spoke with the applicant and they haven't had time to send the deed to their attorney so this is on hold.

Report on Applications for Easement Purchase

On motion of Mr. Buckley, seconded by Ms. Thomas the Authority unanimously approved going into Closed Session pursuant to Section 2.2-3711-A3 of the Code of Virginia, as amended, to discuss the Acquisition or Sale of Property. On motion of Mr. Buckley, seconded by Ms. Jones, the Authority unanimously approved reconvening in Open Session. Mr. Buckley moved, seconded by Ms. Bacon, to certify that to the best of the member's knowledge:

(i) only public business matters lawfully exempted from Open Meeting requirements under Chapter 2.2-3700, et sec., of the Code of Virginia, as amended, pursuant to Section 2.2-3711-A3 of the Code of Virginia, as amended, to discuss the Acquisition or Sale of Property, and

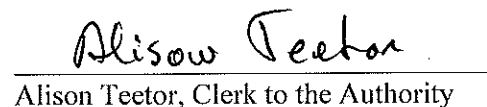
(ii) only such public business matters as were identified in the motion by which the Closed meeting was convened were heard, discussed, and considered in the meeting by the Authority. The vote on the above motion was:

Ms. Bacon	Aye	Mr. Buckley	Aye	Mr. Engel	Absent
Ms. Thomas	Aye	Mr. Ohrstrom	Aye	Ms. Jones	Aye
Ms. Catlett	Absent				

Based on a required survey, the acreage of the property was reduced from 214 acres to 194 which caused the appraisal value of the easement to be reduced. On motion of Ms. Jones, seconded by Ms. Thomas members voted to approve a reduction in the amount to be donated by the Pritchard family to \$18,375.

Adjournment There being no further business, Ms. Bacon moved and Mr. Ohrstrom seconded that the Authority adjourn the meeting. The next meeting is scheduled for Thursday July 15th at 10:00 am. The motion was approved unanimously.


Randy Buckley, Chair


Alison Teetor, Clerk to the Authority

CLARKE COUNTY
Conservation Easement Authority
Minutes – 15 July 2021

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Thursday 15 July 2021, in the A/B/Main conference room, 2nd Floor Government Center.

Present: R. Buckley, P. Engel, Terri Catlett, M. Jones
Absent: W. Thomas, R. Bacon
Phone in: G. Ohrstrom
Staff: A. Teetor, Robin Couch-Cardillo

Agenda On motion of Ms. Jones, seconded by Mr. Engel, the Authority unanimously approved the agenda.

Minutes On motion of Mr. Ohrstrom, seconded by Ms. Jones, the Authority unanimously voted to approve the minutes of June 17, 2021 with corrections. Ms. Catlett and Mr. Engel abstained.

Bank Account: Ms. Teetor reviewed the financial spreadsheets. Current fund balances show a total fund balance of \$360,512 consisting of \$114,467 in the donations account, \$216,641 in stewardship/restricted, and \$29,405 in local funds. Ms. Teetor stated that the expenses were for Ms. Cardillo's work, and legal services. Members asked about the origin of the roll back taxes, particularly the December amount that was over \$22,000. Ms. Teetor will ask the Commissioner of the Revenue about these funds.

Public Relations: Ms. Cardillo reported that donations continue to come in, to date there have been 72 donations totaling \$9,059.00. That is a little above what has been donated at this time in previous years. She reported that the photo exhibit at Long Branch will start the week of July 12th and last through August, a reception will be held mid to late August. All photos are in one room and include winners from the 2015 and 2020 photo contests. Ms. Cardillo will send out invitations to the reception once a firm date has been selected. In addition, she is preparing the summer newsletter and plans to include stories on the zero DUR policy, grants, the photo exhibit, and donor reception. The feature story is generally an easement landowner. Ms. Teetor suggested the Barbehenn's who placed a property in easement on the mountain. The article could also tie in efforts of the Blue Ridge Conservation Alliance to protect the mountain and lands adjacent to the Appalachian Trail. Ms. Cardillo may also include an article about the summer interns as a plug for next year. Ms. Catlett stated that she had spoken to the career coach at the high school who may be able to suggest the position to her students. Ms. Catlett will email Ms. Teetor her contact information. This newsletter will be published in August. Finally, Ms. Cardillo wanted to confirm with Mr. Ohrstrom that the reception can be held at this barn on October 15th. He confirmed that he is happy to host.

Report on Applications for Easement Purchase/Donation

a. **Matthew Jones & Diane Sheehy** have applied for an easement donation. The property consists of 22.64 acres. The property is located at 1260 Westfield Farm Lane adjacent to Blandy. The parcel has an existing house built in 1905 and 2 remaining DURs. The applicant would like to retire one of the remaining DURs. The property meets 2 of the 4 criteria by scoring over 35 and giving up 1 DUR. The parcel is less than 40 acres. The property resource score is 67.62, points were given for retiring 1 DUR, being adjacent to Blandy, being within a portion of the groundwater recharge area, and having several contributing structures in the Greenway Rural Historic District. On motion of Mr. Engel seconded by Ms. Jones members gave preliminary approval for the easement donation and asked staff to schedule a site visit.

b. Bradley & Kathryn Keister – have applied for an easement donation. The property consists of 34.47 acres and is located at 240 Ashley Woods Lane, off of Blue Ridge Mountain Road approximately 7/10 mile north of Mt. Weather. The parcel has an existing house built in 2015 and 0 remaining DURs. The property meets 2 of the 4 criteria by scoring over 35 and being next to an existing easement. The parcel is less than 40 acres. The property resource score is 43.46, points were given for being adjacent to an existing easement and Appalachian Trail property. On motion of Ms. Jones, seconded by Mr. Engel members gave preliminary approval and asked staff to schedule a site visit.

c. Doris Stimpson – Ms. Teetor reported that Ms. Stimpson has signed the deed and provided all necessary paperwork to complete the easement. This item has been placed on the Board agenda for final approval and Chair signature. The easement will be recorded this month.


d. Lizzie Moon – DUR purchase – the DUR purchase was discussed at the finance committee meeting and will be placed on the Board agenda for final approval July 20th. Closing will be scheduled once funds have been transferred to Mr. Mitchell's office.

e. RSP Enterprises – Ms. Teetor stated that the Pritchards have agreed to donate \$18,375 of the easement value as requested by the Easement Authority. As the amount provided by the County has increased since the original public hearing, another hearing will be held on July 20th. In addition, the Pritchards have decided to merge a .399 acre parcel with 1 DUR into the parcel proposed for easement. They will keep the DUR. The appraiser has been contacted to see if this has any impact on the value. Ms. Jones asked who is paying for the revised appraisal, Ms. Teetor stated that the Authority will pay since the families income level is low enough to qualify. Members agreed that this should be the last payment for an appraisal.

f. Lowell Pratt – After the last meeting, Ms. Teetor emailed the applicant stating that the Authority would not approve the easement donation with the winery/brewery/distillery language in the deed. As a result the applicant agreed to remove all references. Ms. Jones reviewed the verbiage to insure that all references were removed. Ms. Teetor sent a pdf version of the revised deed to the applicant and his attorney so that no additional changes could be made. They are also required to provide a plat of merger. The item has been placed on the July 20th Board agenda for final approval.

Adjournment There being no further business, Mr. Engel moved and Mr. Ohrstrom seconded that the Authority adjourn the meeting. The next meeting is scheduled for Thursday September 16th at 10:00 am. Due to conflicts with Mr. Engels schedule, a new meeting time will be discussed at the next meeting. The motion to adjourn was approved unanimously.


Randy Buckley, Chair


Alison Teetor, Clerk to the Authority

CLARKE COUNTY
Conservation Easement Authority
Minutes – 19 August 2021

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Thursday 19 August 2021, in the A/B/Main conference room, 2nd Floor Government Center.

Present: R. Buckley, P. Engel, M. Jones, W. Thomas, R. Bacon
Absent: Terri Catlett
Phone in: G. Ohrstrom
Staff: A. Teetor, Robin Couch-Cardillo

Agenda On motion of Mr. Ohrstrom, seconded by Ms. Jones, the Authority unanimously approved the agenda.

Minutes On motion of Ms. Thomas, seconded by Mr. Ohrstrom, the Authority unanimously voted to approve the minutes of July 15, 2021.

Bank Account: Ms. Teetor reviewed the financial spreadsheets. Current fund balances show a total fund balance of \$281,513 consisting of \$116,058 in the donations account, \$216,763 in stewardship/restricted, and \$-51,308 in local funds. The negative balance for the local funds is due to the New Moon Construction, LLC closing, as the reimbursement request to VDACS for the Moon closing has not been submitted. The balance should be corrected once those funds have been received. Other expenses were for payment of one of the summer interns.

Public Relations: Ms. Cardillo reported that donations continue to come in, to date there have been 76 donations totaling \$9,809.00. She stated that fund raising is going well but reiterated that the end of year request is usually when most donation are received. She reported that she set up the display that included the map, 9 myths, the banner and the sign. She stated that several people picked up the 9 myths brochure in the Horticulture Building at the Fair but no other vendors were there, she wondered if attendance was down, Ms. Jones stated that she thought it was very busy at night. Ms. Cardillo also reminded members about the upcoming photo exhibit at Long Branch, the reception will be Thursday August 26th from 5-7 pm. Ms. Teetor stated that only about 7 people had responded to the RSVP. Ms. Cardillo is also working on the summer newsletter. The articles include a landowner interview with Ray Barbehenn who placed 100 acres in easement with the Authority in 2017. She will also include articles on the zero DUR policy and the upcoming donor reception. Finally, Ms. Cardillo wanted to confirm with Mr. Ohrstrom that the reception can be held at his barn on October 15th. He confirmed that he is happy to host but that he may not be able to attend due to COVID.

Discussion – meeting time: Mr. Engel has expressed concern that he is unable to attend meetings as currently schedule due to his work schedule. Members agreed to move the meeting time and date to the second Friday of each month at 10 am beginning in September. Ms. Teetor will check to insure the room is available at that time.

Report on Applications for Easement Purchase/Donation

a. Matthew Jones & Diane Sheehy have applied for an easement donation. The property consists of 22.64 acres. The property is located at 1260 Westfield Farm Lane adjacent to Blandy. The parcel has an existing house built in 1905 and 2 remaining DURs. The applicant would like to retire one of the remaining DURs. A site visit was conducted on August 4th. On motion of Mr. Engel seconded by

Mr. Ohrstrom members gave final approval for the easement donation. The item will be placed on the September Board of Supervisors agenda for final approval.

b. Bradley & Kathryn Keister – have applied for an easement donation. The property consists of 34.47 acres and is located at 240 Ashley Woods Lane, off of Blue Ridge Mountain Road approximately 7/10 mile north of Mt. Weather. A site visit was conducted on August 4th. On motion of Ms. Bacon seconded by Ms. Thomas members gave final approval for the easement donation. The item will be placed on the September Board of Supervisors agenda for final approval.

c. Doris Stimpson – Ms. Teetor reported that the deed of easement was recorded on July 22nd.

d. New Moon Construction, LLC – DUR purchase – Ms. Teetor reported that the deed of easement was recorded on August 5th.

e. RSP Enterprises – Ms. Teetor stated that an update will be discussed in closed session.

f. Lowell Pratt – Ms. Teetor commented that although members discussed this easement it was never voted on therefore Ms. Teetor asked that members give final approval for the easement donation. On motion of Ms. Jones, seconded by Ms. Thomas, members gave final approval for the easement donation. Mr. Engel abstained.

Report on Applications for Easement Purchase

On motion of Mr. Engel, seconded by Ms. Thomas the Authority unanimously approved going into Closed Session pursuant to Section 2.2-3711-A3 of the Code of Virginia, as amended, to discuss the Acquisition or Sale of Property. On motion of Mr. Engel, seconded by Mr. Ohrstrom, the Authority unanimously approved reconvening in Open Session. Mr. Buckley moved, seconded by Ms. Bacon, to certify that to the best of the member's knowledge:

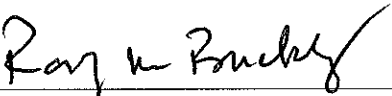
(i) only public business matters lawfully exempted from Open Meeting requirements under Chapter 2.2-3700, et sec., of the Code of Virginia, as amended, pursuant to Section 2.2-3711-A3 of the Code of Virginia, as amended, to discuss the Acquisition or Sale of Property, and

(ii) only such public business matters as were identified in the motion by which the Closed meeting was convened were heard, discussed, and considered in the meeting by the Authority. The vote on the above motion was:


Ms. Bacon	Aye	Mr. Buckley	Aye	Mr. Engel	Aye
Ms. Thomas	Aye	Mr. Ohrstrom	Aye	Ms. Jones	Aye
Ms. Catlett	Absent				

The revised appraisal for the RSP Enterprises has been completed. Staff is waiting for the plat of merger for signature prior to sending the deed review package to NRCS for final approval. No action was required.

Adjournment There being no further business, Mr. Engel moved and Mr. Ohrstrom seconded that the Authority adjourn the meeting. The next meeting is scheduled for Friday September 10th at 10:00 am. The motion to adjourn was approved unanimously.



Randy Buckley, Chair



Alison Teetor, Clerk to the Authority

**No September Meeting
Due to meeting day change**

CLARKE COUNTY
Conservation Easement Authority
Minutes – 8 October 2021

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Friday 8 October 2021, in the A/B conference room, 2nd Floor Government Center.

Present: R. Buckley, P. Engel, M. Jones, W. Thomas, T. Catlett
Absent: R. Bacon
Phone in: G. Ohrstrom
Staff: A. Teetor, Robin Couch-Cardillo

Agenda On motion of Mr. Ohrstrom, seconded by Ms. Thomas, the Authority unanimously approved the agenda, as amended to include a discussion of a request to build a indoor arena on an eased property, new item 5.

Minutes On motion of Ms. Jones, seconded by Mr. Ohrstrom, the Authority unanimously voted to approve the minutes of August 19, 2021, with minor corrections. Ms. Catlett abstained.

Bank Account: Ms. Teetor reviewed the financial spreadsheets. Two were included in the packet, one for the end of FY21 and one for the new FY22. The following summary is for the FY22 report. Current fund balances show a total fund balance of \$316,900 consisting of \$114,361 in the donations account, \$215,399 in stewardship/restricted, and \$-12,861 in local funds. The negative balance for the local funds is due to the New Moon Construction, LLC closing. The reimbursement from VDACS has been received but the appropriation from local funds has not yet been credited. Other expenses were for the newsletter and legal expenses.

Public Relations: Ms. Cardillo reported that donations continue to come in, to date there have been 101 donations totaling \$15,119. She stated that fund raising is going well but reiterated that the end of year request is usually when most donation are received. The donor reception is scheduled for October 15th. Mr. Ohrstrom will contact the caterer, get tents, etc. Mr. Buckley agreed to provide beer and wine. Ms. Teetor and Ms. Cardillo will help with the setup. Approximately 80 persons have responded to the invitation. Ms. Teetor also stated that Christy Dunkle, the Town Planner and local artist would like to donate one of her stone mosaic pieces for auction at the event. Members thanked her and agreed that would be a great idea. Ms. Cardillo also asked members to be thinking of articles for the fall newsletter which will go out in the tax bills. She also asked members for ideas for the annual Land Conservation Award. Ms. Teetor suggested Tupper Dorsey who has placed all his land in easement. Members will discuss other potential recipients at the November meeting.

Discussion – indoor riding arena Ms. Teetor explained that she had gotten a call from a potential buyer of an eased property on Longmarsh Road. She was very interested in the property but would like to build a 100x200 indoor riding arena on the property. Ms. Teetor had explained that the easement required Authority approval for any structures > 4,500 square feet. The Authority reviews such requests based on location and materials. As the person doesn't own the property members suggested that it could be potentially approved but could give no absolutes until a site visit could be conducted and a diagram of the proposed structure provided and reviewed. They asked staff to send the person information on the request made by Susan Molden several years ago for an indoor that has been approved so that the individual could better understand the requirements.

Report on Applications for Easement Purchase/Donation

a. Frederick Wenzel has applied for an easement donation. The property consists of 26.86 acres and is located at 1386 Featherbed Road. The parcel has an existing house built in 2000 and no remaining DURs. After staff accepted the application she reviewed the criteria and realized that the property only meets one of 4 criteria, current requirements are to meet at least 2 of the 4. The item was left on the agenda in order to generate discussion regarding the criteria.

Easement Donation

If the parcel is currently in or eligible for use value taxation, in accord with the Commissioner of Revenue's requirements, then a donation may be considered if at least two of the following four guidelines are met:

- 1) *the parcel's Property Resource Score is at least 35;*
- 2) *at least one dwelling unit right is extinguished by the conservation easement;*
- 3) *the parcel is adjacent to a parcel already under permanent conservation easement;*
- 4) *the property has a minimum area of 40 acres.*

Ms. Teetor opined that the 40 acre minimum was used based on the Zoning Ordinance which defined parcels greater than 40 acres as agricultural. Since the original adoption residential properties are now those less than 20 acres. She suggested that the criteria could be changed to parcels with a minimum of 20 acres. After discussion, Ms. Catlett agreed to poll Board members to see if they had any concerns with the change. In addition, they ask staff to send letters to adjacent property owners to see if anyone of them would be interested in placing their property in easement that would then allow the Wenzels to go in as they would be adjacent to an existing easement in addition to scoring above 35.

b. Bruce and Deborah Anderson - have applied to the easement authority for approval of an easement donation. The property consists of two parcels, Tax Map# 30-A-74 consists of 30.76 acres with an existing house and a <600 square foot apartment, and Tax Map# 30-A-74A consisting of 2.0 acres with 1 DUR. The property is located at 97 Tilthammer Mill Road at the intersection of Tilthammer Mill Road and Millwood Road. The applicant would like to retire the remaining DUR and merge the properties.

The property meets 2 of the 4 criteria by scoring over 35 and giving up 1 DUR. The parcel is less than 40 acres. The property resource score is 60.1, points were given for retiring 1 DUR, having a house that is a contributing structures in the Greenway Rural Historic District, and having frontage on 2 scenic byways Millwood Road and Tilthammer Mill Road. On motion of Mr. Engel, seconded by Ms. Jones members gave preliminary approval and asked staff to schedule a site visit.

c. Diane Sheehy and Matthew Jones – this easement was recorded on September 22, 2021.

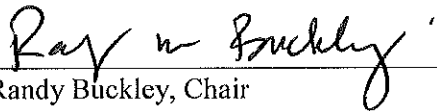
d. Bradley & Kathryn Keister – The easement donation was approved at the September meeting. The Keisters are working with their lender to pay off the mortgage and will record the easement when that has been completed.

e. RSP Enterprises – Ms. Teetor stated that the deed will need to be reviewed at the National level that allows for an additional 90 days. This may be problematic as other funding sources are set to expire at the end of this year.

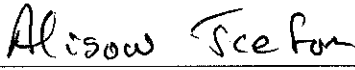
f. Lowell Pratt – Ms. Teetor stated that the plat of merger has been completed and we are just waiting on signatures from Farm Credit in order to record.

Other – Ms. Jones requested that the tax credit issue that was raised by Mr. Strickler at the Department of Conservation and Recreation be a discussion item at the November meeting. Members also discussed having a site visit to the Kohn property.

Adjournment There being no further business, Mr. Engel moved and Mr. Ohrstrom seconded that the Authority adjourn the meeting. The next meeting is scheduled for Friday November 12th at 10:00 am. The motion to adjourn was approved unanimously.



Randy Buckley, Chair



Alison Teetor, Clerk to the Authority

CLARKE COUNTY
Conservation Easement Authority
Minutes – 12 November 2021

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Friday 12 November 2021, in the A/B conference room, 2nd Floor Government Center.

Present: R. Buckley, R. Bacon, M. Jones, W. Thomas, T. Catlett
Absent: P. Engel
Phone in: G. Ohrstrom
Staff: A. Teetor, R. Couch-Cardillo, B. Stidham

Agenda On motion of Ms. Thomas, seconded by Ms. Bacon, the Authority unanimously approved the agenda.

Minutes On motion of Ms. Jones, seconded by Ms. Thomas, the Authority unanimously voted to approve the minutes of October 8, 2021, with minor corrections.

Bank Account: Ms. Teetor reviewed the financial spreadsheets. Two were included in the packet, one for the end of FY21 and one for the new FY22. The following summary is for the FY22 report. Current fund balances show a total fund balance of \$320,794 consisting of \$115,478 in the donations account, \$214,478 in stewardship/restricted, and \$-9,162 in local funds. The negative balance for the local funds is due to the New Moon Construction, LLC closing. The reimbursement from VDACS has been received but the appropriation from local funds has not yet been credited. Other expenses were for donor reception invitations, Monk's BBQ, and the updated laminated map.

Public Relations: Ms. Cardillo reported that donations continue to come in, to date there have been 116 donations totaling \$18,644. She stated that fund raising is going well but reiterated that the end of year request is usually when most donation are received. She also asked the group about nominations for the annual land conservation award. Mr. Buckley suggested Chuck Johnston, who was Planning Director at the time of the easement authority's inception and is largely responsible for development of the program. Members agreed he would be an excellent choice. Mr. Buckley will contact him to see if he would be interested in receiving the award.

Ms. Cardillo also asked for suggestions for the year end appeal letter, whether the group wants a general support letter or if they had any ideas for a specific project that donors could help fund. Members decided a general appeal is best at this time.

Discussion

a. review of easement donation criteria – This item was carried over from the last meeting based on an application for an easement donation of a 27 acre parcel that did not meet the current criteria for easement donation. The current criteria for donation for parcels eligible for landuse taxation include a property resource score over 35, retiring a DUR, being adjacent to an existing easement, and being over 40 acres. Applicants must meet 2 of the 4. Ms. Teetor had suggested that the acreage criteria could be reduced from 40 acres to 20 acres, which would make this property eligible. Members discussed the proposal. Ms. Catlett asked staff to determine how many properties would be affected if the acreage were reduced. Mr. Buckley was concerned that if smaller parcels were in easement and therefore eligible for landuse taxation, they would have no reason to continue farming. Members asked what other programs had for criteria, Ms. Teetor provide a summary at the next meeting. Mr. Stidham suggested that if the smaller acreage were allowed perhaps they could be required to be in the Agricultural-Forestal District. The item will be placed on the December agenda for further discussion.

b. Building Envelopes – Ms. Jones requested that the Authority renew its discussion on building envelopes. The concern is that the IRS may soon require building envelopes on all easement properties. The purpose of the requirement is to prevent the random placement of structures throughout a property which could impact the open space and other conservation values of a property. She stated that the Piedmont Environmental Council had hosted a workshop several years ago in Charlottesville that was very informative, there were representatives from the IRS. Mr. Ohrstrom suggested we see about having another workshop covering similar material. He also suggested that we could ask Mike Kane from PEC to come to a meeting to discuss this issue with the Authority. One important consideration when siting envelopes is why areas outside the envelope should be protected.

c. Virginia Tax Credit program – A report was issued earlier this year by Matthew Strickler, then Secretary of Natural Resources, stating that the Commonwealth's tax credit program was discriminatory towards people of color. The claims were rebuked by Conservation organizations but the issue of tax credit inequity is something that the Authority has had to deal with off and on over the years. In the County's case it has more to do with property tax than tax credits for easement donations but still has the impact of negatively portraying the program. Members agreed that it would be helpful to be proactive in explaining land use taxation and how it impacts residents overall. It was suggested that efforts could be made to educate new residents particularly in Berryville. Ms. Felicia Hart, the Director of Economic Development and Tourism is initiating a welcome wagon program for Shenandoah Crossing and members suggested that information about the Easement Authority be included. In addition members agreed that Matt Bass, Berryville Supervisor should be sent a copy of the Cost of Community Services Study that was completed in 2018.

Report on Applications for Easement Purchase/Donation


a. Bruce and Deborah Anderson - have applied to the easement authority for approval of an easement donation. The property consists of two parcels, Tax Map# 30-A-74 consists of 30.76 acres with an existing house and a <600 square foot apartment, and Tax Map# 30-A-74A consisting of 2.0 acres with 1 DUR. The property is located at 97 Tilthammer Mill Road at the intersection of Tilthammer Mill Road and Millwood Road. The applicant would like to retire the remaining DUR and merge the properties. A site visit was conducted on October 26th. The Andersons have a requested advance approval to cover their existing riding arena, an area of approximately 120x220 that equates to 26,400 square feet. The current policy for impervious surface for parcels consisting of between 30 and 40 acres is 20,000 square feet. The Andersons already have several barns and other accessory buildings in addition to the house so they will exceed that limit if permitted to cover the existing arena. Members agreed to postpone final approval to determine the actual square footage of the existing structures.

b. RSP Enterprises – Ms. Teetor stated that since the last meeting the state NRCS office has determined that a National level review will not be required so hopefully we are on track to close on the easement this year.

c. Lowell Pratt – Ms. Teetor reported the easement was recorded on November 10th.

Adjournment There being no further business, Ms. Thomas moved and Ms. Bacon seconded that the Authority adjourn the meeting. The next meeting is scheduled for Friday December 10th at 10:00 am. The motion to adjourn was approved unanimously.


Randy Buckley, Chair


Alison Teetor, Clerk to the Authority

CLARKE COUNTY
Conservation Easement Authority
Minutes – 9 December 2021

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Thursday 9 December 2021, in the A/B conference room, 2nd Floor Government Center.

Present: P. Engel, R. Bacon, M. Jones, W. Thomas, T. Catlett
Absent: R. Buckley
Phone in: G. Ohrstrom
Staff: A. Teetor, Jeff Feaga
Other: Mike Kane, Piedmont Environmental Council

Agenda On motion of Ms. Jones, seconded by Ms. Thomas, the Authority unanimously approved the agenda.

Minutes On motion of Ms. Jones, seconded by Ms. Bacon, the Authority unanimously voted to approve the minutes of November 12, 2021.

Discussion

- a. **Building Envelopes** – At the December meeting, Ms. Jones requested that the Authority renew its discussion on building envelopes. The concern is that the IRS may not approve tax credits for easement donations without building envelopes on all easement properties. The purpose of the requirement is to prevent the random placement of structures throughout a property which could impact the open space and other conservation values. On suggestion by Mr. Ohrstrom, Mike Kane, Director of Conservation, Piedmont Environmental Council (PEC), was present to discuss building envelopes on conservation easements and whether or not they should be required. The Authority has been discussing this informally for several months and invited Mr. Kane as he has a great deal of experience through his work with PEC and Loudoun County. He provided documents developed by the Land Trust Alliance, Conservation Defense Initiative. The Initiative is aimed at identifying potential legal issues regarding conservation easements that might make them more susceptible to extinguishment or to have issues with Internal Revenue Service tax laws. One document titled “Pointers for Balancing Risk When Permitting Structures on Deductible Conservation Easements After the Tax Court Decisions in Pine Mountain Preserve and Carter” speaks specifically to the need for requiring building envelopes, reasoning that if structures are permitted to be built anywhere on the property it could detract from the conservation values that were valued in the appraisal. Mr. Kane described the Pointers for Balancing Risk on Permitted Structures that provides a spectrum of risk for various options. The lowest risk includes requiring building envelopes. He suggested reviewing the current PEC deed template, as well as the Virginia Outdoors template. In addition to the building envelope issue he also discussed boundary line adjustments, stating that current recommendations from the Land Trust Alliance are to not allow any change to the easement boundaries after an easement has been recorded. Almost all of the current easements held in Clarke allow for boundary line adjustments under certain circumstances. These items will be discussed at the next meeting.

- b. **Review of easement donation criteria** – This item was carried over from the last meeting. The discussion was based on an application for an easement donation of a 27 acre parcel that did not meet the current criteria for easement donation. The current criteria for donation for parcels eligible for landuse taxation include a property resource score over 35, retiring a DUR, being adjacent to an existing easement, and being over 40 acres. Applicants must meet 2 of the 4. Ms. Teetor had suggested that the acreage criteria could be reduced from 40 acres to 20 acres, which

would make this property eligible. Ms. Catlett asked how many parcels are there between 20 and 40 acres. Ms. Teetor stated that currently there are 416. In addition staff polled other PDR programs to determine if any had acreage limits and/or would they accept smaller parcels. Most agreed that in order to accept a smaller parcel there would need to be exceptional conservation value. Staff stated that the current criteria requires a higher property resource score and significant conservation values if parcels are not eligible for land-use taxation. In addition, Mr. Buckley was concerned that if smaller parcels were in easement and therefore eligible for landuse taxation, they would have no reason to continue farming. After discussion members agreed that the current criteria is sufficient and the acreage criteria should stay at 40 acres.

- c. **VaULT sponsorship** – Ms. Teetor provided information on the Virginia Land Conservation and Greenways Conference held by the Virginia United Land Trusts. The Authority has sponsored this annual event for several years. After discussion members agreed to sponsor at the \$250 level.

Bank Account: Ms. Teetor reviewed the financial spreadsheets. As of December 2, 2021, current fund balances show a total fund balance of \$327,026 consisting of \$117,341 in the donations account, \$214,570 in stewardship/restricted, and \$-4,885 in local funds. Primary expenses in November were for the committee reports, fall newsletter, and Mr. Mitchell's legal services.

Public Relations: Ms. Cardillo was not present but provided a report stating that donations continue to come in, to date there have been 132 donations totaling \$20,474. She is also working on the annual Land Conservation Award, this year's nominee is Chuck Johnston, who was Planning Director at the time of the easement authority's inception and is largely responsible for development of the program. The luncheon is scheduled for Friday February 11th at noon at the Millwood Country Club.

Report on Applications for Easement Purchase/Donation

a. **Bruce and Deborah Anderson** - The Andersons have applied for an easement donation for their properties Tax Map#'s 30-A-74 & 30-A-74A. The total acreage is 32.76 acres. Based on policy developed by the Easement Authority, the maximum square footage of building footprint allowed on parcels between 30 and 40 acres is 20,000 square feet. The current square footage of structures on the property according to the assessment data is 10,793 sq. ft.. The Anderson's submitted the following request:

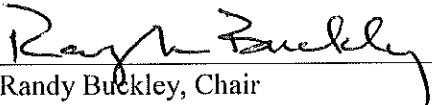
Our uncovered arena is 120' x 220'. If we were to build a covered arena in the same place, it would probably be about 100' x 200'. Therefore, the covered area for the arena alone would be 20,000 square feet. We would want to have an exception to allow for this in addition to the 20,000 foot cap to allow for the possible extension of existing structures. As discussed, we are not considering any new structures on the property. The only other stand-alone structures we may build in the future would be run-in sheds for our horses which, of course, are covered.

I think it would be best to simply ask for an exemption to accommodate the entire arena (not to exceed 20,000 square feet of covered space) and to treat this as an exempted structure. We would like to preserve the difference between what we have now, 10,800 square feet, and the cap for a lot our size, 20,000 square feet, or 8,200 square feet, to allow for possibly improvements to existing structures. For example, we have considered extending the master bathroom in the main house and adding a covered porch. We do not want to be unduly constrained in making improvement to existing structures because of limits on total roof area.

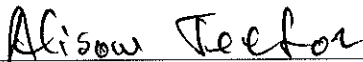
Authority members discussed the request to exceed the 20,000 square foot cap for structures and determined that it sets precedence for other future easements, which it isn't fair to others that have had to adhere to the requirement, and that having over 2% impervious area detracts from the conservation value of the property. Based on these reasons the request was denied. Staff will relay this information to the Andersons.

b. RSP Enterprises – Ms. Teetor stated that all funding agencies have approved the easement closing. On request of the Pritchards the closing will be scheduled in early January.

Adjournment There being no further business, Ms. Thomas moved and Ms. Bacon seconded that the Authority adjourn the meeting. The next meeting is scheduled for Friday February 11th at the Millwood Country Club at 11 am with the Annual Land Conservation Awards Luncheon to follow at 12:00 pm. The motion to adjourn was approved unanimously.



Randy Buckley, Chair



Alison Teetor, Clerk to the Authority