

Clarke County Conservation Easement Authority

Meeting Minutes

Friday, January 12, 2024 – 10:00 AM

Berryville/Clarke County Government Center – A/B Meeting Room

ATTENDANCE			
Randy Buckley (Chair)	✓	John Hedlund	✓
George L. Ohrstrom, II (Vice-Chair)	✓	Michelle Jones	✓
Walker Thomas (Secretary/Treasurer)	✓	Bev McKay	✓
Rives Bacon	✓		

STAFF PRESENT: Alison Teetor, Lorien Lemmon, Brandon Stidham (Planning Dept.), Christy Dunkle (Town of Berryville)

OTHERS PRESENT: Robin Couch-Cardillo, Tia Earman (PEC), Clarke County Ruritan Club Representatives: Brad Broy, Hope Cather, Phillip Shenk, Keith Troxell, Brook Middleton

CALL TO ORDER: Ms. Teetor called the meeting to order at 10:03 am.

ELECTION OF CHAIRMAN, VICE CHAIRMAN, AND TREASURER: Ms. Teetor asked for nominations of Chairman to the Authority.

Motion to nominate Randy Buckley as Chair for 2024:			
Buckley (Chair)	ABSTAINED	Hedlund	AYE
Ohrstrom (Vice-Chair)	AYE	Jones	AYE (moved)
Thomas (Secretary/Treasurer)	AYE (seconded)	McKay	AYE
Bacon	AYE		

Mr. Buckley asked for nominations of Vice Chairman to the Authority.

Motion to nominate George Ohrstrom as Vice-Chair for 2024:			
Buckley (Chair)	AYE	Hedlund	AYE
Ohrstrom (Vice-Chair)	ABSTAINED	Jones	AYE (seconded)
Thomas (Secretary/Treasurer)	AYE	McKay	AYE (moved)
Bacon	AYE		

Mr. Buckley asked for nominations of Secretary/Treasurer to the Authority.

Motion to nominate Walker Thomas as Secretary/Treasurer for 2024:			
Buckley (Chair)	AYE	Hedlund	AYE
Ohrstrom (Vice-Chair)	AYE (moved)	Jones	AYE (seconded)
Thomas (Secretary/Treasurer)	ABSTAINED	McKay	AYE
Bacon	AYE		

Approval of the Agenda – January 12, 2024:

The Authority voted 7-0-0 to approve the Agenda as presented.

Motion to approve the Agenda as presented:			
Buckley (Chair)	AYE	Hedlund	AYE
Ohrstrom (Vice-Chair)	AYE	Jones	AYE
Thomas (Secretary/Treasurer)	AYE (moved)	McKay	AYE
Bacon	AYE (seconded)		

Ruritan fairgrounds – application – easement donation – TM# 14-A-1 & 14-A-2

Ms. Teetor reviewed the application from the Ruritan Club to put the Fairgrounds into a conservation easement held by the Authority. She explained that the two parcels that make up the Fairgrounds are zoned institutional and opened the floor for the representatives of the Ruritan Club to present their vision for the Fairgrounds in conservation easement.

Ms. Cather, a volunteer with the Ruritan Club, explained the many programs and events geared towards agricultural education for children in the County that are supported by the Ruritan Club and take place at the Fairgrounds. She explained that the main purpose of these agricultural education programs is to teach children and future voters the value of agricultural lands, especially those that may be at risk for rezoning. She stated that she believed that protecting the Fairgrounds as the center of these agricultural educational programs follows the purpose of easements held by the Authority. She continued to explain that any subsequent funding from putting the Fairgrounds into easement would be put back into these educational programs.

Vice-Chair Ohrstrom asked if the Ruritan Club receives any funding from the County or state and Ms. Cather answered that the Club is funded by fundraising. Vice-Chair Ohrstrom asked how many educational events are presented a year at the Fairgrounds and Ms. Cather answered that the Club presents between 15-20 events annually. Phillip Shenk, past treasurer for the Ruritan Club, spoke about the recent success the Club has had with soliciting for donations and sponsorships in order to support events and programs at the Fairgrounds.

Chair Buckley stated that the Authority is supportive of the Fairgrounds being held in easement, but questioned whether the Authority would be the best easement holders for this property. Chair Buckley and Ms. Dunkle restated their concern that placing the Fairgrounds in easement may limit the commercial activities that are one of the most important economic development drivers for the town of Berryville and that help fund the programs supported by the Ruritan Club. Mr. Stidham noted that adding a conservation easement would be adding another layer of regulation to this property. He stated that complaints about some of the activities that occur at the Fairgrounds may, in part, become the responsibility of the Authority to resolve if the Authority would become an additional enforcement agency for the property.

Chair Buckley explained that the Authority is hesitant to hold this easement because they do not want any of the restrictions of an easement to undermine the activities that the Ruritan Club does at the Fairgrounds. Vice-Chair Ohrstrom asked if there was any way the Virginia Department of Conservation & Recreation (DCR) could pre-approve this easement. Brook Middleton, accountant for the Ruritan Club, stated that in Virginia, if an easement generates more than a million dollars in tax credits, as is predicted with an easement on the Fairgrounds, that DCR is required to review the application to ensure that it meets the guidelines and approve the easement.

Ms. Teetor stated that the Clarke County Conservation Easement Authority (CEA) is not set up to hold this type of easement and would need to make some significant policy changes in order to do so. On the request

of the Authority, Ms. Teetor contacted other potential easement holders for the Fairgrounds to see if the property would qualify for easement under their guidelines. She explained that Ashton Cole, executive director for the Land Trust of Virginia (LTV), stated that LTV would be interested in holding an easement on the Fairgrounds and that they have held easements on properties with similar activities.

Mr. Middleton explained that he strongly believed that the CEA was the right easement holder for the Fairgrounds and that they wish to exhaust the possibility for the CEA to hold it before moving on to a different easement holder. Keith Troxell, tax attorney for the Ruritan Club, stated while the CEA is familiar with the traditional conservation purposes tied to easements such as agricultural, forest, and open-space protection, there is a catch all category which is an easement of open space that is pursuant to a clearly delineated local government policy. Mr. Troxell explained that in order for this easement to be held by any holder, there must be a resolution from the Board of Supervisors stating that the Fairgrounds are open-space that is critical to the County's policy goals. Mr. Troxell further explained that this would be more of an open-space easement rather than a conservation easement as the Fairgrounds lack the traditional physical features of a conservation easement. He predicted that the open-space easement would only include use and building restrictions on the Fairgrounds. He reiterated that the CEA would need to be the holder in order to show that the County has determined that it is a critical piece of land that needs to be protected and that is what is required in order for the easement to satisfy federal, state, and DCR conservation purpose guidelines.

Ms. Jones posed the question about the potential restriction of commercial activities on the Fairgrounds to Mr. Troxell and asked him if those activities would still be allowed, regardless of who holds the easement. Mr. Troxell explained that the Ruritan is a non-profit 501-(c)3 organization and their activities would need to be assessed as to whether or not they would be considered commercial during discussions with DCR before putting the land in easement. Mr. Middleton further explained that a holder needs agree to hold the easement in order to open the discussion on what activities would be considered commercial with DCR. Mr. Troxell also mentioned his opinion that the Natural Resource Based Education category was not appropriate for the Fairgrounds because that category is commonly used for properties promoting hiking trails and kayaking and not agricultural education. He predicted that the Fairgrounds were more likely to get approval from DCR for an easement under the Conservation and Open Space Lands Designated by Federal, State, or Local Governments category.

Ms. Teetor voiced her opinion that the Authority may benefit from hearing from the executive director of the Land Trust of Virginia, Ashton Cole, who has experience with holding easements on properties similar to the Fairgrounds. She also explained that it would take about a year, likely longer, to have the conversations and get the necessary approvals from various county and town entities in order for the CEA to hold an easement on the Fairgrounds.

The Authority temporarily suspended the meeting at 11:02 and reconvened at 11:07.

Approval of Meeting dates and times for 2024:

The Authority voted 7-0-0 to approve the meeting dates and times with a change to move the July 12th meeting to July 19th at 10 am and the January 10th, 2025 meeting to January 17th, 2025 at 10 am in order to avoid conflicts with Planning Commission meetings.

Motion to approve the Meeting dates and time for 2024:			
Buckley (Chair)	AYE	Hedlund	AYE
Ohrstrom (Vice-Chair)	AYE	Jones	AYE
Thomas (Secretary/Treasurer)	AYE (moved)	McKay	AYE
Bacon	AYE (seconded)		

Approval of Meeting Minutes – December 8, 2023:

The Authority voted 7-0-0 to approve the December 8, 2024 meeting minutes as presented.

Motion to approve Meeting minutes for December 8, 2023:			
Buckley (Chair)	AYE	Hedlund	AYE
Ohrstrom (Vice-Chair)	AYE	Jones	AYE (moved)
Thomas (Secretary/Treasurer)	AYE (seconded)	McKay	AYE
Bacon	AYE		

Bank Account:

Ms. Lemmon reviewed the financial spreadsheets. Current fund balances show a total fund balance of \$606,035.75 consisting of \$164,142.53 in the donations account, \$237,223.19 in stewardship/restricted, and \$204,422.53 in local funds. Ms. Lemmon explained that the expenditures for December included the End of Year Appeal letter and legal expenses related to updating the deed template.

Campaign for the Authority:

Ms. Couch-Cardillo stated that donations were \$32,966.00 from 180 donors. She discussed the logistics of the upcoming Land Conservation Award ceremony with the Authority and stated that since this is the 10th award that previous award winners would be invited to the ceremony. She mentioned that the winter newsletter is currently underway and that the lead article is about the award winner.

Ms. Couch-Cardillo asked about the possibility of an easement workshop in the spring. The Authority discussed the workshops in the past and noted that some were cancelled due to lack of interest. Ms. Teetor noted that a solicitation letter is due to be sent out this month and if enough interest is generated from that, then those potential applicants could be invited to a spring workshop. She explained that potential applicants generally like to hear from people who have already put their land into easement in order to determine if a conservation easement is what is right for their land.

Ms. Couch-Cardillo reported that there were no new donors for the month of December.

PEC updates from Tia Earman:

Ms. Earman stated that the PEC is working on a data center informational event for western Loudoun County. She explained that PEC is focusing on data centers and transmission lines in areas just outside of Clarke County and her organization is working to connect the public with NextEra, the company charged with planning the transmission lines across the western portion of Loudoun County.

Discussion:

a. VaULT Sponsorship

Ms. Lemmon included information about the conference and sponsorship levels in the packet. She stated that the Authority has sponsored the conference at the \$250 level in the past.

This year, the Authority voted 7-0-0 to approve the sponsorship of the VaULT conference at the \$500 Bald Cypress level.

Motion to approve sponsorship of \$500 for the 2024 VaULT conference:			
Buckley (Chair)	AYE	Hedlund	AYE (seconded)
Ohrstrom (Vice-Chair)	AYE (moved)	Jones	AYE
Thomas (Secretary/Treasurer)	AYE	McKay	AYE
Bacon	AYE		

Report on Easement Donations/Purchases:

a. Summary of easement applications/inquiries

Ms. Teetor gave a broad overview of the current status of active applications and inquiries for easements. She explained the updated map and table used to track easements that are in various stages.

She is still working with Ms. Fine on refining the building envelope for the easement and Mr. Barbehenn is considering other options for easement holders. Dr. McDonald has moved ahead with her subdivision application in order to eventually merge some of her land with her neighbors, Marti & David Bryant. Ms. Teetor mentioned that Ms. Brown decided to withdraw her application at this time.

She noted that the two grant applications for Mr. Fansler and Ms. Lilly have yet to be approved for funding. She asked Ms. Earman about the possibility of having PEC help fund the Lilly easement and Ms. Earman noted that it would need to be included as a discussion item for PEC's next regular meeting scheduled for February in order to move forward with that process.

b. Bryant – new application – easement donation TM# 20-A-7

Marti & David Bryant have applied to the easement authority for approval of an easement donation. The property is located at 2092 Old Winchester Road on the northeast side of the intersection with Ginns Road. The parcel consists of 39.062 acres, there are 2 remaining DURs and an existing house, built in 1877. The property is locally known as Duck Pond, is within the Chapel Rural Historic District, and the existing house is a contributing structure.

The property resource score is 82.5, it is adjacent to an existing easement, and 1 of the 2 remaining DURs will be retired, it is not over 40 acres. Points were given for having frontage on Old Winchester Road, a state designated scenic byway, being in easement and adjacent to an existing easement, being within the groundwater recharge area, having a sinkhole, retiring 1 DUR, and having a contributing structure in the Chapel Rural Historic District.

Based on discussions with VOF staff, the best option would be for the Clarke County Easement Authority to assume the Bryant's current easement from VOF. This would allow for an update of the current easement to conform to current easement language, and merge with Dr. McDonald's 60 acres. As a result, staff determined that the Bryant's should go through the standard approval process with the Authority.

The Authority voted 7-0-0 to approve the preliminary application of the Bryant donation and request staff to schedule a site visit.

Motion to grant preliminary approval of the Bryant easement donation:			
Buckley (Chair)	AYE	Hedlund	AYE
Ohrstrom (Vice-Chair)	AYE (seconded)	Jones	AYE (moved)
Thomas (Secretary/Treasurer)	AYE	McKay	AYE
Bacon	AYE		

Adjournment

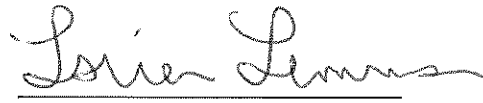
There being no further business, the Authority agreed to adjourn the meeting at 11:29 AM. The next Clarke County Easement Authority meeting is scheduled for Friday February 9, 2024 at 11 AM at the Millwood Country Club.

The Authority voted 7-0-0 to adjourn the January 12, 2024 meeting at 11:29 AM.

Motion to adjourn to the January 12, 2024 meeting at 11:29 AM.

Motion to adjourn to the January 12, 2024 meeting at 11:29 AM:			
Buckley (Chair)	AYE	Hedlund	AYE
Ohrstrom (Vice-Chair)	AYE	Jones	AYE (moved)
Thomas (Secretary/Treasurer)	AYE	McKay	AYE
Bacon	AYE (seconded)		


 Randy Buckley, Chair


 Lorien Lemmon, Clerk to the Authority