

Clarke County Conservation Easement Authority

Meeting Minutes

Friday, March 8, 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)	X	Michelle Jones	✓
Walker Thomas (Secretary/Treasurer)	✓	Bev McKay	✓
Rives Bacon	✓		

STAFF PRESENT: Alison Teetor, Lorien Lemmon, Brandon Stidham (Planning Dept.)

OTHERS PRESENT: Robin Couch-Cardillo, Tia Earman (PEC)

CALL TO ORDER: Mr. Buckley, Chair called the meeting to order at 10:00 am.

Approval of the Agenda – March 8, 2024:

The Authority voted 6-0-0 to approve the Agenda with the addition of Items: 7c. Deed template amendments, 8c. Greenhalgh easement application, 8d. Guenther easement PEC grant discussion, 8e. Lilly easement update and closed session and 8f. Fansler easement.

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

Approval of Meeting Minutes – February 9, 2024:

The Authority voted 6-0-0 to approve the February 9, 2024 meeting minutes as amended with minor changes requested by the Authority.

Motion to approve Meeting minutes for February 9, 2024 as corrected:			
Buckley (Chair)	AYE	Hedlund	AYE
Thomas (Secretary/Treasurer)	AYE (seconded)	Jones	AYE (moved)
Bacon	AYE	McKay	AYE

Bank Account:

Ms. Lemmon reviewed the financial spreadsheets. Current fund balances show a total fund balance of \$620,427.24 consisting of \$172,124.14 in the donations account, \$245,454.01 in stewardship/restricted, and \$202,849.09 in local funds. Ms. Lemmon explained that the Authority received \$7,527 from the Virginia Land Conservation Foundation for the annual stewardship fund and that the expenditures for February included the donation to the annual Virginia United Land Trust (VaULT) conference and expenses related to the winter newsletter.

Campaign for the Authority:

Ms. Couch-Cardillo stated that donations were \$2,350.00 from 16 donors. She asked for feedback about the Wingate Mackay-Smith Land Conservation Award luncheon. The Authority agreed that the event was a success and Ms. Teetor relayed the positive response she noted from the attendees about inviting the past

award recipients to the luncheon. Ms. Couch-Cardillo requested suggestions for another easement landowner to profile for the upcoming spring newsletter and Ms. Teetor suggested Joe and Tamara Myer who put their land into easement in 2023. Mr. McKay requested that a segment in the newsletter cover how conservation easements factor into the Local Composite Index used to determine state funding for local schools. The Authority discussed how conservation easements reduce the true value of real property, which results in increased state aid for schools.

Chair Buckley suggested the Guenther’s as an alternative landowner to profile for the newsletter, as they recorded in 2023 as well. Ms. Couch-Cardillo mentioned that she is also working on updating the conservation easement brochure. She stated her idea for an additional outreach event that would include taking small groups of potential easement landowners on a tour of a few of the CEA held easements and have them discuss the process with landowners that have recorded easements. Ms. Teetor also mentioned that some of the information sheets that are handed out to interested landowners are a bit outdated and could be revised with new information in a more approachable format.

Ms. Couch-Cardillo reported that the CEA had no new donors for the month of February.

PEC updates from Tia Earman:

Ms. Earman provided a brief update on the conflicts regarding the review of planning policies and zoning regulations with the brewery industry in western Loudoun County.

Discussion:

a. Summer Internship:

The Authority briefly reviewed the resumes for the summer internship and agreed that staff could ultimately make the hiring decision.

b. Nutrient Trading Bank Policy:

Ms. Lemmon reread the Nutrient Trading Bank Policy that was discussed at the August meeting in 2023. At that meeting, the Authority agreed to table the discussion until the policy could be reviewed by Mr. Mitchell. Ms. Lemmon explained that Mr. Mitchell reviewed the policy in November 2023 and did not have any issues with the policy. She explained that the Authority would need to approve this policy in order for her to present it at the Board of Supervisor’s work session for their approval.

The Authority reviewed the policy and voted 6-0-0 to approve the Nutrient Trading Bank Policy as presented.

Motion to approve the Nutrient Trading Bank Policy as presented:			
Buckley (Chair)	AYE	Hedlund	AYE
Thomas (Secretary/Treasurer)	AYE	Jones	AYE (moved)
Bacon	AYE (seconded)	McKay	AYE

c. Deed Template Amendments:

Ms. Teetor relayed her review of the draft deed of easement with Tom Cammack, the realtor working with Dr. McDonald and the Bryant’s on their easement, and how he noted some problematic language that is part of the deed template. She suggested that the title of Section 3.3 be changed to match the Virginia Outdoors Foundation (VOF) deed language, which includes roads, alternative energy structure, and utilities as well as allowed structures. She stated that this new title would more accurately reflect the contents of that section.

Ms. Teetor then described changing the deed template language regarding private roads and driveways. The current template deed language requires Grantor approval for any new driveway or private road on the property. She suggested changing that language to reflect the VOF language, which states that Grantor approval is only required for private roads, driveways, or access easements that cross easement property in order to serve adjacent properties.

Ms. Teetor also explained Mr. Cammack’s confusion regarding the Grantee Approval section, which he interpreted as stating that a landowner must notify the Authority before undertaking any activities on their property, including those permitted under Section 3. She suggested additional language that clarifies the need for Grantee approval only for activities outside of those permitted under Section III, which would require grantee approval.

The Authority voted 6-0-0 to approve the proposed changes to the deed template as presented.

Motion to approve the changes to the deed template as presented:			
Buckley (Chair)	AYE	Hedlund	AYE
Thomas (Secretary/Treasurer)	AYE (seconded)	Jones	AYE
Bacon	AYE (moved)	McKay	AYE

Report on Easement Donations/Purchases:

a. Summary of easement applications/inquiries

Ms. Lemmon 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 stated that an application had been sent to Ms. Craig and noted that she is neighbors with Mr. Wenzel, who was interested in placing his land in easement, but did not qualify.

Ms. Teetor explained that the Clarke County Ruritan Club drafted a resolution for approval from the Board of Supervisors during their March meeting. This resolution would be necessary for the Fairgrounds to be held in conservation easement, even though the Authority will not be the holder.

b. Bryant - McDonald –donation update

Ms. Teetor gave an update on the Bryant – McDonald easement. The holder of the Bryant easement is to be reassigned from VOF to the Authority during the VOF meeting on March 15th. The subdivision for the McDonald easement is on the agenda for the Planning Commission in April. The McDonald easement will have to be recorded before the Planning Commission can approve the subdivision. On the same day of the subdivision approval, a deed of merger, will be recorded to merge 60 acres of the McDonald parcel into the Bryant property and then the Bryant deed of easement can be recorded.

Ms. Teetor also noted that Mr. Cammack requested that the square footage allowance for the secondary dwelling for the Bryant parcel be increased from 2,000 square feet to 2,500 square feet. She reminded the Authority that this dwelling would need to be in a building envelope and on the existing 39 acres owned by the Bryant’s, since the 60-acre parcel that will be merged will have zero remaining DURs.

The Authority voted 6-0-0 to approve the increase in square footage allowance for the secondary dwelling for the Bryant easement to 2,500 square feet.

Motion to grant approval of a secondary dwelling of up to 2,500 sq. ft. for the Bryant easement			
Buckley (Chair)	AYE	Hedlund	AYE
Thomas (Secretary/Treasurer)	AYE	Jones	AYE (moved)
Bacon	AYE (seconded)	McKay	AYE

Since this application will move pretty quickly once it is approved by the Planning Commission, staff agreed to schedule a site visit within the next couple of weeks.

c. Robin Greenhalgh - new application – easement purchase - TM# 30-A-98, 30-A-98A, 30-A-98B

Ms. Lemmon explained that Robin Greenhalgh applied to the easement authority for approval of a DUR purchase. The property is located on the north side of Ellerslie Road at the intersection with Clay Hill Road at 475 Shan Hill Lane, Tax Map# 30-A-98, 30-A-98A, 30-A-98B. The parcel is 259 acres with 2 existing houses and 6 DURs. The applicant would like to retire 4 of the 6 remaining DURs.

The property resource score was 98.3, the applicant is retiring 4 DURs, the parcel is over 40 acres, and adjacent to existing easements. The parcel has nearly ½ mile frontage on the Shenandoah River, a spring, 3 sinkholes, a pond, 2 streams, and approximately 17 acres of steep slopes. The two houses are contributing to the Greenway Historic District and the property is a family farm.

The Authority voted 6-0-0 to approve the preliminary application of the Greenhalgh purchase and requested that staff schedule a site visit.

Motion to grant preliminary approval of the Greenhalgh easement purchase:			
Buckley (Chair)	AYE	Hedlund	AYE (seconded)
Thomas (Secretary/Treasurer)	AYE	Jones	AYE (moved)
Bacon	AYE	McKay	AYE

d. Guenther – PEC grant discussion

Ms. Lemmon explained that Mr. Guenther reached out to her about reimbursement for legal fees incurred during the easement donation process. Traditionally the Authority covers legal fees for purchases, but not donations. Chair Buckley supported the idea of reimbursing legal fees for donation easements but he thought that the grants should be based on income.

Ms. Teetor mentioned the new PEC grant that could be used to help cover the cost of the required 60-year title search and appraisal. Ms. Earman mentioned that the type of appraisal being covered would need to be considered. She stated that the PEC grant would be appropriate for a basic appraisal, but not for the full development plan that some appraisers are producing in order to determine the maximum appraised value for these easements.

The Authority discussed how some potential applicants lost interest in a donation easement once they learned how much money they would need to spend upfront during closing. Ms. Teetor suggested having Mr. Guenther apply for the PEC grant before asking the County to finance his legal fees. Ms. Jones asked if this situation is common and if the Authority would want to consider a policy to help donation easement landowners. The Authority agreed to wait and see how the PEC grant process is received before moving forward with a policy.

e. Lilly – TM 12-A-37B – grant purchase, closed session

On motion of Ms. Jones, seconded by Ms. Bacon 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. McKay, seconded by Mr. Hedlund the Authority unanimously approved reconvening in Open Session. Mr. McKay moved, seconded by Ms. Thomas, 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:

Buckley (Chair)	AYE	Hedlund	AYE
Thomas (Secretary/Treasurer)	AYE	Jones	AYE
Bacon	AYE	McKay	AYE

The Authority voted 6-0-0 to approve the request of \$37,625 from PEC for the Lilly grant purchase easement.

Motion to approve the request of \$37,625 from PEC for the Lilly easement:			
Buckley (Chair)	AYE	Hedlund	AYE (seconded)
Thomas (Secretary/Treasurer)	AYE	Jones	AYE (moved)
Bacon	AYE	McKay	AYE

The Authority voted 6-0-0 to seek approval from the Board of Supervisors for the Lilly grant purchase.

Motion to request approval from the Board of Supervisors for the Lilly easement:			
Buckley (Chair)	AYE	Hedlund	AYE (moved)
Thomas (Secretary/Treasurer)	AYE	Jones	AYE
Bacon	AYE (seconded)	McKay	AYE

f. Fansler – TM 27-A-3 – grant purchase

The Authority voted 6-0-0 to seek approval from the Board of Supervisors for the Fansler grant purchase.

Motion to request approval from the Board of Supervisors for the Fansler easement:			
Buckley (Chair)	AYE	Hedlund	AYE (seconded)
Thomas (Secretary/Treasurer)	AYE	Jones	AYE
Bacon	AYE (moved)	McKay	AYE

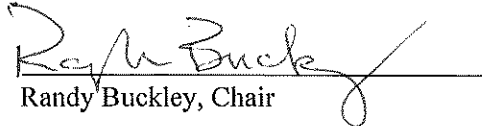
Adjournment

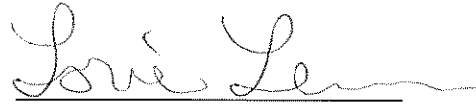
There being no further business, the Authority agreed to adjourn the meeting at 10:48 AM. The next Clarke County Easement Authority meeting is scheduled for April 12, 2024 at 10 AM in the A/B conference room, Government Center, Berryville.

The Authority voted 6-0-0 to adjourn the March 8, 2024 meeting at 10:48 AM.

Motion to adjourn to the March 8, 2024 meeting at 10:48 AM.

Motion to adjourn to the March 8, 2024 meeting at 10:48 AM:			
Buckley (Chair)	AYE	Hedlund	AYE
Thomas (Secretary/Treasurer)	AYE (seconded)	Jones	AYE (moved)
Bacon	AYE	McKay	AYE


Randy Buckley, Chair


Lorien Lemmon, Clerk to the Authority