

**CLARKE COUNTY**  
**Conservation Easement Authority**  
**THURSDAY – 21 APRIL 2016 - 10:00 AM**  
**A/B Conference Room, 2<sup>nd</sup> Floor Government Center**

***AGENDA***

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes of the meetings of 17 March 2016
4. Bank Account balances – see attached spreadsheets
5. Stewardship Fund – balance as of  
31 March 2016                      \$91,252.75      Bank of Clarke County
6. Campaign for the Authority
7. Discussion
  - a. Mesilla pond
  - b. Digges Boundary Line Adjustment
  - c. Proposed revision of income criteria for easement purchase
  - d. Draft policy square footage for structures
8. Easement Donation/Purchase
  - a. Moore & Dorsey – DUR purchase – closed session
  - b. George Greenhalgh – DUR purchase
  - c. Cool Spring Farm, LLC – grant application
  - d. Tavenner – easement donation - final approval, DUR purchase
  - e. Susan Digges – ALE grant application
  - f. Ken Bell – easement donation
9. Report on Applications for Easement Purchase  
*Possible Closed Session to discuss real estate*  
*Motion to go 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 and Section 2.2-3711(A)(7) for consultation with legal counsel regarding specific legal matters requiring the providing of legal advice.*
10. Adjournment - next meeting – Thursday May 19<sup>th</sup> 10 am

**CLARKE COUNTY**  
**Conservation Easement Authority**  
**Minutes – 17 March 2016**

draft

draft

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Thursday, 17 March 2016, in the A/B Conference Room, 2<sup>nd</sup> Floor Government Center.

**Present:** R. Buckley, G. Ohrstrom, B. Byrd, L. Wallace, M. Jones, W. Thomas  
**Absent:** P. Engel  
**Staff:** A. Teetor, B. Stidham, R. Couch Cardillo  
**Others present:** Carolyn Sedgewick, PEC

**Call to Order :** Mr. Buckley, Chair, called the meeting to order at 10:00 a.m.

**Agenda** On motion of Ms. Wallace, seconded by Mr. Ohrstrom, the Authority unanimously approved the agenda.  
**Minutes** On motion of Mr. Ohrstrom, seconded by Ms. Thomas, the Authority unanimously voted to approve the minutes of February 18, 2016.

**Bank Account:** Ms. Teetor included spreadsheets in the packet that detail the current balances for the stewardship fund, donations, and local appropriation. Also detailed are current appropriations, VDACS balances, and pending purchases. A second page lists the expenditures for the current fiscal year. Staff asked if the format and substance was clear or if any changes were necessary. Members agreed that the information was clear and in an easy to read format.

**Stewardship Fund:** The stewardship fund has a balance of \$91,217.89 as of February 29, 2016.

**Public Relations:** Ms. Cardillo reported that there have been 8 donations so far in 2016. The winter newsletter has been published and is scheduled to be mailed next Monday so she anticipates more revenue once that goes out. She passed around a copy of the Winchester Star's article on the awards luncheon. The photo exhibit is scheduled to open on March 20<sup>th</sup> with an open house from 2-4 pm. The pictures will be hung immediately following today's meeting anyone that would like to help or attend the open house are welcome. Ms. Cardillo also stated that the notecards have been selling well, particularly at the Berryville Farm Supply. She said that she will begin working on the spring newsletter if anyone has ideas from stories. Mr. Ohrstrom suggested reporting on the Supreme Court decision regarding easements as well as a story on how the Authority conducts site visits and inspections. She will include these ideas in the newsletter. Finally she reiterated her request for members to think of five persons that they could share that could be added to the donor list.

### **Discussion Items**

#### **a. Mesilla Pond**

William Truban, attorney for Mr. Elsea contacted staff requesting a letter stating that filling in a pond on Mesilla (TM# 28-A-44) would not be in violation of the terms of the Conservation Easement. This issue was discussed at the last meeting and members asked staff to determine whether the pond was identified on the USGS topographic map or delineated as a wetland. Staff confirmed that the pond was identified on both maps. Subsequently Ms. Teetor contacted the Army Corp of Engineers and the Department of Environmental Quality. The Corp did not have any concerns with filling the pond. DEQ conducted a site visit on March 8<sup>th</sup>. No decision by DEQ has been received.

#### **b. Digges Boundary Line Adjustment**

Eric and Kyle Digges are owners of 139 acres of the Greenway Court property (Tax Map#28-A-52). The parcel was placed in easement with the County in 2003. A discrepancy between a neighboring property survey has developed that requires a boundary line adjustment to resolve. Mr. Mitchell was consulted and suggested preparing a deed of correction recorded along with the boundary line adjustment that would allow for no change in the net

acreage but allow for the correction of the discrepancies. Laura Thurman of VOF was consulted as well and she agreed with Mr. Mitchells suggested approach. On motion of Mr. Ohrstrom, seconded by Ms. Wallace members approved the proposed Boundary Line Adjustment and deed of correction.

**c. Proposed revision of income criteria for easement purchase**

In May 2006, the Easement Authority and Board of Supervisors adopted the Determination of Payment of Conservation Easement – Owner. The policy outlines the process by which the adjusted gross income of the landowners is calculated and the 3 year average used to determine the percentage of the purchase offer amount paid to the landowners. The purpose of adjusting the purchase price by income is to focus available funds to lower and middle income property owners who may be less likely to take advantage of tax credits.

Ms. Teetor explained that the process works well with the DUR purchase offer as typically County funds are matched 50-50 with VDACS funds to purchase the easement. In the case of easement purchases where an appraised value is used staff has identified an issue for the Authority to consider.

When easements are purchased using an appraised value, the County applies for grants to supplement the local funding needed for the purchase. In all cases the agencies providing federal and state grants do not consider owner income when determining what is paid for an easement, the value is based solely on the appraisal. Typically federal grants pay 50% of the appraised value, the owner provides a 25% donation, and state and local funds are used to pay the remaining 25%. With the exception of easement purchases completed early in the Authorities tenure, the local share is typically a very small percentage of the overall easement cost. The proposed change for appraisal purchases would require that the local share not exceed 25% of the appraised value. This would allow the property owner to receive the maximum appraisal value without overspending local funds. On motion of Mr. Ohrstrom, seconded by Ms. Thomas members approved the revision to the income criteria.

**d. County Fair ad**

Ms. Teetor provided a copy of last year's ad and asked if members would like place another ad in the Fair Catalog. On motion of Ms. Wallace, seconded by Ms. Jones members approved the purchase of a full page ad for \$80. Ms. Couch-Cardillo will prepare the ad.

**e. PDR managers meeting**

Ms. Teetor briefed the Authority on a recent conference call with other certified Purchase Development Right programs in the State. She said that currently the General Assembly is considering the funding level for VDACS for the next fiscal year at 1 or 1.5 million. Ms. Teetor suggested the Authority send letters to elected officials to support the maximum funding. In addition she mentioned that the annual Virginia Association of Land Trusts will be meeting in Fredericksburg April 28<sup>th</sup> & 29<sup>th</sup>. It is a great opportunity to learn about what other easement organizations are doing.

**Easement Donation/Purchase**

**a. Johnny Hardesty – easement donation**

Mr. Hardesty has applied to place his property in easement (TM 7-A-119). He would like to donate 1 DUR leaving 1 DUR and an existing pre-1980 house. He would like to retain the right to subdivide one lot. The parcels met 3 of the 4 criteria for acceptance, larger than 40 acres, retiring 1 DUR and scoring 63.98. Since the last meeting, the applicants' attorney provided a revised draft of the deed that eliminated much of the Authority's standard template; a revision was requested but not yet received. A site visit was conducted on February 25<sup>th</sup>. The deed revision using the County's template was agreed to, the only proposed change is with regards to the 1% structure footprint. The property currently has nearly 10,000 sq. ft. of structures and would be permitted up to 23,087 sq. ft. using the 1% cap. The applicant has requested that existing structures be exempt from the total square footage. After discussion on motion of Ms. Thomas, seconded by Mr. Ohrstrom, members declined to accept the exemption stating that it would set precedent for future easements. The motion also provided for final approval of the easement donation.

**b. Larry and Linda Tavenner – easement donation**

Ms. Teetor requested final approval for the easement donation of Larry and Linda Tavenner. This property will be part of a boundary line adjustment with an adjacent property owned by William Tavenner. A site visit was conducted on July 29<sup>th</sup>. On motion of Mr. Ohrstrom, seconded by Ms. Thomas members unanimously approved the easement donation.

Ms. Teetor updated the Authority on the status of pending easement applications. Ms. Teetor spoke with Mr. Greenhalgh’s attorney who stated that some progress has been made but the issue with the title has not been resolved. The Cool Spring Farm grants have tentatively been approved but have to go through final approval by the Department of Historic Resources board. Susan Digges deed of easement is being prepared it is hoped that the easement will be recorded by June 2016. Ken Bell is having plats drawn up for the merger of the properties.

**Report on Applications for Easement Purchase**

On motion of Ms. Wallace, 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 Ms. Wallace, seconded by Ms. Thomas, the Authority unanimously approved reconvening in Open Session. Ms. Wallace 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:

Ms. Byrd	Aye	Ms. Wallace	Aye	Mr. Buckley	Aye
Mr. Engel	Absent	Ms. Thomas	Aye	Mr. Ohrstrom	Aye
Ms. Jones	Aye				

The following action was taken subsequent to the Closed Session:

On motion of Ms. Thomas, seconded by Ms. Wallace, the Authority unanimously voted to preliminary approval to Tupper Dorsey, Moore and Dorsey, Inc. for a DUR purchase for the parcel identified as TM 16-A-17, consisting of 134 acres with 5 DUR’s, allowing for subdivision into 3 lots provided that no resulting parcel is less than 40 acres, and 2 DUR’s are retired. Based on the property resource score the parcels qualifies for a purchase price of \$40,000 per DUR retired so when multiplied by the owner income the total price for 2 DUR’s is \$32,000.

**Adjournment** There being no further business, Ms. Wallace moved and Ms. Thomas seconded that the Authority adjourn to the next regular meeting is scheduled for Thursday April 21<sup>st</sup> at 10:00 am. The motion was approved unanimously.

\_\_\_\_\_  
Randy Buckley, Chair

\_\_\_\_\_  
Alison Teetor, Clerk to the Authority



2 East Main Street  
Berryville, VA 22611

**March 2016**

Reporting Activity 03/01 - 03/31

Page 1 of 2

**ADDRESS SERVICE REQUESTED**

COUNTY OF CLARKE VIRGINIA  
CONSERVATION EASEMENT STEWARDSHIP  
101 CHALMERS CT STE B  
BERRYVILLE VA 22611-1387

**Managing Your Accounts**

- Phone (540) 955-2510
- Toll-Free 1-800-650-8723
- EAGLE-24 Banking 1-888-378-1881
- Online Access [www.bankofclarke.com](http://www.bankofclarke.com)
- Mailing Address P.O. Box 391  
Berryville VA 22611

**Summary of Accounts**

Account Type	Account Number	Ending Balance
NOW-Public Fund	XXX2089	\$91,252.75

**NOW-Public Fund - XXX2089**

**Account Summary**

Date	Description	Amount
03/01/2016	Beginning Balance	\$91,217.89
	0 Debit(s) this period	\$0.00
	1 Credit(s) this period	\$34.86
03/31/2016	Ending Balance	\$91,252.75

**Interest Summary**

Description	Amount
Interest Earned From 03/01/2016 Through 03/31/2016	
Annual Percentage Yield Earned	0.45%
Interest Days	31
Interest Earned	\$0.00
Interest Paid This Period	\$34.86
Interest Paid Year-to-Date	\$92.19
Interest Withheld Year-to-Date	\$0.00
Minimum Balance	\$91,217.89

**Deposits**

Date	Description	Amount
03/31/2016	Accr Earning Pymt Added to Account	\$34.86

**Daily Balances**

Date	Amount	Date	Amount
03/01/2016	\$91,217.89	03/31/2016	\$91,252.75

**Overdraft and Returned Item Fees**

	Total for this period	Total year-to-date
Total Overdraft Fees	\$0.00	\$0.00
Total Returned Item Fees	\$0.00	\$0.00





ROBIN COUCH CARDILLO

April 15, 2016

Clarke County Conservation Easement Authority  
Fundraising and Public Relations Report  
April 2016 meeting

**Donor Statistics**

See attached Master Report

- 2016 total: \$2,228 from 32 donors

**Ongoing**

*-Publicity*

- Pitching updated "Take a Hike" flyer to *Winchester Star*; news angle is Earth Day on April 22

*-Barns of Rose Hill photo exhibit recap*

- Low attendance for opening reception on Sunday, March 20, but photos remained on exhibit for two weeks for visitors and guests at musical events; very visible location

*-Spring newsletter*

- Completing now; spotlights easement partner Virginia Department of Historic Resources, demystifies site visit process, calls for applications for Agricultural and Forestal District program
- Scheduled to be at printer on April 18 to accompany county tax bills

*-Donor reception*

- Discuss date and other logistics

# Fundraising Results: Clarke County Conservation Easement Authority

As of April 15, 2016

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016 YTD
Amount	\$13,345	\$19,090	\$20,871	\$25,649	\$26,396	\$25,843	\$23,530	\$42,266	\$36,260	\$57,356.00	\$2,228.00
# Donations	115	161	208	209	203	195	181	200	169	158	32
<b>YE Donor Appeal</b>											
YE Donor Appeal Amount	\$8,465	\$8,310	\$8,477	\$10,134	\$8,376	\$12,815	\$7,250	\$15,706	\$17,635	\$47,003	
Donor Respondents	73	59	87	86	76	68	50	69	51	61	
YE Prospect Amount	\$2,115	\$425	\$425				\$40		\$1,650	\$104	
Prospect Respondents		24	7				1		3	2	
<b>Winter Newsletter</b>											
Dollar Amount	\$2,700	\$2,700	\$2,700	\$2,065	\$2,865	\$2,126	\$3,611	\$4,805	\$3,335	\$2,700	\$2,028
Respondents	23	23	23	27	32	21	32	39	26	25	28
<b>Spring Newsletter</b>											
Donor: Dollar Amount	\$3,775	\$455	\$2,074	\$5,820	\$2,810	\$2,520	\$3,415	\$1,975	\$3,705	\$3,420	
Donor: Respondents	35	5	19	38	26	27	32	28	26	27	
taxpayer Spring Newsletter: Dollar Amt	\$2,200	\$940	\$940	\$460	\$450	\$825	\$765	\$165	\$1,380	\$100	
taxpayer Spring Newsletter: Respondents	16	19	19	10	4	11	5	4	9	1	
<b>Summer Newsletter</b>											
Dollar Amount	\$2,370	\$2,370	\$2,020	\$1,330	\$1,883	\$2,735	\$1,580	\$5,040	\$3,215	\$1,927	
Respondents	20	20	27	22	33	26	21	22	27	22	
<b>Fall Newsletter</b>											
Donor: Dollar Amount	\$2,210	\$2,210	\$765	\$260	\$7,300	\$2,946	\$4,630	\$2,660	\$2,325	\$1,250	
Donor: Respondents	12	12	5	7	25	26	30	27	14	3	
taxpayer Fall Newsletter: Dollar Amt	\$1,430	\$1,430	\$90	\$1,405	\$65	\$605	\$715	\$240	\$760		
taxpayer Fall Newsletter: Respondents	25	25	4	8	2	8	9	5	5		
<b>Over the Transom</b>											
Dollar Amount	\$3,380	\$3,380	\$3,380	\$4,175	\$1,900	\$868	\$1,457	10,500	\$1,550	\$257	\$200
Donor Respondents	17	17	17	11	5	6	2	2	2	3	4
<b>Donor Thank-You Party</b>											
Dollar Amount	\$1,105							\$1,175	\$705	\$595	
Donor Respondents	6							4	6	14	
<b>Photo Revenue</b>					\$747	\$57	\$67				
Gift-in-Kind (admin work donated by Kate Petranec)					\$346	\$473	\$469				

# Clarke County

---

April 7, 2016

Mr. John Elsea  
P.O. Box 158  
White Post, VA 22646



RE: Request to fill pond - Mesilla TM# 28-A-44

Dear Mr. Elsea,

Your attorney, William Truban, contacted me several months ago, requesting a letter confirming that filling in a pond on the above referenced property is permitted. The property is held in Conservation Easement by the County and recorded in Deed Book 483 Page 75. He wanted written confirmation that filling the pond would not be in violation of the terms of the Conservation Easement.

I conducted a site visit of the property on February 10, 2016. On site I observed a large amount of fill material (dirt) which looked to be acceptable for fill. Upon inspection of the pond, I observed trash and debris in the pond area, including mattresses and household trash.

In addition, I reviewed the recorded deed of easement, paragraph 8 of the easement states:

*TRASH: Accumulation or dumping of trash, refuse, or junk is not permitted on the Property. This restriction shall not prevent generally accepted agricultural or wildlife management practices, such as creation of brush piles, composting, or the storage of farm machinery, organic matter, agricultural products, or agricultural byproducts on the Property, as long as such practices are conducted in accordance with applicable governmental laws and regulations. The dumping into, or filling in of, any pond, wetland, or waterway is prohibited, except as may be permitted by applicable laws for the purpose of combating erosion. The dumping, storage, or placement on the Property of stumps, brush, grass, or other land-clearing debris from off-site is prohibited.*

Based on this paragraph it would appear as though you are in violation of the terms of the easement as there has been dumping of trash in the pond, and that you would not be permitted to fill the pond.

At the regular meeting of the Conservation Easement Authority February 18, 2016, members discussed the issue and questioned whether the pond was identified on the USGS topographic map or delineated as a wetland. If not, it would seem reasonable to allow the area to be filled provided the trash is removed. I reviewed the maps and determined that the pond is shown as both a wetland, on the National Wetlands Inventory maps, and a pond on the USGS topographic map. I then contacted Ron Stouffer, Army Corp of Engineers, who oversees wetland protection, to determine if filling the pond would be in violation of any wetland regulations. Mr. Stouffer stated that the pond could be classified as a farm pond

Town/County Government Center  
101 Chalmers Court  
Berryville, VA 22611

[www.clarkecounty.gov](http://www.clarkecounty.gov)  
540-955-5132



Mr. John Elsea  
April 7, 2016  
Page 2


and it could be filled. He suggested contacting the Department of Environmental Quality to determine if they would have any concerns. I contacted Eric Millard, Virginia Water Protection Specialist with the Valley Regional Office. He conducted a site visit on March 8. His comments are as follows:

*"We would like the owner to review the VWP exclusions and indicate to us as to whether their project meets one of the existing VWP exclusions (enclosed). Section A of the exclusions would be the likely location of the appropriate exclusion. Sections B and C deal with water withdrawals. If they do not meet one of the excluded activities, then they have two options: 1) wait until the new VWP regulations are released in August 2016 which may provide more clarification on whether filling a farm pond is an excluded activity, or 2) if they do not want to wait, then please complete the Joint Permit Application ([http://www.deq.virginia.gov/Portals/0/DEQ/Water/WetlandsStreams/Revised\\_Standard\\_I\\_PA\\_FillableForm\\_MAR2014.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/Water/WetlandsStreams/Revised_Standard_I_PA_FillableForm_MAR2014.pdf)) and apply for a permit."*

Based on this information, the pond may be filled with dirt provided the following conditions are met prior to filling:

- 1) All household trash and debris is removed and taken to the landfill;
- 2) An inspection by me confirms that the debris has been removed
- 3) DEQ requirements are complied with by:
  - a. Reviewing the VWP exclusions and indicate to us as to whether their project meets one of the existing VWP exclusions
  - b. If one of the exclusions is not met:
    - i. wait until the new VWP regulations are released in August 2016 which may provide more clarification on whether filling a farm pond is an excluded activity;
    - ii. if they do not want to wait, then please complete the Joint Permit Application

Please contact me on how you wish to proceed and if you require any additional information.

Sincerely,  
  
Alison Teetor  
Natural Resource Planner

enclosure

c. William Truban  
Eric Millard

MEMORANDUM

TO: Conservation Easement Authority  
 FROM: Alison Teetor  
 DATE: April 11, 2016  
 SUBJECT: draft policy structural square footage

Recently the Authority has become aware of the impact of the collective footprint limits for eased parcels. The collective footprint is the ground area measured in square feet of the buildings and structures. In general the deed template uses a 1% limit for the collective footprint. This works well for larger parcels but may be unreasonably restrictive for smaller parcels. A recent request was to build an indoor riding arena exceeding 14,000 sq. ft. on a 40 acre parcel. That parcel currently has a 5,400 sq. ft. barn, and the potential to build a 4,500 sq. ft. house (footprint 2,300 sq. ft.) allowing nearly 22,000 sq. ft. of collective footprint.

The following is the guideline VOF uses in their deed template.

*(v) The collective footprint of all buildings and structures on the Property, excluding linear surfaces, such as roads, driveways, walls, fences, and boardwalks, shall not exceed \_\_\_\_% of the total area of the Property [In general, between one-half of one (½ of 1%) percent and one (1%) percent is recommended. Properties will be evaluated on a case-by-case basis, and characteristics of the Property as well as size will be taken into consideration. For example, smaller properties or working farms may require larger collective footprints, while larger properties or steep wooded properties may require lesser ones.], provided that if Grantor can demonstrate that an increase in the collective footprint would result in increased protection of the conservation values of the Property, Grantee may approve such increase. set forth in Section II, Paragraph 2(i)(a) through (c), (f), and (g) and Section II, Paragraph 2(iii) above and all other impervious surfaces, excluding linear surfaces, such as roads, driveways, walls, fences, and boardwalks. [Addition when appropriate: In the event of division of the Property, the collective footprint of the buildings and structures and all other impervious surfaces on each parcel, excluding roads and driveways, shall not exceed \_\_\_\_\_ ( \_ %) percent of the total area of such parcel unless otherwise allocated in the instrument of transfer or other recorded instrument.] [Proviso: Carefully calculate the permitted footprint for any parcel(s) with small acreage. For example, the one-half percent collective footprint for a ten-acre parcel is 2,178 square feet unless otherwise allocated in the instrument of transfer.]*

Members had previously discussed developing a policy outlining the limits for smaller parcels. Here is one potential approach.

Collective Square footage table			Potential Collective square footage allowances	
Acres	sq ft	1%	Acres	sq. ft.
10	435,600	4,356	<10	10,000
20	871,200	8,712	10-15	15,000
30	1,306,800	13,068	15-20	15,000
40	1,742,400	17,424	20-30	15,000
50	2,178,000	21,780	30-40	20,000
60	2,613,600	26,136	40-50	20,000
70	3,049,200	30,492	> 50	1%
80	3,484,800	34,848		
90	3,920,400	39,204		
100	4,356,000	43,560		