

CLARKE COUNTY
Conservation Easement Authority
Friday – 11 February 2022 – 11:00 am
Millwood Country Club, 340 Country Club Lane, Boyce, Va.

AGENDA

1. Call to Order – staff
2. Pete Engle resignation
3. Election of Officers
 - a. Chair (currently Randy Buckley)
 - b. Vice Chair (currently George Ohrstrom)
 - c. Secretary/Treasurer (currently Pete Engel)
4. Approval of Agenda
5. Approval of meeting dates and times for 2022
6. Approval of Minutes of the meeting of 9 December 2021
7. Bank Account balances
8. Campaign for the Authority
9. Discussion Items
 - a, Stephen Bathon – Boundary Line Adjustment
 - b. Bruce and Debbie Anderson – continued discussion square footage of structures
 - c. Kohn well
 - d. Summer internship – David Dorsey, Me and Jeff
8. Adjournment – Adjourn to Land Conservation Awards Luncheon
The next meeting is scheduled for Friday March 10th 10 am

CONSERVATION EASEMENT AUTHORITY

**Meetings are held the second Friday
of every month
at 10:00 a.m.**

**2nd Floor Town/County Government Center
A/B Conference Room**

February 11

March 11 (need to change to the 10th)

April 8

May 13

June 10

July 8

August 12

September 9

October 14

November 11 (need to change to the 10th)

December 9

CLARKE COUNTY
Conservation Easement Authority
draft Minutes – 9 December 2021 draft

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

JAS - E Johnson
AS OF 02/03/2022

FY2022

Fund 235 - Conservation Easement Balances

	Total Fund Balance	Donations	Stewardship/Restricted Funds Account	Local Funds
SOY FY22	358,015	113,355	217,013	27,647
Fiscal Year 2022				
July Rev/AR		1,350	92	116,732
July Exps/AP		-55	-250	0
July Exp Moon Easement Purchase				-80,713
Aug Rev/AR		240	92	40,778
Aug Exps/AP		-2,413	0	0
Sept Rev/AR		5,165	89	0
Sept Exps/AP		-2,760	0	-573
Oct Rev/AR		3,255	92	4,064
Oct Exps/AP		-2,558	-1,103	-245
Nov Rev/AR		3,430	89	4,444
Nov Exps/AP		-1,367	0	-924
Dec Rev/AR		10,650	22,457	1,937
Dec Exps/AP		-3,464	0	-165
Dec Exp Smithfield Farm Purchase				-570,070
Jan Rev/AR		6,085	0	5,699
Jan Exps/AP		0	0	-750
Feb Rev/AR		0	0	0
Feb Exps/AP		0	0	0
Mar Rev/AR		0	0	0
Mar Exps/AP		0	0	0
Apr Rev/AR		0	0	0
Apr Exps/AP		0	0	0
May Rev/AR		0	0	0
May Exps/AP		0	0	0
June Rev/AR		0	0	0
June Exps/AP		0	0	0
YTD Rev/AR	226,739.83	30,175	22,912	173,653
YTD Exps/AP	667,408.73	12,617	1,353	653,439
Adjustments	0			
YTD FUND BALANCE (AR & AP)	-82,654	130,912	238,572	-452,139

- Emily Johnson: Transfer from GF for easement purchases
- Emily Johnson: Moon-VDACS reimbursement
- Emily Johnson: Landuse Rollback Tax \$4,063.68
- Emily Johnson: Landuse Rollback Tax \$4,444.29
- Emily Johnson: Landuse Rollback Tax \$1,936.69
- Emily Johnson: CE Stewardship annual state funds \$22,456.99
- Emily Johnson: Landuse Rollback Tax \$5,699.11

VDACS	
75,738.77	Expires 12/31/2021 (FY2019)
58,333.00	Expires 12/31/2021 (FY2020)
134,071.77	
-40,356.50	
-76,375.00	
17,340.27	AVAILABLE Estimated YTD BALANCE-VDACS

Anticipated Easement Closings:
Moon Property CLOSED Actual Exp/Rev Above
Smithfield Farm CLOSED Actual Exp/Rev Above

ESTIMATED YTD FUND BALANCE	-82,654	130,912	238,572	-452,139
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FY22 Expenditure Appropriations	Appropriated	Actual Expenses	Appropriated Balance		Clarke County: includes expenses not specifically designated to an easement (including donation, stewardship and monthly Hall, Monahan expenses).
			Remaining		
General Expenses	45,000	16,461	28,539		
Lizzie Moon Property	80,713	80,713	0		
Smithfield Farm	570,070	570,235	-165		
			0		
	695,783	667,409			

Through 02/03/2022

Conservation Easement Expense Detail - FY22

	Donations	Stewardship	Local Funds
<u>July</u>	55.00 Winchester Printers	157.89 Bradley Comeaux Inspections 91.84 Bradley Comeaux Mileage	80,713.00 CE Purchase - Lizzie Moon Property
	55.00	249.73	80,713.00
<u>August</u>	500.00 Gloria Marconi - Banner 960.00 Robin Couch Cardillo 550.65 Photo Exhibit postcards 105.27 Banner 297.00 Magnets		
	2,412.92	0.00	0.00
<u>Sept</u>	450.00 Gloria Marconi Summer 21 Newsletter 955.34 Wincheseter Printers Summer 21 1,280.00 Robin Couch Cardillo-report prep 75.00 Gloria Marconi ESMT Revisions		407.50 Hall, Monahan, Engle legal services July 165.00 Hall, Monahan, Engle legal services Aug
	2,760.34	0.00	572.50
<u>Oct</u>	126.35 A. Teetor Con. Easement Map 581.35 Winchester Printers - CCEA Reception Invite 1,850.55 Monks BBQ CCEA Donation Reception	1,000.00 Benjamin Rogers Intern 103.09 Benjamin Rogers Mileage	162.50 Hall, Monahan, Engle legal services Sept 82.50 Hall, Monahan, Engle legal services Sept
	2,558.25	1,103.09	245.00
<u>Nov</u>	550.00 Gloria Marconi ESMT Fall'21 Newsletter 816.66 Robin Couch Cardillo Reports ESMT Meeting		287.50 Hall, Monahan, Engle legal services Oct 636.00 Purchase Power Postage
	1,366.66	0.00	923.50
<u>Dec</u>	560.00 Robin Couch Cardillo CEA Prep reprints/Meetings 200.00 Gloria Marconi Design/Prod. EOY letter 1,503.94 Winchester Printers Annual Appeal Printing 1,200.00 Eric Wright-Tent Rentals		165.00 Hall, Monahan, Engle RSP docs for closing 570,069.80 Hall, Monahan, Engle Smithfield Farm Property
	3,463.94	0.00	570,234.80
<u>Jan</u>			750.00 Hall, Monahan, Engle legal services Dec
	0.00	0.00	750.00
YTD Totals	<u>12,617.11</u>	<u>1,352.82</u>	<u>653,438.80</u>



R O B I N C O U C H C A R D I L L O

February 3, 2022

Clarke County Conservation Easement Authority
Fundraising Report
February 2022 meeting

Donor Statistics

See attached Master Report

- 2021 year's total: \$37,739 from 206 donations
- 2022 year-to-date total: \$2,775 from 22 donations

Ongoing

-8th Wingate Mackay-Smith Land Conservation Award

- Chuck Johnston, honoring former Clarke County Planning Director when easement concept implemented
- February 11, Millwood Country Club, 11:00 am meeting and 12:00 lunch/award
- Invited Clarke County VIPs

-Winter newsletter

- Article topics: Land Conservation Award, Smithfield/RSP Enterprises, other

-Partner with county organizations on campaign/event to promote hiking the county

- Take a Hike flyer updated
- Explore working with trails (Blue Ridge Wildlife Center, Blandy, Cool Springs, etc.) and Econ Dev/Tourism on project; hikers earn small prize for completing circuit (e.g., t-shirt, water bottle, patch, car sticker). Use social media to promote and capture hiker photos
- Proposed for June, Great Outdoors Month

-General brochure on conservation easements

- In the works, similar style as *Nine Myths*

MEMORANDUM

TO: Clarke County Conservation Easement Authority
FROM: Alison Teetor
DATE: February 6, 2022
SUBJECT: Stephen Bathon Boundary Line Adjustment Request

Stephen Bathon owns the property identified by Clarke County Tax Map# 31-1-74 located at 3444 Calmes Neck Lane. The property was placed in easement with the County by Linda Thomas in 2007. Mr. Bathon also owns an adjacent property Tax Map # 31-1-73. He purchased lot 73 with the intent that his daughter would build a house and live there. As a result of the family ownership, Mr. Bathon put his driveway across a portion of lot 73 as shown on the attached plat. Mr. Bathon has since sold the property as his daughter decided not to move here, and now would like to complete a boundary line adjustment to include the driveway on his existing lot 74. The deed of easement allows for Boundary Line Adjustments as follows:

- C. Additional, boundary line adjustments with adjoining parcels of land are permitted and shall not be considered divisions of the Property, provided that Grantee is made party to the deed creating the boundary line adjustment and at least one of the following conditions is met:
- (i) The entire adjacent parcel is subject to a recorded open-space easement owned by Grantee; or
 - (ii) The proposed boundary line adjustment shall have been reviewed and approved in advance by the Authority.

Discussion

The options are to approve the BLA and incorporate the .75 acres into the existing easement or to approve the BLA and leave the .75 out of the easement.



Stephen Bathon
 Tax Map# 31-1-74
 Boundary Line Adjustment request



Clarke County GIS
 February 7, 2022
 80 40 0 80 Feet



-  Parcel Boundary
-  Conservation Easements
-  Public Road
-  Private Road

Location Map



MEMORANDUM

TO: Conservation Easement Authority
FROM: Alison Teetor
DATE: February 4, 2022
SUBJECT: Bruce & Deborah Anderson - Square footage of Structures

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 Andersons have requested an exception to the maximum square footage allotment for parcels between 30 and 40 acres of 20,000 sq ft.. At the December meeting members discussed the Anderson’s proposal to allow for a covered riding arena (20,000 sq. ft.) and to preserve the difference between what they have now, 10,800 square feet, and the cap, 20,000 square feet, or 8,200 square feet, to allow for possibly improvements to existing structures, for a total of 40,000 square feet. Members discussed the request to exceed the 20,000 square foot cap for structures and determined that 1) it sets precedence for other future easements, 2) it isn't fair to others that have had to adhere to the requirement, and 3) that having over 2% impervious area detracts from the conservation value of the property. Based on these reasons the request was denied.

Since the last meeting the Anderson’s have submitted the attached request that revises the amount of structural footprint to 31,200 square feet, which is 11,200 sq ft above the limit. The proposed covered area of the arena is 20,000 sq. ft. As the main feature that creates the exceedance is the indoor riding arena, staff reviewed two other easements with approved covered riding arenas. One was recently approved in 2019, the property owned by Katherine Rowland located at 3264 Millwood Road. Ms. Rowland’s property consists of 29.9 acres, the square footage limit is 15,000 sq. ft. for parcels between 20 and 30 acres. When recorded the parcel had a total of 28,427 sq. ft. exceeding the limit by 13,427sq. ft.. The riding arena is 18,000 sq. ft. in size. Staff assumes that this was not discussed in detail as the structures were all existing. In addition, the deed states that the structural square footage should not exceed 30,000. There is no mention of exceedance of the policy in the minutes or staff reports.

Collective square footage allowances	
Acres	sq. ft.
<10	10,000
10-15	15,000
15-20	15,000
20-30	15,000
30-40	20,000
40-50	20,000
> 50	1%

The second property is owned by Susan Molden and is located on Morning Star Lane. Ms. Molden's property is 40 acres and has an existing barn which she built. She requested and was approved to build an 14,400 sq. ft. indoor arena in 2015 prior to the size limitations being adopted. This arena was never built.

Discussion

Whether in error or not the exceedance of the square footage requirements on the Rowland easement sets some precedence for the Andersons situation. The main difference is that the Rowland's arena was existing and the Andersons are planning to partially cover an existing outdoor riding ring. The Andersons propose a similar design of roof only with half sides so it is not completely enclosed.

Name	acres of property	sq. ft. limit	existing sq. ft.	proposed sq. ft (new)	size if arena	total sq ft	exceedance of limit	% exceedance
Anderson	32.7	20,000	10,793	20,400	20,000	31,200	11,200	56%
Rowland	29.9	15,000	28,427	1,573	18,000	30,000	15,000	50%

Staff recommends conducting a second site visit to view the Rowlands arena and the Andersons site to consider whether requiring certain materials for the roof construction or other offsets might make this easement acceptable.

Bruce and Debbie Anderson

97 Tilthammer Mill Road

Boyce, VA 22646

January 27, 2022

Dear Conservation Authority Members,

We appreciate your consideration of our application to enter our properties into the Clarke County Conservation Easement program. Alison Teetor has been very helpful in providing information on the program and in passing on your concerns regarding our proposal.

Based on the feedback we got from Alison, we have reassessed our plans going forward and wish to make some changes to our original proposal. We believe these changes substantially alter our previous proposal and will address your concerns, increase the value of the easement, and, most important, preserve the environmental resource protection and enhancements you are looking for in conservation easements. Accordingly, we propose the following.

First, we would consolidate the two properties we own, a thirty acre parcel and a two acre parcel, into one property and thereby giving up our development rights for the unencumbered two acre parcel. It would then be left in perpetuity in its natural, forested condition. This would obviate the possibility that we could build another residence and additional structures on the property, which we could certainly do today. The two acre property is currently untouched, a stand of mostly oak trees and no structures.

Second, we would be willing for curtail expansion or extension of existing structures on the property to only 1,000 square feet. This would allow for minor renovations that would include, for example, a new gazebo and a small extension of an existing bathroom. Note that our original proposal would effectively have allowed 9,200 square feet (in addition to the existing 10,200 square feet of covered area).

Third, as previously proposed, we would limit the size of the covered arena to no more than 100 x 200 feet, which is the recommended size for indoor and outdoor riding arenas used for dressage and other non-commercial activities. Currently, we have a graded, fenced arena that is 120 x 220 feet at that location. We do not plan to build an enclosed arena. Open sides are important to allow for ventilation during the summer and to allow for a view of the surrounding forest. It would be much like the arena at Fairview on Millwood Road, which we understand was approved in their easement on that property.

The existing arena is on the top of a forested rise and is very difficult to see from Millwood Road. In the spring, summer and early fall, the arena is practically invisible from the road because of the dense forest that surrounds the arena. In the fall and winter, when the oaks and other deciduous trees have dropped all their leaves, it is partially visible from the road. If that is a problem, we can easily plant evergreens on the forested hillside between the road and the arena to provide an attractive visual barrier. We have planted evergreens elsewhere on the property to provide privacy for our home. Having made that offer, we must say that a riding arena is not out of keeping with the equestrian nature of the area. We certainly do not find most riding arenas unattractive.

Finally, we plan to leave the remainder of the property in its current, largely forested condition. We would be willing to accept a stipulation to that effect with the aforementioned exceptions.

Anderson Conservation Easement Application

Page 2

We hope that you would be willing to reconsider our revised proposal and accept it with these changes. We would, of course, be willing to discuss any of these conditions or any additional concerns with you.

Sincerely,

Bruce S. Anderson

Debbie J. Anderson

Cc: Alison Teetor



Bruce & Deborah Anderson
 Tax Map# 30-A-74, 30.76 acres, 0 DURs, 2 ext. dwl's
 Tax Map# 30-A-74A, 2 acres, 1 DUR



Clarke County GIS
 September 28, 2021

200 100 0 200 Feet



- Parcel Boundary
- Scenic Byway
- Railroad
- Public Road
- Private Road

Location Map

