Virginia Land Conservation Foundation Board of Trustees
Monday, August 20, 2012
East Reading Room, Patrick Henry Building
Richmond, Virginia

Virginia Land Conservation Foundation Board of Trustees Members Present

The Honorable Douglas Domenech, Chair
Robert Beals
Margaret H. Davis
Senator Emmett W. Hanger, Jr.
Ollie W. Kitchen, Jr.
Mary Helen Morgan
R. Brent Blevins, Jr.
Herbert L. Dunford, Jr.
Anna Lawson
Robert W. Lazaro, Jr.
Senator Jill Holtzman Vogel

Virginia Land Conservation Foundation Board of Trustees Members Not Present

Alexandra Liddy Bourne, Vice Chair
Robert Davenport
Brooks Smith
The Honorable Todd Haymore
L. Clifford Schroeder, Sr.

Agency Staff Present

David A. Johnson, DCR
Ryan Brown, DGIF
Larry Durbin, VTAX
Michael R. Fletcher, DCR
John Moore, DCR
Danette Poole, DCR
Diana Russell, VTAX
Tom Smith, DCR
Michelle Vucci, DCR
Elizabeth Andrews, Office of the Attorney General
Jeb Wilkinson, DCR
Suzan Bulbulkaya, DCR
Rob Farrell, VDOF
Bob Lee, VOF
Wendy Musumeci, VDHR
Sarah Richardson, DCR
Kevin Schmidt, VDACS
Deb Van Duzee, DGIF

Others Present

Rex Linville, Piedmont Environmental Council
Don Owen, Land Trust of Virginia
Ray Pickering, Fauquier County
Nikki Rovner, The Nature Conservancy
Jon Scott, Northern Virginia Land Trust
Tricia Stiles, Office of Senator Vogel

Call to Order

Secretary Domenech called the meeting to order and declared a quorum present.

Approval of Minutes

MOTION: Ms. Morgan moved that the minutes of the September 13, 2011 meeting of the Virginia Land Conservation Foundation Board of Trustees be approved as submitted.

SECOND: Mr. Blevins

DISCUSSION: None

VOTE: Motion carried unanimously

VLCF Project Update

Ms. Richardson gave an update regarding current VLCF projects.

FY2011 and FY2012 VLCF Grant Round – Grants Closed as of August 20, 2012

FARMLANDS AND FOREST PRESERVATION CATEGORY

Fauquier County PDR Program – **Elizabeth Noland PDR Project**, Fauquier County

The grant request was for the purchase of a conservation easement on 168.5 acres of farmland. The Noland Farm is an active cattle and hay farm, and has 111 acres of prime soils and 15 acres of locally important soils. The Noland family previously operated a dairy on this farm for over 40 years, and currently leases and farms adjacent farmland as well. The farm is adjacent to three other protected farms as well as the 271-acre state-owned Weston Wildlife Management Area. Inclusion of the Noland Farm creates a contiguous block of 1,500 acres protected through the Fauquier County PDR program.

Total Project Cost: $282,000. Match: Fauquier County PDR program $157,000; and Landowner donation $25,000. **VLCF Grant Request:** $100,000. **Grant award:** $52,047. **Final grant amount:** $52,047.

Virginia Department of Forestry – **Upper Hoskins Creek**, Essex County

Funding was requested to purchase a conservation easement on 211.7 acres of forestland near Tappahannock. The property is bounded by Hoskins Creek to the north and east over a distance of 1.3 miles. Hoskins Creek, a navigable tidal waterway, is a tributary of the tidal portion of the Rappahannock River. This easement includes extensive riparian buffers on tidal and freshwater creeks, protecting both water quality and the view from Hoskins Creek.

Total Project Cost: $342,250. Match was provided by a bargain sale from the landowner. **VLCF Request**: $137,000. **Grant award:** $137,000. **Final grant amount:** $137,000.

NATURAL AREAS CATEGORY

The Nature Conservancy – **Blackwater River Old Growth**, Isle of Wight County

This project is a fee-simple acquisition by Isle of Wight County of 3,500 acres adjacent to TNC's Blackwater Preserve, with an easement granted to DOF and DCR's Division of Natural Heritage. Bottomlands along the Blackwater River support an old-growth stand of cypress and tupelo. Uplands within the natural area portion of the easement will be restored to a longleaf pine forest and other natural communities. The remaining 1,700 acres will be administered under a forest management plan prepared by the Department of Forestry and Isle of Wight County. Most of the property will be open to the public with trails. The acquisition also contributes to protection of drinking water for the Norfolk metro area, including Department of Defense installations.

Total Project Cost: $3,300,000. Match was from Forest Legacy funds through DOF, and Isle of Wight County's Open Space Fund. **VLCF requests** (from two grant rounds): $566,305. **Grant award:** $566,305. **Final grant amount:** $473,500.

PARKS AND OPEN SPACE CATEGORY

City of Virginia Beach Parks & Rec. Dept. **– Lynnhaven Estuary Protection**, City of Virginia Beach

A grant was requested for fee-simple acquisition of 82 acres of coastal wetlands and maritime forest, in order to expand a network of existing adjacent conservation lands along Pleasure House Creek and Lynnhaven Bay. This acquisition provides public access to the shoreline and protection of the Lynnhaven watershed, and includes a partnership between the City of Virginia Beach, the Trust for Public Land, and the Chesapeake Bay Foundation.

Total Project Cost: $8,000,000. Match: $3,500,000 local funding partners and $4,000,000 federal funds. **Grant Request:** $500,000. **Grant award:** $500,000. **Final grant amount:** $500,000.

Legislative and Budget Overview

Ms. Bulbulkaya gave the following Legislative and Budget Overview.

LAND CONSERVATION LEGISLATION OVERVIEW

At the Board's September 13, 2011 meeting, during the discussion of conservation agencies receiving 2011 Land Preservation Tax Credit Stewardship Funds pursuant to §58.1-513, Ms. Bourne expressed a concern about the portion of the funds allocated for payment to various federal government agencies. She recommended that the Board recommend to the Secretary that legislation be considered to prevent paying funds directly to the federal government. Accordingly the following motion was passed unanimously:

> Ms. Bourne moved that the Board approve the list of 2011 LPTC Stewardship Funds to be distributed to conservation agencies as presented by staff and that

further the Board propose to the Governor legislation that would address the matter of paying the federal government for stewardship.

In response to that motion, legislation was introduced during the 2012 Session by the Administration to address this issue.

- **HB336 (Wilt) – Virginia Land Conservation Foundation; distribution of revenues. SECRETARIAL BILL.**

  This legislation provides that in distributing the revenues in the Virginia Land Conservation Fund generated by the sale of land conservation tax credits, funds shall not be distributed to federal government entities. Currently, §58.1-513C.2 directs this fund to be disbursed for the stewardship of conservation easements to all public or private conservation agencies and land trusts that are responsible for monitoring and enforcement of easements recorded in Virginia within the past three years. This bill would exclude federal agencies from that list of eligible entities.

  In conversations with staff from a federal agency regarding the potential impacts of this bill, DCR became aware that the federal agencies would not be able to utilize the funds for their intended purpose, but would have to submit the funds to the U.S. Treasury.

  Status: Approved by Governor – Acts of Assembly Chapter text (CHAP0232) (effective 07/01/12)

Specifically, the amendment to §58.1-513 involved the insertion of the language in bold:

> The remainder of such revenues shall be transferred in the Virginia Land Conservation Fund for distribution to the public or private conservation agencies or organizations, ***excluding federal government entities***, that are responsible for enforcing the conservation and preservation purposes of the donated interests. Distribution of such revenues shall be made annually by the Virginia Conservation Foundation proportionally based on a three-year average of the number of donated interests accepted by the public or private conservation agencies or organization, ***excluding federal government entities,*** during the immediately preceding three-year period.

In addition to the stewardship payment legislation, funding for land conservation for the next biennium was addressed in the budget bill [Chapter 3 of the 2012 Virginia Acts of Assembly Special Session 1 (HP1301)] and included the following language:

1) Department of Conservation and Recreation (199)

Item 365; Legislature and Recreation Services (50400)

D, 1. Included in the amount for Preservation of Open Space Lands is **$1,000,000 the first year and $1,000,000 the second year** from the general fund to be deposited into the Virginia Land Conservation Fund, §10.1-1020, Code of Virginia.

2. Included in the amounts for Preservation of Open Space Lands is **$2,000,000 the first year and $2,000,000 the second year from nongeneral funds** to be deposited into the Virginia Land Conservation Fund to be distributed by the Virginia Land Conservation Foundation pursuant to the provisions of §58.1-513, Code of Virginia. **[Last year the Board distributed $118,762]**

2) Department of Historic Resources (423)

Item 372; Historic and Commemorative Attraction Management (50200)

1. Included in this appropriation is **$1,000,000 the first year and $1,000,000 the second year** from the general fund to be deposited into the Civil War Historic Site Preservation Fund for grants to be made in accordance with §10.1-2202.4, Code of Virginia. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

3) Department of Historic Resources (423)

Item 33.10 (language only)

Notwithstanding any other provision of law, the following provisions shall be implemented:

1. The Director, Department of Planning and Budget, shall transfer **$2,500,000 of the amount appropriated in Chapter 879, 2008 Acts of Assembly, for project 17597** (Preservation of Open Space and Historic Resources Through Conservation) for the Civil War Site Preservation Fund and expended in accordance with the purposes and requirements of §10.1-2202.4 except that the funds shall be awarded only for the fee simple acquisition of battlefield lands for the benefit of the Commonwealth and its citizens.

2. In its expenditure of the funds, the Department of Historic Resources may give priority to the establishment of a public battlefield interpretive park to be located in a jurisdiction served by Northern Virginia Regional Park Authority and operated by such Authority. The Department of Historic Resources may waive the match requirement of §10.1-2202.4C in conjunction with the funding of such park.

The ~$2.5 million is the remaining uncommitted balance from the $30 million dollar 2008 Land Conservation Bond administered by DCR (Project 17537)

The rest of the Bond proceeds were governed by the following language:

Included in this appropriation is funding for projects involving the acquisition of land for the purposes of conservation, open space and historic preservation, such land to be held by or on behalf of or for the benefit of the Commonwealth, its agencies or public bodies, including but not limited to the Department of Conservation and Recreation, the Department of Forestry, and the Virginia Outdoors Foundation.

The Secretary of Natural Resources, and where applicable the Secretary of Agriculture and Forestry, shall be consulted prior to any acquisition funded through this project.

Expenditures from the fund lead to the completion of the following projects:
Project 17780: DOF – Dragon Run South
Project 17782: DOF – Dragon Run Perimeter Hancock
Project 16883: DGIF – Big Woods West
Project 17799: DOF – Big Woods East
Project 17797: DOF – Moore's Creek
Project VOF: VOF – Short Hills

DHR Civil War Sites Preservation Fund Grant Round: On June 5, the Virginia Department of Historic Resources announced the anticipated availability of up to $3.5 million in awards for state fiscal year 2012 for projects that will purchase lands, or interest in lands preserving portions of Civil War battlefields identified in the 1993 report of the Civil War Advisory Commission or its revisions by the National Park Service. Not that $2.5 million of the total available must be spent on fee simple purchase of lands; the additional $1 million may be spent on either fee simple purchase or purchase of easements. Easements must be donated to DHR on all lands protected through this grant program.

4) Department of Agriculture and Consumer Services
As a note, the Virginia Department of Agriculture and Consumer Services has $1.2 million in each year of the biennium for their Purchase of Development Rights program.

Financial Report

Mr. Moore gave the financial report. A full copy of his report is available from DCR.

The fund balance as of June 30, 2010 was $1,906,263.

Reserved funds (awarded to other projects) was $2,660,139.

Due from other funds was $2,207,908.

Total liabilities and equity as of June 30, 2012 was $4,868,047.

Secretary Domenech asked about vehicle registration funds.

Mr. Moore said that the VLCF stopped receiving those funds in 2009.

Ms. Richardson said that the report showed three categories of funds; 1) funds left over from the previous grant round. 2) money for the current fiscal year. 3) the stewardship fund from the transfer of tax credits.

Discussion of FY 13-14 Grant Round Schedule

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Ms. Richardson reviewed the recommended timeline for the FY2013-2014 VLCF Grant Round.

August 20, 2012	**VLCF Board Meeting.** Approve grant round; timeline, fiscal plan, and grants manual. Approve distribution of transfer-fee stewardship funds.
August 24, 2012	**Announce** official opening of grant round (emails, postcards)
September, 2012	**Workshops** for grant applicants – September 14 in Fredericksburg, September 21 in Lexington. Present scoring criteria and grant-administration procedures, answer questions.
October 24, 2012	**Deadline** for application submittal to DCR Office of Land Conservation – three copies plus electronic submissions required.
Oct. 31 & Nov.7, 2012	**Interagency taskforce meetings.** Discuss scores and rank applications.
Mid-November, 2012	**SNR review** of top-scoring projects.
December 6, 2012	**VLCF Board meeting.** Approval of grant awards.
December, 2012	**Grant agreements signed.** Projects have two years to close.

Ms. Morgan asked if this schedule allowed enough time for agreements to be signed and grants to be approved prior to the Christmas holidays.

Ms. Richardson said that the grant recipients are presented with a three-page standard agreement. She said there was no real negotiation in the process.

Ms. Richardson said that post card notices would be mailed out to county administrators and other interested recipients in the next week. She said that the grant round would be publicized through the postcards, on the DCR website, through emails and several other ways working with partner agencies and organizations.

Secretary Domenech questioned whether Fredericksburg and Lexington were the best places to hold trainings. Ms. Richardson agreed to review the schedule and locations.

MOTION: Ms. Lawson moved that the Virginia Land Conservation Foundation Board of Trustees approve the recommended 2013-2014 Grant Round Timeline as presented by staff.

SECOND: Ms. Davis

DISCUSSION: None

VOTE: Motion carried unanimously

Ms. Richardson said that up until the previous week, staff had believed there was no leftover money from previous projects. However, she noted with the Blackwater project that had just closed the preceding Friday that there was a remaining balance. She said that the final amount was uncertain, but that the funds would be added to the same Natural Heritage category for the next round. She said that leftover funds must revert to the same category.

Mr. Blevins asked why there were funds left over.

Ms. Richardson said that in some cases projects involve multiple partners and sources of funding and that additional sources of funding can become available. Additionally, in this case, the acquisition cost was lower than originally anticipated.

Approval of Proposed Changes to Grant Manual and Scoring Criteria

Ms. Richardson reviewed the proposed changes to the grant manual and scoring criteria. She said that this was the standards manual that is reviewed by the Board prior to each grant round and amended as necessary. She said that there were no major changes and that the edits were housekeeping items and the changing of relevant dates.

Secretary Domenech asked about the addition of the term "landscape" on page 8, in the Historic Areas category.

Ms. Musumeci said this was an attempt to broaden the historic resources category so that an applicant would know to include archaeological resources, battlefields, and cultural landscapes.

Secretary Domenech expressed a concern that this would imply trying to preserve a viewscape and could possibly lead to the state placing limitations on an adjacent landowner.

Mr. Blevins asked if scores for projects were publicly available and whether staff works with groups to tell them how they might better apply in the next grant round.

Ms. Richardson said that scores are publicly available, and that she works with grant applicants to help them improve their applications. She said that in some cases, grants awarded might be less than the requested amount in order to enable funding of more projects.

Mr. Dunford asked if the local Soil and Water Conservation Districts were eligible for VLCF grant funding. He noted that some districts do hold easements.

Ms. Richardson said they would be eligible but that she was not aware of any Districts who had ever applied.

MOTION: Senator Vogel moved that the recommended changes to the 2012 Grant Program Manual be approved as submitted by staff.

SECOND: Mr. Dunford

DISCUSSION: None

VOTE: Motion carried unanimously

Land Preservation Tax Credit Update

Mr. Durbin gave the Land Preservation Tax Credit Update. He introduced Diana Russell who is the manager of the Land Preservation Tax Credit Program.

Senator Hanger noted that he carried the legislation to create the program in 1999. He said that there had been strong opposition but he was a supporter of the program.

A full copy of Mr. Durbin's report is available from DCR.

Mr. Durbin noted that since the beginning of the program in 2000, 2805 credits had been established. This represents 596,765 acres and a total credit of $1,271,070,506.

Approval of Distribution of VLCF Stewardship Fund

Ms. Bulbulkaya presented a recommended VLCF motion to disburse funding to conservation organizations and agencies for stewardship of conservation easements, pursuant to Virginia Code § 58.1-513 C.2.

- The Code of Virginia § 58.1-513 C.2. directs the Department of Taxation to collect a two percent fee on transfers or sales of land preservation tax credits. Up to fifty percent of the revenues generated by this fee may be used to cover agency costs for implementing the Land Preservation Tax Credit program at TAX and DCR. The remainder of the revenues collected is transferred to the Virginia Land Conservation Foundation for distribution to public and private conservation agencies or organizations responsible for enforcing the conservation and preservation purposes of conservation easements.
- The balance to be distributed for fiscal year 2012 is $2,201,118.
- Per § 58.1-513 C.2., distribution of such revenues shall be made proportionally based on a three-year average of the number of donated interests accepted by the conservation agencies or organizations during the immediately preceding three-year time frame. Federal entities are not eligible to receive these funds and will not be included in the calculations to determine the distribution.

MOTION: Mr. Lazaro moved that the Virginia Land Conservation Foundation Board of Trustees approve the distribution of $2,210,118 from the Virginia Land Conservation Fund for fiscal year 2012 in accordance with the process outlined in § 58.1-513 C.2. of the Code of Virginia.

SECOND: Mr. Blevins

DISCUSSION: None

VOTE: Motion carried unanimously

At this time the Board recessed for lunch.

Land Preservation Tax Credit 2009 and 2010 Report

Ms. Bulbulkaya gave the Land Preservation Tax Credit 2009 and 2010 Report. A full copy of her presentation is available from DCR.

2009 LPTC Findings

- Cap set at $106.6 million
- 228 applications filed
- 63,485 acres protected
- 63 localities
- Most claimed Conservation Purpose was Scenic Open Space
- Cap met on December 4, 2009
- DCR reviewed 36 LPTC applications for $1 million or more

2010 LPTC Findings

- Cap increased to $106.8 million
- 144 applications filed
- 41,776 acres protected
- 57 localities
- Most claimed Conservation Purpose was Scenic Open Space
- DCR reviewed 25 LPTC applications for $1 million or more

Agency Updates

Department of Forestry

Mr. Farrell gave an update for the Department of Forestry. He said that DOF recently recorded a conservation easement in Isle of Wight County, which is their 70th easement. He said that DOF easements now protect over 22,000 acres.

Mr. Farrell noted that DOF easements require that 50% of the land remain forested land. He said that easements in the future would require that 75% of the land remain forested.

Department of Agriculture and Consumer Services

Mr. Schmidt, coordinator for the Office of Farmland Preservation at VDACS, said that since 2007, VDACS has had state matching funds available to help local purchase of development rights programs.

Mr. Schmidt said that VDACS had allocated $6.45 million in funding. He said an additional $1.2 million was available for FY2013.

Department of Conservation and Recreation

Mr. Wilkinson, Chief Deputy Director of DCR, said that since January 2010, the conservation community; including local, state , and federal agencies and their programs; have helped to preserve over 117,000 acres. He said that DCR had recently received notification from DOF regarding an additional 800 acres.

Mr. Wilkinson noted that DCR had hired an additional employee to work specifically with land trusts in the area of land preservation.

Department of Game and Inland Fisheries

Ms. Van Duzee, Real Property Manager for DGIF, gave the report for the Department of Game and Inland Fisheries.

Ms. Van Duzee said that since the last meeting, DGIF had closed on two fish hatcheries from the federal government. One is in Craig County and the other in Wytheville.

Department of Historic Resources

Ms. Musumeci, the Easement Program Coordinator for DHR, said that DHR properties include historic buildings, structures and landscapes, as well as significant archaeological sites.

Ms. Musumeci said that the current DHR focus is Civil War battlefield preservation. She noted that 2011-2012 was busy with the 150 commemoration of the Civil War. She said that DHR currently holds 63 easements on about 7,500 acres. That includes over 30 battlefields.

Virginia Outdoors Foundation

Mr. Lee, Executive Director, gave the report for the Virginia Outdoors Foundation.

Mr. Lee noted that the VOF was created by the General Assembly in 1966 to operate under the Open Space Act. He distributed a copy of the Summer 2012 VOF newsletter.

Mr. Lee said that VOF holds more than 4,000 recorded easements in 102 separate jurisdictions in the Commonwealth.

Public Comment

There was no additional public comment.

Other Business

There was no other business.

Next Meeting

The next meeting date was set for December 6, 2012 at 1:00 p.m.

Adjourn

There was no further business and the meeting was adjourned.

Respectfully submitted,

The Honorable Douglas Domenech Secretary of Natural Resources	David A. Johnson Director, Department of Conservation and Recreation