

FINAL

MINUTES
VIRGINIA OUTDOORS FOUNDATION
BOARD OF TRUSTEES MEETING
September 3, 2009
Goochland County, VA

Trustees present:

Chair, Frank M. Hartz, presiding	Jeffrey K. Walker
Mark Allen	Molly Joseph Ward
Rupert Cutler	Harry Atherton
Suzanne M. Lacy	

VOF staff attending:

G. Robert Lee, Executive Director	Jason McGarvey, Outreach & Communications Manager
Leslie Grayson, Deputy Director, Easements	Jen Perkins, Easement Specialist
Martha Little, Deputy Director, Stewardship	Renee Russell, Development Specialist
Tamara Vance, Deputy Director, Easements	Melissa Collier, Stewardship Manager
Sherry Buttrick, Easement Manager	Bruce Stewart, Staff Counsel, Easements
Bobbie Cabibbo, Executive Assistant	Estie Thomas, Easement Manager
Kristin Ford, Easement Specialist,	Laura Thurman, Easement Manager
Josh Gibson, Easement Specialist	Philip Reed, Easement Specialist
Kerry Hutcherson, Staff Counsel, Stewardship	

Also in attendance were:

Fred Fisher, VA Attorney General's Office	Don Charles, Dir. of Community Development, Goochland
Brett Ellsworth, Assistant Attorney General	Roger Holnbeck, Executive Director, Western VA
Heather Richards, Piedmont	Land Trust (WVLT)
Environmental Council	Janet Scheid, President WVLT
Diane Dunaway, VA Dept Conservation &	Steve Bushor, Director Parks and Recreation, Roanoke
Recreation	Mr. George Beadles
Sandra Stevens, VA Conservation Easement	Kelli Hopkins, Conservation Partners
Consulting	Francis Goddard
Nancy Ambler, Wood Thrush Land Conservation	Augustus Vogel, PHD
Todd Hochrein, Conservation Easement Consultants	

Hank Hartz convened the meeting at 10:45 a.m.

Welcome

Don Charles, Director of Community Development, Goochland welcomed us to Goochland.

Chairman Hartz introduced newest member of the Board of Trustees, Suzanne Lacy. Jeff Walker has been reappointed, as has Mark Allen.

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Public Comments

No comment offered.

Approval of the Order of Business

Boyce Easement in Abingdon section withdrawn.

Minutes

Leslie Grayson noted the following changes to the minutes for July 15, 2009. Change the Bowie easement to read: Motion made to approve easement as presented i.e. *without the staff recommendation to reduce the size of the secondary dwellings*; motion seconded and approved unanimously.

Change the Loudon County BLA to read: The BLA on land owned by Loudoun County and subject to VOF easement was not reviewed by or approved by VOF in advance as required under easement terms. Motion made to take Staff and VA Office of Attorney General's recommendation to require the Loudoun County boundary line adjustment (BLA) *with the VOF easement parcel and adjacent county owned parcel be vacated*; motion seconded and approved unanimously.

Motion made to accept Minutes for PTF Committee, RD Committee and General Meeting with the above changes, motion seconded and approved unanimously.

Directors' Reports

Hank Hartz called on Bob Lee to give the Executive Director's Report. The new legislation proposal has received the approval of the Secretary of Natural Resources. Martha Little reported on another Kohl's Island Stakeholders' Meeting. There is strong Board support for pursuing a Virginia Natural Area Preserve designation for Kohls' Island if the Northumberland County would support pursuing that designation. Leslie Grayson reported that bank reluctance to subordinate, disappointment in appraisal results, and tax credit ceiling concerns are among the reasons that land owners are not recording approved easements and may affect the final 2009 easement recording numbers.

Fee Discussion

Proposals and background materials regarding potential fees were presented to Board of Trustees from Stewardship and Easement divisions. After discussion it was concluded that more specific information was needed and the matter would be taken up again at the October meeting.

Resolutions

Resolution presented to make a minor change in By-Laws adopted in 2005. The change reflects that the electronic postings for VOF Board of Trustee related meetings will be on the Virginia Commonwealth Calendar and the VOF website vs. Virginia Regulatory Town Hall. Motion made to accept change in Virginia Outdoors Foundation By-Laws; motion seconded and approved unanimously. SEE APPENDIX A

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Catawba Valley Special Project Area

Janet Scheid, President of WVLT was invited to speak about the work of the Western Virginia Land Trust in concert with Roanoke County. The WVLT has done a superlative job in protection our natural and cultural heritage resources. A Resolution to name the Catawba Valley a Special Project Area will be presented at the October meeting.

Consent Agenda

Hank Hartz called for Consent Agenda.

FAU-VOF-579 – Carlson & Brownstein – Fauquier – 15.693 acres - The original easement was recorded in 1997 with an erroneous description of the area of the riparian buffer. The landowners wish to amend the 1997 easement to correct and expand the area subject to the riparian buffer and to strengthen the protection afforded by the riparian buffer terms.

Motion made to approve Consent Agenda; motion seconded and approved unanimously.

Preservation Trust Fund (PTF)

In discussion the Chair would like us to further discuss and formulate what “limited access to water” means for cattle.

Counts– Smyth – 53.41 acres – Motion made to approve easement as presented and allocate \$6,500 of PTF; motion seconded and passed unanimously.

Frye – Smyth – 285 acres – Easement now has clear title. Motion made to approve easement as presented and allocate \$6,500 of PTF; motion seconded and passed unanimously.

Huckleberry Dairy Farm North - Floyd – 269.83 acres – Amend easement to clarify size of signs and 2 signs are allowed. Motion made to approve easement as amended and allocate \$6,000 PTF; motion seconded and passed unanimously.

Huckleberry Dairy Farm South - Floyd – 175 acres – Amend easement to clarify size of signs and 2 signs allowed. Motion made to approve easement as amended and allocate \$6,000 PTF; motion seconded and passed unanimously.

Herwald – Bath – 220.6 acres – Amend to incorporate staff recommendation for a 1 acre BLA versus 3 acre, one acre limit. Motion made to approve easement as amended and allocate \$5,700 PTF; motion seconded and passed unanimously.

Clements - Augusta – 111.98 acres - This easement had \$58,000 FRPP allocated from FY09 funds at May 23, 2009, only \$57,800 is needed. Discussion concerning Conservation Plan language as VOF is not party to the contents of the Conservation Plan yet we are responsible for enforcing the plan. Motion made to approve easement as presented and allocate \$57,800 PTF; motion seconded and approved unanimously.

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Ingleside Land LLC (Leech) – Rockbridge – 166.72 acres – No change was made to this easement, it was already approved on May 23, 2009. The revised funding is as follows: USDA will provide \$274,250 and \$137,125 will come from VOF's Preservation Trust Fund for purchase of the easement. In addition, an allocation of up to \$1,800 in legal costs is authorized. Motion made to approve funding as stated above; motion seconded and approved unanimously.

Robertson – Highland - +/- 340 acres –Motion made to approve easement as presented and to allocate \$206,300 as available for this project; motion seconded and approved unanimously.

Birch/Weeks Farm – Middlesex – 640.82 acres This easement had \$99,000 PTF allocated from FY09 at May 23, 2009. Motion to approved easement as presented and allocate an additional \$105,000 as funds are available; motions seconded and approved unanimously.

Abingdon Easements

Boyce – Withdrawn

Blacksburg Easements

Carvins Cove – Roanoke and Botetourt - +/- 5,178 acres – Discussion about the plans of AEP to expand power lines through this easement. This project has been in the works since 1996 when Dr. Cutler formed the Western Virginia Land Trust. This easement is a model of partnership between a local land trust, municipality and VOF and by far the largest conservation easement acreage in the Commonwealth of Virginia donated by the City of Roanoke with no economic advantage, done because it was the right thing to do to protect the regions water supply. Motion made to approve easement as presented; motion seconded and approved unanimously.

Lunch break

As this easement had landowners present, consideration is out of Agenda order.

Leavell et al (Elmwood Farm) - Culpeper – 591.437 acres - Mrs. Francis Byrd Goddard spoke on her family's behalf. Dr. Augustus Vogel, Marine Biologist and family member also spoke. Virginia Division of Natural Heritage has identified a rare species on the property. Amend easement to: include farm management plan if the easement triggers the DCR review; CREP buffers must be in place in 3 years vs 5 presented and CREP buffers are to remain as permanent; in Section II a. allowed dwellings reduced from 12 to 11. . Motion made to approve easement as amended; motion seconded and approved unanimously.

Harry Atherton, Trustee, urged consideration of fact that we cannot exclude one resource (agriculture) for another (protected species). Dr. Cutler added that if identified threatened

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species is protected only 90%, it is still a net gain for the protected species that now enjoys no protection.

Grace Miller Rust Estate – Washington – 119 acres – Fee Simple Donation - There are some serious concerns with this project but the Board of Trustees will support staff recommendation as to the value of continuing this project. Staff was instructed to continue to work on the project.

Blacksburg Office Easements

North South Development LLC – Alleghany - +/- 500 acres – Amend easement to add public access language and add back non-residential language in Section II. Motion made to approve easement as amended; motion seconded and approved unanimously.

Sutherland - Galax - +/- 60 acres – Amend: Section II.2.(e).(iii) “To protect the scenic values of the Property from the New River Trail:

- a) no building larger than 1,000 square feet in ground area shall be constructed within 300 feet of Chestnut Creek as measured from the top of the bank without prior written approval of grantee, which approval shall take into account the impact of such building on conservation values of the Property;
- b) The building permitted in 2 (i)(c) above and shown on Exhibit B shall be screened by vegetation to minimize the impact of the building on the scenic views of the users of the New River Trail state Park; and
- c) The existing junk cars as documented in the Baseline Documentation Report below shall be removed from the Property or moved out of sight from the New River Trail in all seasons of the year within three years of the date of this Easement.

Motion made to approve easement as amended; motion seconded and approved with a vote of 5 to 2 with Mark Allen and Molly Ward dissenting.

Wade and Mallinak - Patrick – 147.59 acres – Motion made to approve easement as presented; motion seconded and approved unanimously.

Richmond Easements

Andreano – Chesterfield – 55.95 acres – Amend easement to include parks and passive recreation language in Section II.3. Motion made to approve easement as amended; motion seconded and approved unanimously.

Hite & Cedar Creek Farm - Brunswick – 313.36 acres – Amend easement to allow staff and attorneys to modify language required for ACUB program ; update riparian language to newest template language in Section II.5; add road “Salubria” language to Section II.2. Motion made to approve easement as amended; motion seconded and approved unanimously.

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Hite Family – Lunenburg – 125 acres – Amend easement to include updated riparian buffer language to Section II.5; to allow staff and attorneys to modify language required for ACUB program. Motion made to approve easement as amended; motion seconded and approved unanimously.

Kilpatrick – Goochland – 145.18 acres – Amend easement to remove language in Section II.2.iii. second paragraph concerning keeping land “open” but retain language concerning no privacy fence or other barrier; to include revised language regarding the “monument”. Motion made to approve easement as amended; motion seconded and approved unanimously.

Palmore – Brunswick – 427.03 acres – Amend easement to allow staff and attorney to modify language required for ACUB program; add “Salubria” language to Section II.2. Motion made to approve easement as amended; motion seconded and approved unanimously.

Tappahannock Easements

Otterburn Farm - Essex – 207.48 acres - Motion made to approve easement as presented; motion seconded and approved unanimously.

Camden Farm LLC - Caroline – 368.094 acres - Amend easement to remove the word “gift” in first paragraph and Section V of deed. Motion made to approve easement as amended; motion seconded and approved unanimously.

Coleman “Edenetta” – Essex – 261.6 acres – Amend easement to add a 500’ setback along Route 17 to Section II. Motion made to approve easement as amended; motion seconded and approved unanimously.

Friends of Dragon Run - King and Queen – 47.106 acres - Motion made to approve easement as presented; motion seconded and approved unanimously.

Konerding – Richmond – 318.5 acres - Motion made to approve easement as presented; motion seconded and approved unanimously.

Oaken Brow LLC - King George – 200 acres - Motion made to approve easement as presented; motion seconded and approved unanimously.

Pratt Revocable Trust – Caroline – 38.49 acres – Note: Easement Summary sheet has a mistake in the Not to exceed dwelling structure limit. It is 4,500 sq. feet in Section II.i.(a) of the deed vs the 10,000 mentioned in the Easement Summary sheet. Motion made to approve easement as presented; motion seconded and approved unanimously.

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Staunton Easements

Kansteiner - Bath – 230.11 acres - Motion made to approve easement as presented; motion seconded and approved with a vote of 6 to 0 with Harry Atherton abstaining..

Middlebrook Farm LLC – Augusta – 437.297 acres – Motion made to approve easement as presented including staff recommendation of 500’ building setback from Middlebrook Road in Section II; motion seconded and approved unanimously.

Sheridan – Rockbridge – 111.93 acres – Amend easement to include “Salubria” language in Section II. Change terms from two parcels to no division. Motion made to approve easement as amended; motion seconded and approved unanimously.

Thorstad – Highland – 299 acres – Amend easement to revert to template language in Section II.i.(a), adding language to be drafted by Easement Staff Attorney concerning the *English Basement*. Motion made to approve easement as amended; motion seconded and approved unanimously.

Chairman Hartz and Harry Atherton suggested that we revisit language concerning dwelling definitions.

Warrenton Easements

Oakleaf Farm – Fauquier – 211.1777 acres - Motion made to approve easement as presented; motion seconded and approved with a vote of 6 to 0 with Harry Atherton abstaining.

Charlottesville Easements

Retreat Farm Produce Company – Orange – 581.9724 acres – Amend easement to delete in Section IV, all words after “representation of the Property and return to template language for Documentation clause. Motion made to approve easement as amended; motion seconded and approved unanimously. The Board requested staff to address the landowners concern in a letter that would not constitute a warranty or estoppel.

Gray – Orange – 72.36 acres – Motion made to approve easement as presented; motion seconded and approved unanimously.

Airth Farm (Pearce) – Albemarle – 155.691 acres – Motion made to approve easement as presented; motion seconded and approved unanimously.

REW Land, LLC an the Richard E. Wallace Trust – Charlotte & Lunenburg – 1212.46 acres – Motion made to approve easement as presented; motion seconded and approved with a vote of 4 to 3 with Suzanne Lacy, Jeff Walker and Rupert Cutler dissenting.

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REW Land LLC (Richard Edward Wallace) – Lunenburg – 319.358 acres – Easement Summary sheet incorrectly uses word “temporary” in describing hunting blinds etc.; remove word “single” from single family dwelling in Section II.2.(i). Motion made to approve easement as amended; motion seconded and approved with a vote of 6 to 1 with Jeff Walker dissenting.

Wright – Prince Edward – 745.44 acres – Amend easement to remove water quality as a conservation value in the first Where As clause and the words “to protect water quality” from the riparian buffer clause. Motion made to approve as amended; motion seconded and approved unanimously.

Birdsall - Albemarle – 26.8 acres - Motion made to approve easement as presented; motion seconded and approved unanimously.

Epsewasson LLC (Roberts) – Greene – 517.15 acres – Amend easement to allow the addition of language required by DCR if the appraised value triggers the DCR review. Motion made to approve easement as amended; motion seconded and approved unanimously.

Fisher – Page – 463.599 acres - Motion made to approve easement as presented; motion seconded and approved unanimously.

Shaffer & Linde - Page – 38.557 acres - Motion made to approve easement as presented; motion seconded and approved unanimously.

Meeting adjourned.