

DRAFT

**VIRGINIA OUTDOORS FOUNDATION
BOARD OF TRUSTEES MEETING
DEPARTMENT OF FORESTRY, CHARLOTTESVILLE
FEBRUARY 1, 2012 10:00 A.M.**

Board Members in Attendance

Mr. F. "Hank" Hartz, Chairman
Mr. Charles Seilheimer
Mr. Jeffrey Walker
Mr. Harry Atherton
Mr. Mark Allen
Ms. Suzanne Lacy
Mr. A. "Ben" Chafin

Other Attendees:

Nancy Ambler, Wood Thrush Conservation
Mr. Fred Fisher, Office of the Attorney General
Ms. Brett Glymph, Office of the Attorney General
Mr. Hank Day, Attorney
Mr. Turner, Land owner
Pete Glubiak, Attorney
Beth Burnam, Piedmont Environmental Council
Nan Wilbourn, Conservation Partners
Taylor Cole, Conservation Partners
Sue Bulbulkaya, Department of Conservation and Recreation (DCR)
Sarah Richardson, DCR
Todd Hochrein, Virginia Conservation Credit Exchange
David Spears, State Geologist, Division of Mines Minerals and Energy

PUBLIC COMMENTS

None

APPROVAL OF THE ORDER OF BUSINESS

The Resolution for Easement Defense Fund and Cost Recovery discussion were moved until after all the easements have been considered.

APPROVAL OF MINUTES

October 27 & 28, 2011 Board of Trustees Meeting

Mr. Walker made a motion to approve the said minutes as presented; motion was seconded by Mr. Allen and approved unanimously.

DIRECTORS' REPORTS

Mr. Lee spoke about the importance of the policy issues to be considered at this meeting. He noted that VOF has one small item of legislation relieving us of the cost of remotely accessing land records in all of the counties. Mr. Lee thanked Mr. Hutcherson for spearheading that legislation effort. Ms. Vance went over easement statistics for 2011.

Staff Members in Attendance

Mr. G. Robert Lee, Executive Director
Ms. Leslie Grayson, Deputy Director, Policy & Owned Lands
Martha Little, Deputy Director, Stewardship
Ms. Tamara Vance, Deputy Director, Easements
Ms. Sara Ensley, Human Resource Director
Ms. Anna Chisholm, Finance Director
Ms. Bobbie Cabibbo, Executive Assistant
Mr. Jason McGarvey, Communications and Outreach Manager
Mr. Kerry Hutcherson, Staff Attorney
Mr. Bruce Stewart, Staff Attorney
Ms. Sherry Buttrick, Assistant Director, Easements
Ms. Laura Thurman, Easement Manager
Ms. Kristin Ford, Assistant Director, Easements
Mr. Harry Hibbits, Assistant Director, Stewardship
Estie Thomas, Easement Manager

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OWNED LANDS

Ms. Grayson brought attention to the report, compiled by Ms. Scheps (VOF) of the progress at Bull Run Mountains and other owned lands. The Chestnut Foundation has a project on Bull Run Mountain planting about 1000 seedlings to determine the success rate of true American Chestnuts. The Smithsonian Institution is involved in choosing sites for plantings and each site will be “adopted”.

An offer has been received on the VOF owned land in Pulaski County.

DEPARTMENT OF MINES MINERALS AND ENERGY PRESENTATION

Mr. Dave Spears, State Geologist, gave a presentation. The presentation is on file with the meeting materials.

CONSERVATION PROJECTS

Manon & Davis - Buckingham County - 206.58 acres Motion made by Mr. Seilheimer to award \$6,400 PTF monies and approve easement as presented; motion seconded by Mr. Walker and passed unanimously.

Boundary Line Adjustment (BLA) - Turner, Charles G. Jr. - Fauquier County -5.0 acres Motion made by Mr. Seilheimer to approve BLA contingent up the recordation of the Fauquier County easement property; motion seconded by Mr. Allen and passed unanimously.

Boundary Line Adjustment (BLA) - Turner, Charles G. - III Fauquier County -14.0895 acres Mr. Hank Day, party to the BLA, spoke on his own behalf. Motion made by Mr. Atherton to approve the BLA contingent upon: a. further clarification in deed that no division rights remain; b. inclusion of all staff recommendations noted in Easement Summary Sheet; motion seconded by Mr. Seilheimer and passed unanimously.

Request for Approval - Sowers, Mark - Floyd County Motion made by Mr. Walker to approve easement as presented; motion seconded by Mr. Mark Allen and passed unanimously.

Easement Reconsideration - Acree/Hall Estate / Faggart, Hanson, Niest - Northumberland County - 8.8 acres Motion made by Mr. Walker to approve easement reconsideration as presented; motion seconded by Mr. Allen and passed unanimously.

Easement - Collawn, Eddie Lee & Faye - Essex County - 193.068 acres Motion made by Mr. Seilheimer to approve easement reconsideration as presented; motion seconded by Mr. Allen and passed unanimously.

Easement - Dickinson, Fielding Lewis III & Myra Dickinson - Essex County - 230.39 acres Motion made by Mr. Walker to approve easement as presented; motion seconded by Mr. Seilheimer and passed unanimously.

Easement Reconsideration - Ginn, Randall - Essex County - 104.5 acres Motion made by Mr. Walker to approve easement reconsideration as presented; motion seconded by Ms. Lacy and passed unanimously.

Easement - Darby, Danny L. & Mary C. - Fauquier County - 103.383 acres Motion made by Mr. Seilheimer to amend easement by moving to a dwelling aggregate square footage of 15,000 sq ft instead of limiting individual dwelling sizes; motion seconded by Mr. Atherton and passed unanimously.

Easement - Stockstill - Rockbridge County - 12.994 acres Motion made by Mr. Seilheimer to approve easement as presented; motion seconded by Ms. Suzanne Lacy and passed unanimously.

Amendment - Ingram, Bruce E. - Craig County - Additional 19.99 acres NOTE: Western Virginia Land Trust is co holder on this easement and that is not noted on the Easement Summary Sheet. Motion made by Ms. Lacy to approve easement as presented; motion seconded by Mr. Atherton and passed unanimously.

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Amendment - Sweet - Highland County - Additional 49.7 acres Motion made by Mr. Seilheimer to approve easement, as presented i.e.(without any Public Infrastructure Expansion road language); motion seconded by Mr. Walker and passed unanimously

EASEMENT DEFENSE FUND RESOLUTION

After discussion and suggested amendments motion made by Mr. Seilheimer to amend the Resolution; motion seconded by Mr. Atherton and passed unanimously. (Attachment A)

COST RECOVERY

The Board of Trustees recommended no up-front fees for easements. The Board asked that a precise fee schedule for current and proposed fees be brought to April meeting.

POLICY

Nature of an Open Space Easement

The Board of Trustees discussed the staff memorandum dated January 19, 2011 regarding the “nature of an open space easement. (On file with the meeting materials.) The Board indicated support of the Staff Memo by consensus.

Shooting Ranges

The Board of Trustees will continue to consider shooting ranges on a case by case basis. The Board prefers to have conversations about each individual project rather than prohibit all ranges.

BOUNDARY LINE ADJUSTMENT (BLA)

The Board of Trustees made clear that:

1. It does not support doing a BLA from land under the Open Space Easement Act to land protected under the Conservation Easement Act.
2. In the case of a BLA of land between two properties protected under the Open Space Land Act VOF has the right to ensure that the property can be stewarded with standards at least equal to VOF stewardship policies.

Motion made by Mr. Walker to institute a fee to begin immediately for all BLA’s. That fee is calculated as follows:

An hourly rate (consisting of the average of one attorney, one Deputy Director, & staff member’s salary) or a \$1,000 minimum whichever is greater.

Motion seconded by Mrs. Lacy and approved unanimously.

CLOSED SESSION

Motion made to go into Closed Session for discussion of Real Estate transactions as provided for in the Code of Virginia §2.2-3711(A)(3); motion seconded and carried unanimously.

Upon return from Closed Session, Executive Director, Bob Lee certified by name call that the Board of Trustees discussed only matters that convened the Closed Session and nothing else. Mark Allen responded yes, Hank Hartz responded yes, Harry Atherton responded yes, Suzanne Lacy responded yes and Jeff Walker responded yes; Charlie Seilheimer responded yes, Ben Chafin responded yes.

Meeting adjourned 4:15 pm.

VIRGINIA OUTDOORS FOUNDATION (VOF)
RESOLUTION REGARDING THE VIRGINIA OUTDOORS FOUNDATION EASEMENT
DEFENSE FUND

WHEREAS, Virginia Outdoors Foundation (hereafter VOF) has deemed it prudent and appropriate to establish an Easement Defense Fund as a restricted fund designed to protect and defend the integrity of perpetual interests held in open-space easements as a public trust on behalf of current and future citizens of the Commonwealth of Virginia; and,

WHEREAS, VOF relies on the Office of the Attorney General of Virginia (hereafter OAG) for legal services; and

WHEREAS, VOF Executive Director has asked representatives of the OAG to opine on the level of resources that should be maintained in the aforesaid Easement Defense Fund; and

WHEREAS, Frederick S. Fisher, Special Assistant Attorney General, after conferring with colleagues and senior OAG staff, by MEMORANDUM dated 4 January 2012, opined, in pertinent part, that: "We suggest that a Legal Defense Fund of \$250,000 be maintained. This should be sufficient to handle most foreseeable litigation. If significant litigation is encountered, this size fund would be able to carry the litigation until an additional appropriation could be secured from the General Assembly."; and

WHEREAS, the VOF Finance/Personnel Committee, in meeting assembled on 6 January 2012, did consider the aforesaid OAG MEMORADUM regarding the VOF Easement Defense Fund; and

WHEREAS, it is anticipated that the revenue sharing of the Land Preservation Tax Credit Transfer Fees collected by the Virginia Department of Taxation for the benefit of stewardship services by holders of easements under auspices of the Virginia Open-Space Land Act and the Virginia Conservation Easements Act will take a number of years to mature to a point that the revenue sharing allocations to VOF provide sufficient revenue to support its stewardship obligations and responsibilities; and

WHEREAS, the VOF Finance/Personnel Committee recommends that funds be borrowed from the Easement Defense Fund,

RESOLVED by the Virginia Outdoors Foundation Board of Trustees this first day of February 2012, That borrowing from the Easement Defense Fund in the amount of \$358,000 be, and is hereby, authorized pending significant increase in revenues from the Land Preservation Tax Credit Transfer Fee revenue sharing to reinstate, over time, the here authorized borrowing.

Adopted by a vote of: 7 for and 0 against


Attest: G. Robert Lee