



# Shenandoah County Conservation Easement Authority

Office of Community Development  
600 North Main Street, Suite 107  
Woodstock, VA 22664

[www.shenandoahcountyva.us/committees/cea](http://www.shenandoahcountyva.us/committees/cea)

## MEETING MINUTES

January 2, 2013; 4:00-6:00 PM

Board Conference Room

CEA Members present: Supervisor Dennis Morris, Planning Commissioner Leon Smith, Kelly Watkinson, Bud Griswold, Cindy Dellinger, Dee Hockman, Doug French

Others Present: Brandon Davis, Patrick Felling, Emily Warner, Crystal Copenhaver, Bobby Clark

### **1. Call To Order**

The meeting was brought to order by Mr. Felling at 4:00 p.m. with an overview of the agenda.

### **2. Approval of Prior Meeting Minutes**

The minutes of the CEA meeting on December 4, 2012, were approved as presented.

### **3. Selection of Chair and Vice-Chair**

Per Shenandoah County Code Chapter 82 (Conservation Easement Program), the CEA "shall elect a chairman and vice chairman at its first meeting each calendar year." The role of the Chairman was described to include determining meeting agendas, facilitating meetings, serving as signatory on easements and grant proposals, and delivering Authority reports to the BOS. Kelly Watkinson and Dee Hockman were nominated as Chair and Vice Chair, respectively. They were unanimously elected to the posts.

### **4. Discussion of Island Ford Farm Easement**

#### **a. Evaluation Criteria Scoresheet**

The Vance farm was evaluated using the CEA Easement Eligibility and Ranking Criteria score sheet, which is based upon the CEA code. The score sheet was distributed and the following highlights were discussed:

- The farm received a criteria score much higher than the 15 point minimum. Mr. Felling had provided a score ranging from 50 to 63, depending on how the 6-

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acre island was considered. The CEA directed Mr. Felling to consider the full value of the island and assign a single score to the property.

- From the County's point of view, this easement is a donation, because no County funds are to be used in the easement purchase.
- The farm has strong farm and forest protection values, with both brothers actively working the farm. The farm is larger than the average of 135 acres for Virginia farms.
- A significant water quality benefit is expected from the conservation practices planned for protection of the extensive river frontage.
- Approximately 40 acres were determined to be in the 100-year floodplain. This amount of floodplain would not impact the potential to subdivide and build houses on this property.
- The owners are giving up 16 subdivision rights as part of the easement. With over 9,000 feet of road frontage, the development potential is very high.

While the County is not funding the easement purchase, the state funding requires a county co-holder, and the federal contribution is leveraged by the state funds. The bottom line is that without the County's participation, the easement will likely fall through. Should the CEA accept this easement, the members will play a vital role in the BOS approval of the easement.

Potomac Conservancy has taken the lead in preparing this easement, but the County, as co-holder, would have all enforcement rights and obligations in perpetuity.

### ***b. Supporting Documentation***

Several documents in support of the easement were reviewed. The CEA previously expressed support for the easement in a letter dated June 21, 2011. Supporting letters were also written by the Mayor of Strasburg and several of Vance's neighbors. In addition to the high score the Vance farm obtained on the County score sheet, the farm has passed evaluations by other organizations, including the Potomac Conservancy and the federal Natural Resources Conservation Service.

### ***c. Easement Specifics***

County code requires certain restrictions be included with in the deed of easement (e.g. the accumulation of trash and inoperable vehicles; the display of billboard signs; grading; blasting and earth removal; the number of new dwellings; the size of outbuildings and other structures; and industrial and commercial activities). The Potomac Conservancy also has a list of basic easement restrictions (required buffers, development limitations, subdivision prohibitions, etc.).

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The easement requires the conservation practices be implemented according to the timeline specified in the NRCS conservation plan. A letter (attached) from Mike Liskey, NRCS District Conservationist, was reviewed in which he explained the timeline for remediating and fencing a water drainage path from road runoff. He indicated the need to initiate the work no earlier than April 2013, and preferably later. CEA members suggested the landowner post a sign indicating such a project is underway.

The farm is currently recognized as being in two parcels, but a recent survey revealed that what was the second parcel (less than an acre) was sold to VDOT for a bridge right-of-way. If, prior to the easement being completed, that survey is recognized by the County and recorded at the courthouse, the final easement deed will only apply to one parcel. In any case, the easement prohibits any further divisions. Boundary line adjustments would only be permitted by the co-holders if the easement values of the property were not significantly diminished.

The easement provides for an additional road (driveway) to be built if the Vance's buy their neighbors property. Roads are not allowed to be paved or otherwise made impervious.

A discussion ensued regarding enforcing easements in general. If there is a need to enforce an easement, the co-holders will work with the landowner to correct the issue within a specified time frame. As a last resort, the landowner can be taken to court. Potomac Conservancy has not found the need to take any landowners to court in their 19 years as a land trust. Conservancy has procedures how to consider and classify violations and how to handle them, if CEA wants to use the template to create our own.

Violations do not invalidate the easement in any way. Requirements must be clearly spelled out in black and white so there are no questions about what is required. Supervisor Morris would like to make sure easement language specifies that any court costs incurred will be paid by the landowners.

The easement and all associated documents will remain with land records for that property, even when it is transferred to new owners (e.g. purchased, inherited or even seized). The easement calls for the owners to notify the holders of new owners in writing, which will allow the co-holders to contact the new owners. Easements are the prevailing document in most legal circumstances; and the easement will continue no matter who owns the property.

#### ***d. Vote on Easement Acceptance***

The motion to accept the easement was unanimously approved by the CEA.

Supervisor Morris recommended a site visit for the BOS, requesting that we set up a 2:00 p.m. tour prior to the BOS work session on February 7, 2013 at 4:00 p.m. A site visit

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will allow for some discussion and review by the BOS. The federal funds must be spent by the end of March, so the easement should be settled prior to that date.

### ***5. Other Business***

Mr. Clark noted that one of the goals of the County easement program is to promote the long-term viability of agriculture. He expressed concern that the easement restrictions agreed to by the Vance brothers might inhibit other types of farming operations; and he requested that this easement not become a template for all future County easements. CEA members responded by indicating that each easement is unique, taking into consideration both landowner and co-holder requirements.

Conservation Partners, a private consulting firm, requested the County co-host an easement workshop in Edinburg on February 5, 2013. The members expressed support for this event.

Dennis requested next meeting be changed from the 6<sup>th</sup> of February, to February 5<sup>th</sup> to make it convenient for CEA members to attend the meeting and then participate in the Edinburg workshop directly afterward. Everyone agreed with that recommendation.

### ***Meeting Adjourned***

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**From:** Liskey, Mike - NRCS, Strasburg, VA [<mailto:Mike.Liskey@va.usda.gov>]  
**Sent:** Tuesday, December 11, 2012 5:01 PM  
**To:** Emily Warner  
**Subject:** Island Ford Farm Easement

Emily,

This is a follow-up to our conversation this afternoon about the above. I appreciate the easement authority's concern about possible negative PR if an easement is accepted while the ditch is in its present state. However, the time frame for the federal EQIP cost share program is not conducive to having remedial work underway prior to the easement closing not later than March 31, 2013.

Gary and Larry Vance have signed up for federal financial assistance, but the first round of application approvals will not occur until around February 1<sup>st</sup>. EQIP rules do not allow applicants to begin practices for which they wish to receive financial assistance prior to having a signed contract. If their application is approved in early February, their contract could be developed and signed and approved by the middle of the month, but as you know, some of our worst winter weather often comes in February thereby making practice installation unlikely. Also, the schedule below reflects that where earth movement is needed to construct the crossing, it is best accomplished when not impeded by obstacles such as fences.

The conservation plan that Gary and Larry have already signed lists the following schedule:

- September 2013 – construct the needed crossing to allow livestock to move from the barn to the existing walkway
- October 2013 – construct the fence to exclude livestock from the ditch
- March 2014 – seed the ditch and 35 ft. buffer area

It is possible that this schedule can be accelerated, but the dates above are what Gary and Larry have agreed to.

Since the area behind the barn will continue to be used as a holding area as different groups of cattle are brought in, seeding of the ditch and buffer cannot occur until the cattle are excluded from the area by a fence. For operations such as this where new cattle are constantly brought in, temporary electric fence likely will not work to exclude the cattle from the ditch and buffer.

As for negative PR I mentioned earlier, I think this can be negated by the fact that both the FRPP program and the language in the easement require that problems such as this open ditch be addressed. The easement authority recognizes that there is a bad situation that needs to be addressed, but they too are requiring that it be addressed early in the life of the easement – a positive from a PR perspective.

Please let me know if you need additional information.

Take care,

Mike Liskey  
District Conservationist  
USDA NRCS