

Jefferson County Farmland Protection Board

Minutes of the Meeting of the Board on December 8, 2003

Members Present: Roger Dailey (Chair), Janet Stine (Vice-Chair), Peter Fricke (Secretary), Shannon Donley, Jane Peters, and Jack Quinn

Others Present: Sam Donley

Apologies for Absence: Jane Tabb (Treasurer)

Call to Order: The meeting was called to order at 7:05 pm

Minutes of the Meeting of October 27, 2003: The Board reviewed the minutes of the meeting. A motion to approve the minutes was made by Jane Peters, seconded by Shannon Donley, and approved unanimously.

Minutes of the Meeting of November 10, 2003: The Board reviewed the minutes of the meeting. A motion to approve the minutes was made by Janet Stine, seconded by Roger Dailey, and passed unanimously.

Treasurer's Report:

- (a) The Chair reported that Mrs. Tabb was unable to be present but had submitted a written report for the consideration of the Board. He noted that the balance in the Board's account on December 8, 2003 was \$521,425.80. The Chair also noted that the transfer tax payments from the County Assessor's office were now up to date.
- (b) Mr. Dailey also reported that the Board's bookkeeper, Lavonne Paden, Mid-Atlantic Consultants, had received an audit statement from the Bank of the Board's accounts at the end of November. This had been checked against the Board's books, which were found to agree with the audit statement.
- (c) IRS Form-990: A bill of \$550.00 had been received from Mid-Atlantic for work done in researching the applicability of IRS Form-990 to the Board's income. The Chair reported that Ms. Paden had been in touch with the IRS in order to resolve the discrepancy in Form-990 reporting requirements among different FPBs; it appeared that different IRS examiners had come to different conclusions on whether FPBs had to report using Form-990.

Committee Reports:

- (a) Fund raising: (1) Ms. Stine reported that the proposal to raise funds by selling citrus fruit through the schools because the Farm Bureau and some churches already do this.

(2) Ms. Stine was interested in exploring major grants using the Shepherd College Library Center. Ms. Stine and Shannon Donley planned to review major grant possibilities in January. Ms. Peters noted that Sue Pellish, JC United Way, was a

possible training resource for the Board, while Mr. Donley noted that Shepherd College could organize a training session on obtaining grants. After some discussion, Mr. Donley agreed to find out from the College whether a workshop could be scheduled for early January.

(3) Ms. Stine reported that Marian Buckner had offered to donate funds towards the cost of the FPB's first easement. The members of the Board agreed, by consensus, that the kind donation of Mrs. Buckner be accepted and applied to the cost of the first easement.

(b) Civil War Lands Trust: (1) Mr. Quinn reported that Mr. Dailey and he had briefed the County Commissioners on the proposed three CWLT/National Park Service easements and asked for Commission approval of the actions. Mr. Keel, of the CWLT, had provided supporting information at the Commission meeting. After some discussion, the Commission tabled the action pending legal review of the easements. Mr. Quinn reported that Commissioner Knode asked about the seemingly apparent conflict of interest in one of the FPB members receiving a CWLT easement on his farm. In response, the County Commission had been told that the State Ethics Board had reviewed the issue and stated that there was no conflict of interest provided the FPB member recused himself from voting on and reviewing his application.

(2) The CWLT was considering an application for an CWLT/DoH easement for Harewood Farm/Cameron Station. Mr. Dailey reported that Mr. Keel, CWLT, had approached him to request that the Board act as government sponsor of CWLT/WV Department of Highways Transportation Enhancement easements in the same manner that Board sponsored CWLT/NPS easements. As further background Mr. Dailey circulated copies of e-mails between Mr. Keel, Ms. Paden and himself on the matter. Ms. Paden's e-mail noted that the basic provisions of the FPB's October 14, 2003, resolution concerning the CWLT/NPS easements would be adequate for a FPB resolution on easements involving the CWLT/WV DOH. The completion of the application to WV DOH for funding under the Transportation Enhancement Program was January 15, 2004, and CWLT requested that the FPB agree to sponsor the application before the end of December. Because of this tight time-frame, the Chair believed that the resolution needed to be considered by the Board at this meeting.

There was a discussion among Board members about possible conflicts of interest on the part of Walter Washington, the attorney the Board had requested to review the Olcott easement, and his application to the CWLT for Transportation Enhancement easements for his property, Harewood. Mr. Dailey noted that Mr. Washington had called Mr. Dailey and had recused himself from any legal work for the Board at this time, except for the Olcott easement for which Mr. Washington would undertake the work pro bono. The Board agreed that Mr. Washington's actions were appropriate steps to avoid the appearance of conflict of interest.

There was considerable discussion of the proposed resolution. Ms. Peters, Mr. Quinn

and Mr. Donley were concerned about the workload involved in undertaking the role of sponsor of CWLT/WV DOH easements, specifically in developing the easement documentation, monitoring compliance, and the costs of these activities. It was agreed that the Chair would ask Mr. Keel, CWLT, for clarification of the administrative workload and other matters raised. It was also agreed that the Chair would circulate a revised draft of the resolution to Board members and call a special meeting of the Board to consider and act on the resolution.

Sam Donley Request for Funding:

- (a) Sam Donley requested that the Board match his easement grant of \$2,500/acre from the CWLT with an additional grant of \$2,500/acre from county funds for an easement on 93 acres of his land. He had applied for funding under the NCRS/FPB program at the \$5,000/acre level with the FPB and NRCS providing equal matching funds of \$2,500/acre. Mr. Sam Donley noted that the difference in appraisal values between the land as farmland and as land for development was \$5,944/acre, thus his application for the matching funds and CWLT funds was \$944/acre less than the appraisal. In response to questions, Mr. Sam Donley noted that his initial application under the NRCS/FPB program had been for 98 acres. Under the proposed CWLT/FPB easement arrangement the land area was 93 acres, five acres having been withdrawn for the house, farmstead, and access road. Mr. Sam Donley also noted that there was interest among neighboring farmers controlling some 1,000-1,500 acres in establishing easements and the arrangement he was proposing could be a conservation model for others. Mr. Donley believed his request was equitable, was open to considering a deferred payment scheme over five years, and would like an early response to his request.

Ms. Stine asked about the fit of differing time frames for actions by the CWLT/NPS and the FPB, since the Board would not begin considering the next round of funding until the spring and the CWLT/NPS had already recommended funding for Mr. Sam Donley's farm. Following lively discussion, a motion to move into executive session was made by Ms. Peters, seconded by Mr. Quinn, and agreed unanimously.

When the Board reconvened (on a motion by Ms. Peters, seconded by Mr. Quinn, and agreed unanimously), it was agreed that the Board would consider Mr. Sam Donley's request in the New Year. The Chair assured Mr. Donley that the Board would work with him to try to seek a mutually satisfactory resolution of his request.

- (b) Mr. Shannon Donley moved, and Ms. Peters seconded, that the Board meet in a special meeting next week (December 15, 2003); this was agreed to unanimously. It was requested that the agenda for the meeting include the action on the CWLT/DoH resolution. Mr. Fricke requested that the meeting include a working session to discuss Board policy on funding arrangements for easements. Ms. Peters requested that the unfinished business from this meeting be included on the agenda.

Old Business:

Retention of a Board attorney. Mr. Dailey noted that since Mr. Washington had recused himself from Board work, other than his pro bono work on the Olcott easement, it would be necessary to retain another attorney to review easements since it would not be possible to use the services of NRCS attorneys. It was agreed that the Chair would consider the list of possible attorneys previously developed by the Board and would retain the services of another attorney.

Letters to applicants: The Chair circulated drafts of form letters to successful and unsuccessful applicants for Board consideration and approval. The Board agreed on amendments to the draft letters and agreed that the Chair would send the letters to the appropriate parties.

Olcott Easement:

- (a) The Chair circulated, for Board review, a draft letter to Ms. Woods, NRCS, indicating Mr. and Mrs. Olcott's desire to withdraw from the application for matching funds from the NRCS through the Land Trust of the Eastern Panhandle. The Board approved the letter.
- (b) The date of the closure on the Olcott easement has been set for December 22, 2003.
- (c) Distribution of closing costs for the Olcott easement: The Chair asked which closing costs should be billed to the FPB and which to the Olcotts? He noted that closure fees include survey costs, appraisal costs, legal and recording fees, etc. The Board agreed that, based upon earlier discussions at Board meetings and with the Olcotts, \$2,000.00 towards the survey costs and the Board's legal fees are the responsibility of the Board. All other closing costs are the responsibility of the Olcotts, and would be deducted from the easement payment of \$100,600.00 to the Olcotts.

Motion to adjourn: A motion to adjourn was proposed by Ms. Peters, seconded by Mr. Quinn, and agreed unanimously. The meeting adjourned at 9:40 pm