

MINUTES
VIRGINIA OUTDOORS FOUNDATION BOARD OF TRUSTEES MEETING
STRATFORD HALL, MONTROSS VA
10:00 AM
SEPTEMBER 2, 2010

ATTENDEES:

Board Members:

Hank Hartz
Jeff Walker
Mark Allen

Charlie Seilheimer
Harry Atherton

Staff Members:

Bob Lee, Executive Director
Tamara Vance, Deputy Director, Easements
Leslie Grayson, Deputy Director, Easements
Martha Little, Deputy Director, Stewardship
Estie Thomas, Easement Manager
Kristin Ford, Easement Specialist
Anna Chisholm, Finance Manager
Sara Ensley, HR Manager
Kerry Hutcherson, Staff Counsel, Stewardship
Bruce Stewart, Staff Counsel, Easements

Sherry Buttrick, Easement Director
Bobbie Cabibbo, Executive Assistant
Laura Thurman, Easement Specialist
Hanna Overton, Administrative Assistant
John Peters, Stewardship Specialist
Philip Reed, Easement Specialist
Brian Fuller, Stewardship Manager
Jason McGarvey, Communications and Outreach Mgr.

Other Attendees:

Nancy Ambler, Wood Thrush Land Conservation
Nan Mahone, Conservation Partners
Sarah Richardson, Department of Conservation
and Recreation (DCR)
Heather Richards, Piedmont Environmental
Council (PEC)

Todd Hochrein, VA Conservation Credit
Exchange
John Eckman, Valley Conservation Council (VCC)
Fred Andreae, President, Scenic 340
Christine Andreae, Scenic 340
Joe Thompson, Northern Neck Land Conservancy
(NNLC)
Mr. Don Charles, Goochland County

Convened at 10:00 a.m.

Hank Hartz welcomed everyone.

PUBLIC COMMENTS

Heather Richards, of PEC hopes that VOF will develop a policy for accommodating utility infrastructure expansion that will include utilities expansion language only after the SCC has approved a line. Concerning VDOT & rail lines, she suggested that VOF state in clear language that the land used for expansion remain subject to easement terms other than the specified improvement.

Joe Thompson, NNLC conveyed how grateful NNLC is for the Special Project designation of Cat Point Creek. NNLC has enjoyed the partnership with VOF especially with John Peters and Estie Thomas who have been a tremendous help.

APPROVAL OF THE ORDER OF BUSINESS

Items moved from the Easement Consent Agenda to the Easement Non-Consent Agenda are:
John & Nora McLean , Longwood University Foundation, Dane and Stephanie Campbell, James Aylor, Julie Connelly, Robert E. Gillette, Steven & Karen Dillard, Robert Pollok Jr.

APPROVAL OF MINUTES

Motion made by Jeff Walker to accept minutes; Harry Atherton seconded and motion approved unanimously.

DIRECTOR'S REPORT

Bob Lee welcomed Charlie Seilheimer as one of two new board members and announced that Mr. Ben Chafin from Lebanon in southwest Virginia is our other new board member. Jason McGarvey of VOF will be presenting at the Virginia Municipal League Conference 2010. Tamara Vance along with Heather Richards will present at Land Trust Alliance RALLY in Connecticut.

- Bob noted that agenda easement project numbers are not as numerous as in past years because
- a. the VA tax credits were fully subscribed half way through the year and potential donors don't want to wait until next year to obtain the benefit of tax credits
 - b. the federal enhanced tax deduction has not been renewed
 - c. bank subordination continues to be problematic.
 - d. the appraisals landowners are getting reflect the market downturn.
 - e. potential donors have less personal income tax liability so they have less ability to make use of tax credits or deductions.

VOF staff is working on the 2011 Easement Template which includes suggestions from land conservation community and the legal advisory group.. The draft template was sent to the Board members and should be ready for Board validation at the October meeting. A License and Use Agreement has been worked out to mutual satisfaction of all parties and signed for the VOF owned Bull Run Mt. land.

As dictated by the Strategic Plan the Leadership Team continues to meet each month to ensure implementation. Chairman Hartz has a draft letter inviting members to be part o for the VOF Honorary Advisory Board. This Honorary Advisory Board will help VOF to engage the advice and continuing support of individuals who helped the Foundation get started and grow.

Leslie Grayson reported that 45 projects totaling 9,297 acres have recorded thus far in Calendar Year 2010.

SPECIAL PROJECT AREA (SPA)

Brownsville – Middlebrook –John Eckman of Valley Conservation Council narrated a presentation. A motion made by Jeff Walker to move resolution (Attachment A - R-10-09) which designates Brownsville – Middlebrook as a Special Project Area; Mark Allen seconded and motion passed unanimously.

Scenic 340 – Fred Andreae, President of Scenic 340, narrated a presentation. Charlie Seilheimer moved to accept the resolution (See Attachment B – R-10-10) designating Scenic 340 from Front Royal to Luray , motion seconded by Harry Atherton and the motion passed unanimously.

PUBLIC INFRASTRUCTURE EXPANSION

Hank Hartz noted that Bruce Stewart, VOF Staff Attorney, was recognized by Georgia Herbert, Council for the Piedmont Environmental Council, for his constructive dialogue on the Public Infrastructure Expansion language. The Board discussed each recommended provision in the Public Infrastructure Expansion memo dated 8-12-2010. Language revisions are noted in Attachment C. .

MINOR ROAD IMPROVEMENT LANGUAGE for inclusion in Template

Jeff Walker made motion to adopt new language subject to removal of words in Paragraph 2, sentence 3; beginning with : “such as the addition” through to the last word of the sentence; Charlie Seilheimer seconded and motion passed unanimously.

OPTIONAL EASEMENT PROVISIONS FOR ROADS

1. Motion made to adopt as presented # 1 by Charlie Seilheimer, seconded by Mark Allen and motion passed unanimously.
2. Motion made to adopt as presented # 2 by Charlie Seilheimer, Jeff Walker seconded and motion passed unanimously.
3. Motion made by Mark Allen to adopt # 3 with the following stipulations
 - a. Staff will consider the specificity of the long-range road plan used when considering inserting language, and information about the source plans and need shall be part of proposal presentation.
 - b. Projects presented to Board of Trustees for approval that contain this language will NOT be included on the Consent Agenda until a later date to be determined by the board.
 - c. Update the Easement Summary Sheet to include a place to note if this language is added and the specific plan that was used in the consideration.
Jeff Walker seconded, and motion passed unanimously.
4. Byrd Act Roads not adopted as presented but requested to be further worked by staff.

NEW EASEMENT PROVISIONS FOR RAIL LINES

The board directed VOF staff to modify the rail provision to ensure that the portion of the Property taken will not be used for facilities such as cell towers, telegraph or telephone poles and lines, railcar storage, etc. and bring the provision back to the Board for its further consideration.

CONSENT AMENDMENT AGENDA

Ayers - Fauquier County- Remove two permitted parcels.

Cleremont Farm, LLC – Loudoun County - create a no division easement

George A. Horkan, Jr. Trust – Loudoun County – create a no division easement

Charlotte Vaughan Philen Trust – Grayson County – three easements combined into one no division easement.

Dudinsky – Albemarle County - add eight acres to easement

Motion made by Harry Atherton to approve Consent Amendments, motion seconded by Mark Allen and motion passed unanimously.

NON-CONSENT AMENDMENTS

JBC Properties, LLC – Falling Branch & Elliott Creek Headwaters Properties WITHDRAWN FROM CONSIDERATION.

William E. Nordt, III- Harry Atherton made a motion to approve amendment as presented; Jeff Walker seconded and motion passed unanimously.

FINAL

Andrew and Rebecca Schaffer – Charlie Seilheimer made a motion to approve amendment as presented, Jeff Walker seconded and motion passed with a vote of four in favor - Harry Atherton abstained.

PRESERVATION TRUST FUND (PTF) EASEMENTS

William Larmer Jr. – Smyth - 49 +/- acres - Motion made by Harry Atherton to approve easement as presented with PTF money in the amount of \$6,500.00; motion seconded by Jeff Walker and passed unanimously.

Charles & Jean Larmer – Smyth - 32 +/- acres - Amend easement to add a 35' no plow buffer with livestock excluded at 15' from stream. Motion made by Jeff Walker to approve easement as amended with \$4,250 of PTF money; motion seconded by Charlie Seilheimer and passed unanimously.

Charles & Jean Larmer – Smyth - 39.75 acres – Motion made by Harry Atherton to approve easement as presented with \$4,250 of PTF money; motion seconded by Jeff Walker and passed unanimously.

Louis White – Russell - 57 +/- acres – Motion made by Jeff Walker to approve easement as presented with \$3,000 of PTF money; motion seconded by Harry Atherton and passed unanimously.

Angela White & Louis White - Russell -220 +/- acres – Amend easement to add public infrastructure expansion (PIE) language for AEP right of way if located on the north side of the existing transmission line. Motion made by Jeff Walker to approve easement as presented with \$6,000 of PTF money, motion seconded by Mark Allen and passed unanimously.

A. Paige & Thelma Sue White Russell -138 +/- acres - Motion made by Harry Atherton to approve easement as presented with \$4,500 of PTF money; motion seconded by Charlie Seilheimer and passed unanimously.

A. Paige & Thelma Sue White Russell - 172 +/- acres –Amend easement to remove buffer livestock exclusion requirement (due to distance from stream conservation unit). Motion made by Jeff Walker to approve easement as amended with\$4,500 of PTF money; motion seconded by Mark Allen and passed unanimously.

Preston and Paula Bell- Fluvanna – 581 acres – Motion made by Jeff Walker to approve easement as presented awarding \$6,000 of PTF monies; motion seconded by Harry Atherton and passed unanimously.

Armstrong – Highland - 560.81 acres - Motion made by Jeff Walker to approve easement as presented with a total of \$17,500 PTF money; motion seconded by Charlie Seilheimer and passed unanimously.

Pence – Alleghany - 143.89 acres - Motion made by Harry Atherton to approve easement as presented with \$4,750 of PTF money; motion seconded by Charlie Seilheimer and passed unanimously.

Absher – Montgomery - 45.559 acres – Motion made by Charlie Seilheimer to approve easement as presented; motion seconded by Jeff Walker and passed unanimously. No PTF money was approved.

Clements RECONSIDERATION - Augusta - 112.886 acres – Motion made by Jeff Walker to approve easement as presented with an additional \$3,200 in PTF money; motion seconded by Mark Allen and passed unanimously.

EASEMENT CONSENT AGENDA

Clifton & Bonnie Jenkins, RECONSIDERATION – Richmond - 181.47 acres
Tenney Mudge RECONSIDERATION - Rockbridge - 282.27 acres
von Schilling – Bath – 355 acres
Red Horse, LLC – Albemarle - 635.51 acres
Dale & Linda Kerns – Orange - 92.847 acres
William & Susan Hughes – Fluvanna - 246.19 acres
John & Ronnie Thornton – Fluvanna - 201.292 acres
Green Skyy, LLC – Suffolk – 604 acres
Penelope & Henry Clarke – Bedford - 148.621 acres

Motion made by Charlie Seilheimer to approve Easement Consent Agenda as presented, motion seconded by Jeff Walker and passed unanimously.

EASEMENTS REMOVED FROM THE CONSENT AGENDA

John & Nora McLean – Smyth - 726.13 acres - Motion made by Charlie Seilheimer to approve easement as presented with a note that the picnic shelter IS permitted in the buffer and that the karst features will be shown on exhibit map; motion seconded by Mark Allen and passed unanimously.

Longwood University Foundation - Westmoreland -213 acres - Motion made by Charlie Seilheimer to approve easement as presented; motion seconded by Harry Atherton and passed unanimously.

Dane and Stephanie Campbell - Louisa - 71.94 acres - NOTE: typo in Easement Summary Sheet – the farm building review starts at 4,500 sq. feet NOT 2500 sq. feet. Motion made by Harry Atherton to approve easement as presented noting typographical error; motion seconded by Jeff Walker and passed unanimously.

James Aylor – Madison - 272 acres - Motion made by Jeff Walker to approve easement as presented; motion seconded Mark Allen and passed unanimously.

Julie Connelly - Madison 188.4219 acres - Motion made by Mark Allen to approve easement as presented; motion seconded by Jeff Walker and passed unanimously.

Robert E. Gillette - Suffolk - 35 acres - Motion made by Charlie Seilheimer to approve easement as presented; motion seconded by Harry Atherton and passed unanimously.

Steven & Karen Dillard - Franklin - 711.694 acres – Note the language to prohibit commercial shooting ranges was omitted in the Easement Summary Sheet but is correctly included in the deed. Motion made by Harry Atherton to approve as presented noting error in easement Summary Sheet; motion seconded by Charlie Seilhemier and passed unanimously.

Robert Pollok Jr. – Pittsylvania - 252.37 acres – Motion made by Charlie Seilheimer to approve easement as presented and contingent upon county planning commission approval; motion seconded by Jeff Walker and passed unanimously.

NON-CONSENT EASEMENTS

John Caliham Jones LLC - Smyth & Washington - 253.78 acres – Amend easement to include expansion language for AEP right of way. Motion made by Harry Atherton to approve easement as amended; motion seconded by Jeff Walker and passed unanimously.

FINAL

Fleming – Rockbridge - 183.7 acres - Motion made by Charlie Seilheimer to approve easement as presented; motion seconded by Jeff Walker and passed unanimously.

Parsons – Augusta - 176.995 acres – Motion made by Charlie Seilheimer to approve easement as presented; motion seconded by Jeff Walker and passed unanimously.

Mary Bess Johnson - Albemarle - 126.06 acres – Amend easement to remove the minimum acreage per division. Motion made by Charlie Seilheimer to approve easement as amended; motion seconded by Harry Atherton and passed unanimously.

Goodall Mountain, LLC - Greene - 237.40 acres – Motion made by Charlie Seilheimer to approve easement as presented; motion seconded Jeff Walker and motion passed unanimously.

Philip & C. Annette Hertzler – Appomattox - 195.81 acres – Motion made by Jeff Walker to approve easement as presented; motion seconded by Charlie Seilheimer and motion passed unanimously.

Goochland County - Goochland - 104.101 acres – Mr. Don Charles appeared to represent Goochland county. Motion made by Jeff Walker to approve easement as presented; motion seconded by Mark Allen and passed unanimously.

Motion made by Mark Allen to go into ***Closed Session*** for discussion of legal matters as provided for in the Code of Virginia §2.2-3711(A)(3); motion seconded by Jeff Walker and passed 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. Charlie Seilheimer responded yes, Hank Hartz responded yes, Harry Atherton responded yes, and Jeff Walker responded yes; Mark Allen responded yes.

The next meeting of the Board of Trustees has changed and will be the 27th and 28th of October 2010 vs 28th and 29th of October.

Meeting adjourned at 3:00 pm

Submitted by: Bobbie Cabibbo

VIRGINIA OUTDOORS FOUNDATION (VOF)

**A RESOLUTION TO DESIGNATE THE MIDDLEBROOK-BROWNSBURG CORRIDOR IN
AUGUSTA AND ROCKBRIDGE COUNTIES AS A VOF SPECIAL PROJECT AREA**

WHEREAS, Valley Conservation Council has nominated the Middlebrook-Brownsburg Corridor in Augusta and Rockbridge Counties for Special Project Area designation; and

WHEREAS, the VOF Guidelines define factors justifying the designation of Special Project Areas; and

WHEREAS, the Middlebrook-Brownsburg Corridor is an area of statewide significance; and

WHEREAS, both Augusta and Rockbridge County Comprehensive Plans support conservation in the Middlebrook-Brownsburg Corridor; and

WHEREAS, multiple factors and conservation values in the Corridor make this a suitable area for increased land conservation, including:

- As of July 2010, there are 93 VOF easements in this area totaling approximate 17,290 acres, making this one of the most densely conserved regions west of the Blue Ridge
- The region is bordered on the west by the North Mountain Wildlife Management Area and Goshen Pass Natural Area Preserve. Easements on private land help to create a mosaic of green infrastructure resources for the area
- Augusta County's Middlebrook Agricultural/Forestral district covers approximately 3,850 acres in the corridor
- The nominated area includes the viewshed for VDOT's recognized Virginia Byway on Route 252 (originally known as the Staunton-Lexington Turnpike) and Route 39 in Rockbridge County
- Brownsburg and Middlebrook, two small village centers along Route 252, are National and State Registered Historic Districts
- The Maury River, which flows through the southern portion of the corridor area, has been proposed for Scenic River designation in the Virginia Outdoors Plan by the Virginia Department of Conservation and Recreation
- A total of 245 standing structures and 11 cemeteries are on record with the Virginia Department of Historic Resources (*VCC study, 1997*)
- 52 properties are listed on the National Register of Historic Places and Virginia Landmarks Register (*VCC study, 1997*)
- The VA Department of Conservation and Recreation Natural Heritage Program rated the rare plant and animal species in this area as "extremely rare and critically imperiled" or "very rare and imperiled within Virginia." These include: loggerhead shrike, sand grape, freshwater cordgrass, vetchling, buckbean, smooth loosestrife, queen of the prairie, pussy willow, prairie sedge, shinning ladies'-tresses, large-leaved grass-of-parnassas, knotted rush, small-headed rush, inland sedge, and marsh speedwell; and

WHEREAS, support for the designation has been expressed by Rockbridge Area Conservation Council, the Community Development programs of Rockbridge and Augusta counties, and landowners in the region; now therefore, be it

RESOLVED by the VOF Board of Trustees, this 2nd day of September 2010, That the Middlebrook-Brownsburg Corridor in Augusta and Rockbridge Counties is hereby designated a VOF Special Project Area.

Adopted by a vote of 5 in favor 0 against



ATTEST: G. Robert Lee, Executive Director

VIRGINIA OUTDOORS FOUNDATION (VOF)**RESOLUTION TO DESIGNATE THE FRONT ROYAL TO LURAY CORRIDOR
AS A VOF SPECIAL PROJECT AREA**

WHEREAS, Scenic 340 Project Inc. has nominated the Front Royal to Luray corridor in Page and Warren counties for Special Project Area designation; and

WHEREAS, the VOF Guidelines define factors justifying the designation of Special Project Areas; and

WHEREAS, the Front Royal to Luray corridor is an area of statewide natural and historic significance, as indicated by state planning and policy documents and containing:

- i. 44 sites that host rare species and natural communities identified by the VA Division of Natural Heritage and which contribute to the biological diversity of the region.
- ii. The South Fork of the Shenandoah River, a portion of which is eligible for Scenic River designation according to the 2009 Virginia Outdoors Plan (VOP) compiled by the VA Department of Conservation and Recreation.
- iii. Bucolic lands along US Route 340, a designated Virginia Scenic Byway from Front Royal to Luray, also identified in the VOP.
- iv. US Route 340, designated as the "Front Royal Loop" as part of the Virginia Birding and Wildlife Trail established by the VA Department of Game and Inland Fisheries.
- v. Milford Historic Battlefield District, a Civil War battlefield listed as a Virginia Historic Landmark and on the National Register of Historic Places in June 2004 (US Route 340 played a critical role in General Stonewall Jackson's Valley Campaign); and

WHEREAS, the proposed Special Project Area contains scenic and forested land that buffers the Shenandoah National Park (SNP) on the eastern boundary and the George Washington National Forest on the western boundary and that can be viewed from the Appalachian Trail, Tuscarora Trail, and Skyline Drive; and

WHEREAS, the proposed Special Project Area includes a critical wildlife travel corridor identified by VA Department of Game and Inland Fisheries and the Valley Conservation Council, linking the SNP and the George Washington National Forest (Massanutten Mountain range) and of which 2,557 acres is protected by VOF (19) and VA Department of Historic Resources (1) easements; and

WHEREAS, South Fork of the Shenandoah River, which traverses the proposed area, is a major tributary of the Chesapeake Bay and the protection of riparian lands in this watershed will contribute to the health of the Bay and support the federal Executive Order on "Chesapeake Bay Protection and Restoration" (5/12/2009); and

WHEREAS, the South Fork of the Shenandoah River, is a popular recreational and fisheries resource which in turn, supports the local economy; and

WHEREAS, the road known as U.S. Route 340 and paralleling the South Fork of the Shenandoah River, follows a travel corridor used by Native Americans for 13,000 years, beginning with the First People of the Flint Run National Historic District and continuing to the First Farmers of 1,000 years ago; and

WHEREAS, U.S. Route 340, historically known as the Front Royal-Luray Turnpike, is connected to the military history of the western Virginia at several critical junctures, including:

- *the American Revolution, when General George Washington planned a redeployment of the Continental Army at Fort Valley via a section of the road known as "Morgan's Road":

- *the American Civil War, when General Stonewall Jackson's 1862 Valley Campaign relied on the road for the movement of troops and supplies; and when 1864 cavalry engagements at Milford (Overall) marked one of the last Confederate stands in the Shenandoah Valley, known as the "Breadbasket of the Confederacy"; and

WHEREAS, the Front Royal-Luray Turnpike (Route 340) and its associated canal and railroad links facilitated commerce and the establishment of communities in the Page Valley; and

WHEREAS, the Route 340 Corridor in the Page Valley follows a narrow river corridor between two significant mountain features (the Blue Ridge on the east and Massanutten Mountain on the west), it has provided accessibility to the uplands and connected eastern and western communities for thousands of years; and

WHEREAS, rural lands in the proposed Special Project Area surround and buffer the Raymond R. "Andy" Guest State Park; and

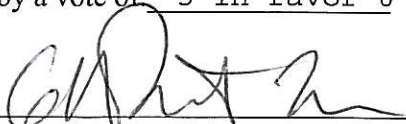
WHEREAS, Warren and Page County Comprehensive Plans support the protection of rural lands and natural resources within the corridor area; and

WHEREAS, support for the designation has been expressed by the Page County Water Resource Coordinator, Friends of the Shenandoah, Potomac Conservancy, Valley Conservation Council, and many local landowners through their donations of conservation easements and membership participation in Scenic 340 Project Inc.; now, therefore, be it

RESOLVED by the Virginia Outdoors Foundation Board of Trustees this 2nd day of September, 2010, That the Front Royal to Luray Corridor in Page and Warren counties is hereby designated a VOF Special Project Area.

ADOPTED by a vote of: 5 in favor 0 against

ATTEST:



G. Robert Lee, Executive Director

**Attachment to September 2, 2010 Board of Trustees Minutes
concerning
Cookbook Road and Rail Provisions as addressed by the Board**

1. For widening of roads or adding of a lane when such road projects are in the VDOT 6-year plan it is recommended that the following optional (Cookbook) highway expansion paragraph be inserted at the end of Section II Paragraph 1 Division.

The parties acknowledge that the Virginia Department of Transportation (“the Department”) may undertake the widening or improvement of Route _____ pursuant to the Department’s current six year road improvement plan [*Add date:* (“_____Six Year Plan”)] which may require the use of a portion of the Property. Such use, and any sale of needed land for such use, shall not be considered a division or subdivision of the Property and shall not be prohibited by this easement provided that (i) such project includes all reasonable action, which may include landscaping and other topographic improvements, to minimize the project’s impact on the Property and prevent harm to its conservation values, and (ii) the parties are consulted in planning such actions to minimize the project’s impact on the Property and prevent harm its conservation values. Grantor reserves its separate rights to approve such acquisition. Use of the Property for such a project is limited to the improvement of Route _____ as described in the _____ Six Year Plan. Any portion of the Property acquired from Grantor pursuant to this paragraph shall remain subject to the terms and restrictions of this Easement.

Use of the above provision, as it has been used in the past, was confirmed by the board

2. For widening of roads or adding of a lane when such road projects are in the locality’s comprehensive plan or transportation plan it is recommended that the following optional (Cookbook) highway expansion paragraph be inserted at the end of Section II Paragraph 1 Division.

The parties acknowledge that [*Select one:* the City of _____, _____ County, *or* the Virginia Department of Transportation] may undertake the widening or improvement of Route _____ pursuant to [*Select one:* the City of _____’s *or* _____ County’s][***Add date(s) and select one:*** _____ comprehensive plan *or* transportation plan], which may require the use of a portion of the Property. Such use, and any sale of needed land for such use, shall not be considered a division or subdivision of the Property and shall not be prohibited by this easement, provided that Grantee approves such conveyance or taking, which approval may be contingent upon the project including all reasonable actions, such as landscaping and/or topographic improvements, to minimize the project’s impact on the Property and prevent harm to its conservation values. Grantor reserves its separate rights to approve such acquisition. Use of the Property for this public road project is limited to [*Select appropriate option:* (1) the widening or improvement of Route _____ to a total right-of-way width of _____ feet, *or* (2) the addition of one lane of travel way, *or* (3) [*Insert other language appropriate to the project.*]] Any portion of

the Property acquired from Grantor pursuant to this paragraph shall remain subject to the terms and restrictions of this Easement.

Use of the above provision was approved by the board.

3. For widening of roads or adding of a lane for road projects set forth in VDOT long-range plans (such as the VTRANS 2035 plan, Rural Regional Long Range Plans, or other state highway plans), it is recommended that the following optional (Cookbook) highway expansion paragraph be considered for insertion at the end of Section II Paragraph 1 Division. Even with the highway expansion language in the deed such a project could not proceed unless and until it obtains VOF approval at the time that it is proposed for construction, subject to any conditions imposed by VOF to protect the conservation values of the property, and, of course, some may never be realized.*

The parties acknowledge that the widening or improvement of Route _____ may be necessary and may require expansion of the Virginia Department of Transportation's (VDOT's) current right-of-way over a portion of the Property. Such use, and any sale of land for such use, shall not be considered a division or subdivision of the Property and shall not be prohibited by this easement, provided that Grantee approves such conveyance or taking, which approval may be contingent upon the project including all reasonable actions, such as landscaping and/or topographic improvements, to minimize the project's impact on the Property and prevent harm to its conservation values. Grantor reserves its separate rights to approve such acquisition. Use of the Property for this public road project is limited to [*Select appropriate option: (1) the widening or improvement of Route _____ to a total right-of-way width of _____ feet, or (2) the addition of one lane of travelway, or (3) insert other language appropriate to the project.*] Any portion of the Property acquired from Grantor pursuant to this paragraph shall remain subject to the terms and restrictions of this Easement.

Use of the above provision was approved by board with the following guidance language for staff. Staff should use its discretion in whether to recommend the inclusion of a strip for widening of a road, even though it is set forth in a VDOT long range plan. If widening is recommended by staff, the easement should be put on the board's non-consent agenda, and staff should set forth on the proposal sheet the source of and reason for such recommendation. The more concrete the plan the more likely it should be accommodated. For instance, a vague plan to widen a road in any number of places is less likely to call for the use of the above expansion language than a more specific plan identifying a need to increase the existing pavement width by 3 feet.

The spot improvement provision was modified by the board to read as follows:

The acquisition of a *de minimis* portion of the Property adjacent to Route(s) _____ for minor road improvements shall not be considered a division or subdivision of the Property and neither the acquisition of such a *de minimis* portion of the Property nor the use of the portion of the Property so acquired shall be prohibited by this Easement, provided that Grantee approves such

conveyance or taking, which approval may be contingent upon the project including all reasonable actions, such as landscaping and/or topographic improvements, to minimize the project's impact on the Property and prevent harm to its conservation values. Grantor reserves its separate rights to approve such acquisition. Use of the Property for such a project is limited to the improvement of Route(s) _____ as they/it exist(s) on the date of this Easement including, but not limited to, maintenance, correction, repair or upgrading of existing public road improvements. [*Such improvements could include, but are not limited to, the addition or renovation of ditches, box culverts, drainage swales, side slopes, curbing, regrading or enhancements such as pull-offs, bike lanes, and restoration projects.*] For the purpose of interpreting this paragraph "minor road improvements" do not include the addition of new travel lanes. [*This paragraph is not applicable if the Property has no road frontage.*] Any portion of the Property acquired from Grantor pursuant to this paragraph shall remain subject to the terms and restrictions of this Easement.

The above provision will appear in all easements as part of the VOF template.

Rail widening provision:

The board approved in concept use of this provision when DRPT confirms that there is probable need based on state rail plan, but directed staff to modify the rail provision to ensure that the portion of the Property taken cannot be used for facilities such as cell towers, telegraph or telephone poles and lines, railcar storage, etc. and bring the provision back to the board for its further consideration.

Byrd Act road provision:

The board did not accept the Byrd Act road provision as written. If staff wishes to proceed with such a provision, it will have to be modified and brought back to the board for its consideration.