

HALFMOON TOWNSHIP OPEN SPACE PRESERVATION BOARD
REGULAR MEETING – MINUTES
February 25th, 2009

1. CALL TO ORDER

Chair Lee Pressler called the meeting to order at 7:02 p.m. Other members present were Bob Eberhart, Ben Pisoni, Jerry Brown, Ron Hoover and Dennis Thomson. Staff present was Greg Love & Amy Smith. There were no residents present.

2. MINUTES

- ***MOTION: Mr. Pisoni moved to approve the minutes of January 28th, 2009; Mr. Brown seconded; Vote 5-0-0; Motion Carried.***

3. WILDLIFE CORRIDOR DISCUSSION

Mr. Hilshey explained that development is taking over all around the State Game Lands 176 and Clearwater Conservancy would like to permanently preserve this 40 acre tract to ensure there is a corridor from the State Game Lands to the Bald Eagle Ridge. Mr. Hilshey explained a funding package with a grant from DCNR to provide half of the funds to purchase the 40 acres and is hoping for a commitment from Halfmoon Township of \$200,000 for the purchase of the easement and Clearwater Conservancy is raising the rest of the monies needed. Mr. Hilshey stated he has been in contact with the adjoining property owner, Mr. Taylor, and he is interested in conservation but not right now. Mr. Hilshey explained the intention of Clearwater Conservancy is to reforest the 36 acres south of S.R. 550 with at least one trail from the cul-de-sac that connects to the Gamelands. Mr. Hilshey explained the land would have to be subdivided and anticipates Mr. Berkobin starting that process as soon as there is a sales agreement signed. Mr. Hilshey stated a baseline document has been submitted to Halfmoon Township and a decision will be made by March 20th, 2009. Mr. Hilshey explained the Board of Supervisors have one month from the date of submission to let him know whether this project will be going forward. At that point Clearwater Conservancy will have to arrange for the bids for the appraisal, phase I of an environmental site assessment and the surveys. Mr. Hilshey stated he has a conservation easement drafted but is currently at the attorney's office and then will be forward to Kathleen Yurchak's office for review on behalf of Halfmoon Township. Mr. Hilshey provided a statement on what the Clearwater Conservancy expects the recreational use to be on the 40 acres. Clearwater Conservancy proposes this land be used for passive recreational activities such as hiking, jogging, nature observation, cross-country skiing on designated trails, and the possibility of horseback riding on designated trails. Mr. Thomson questioned how a sales agreement can be completed before a survey is completed. Mr. Hilshey explained that although there is no survey completed yet they know that all of the land south of S.R. 550 and 4 acres to the north included in the wildlife corridor and that is sufficient for Clearwater Conservancies Attorney. Mr. Thomson questioned whether there was a first right of agreement should the verbal agreement fall through for the north side of this property to ensure this property gets preserved. Mr. Hilshey stated the way Mr. Berkobin and himself anticipate this deal is the 40 acres are not purchased by Clearwater Conservancy unless the 66 acres is permanently preserved in the Halfmoon Township Open Space Preservation Program. Mr. Hilshey stated if that does not occur than the sale of the 40 acres does not occur with Clearwater Conservancy. Mr. Hilshey stated the projected date for completion of this project is March 1, 2010. Mr. Eberhart stated the Open Space Preservation Board had concerns if Clearwater Conservancy was negotiating special restrictions with the potential property owners of the 66 acres to ensure this is a viable wildlife corridor. Mr. Hilshey explained he has been preparing an estoppel certificate that will make the lease stricter and has discussed this with the prospective owners and they are in agreement with it. Mr. Hilshey explained there will be two building areas allowed but not within 100 feet of water. One building is in the area where the other buildings currently are and one cabin and paving would only be allowed on the driveway and up to the major barn. Mr. Hilshey stated he had two wildlife biologists investigate whether this would be a wildlife corridor and they both attest this is a viable wildlife corridor. Mr. Eberhart questioned if there were any fencing restrictions. Mr. Hilshey stated currently there is 3 and 4 strand fencing and that is also in the estoppel certificate that it is all they can have. Mr. Hilshey stated there is plenty of room for medium sized wildlife to fit under the fencing and deer and bear are going to go

where they want to go. The estoppel certificate is attached to the lease agreement. Mr. Pisoni questioned whether there were any other restrictions. Mr. Hilshey stated those were the major ones. Mr. Eberhart questioned whether it was correct that the Township would be responsible for enforcing the restrictions on the estoppel certificate. Mr. Hilshey stated that was correct. Mr. Hilshey stated farm worker housing and rental housing are not permitted and restricted commercial mining. Mr. Pressler questioned whether the current owner, Mr. Berkobin, has agreed to these restrictions because he is the one that submitted the open space preservation application. Mr. Hilshey stated Mr. Berkobin has agreed to these restrictions. Mr. Pressler stated a copy of those restrictions would have to be provided to go along with the application. Mr. Hilshey stated initially the price of the property was \$720,000 for the 40 acres. Mr. Hilshey explained there was an issue whether the 4 acres on the north side was going to be sold to the prospective buyers of the north side or the Clearwater Conservancy. Clearwater Conservancy and the current owner understood that the 4 acres would be included in the Clearwater Conservancy purchase when the grant was submitted so the grant was for 40 acres. The prospective landowners and the current landowner were not communicating about the 4 acres so it was negotiated that the prospective landowners would be allowed lease the 4 acres from Clearwater Conservancy to farm. However, the Clearwater Conservancy wants the 4 acres for wildlife so it was negotiated that the prospective landowners have to plant grass or small grains with mowing at certain times of the year. Mr. Hilshey explained when DCNR was approached about this they stated they could only fund land that is not in farm production so they could only fund the 36 acres so Clearwater Conservancy lost \$9,000 per acre for the 4 acres or \$36,000. Mr. Berkobin is working something out with the prospective landowners so he can drop the price to \$684,000 for Clearwater Conservancy to purchase the 40 acres. Mr. Thomson questioned the \$684,000 included the cost of the easement. Mr. Hilshey stated it does include the easement. Mr. Hilshey broke this down; 36 acres would total \$648,000 and the 4 acres would be \$36,000 for a total of \$684,000. Mr. Hilshey stated the average price per acre is \$17,000. Mr. Pisoni stated one page in the Acquisition Application states the total price \$734,000. Mr. Hilshey stated \$14,000 is worked in for additional costs for signage, appraisals and surveys. Mr. Hilshey stated DCNR will make the adjustments once a survey is submitted showing what land will not be farmed and what land will be farmed of the 40 acres. Mr. Pressler stated when this was first presented the Township agreed to pay \$5,000 an acre for 36 acres for the conservation easement and now it is 40 acres. Mr. Hilshey stated it was always represented as 40 acres. Mr. Pressler stated that changes it because it is being farmed and farming is not part of the wildlife corridor. Mr. Hilshey stated those 4 acres are part of the wildlife corridor because of the restricted cropping. There was discussion on crop rotation and mowing dates. Mr. Pressler questioned how the Board can approve the RT Ventures application without the estoppel certificate. Mr. Hoover stated it does not matter the Board is approving that the property meets guidelines provided for in the Ordinance to enter into the Open Space Preservation Program. Mr. Pressler questioned whether there needed to be a separate deed description and subdivision on the 66 acres. Mr. Love stated under the Ordinance the entire property does not need to be included into the program. Mr. Love stated there just needs to be a legal description. Mr. Pressler stated there is a legal description but no legal deed. Mr. Love stated currently the deed the Board has is the legal deed. Mr. Pressler stated it is not because it is not subdivided. Mr. Pisoni stated it does not need to be done before the application is forwarded for recommendation. Mr. Pressler questioned what Clearwater Conservancy calls re-forestation. Mr. Hilshey stated not all of the 40 acres would be re-forested and there is concern about re-forestation down by S.R. 550 for safety reasons. Mr. Hilshey stated it has not been worked out exactly where the re-forestation will be, it may just be patches. Mr. Pressler questioned who owns the property between the cul-de-sac and the wildlife corridor. Mr. Love stated the Township owns that property. There are three parking spots there now. There was discussion on more parking since the wildlife corridor is open to the public. Mr. Hilshey stated it could be negotiated that more parking spots are available in the wildlife corridor in that area. Mr. Hilshey stated there will be no horseback riding permitted on the property. Mr. Pressler stated then it is really not open to the public. Mr. Hilshey stated is open just with restricted uses. There was discussion on hunting restrictions. Mr. Hilshey stated hunting will not be permitted on the 36 acres but hunters can carry an unloaded gun across the property to access the State Game Lands. Mr. Brown suggested posting the property so hunters know where the safety zone is and where the property ends and begins. There was discussion on signage. Mr. Pisoni questioned whether the estoppel certificate would be reviewed by the Open Space Preservation Board. Mr. Love stated all documents to be executed by the Board of Supervisors on the 40 acres have to be reviewed and

approved by the Open Space Preservation Board. Mr. Love stated the estoppel certificate for the 66 acres does not get reviewed by the Open Space Preservation Board. Mr. Pisoni stated the Open Space Preservation Board should be able to review the certificate and make comments. Mr. Love stated the estoppel certificate is more restrictive than the lease. Mr. Hilshey stated he did not have a problem with it being reviewed. Mr. Love stated the only thing the Open Space Preservation Board has to do between now and April is verify that the tract is designated for open space uses in a resource, recreation or land use plan adopted by the Board of Supervisors and currently in effect. Mr. Love stated the baseline document does not start for review until April. Mr. Love stated the OSPB needs to officially notify the Board of Supervisors that the parcel is eligible to be reviewed. The Board reviewed the Act 153 Eligible Acquisitions map and determined this property is eligible. Mr. Thomson stated the 66 acres was the only property that was inspected. Mr. Love stated the OSPB only needs to determine whether the 40 acres is eligible and requires a site visit which the Board had did at the time of inspection of the 66 acres. Mr. Love stated the next step is the BOS will determine if the site is suitable for further review or if there is a deficiency in the documents that have been submitted or that the property is ineligible. At that point the landowner has 30 days after our 30 days to accept our determination and if there are deficiencies correct them or walk away. Mr. Love stated if the applicant accepts the determination then that is when the Open Space Preservation Board starts getting things in that they are looking for like the property survey and subdivision plan. Mr. Pressler questioned without those things how do we know it is eligible. Mr. Love stated the Board is only looking for the requirements like is it 11 acres or more in size and after the site visit there was nothing there that made it ineligible. Mr. Love stated the final review will not come from the OSPB until September.

● ***Motion: Mr. Thomson moved that on November 1st, 2008 a sub committee of the Open Space Preservation Board including Thomson, Hoover and Pisoni were given an inspection tour of the 40 acre parcel of the Berkobin property by Greg Love on the basis of that site visit and inspection moves that that property be designated as qualified as enrollment for review; There was discussion whether this property was enrolled in the Open Space Preservation Program. Mr. Thomson stated he is only moving that this property be deemed eligible. Motion dies due to lack of second.***

There was discussion whether an inspection completed and why one was done without an application. Mr. Love explained the Board was not doing an inspection they were just doing a site inspection to make sure the property is there and eligible.

● ***Motion: Mr. Eberhart moves that this tract is designated for a conservation easement and meets the requirements. Motion dies due to lack of second.***

Mr. Pressler questioned how the Board could do a site inspection on a draft application. Mr. Love stated all the Board did was check to make sure the property was physically there and that is qualified for further review. Mr. Eberhart stating all the statement is asking the Open Space Preservation Board to do is in a green area on the Acquisition map. Mr. Love stated that is correct and it will be used for one of these purposes; preservation of water resources and watersheds, preservation of forest land, preservation of farmland, preservation of wildlife habitat, preservation of existing or planned conservation, park or recreation sites, preservation of scenic viewscapes, preservation of sites of historic, geologic, animal habitat or botanic interest or promotion of sound and efficient land development by preserving open space between communities. Mr. Love stated it meet several of these purposes. Mr. Eberhart read 1.(i) which states "verify that the tract is designated for open spaces uses in a resource, recreation or land use plan adopted by the Board of Supervisors and currently in effect" and this property meets this request. Mr. Love reviewed the timeline. Mr. Hoover stated the property will need to be walked again to complete the steps. Mr. Love stated that will be completed after it is surveyed and there will be markers. There was discussion on the survey and subdivision. Mr. Pisoni stated they are only submitting the 66 acres for the open space program and the 40 acres for a conservation lease. Mr. Pisoni questioned how the Township can approve the 66 acre property without a legal description. Mr. Love stated the applicant submits the legal description to the Township and is reviewed by the Township Engineer who is also a surveyor. Mr. Love stated the legal description has to be approved by the attorney and field verified by the Engineer. Mr. Thomson stated when the

members did the site inspection on the 66 acres they were aware of where to a safe distance where the property line was going to be between the 40 acres and 66 acres. Mr. Pisoni questioned what the hold up was then.

● **Motion: Mr. Thomson moved that the Open Space Preservation Board formally indicate that they verify that this 40 acre parcel is eligible for enrollment in the open space program and the next step is for an application via this application and the other application for the 66 acres to move ahead; Mr. Pisoni seconded; Vote 5-0-0; Motion Carried.**

There was discussion on voting rights. The Board thanked Mr. Hilshey for attending the meeting. Mr. Hoover stated based on discussions there still seems to be concerns about procedure regarding the application that was entered as 106 acres and only 66 acres is going to be applying to the Open Space Preservation Program so technically should there have been a full description of the subdivided property to push this through the channels the way that the Ordinances says it should be pushed through the channels. Mr. Thomson stated the Board knows within a stones throw and he is comfortable with that. There was discussion on whether the Board met the requirements the legal way as defined in the Ordinance. There was discussion on what the application should include.

4. **LAND RATING REVIEWS**

There was discussion on which member was responsible for drafting the site inspections for the Barr & Warner 5 year reviews. Mr. Eberhart volunteered to draft the Barr site inspection report. Mr. Thomson volunteered to draft the Warner site inspection report. Mr. Pressler stated the Barto property needed a legal right-of-way established. Mr. Love stated that has not been received yet. Mr. Love stated that could be until December and will not get a lease until it is completed but it can be moved forward as a recommendation for eligibility. Mr. Pressler stated the Thomson property is tentatively approved pending consolidation of five deeds resulting in one very large attractive parcel. Mr. Pressler stated the RT Ventures property is tentatively approved pending establishment of legal right-of-way and submission of current deed. There was discussion on a motion that was made at the previous meeting.

● **Motion: Mr. Thomson moved the five year site inspection was completed for the Warner Property; Mr. Pisoni seconded; Vote 5-0-0; Motion Carried.**

● **Motion: Mr. Thomson moved the five year site inspection was completed was for the Eberhart Property; Mr. Hoover seconded; Vote 4-0-1; Messrs. Thomson, yea; Hoover, yea; Pisoni, yea; Brown; yea; No Nays; Mr. Eberhart abstention; Motion Carried.**

● **Motion: Mr. Brown moved to recommend the land ratings and descriptions for these properties onto the Board of Supervisors; Motion Dies due to lack of second.**

● **Motion: Mr. Eberhart moved the Thomson application be recommended for approval subject to the completion of the consolidation; Mr. Brown seconded; Vote 4-0-1; Messrs. Eberhart, yea; Hoover, yea; Pisoni, yea; Brown; yea; No Nays; Mr. Thomson abstention; Motion Carried.**

● **Motion: Mr. Thomson moved the Barto application be recommended for approval subject to the completion of the legal right-of-way establishment; Mr. Eberhart seconded; Vote 5-0-0; Motion Carried.**

There was discussion on why there needed to be a legal right-of-way established. Mr. Eberhart stated the Zoning Hearing Board had already approved that. Mr. Love stated it is subject to subdivision. The deed description would have to be updated upon completion of subdivision. There was discussion on the deadline date for recommendations of application approval by the Open Space Preservation Board. Mr. Pisoni questioned whether this application meets the requirements.

● **Motion: Mr. Eberhart moved to tentatively approve the RT Ventures application subject to the completion of subdivision, a legal right-of-way description and current deed description; Mr. Thomson seconded; Vote 5-0-0; Motion Carried.**

• **Motion: Mr. Eberhart moved the Brown application be recommended for approval; Mr. Pisoni seconded; Vote 4-0-1; Messrs. Eberhart, yea; Hoover, yea; Pisoni, yea; Thomson; yea; No Nays; Mr. Brown abstention; Motion Carried.**

Mr. Pressler stated he had several residents stop in to discuss a dislike of the decision to purchase the 40 acres for a Wildlife Corridor. There was discussion on some residents not liking the whole program in general. The Board questioned what the residents did not like about the program. Staff stated there have been complaints about per acre costs and millage. The Board discussed holding another open house. The Board requested Ms. Smith narrate a description of the program along with the chart Mr. Pressler provided that show program statistics and post it to the website and send out in an update.

7. CITIZENS COMMENTS

There were no citizen comments.

8. OTHER BUSINESS

There was no other business before the board.

Adjourned at 10:00 p.m.

Respectfully Submitted,