

**HALFMOON TOWNSHIP OPEN SPACE PRESERVATION BOARD
REGULAR MEETING – MINUTES
MAY 6TH, 2009**

1. CALL TO ORDER

Chair Lee Pressler called the meeting to order at 7:07 p.m. Other members present were Bob Eberhart, Ron Hoover, Jerry Brown, Andy Merritt and Brooks Way (arrived 7:10 p.m.). Staff present was Amy Smith. No Audience present.

2. PLEDGE OF ALLEGIANCE

3. MINUTES

The minutes were tabled until the next meeting. Mr. Pressler stated he questioned who would receive the revenue from the 4 acres that is being farmed and did not get an answer. Mr. Pressler stated when he questioned who gets the revenue he was told that it has not been discussed or thought of yet.

4. DISCUSSION ON MEETING FOR WILDLIFE CORRIDOR BIDS

Mr. Pressler stated he attended a meeting on April 22nd to review the Survey, Phase I Environmental Study and Appraisal bids that were received for the Wildlife Corridor. Mr. Pressler stated there were two bids that came in for the Appraisal and the bids were not comparable. There was a bid received from Aumiller Appraisal Services for \$2,500 and one from Forecon, Inc. for \$24,000. Mr. Eberhart stated he understood that Mr. Berkobin has selected the bid companies of choice so bid discussion is moot at this point. Mr. Pressler questioned whether the Open Space Preservation Board has the right to walk the property again after a survey is completed. Mr. Pressler stated Mr. Berkobin would notify the Township when the survey is completed so the Open Space Preservation Board could re-visit the property for another walk through. Mr. Pressler stated he also questioned the setback on the bridge. Mr. Pressler stated he was told there was a 5 foot setback. There was discussion on the bridge and right-of-way. Mr. Pressler stated Mr. Berkobin questioned whether there could be an ownership change on the application and a twenty year advance payment. Mr. Pressler commented that he told Mr. Berkobin that he would have to wait until next year since he did not originally request a twenty year advance. Mr. Way stated if both parties signed off then the ownership can be changed legally. Mr. Pressler stated the 40 acres will remain in Clean & Green. Mr. Pressler requested the timeline. Mr. Eberhart questioned whether the subdivision has happened yet. Mr. Pressler stated he thought that would not take place until the ownership change. Mr. Pressler questioned again who will collect the revenue from the rental of the farmed four acres. Mr. Brown stated they should also know the rental price paid. Mr. Brown stated he thought the four acres would only be farmed for 5 years. Mr. Pressler commented that public access will not be allowed on the four acres. Mr. Pressler stated he questioned the solicitor whether the Planning Commission needed to be involved in the re-inspections and 20 year advance requests. Mr. Pressler commented that Ms. Yurchak stated the Planning Commission did not need to be involved. Mr. Eberhart reviewed page 7 of the Conservation Easement regarding permitted improvements and stated he thought Protection Area B is the four acres that permits some agricultural uses. There was discussion on what can be planted in that area. Mr. Pressler stated he understood the whole 36 acres would not be forested but only patches of it would.

5. WILDLIFE CORRIDOR CONSERVATION EASEMENT

Mr. Hoover questioned whether the Board wanted to go through the Conservation Easement section by section or what the Board would like to do. Mr. Merritt stated at the last meeting

the Board agreed to discuss permitted activities. Mr. Merritt stated it is spelled out twice in language regarding limitations and the Board discussed whether they wanted to make changes to that language.

Page 4 - Mr. Eberhart questioned what donation was made to the Township on page 4 – Section 1.06 Charitable Contribution (a). Mr. Eberhart stated the Township is purchasing the Conservation Easement so how can it be donated? Mr. Hoover stated it reads, “donated in whole or in part.” Mr. Brown stated the Township paid for the whole Conservation Easement. Mr. Eberhart agreed and stated he thought the Township is purchasing the whole Conservation Easement. Mr. Hoover stated that would be a question that needs answered, “Is the payment of \$200,000 from the Township being used to purchase the whole Conservation Easement?” Mr. Hoover stated the easement could be worth more than the \$200,000 the Township is contributing. Mr. Eberhart requested clarification of this statement. Mr. Hoover stated this statement makes sense if the Township is the “holder” and Clearwater Conservancy is the “undersigned Owner or Owners” and the easement was worth more than what the Township brought to the table. Mr. Hoover stated if the easement is worth \$200,000 then there was no donation made and no need to have that statement in the document. Mr. Eberhart stated the OSPB can not know that until there is an appraisal completed. Mr. Eberhart again requested clarification. Mr. Brown questioned whether a Conservation easement was subject to an appraisal? Mr. Merritt stated you appraise the land that the easement is attached to and that determines the value of the easement. There was discussion on whether an appraisal has already been completed. Mr. Way stated there have been appraisals completed but no information was shared with the Township. Mr. Eberhart stated they were not the official appraisals. This question will be referred to Mr. Love for clarification.

Page 10 – Section 4.03 (d) (i) – Mr. Eberhart stated the Township should also have the right to reserve the right to prohibit horseback riding. Mr. Eberhart stated if the horses start tearing things up then the Township should have the right to prohibit that use. Mr. Hoover suggested changing the last sentence to read, “Owner and/or Easement Holder reserves the right to prohibit horseback riding.” Mr. Brown questioned who evaluates the policing of this property. Mr. Pressler stated the Township does. Mr. Brown questioned who evaluates erosion. Mr. Brown stated there are a lot of different ideas on what is erosion and what is not erosion. Mr. Brown stated there should be some effort to rectify any erosion problems with horses before they are automatically prohibited. Mr. Brown questioned what constitutes significant erosion? Mr. Brown stated something should be set up so it gets evaluated in a fair manner. Mr. Eberhart stated it says further back that the Township has the right and duty to enforce the terms but does not give a specific answer to the question. Mr. Brown stated it be evaluated by 2 or 3 people that understand the land. Mr. Pressler questioned whether this would fall back on the OSPB and how often would there need to be an inspection. Mr. Pressler questioned whether it would be yearly or five years because in five years it could be washed down the road. Mr. Brown commented that if the trail is laid out properly then there should not be a problem with erosion. Mr. Merritt stated the document refers to the “holder” and the Township is the “holder” so the Township would decide who enforce it who would do the inspections and anyone that is doing the inspections has to know what they are looking for and that could be tasked at a later date. Mr. Merritt stated the Township could also determine how often it is inspected. Mr. Brown stated in order to make it work it should be inspected two times a year, once in the spring and once in the fall. Mr. Brown stated horses are not permitted on the State Game Lands so the trail in the Wildlife Corridor may not do them any good.

Page 11 – Article V. Rights and Duties of Holder and other beneficiaries – Section 5.01 - Mr. Eberhart stated the rights and duties of the “holder” are very vague and does not state how often and who does the inspections. Mr. Merritt stated he feels that if it is not clear then the Township decides as the “holder” how often it is inspected and by whom. Mr. Hoover stated it may have been left deliberately vague so the Township can determine how often it needs inspected. Mr. Eberhart questioned whether the OSPB was content to leave the language as is. Mr. Hoover stated as long as the Township has a say in how it is to be looked at, how often, what criteria to make a determination that things are being managed and maintained properly or not properly.

Mr. Brown stated it is stupid that they have to stay on the trail and questioned the purpose of having to do so. Mr. Brown stated you would have the least amount of damage if you let them go where they wanted to and not stay on the trail.

Mr. Way questioned how often the OSPB inspects properties. Mr. Eberhart stated properties are inspected once every 5 years but Clearwater Conservancy inspects theirs annually.

Page 10 – Section 4.04 (v) – Mr. Eberhart questioned why this language was necessary when there are no steep slopes on this property. Mr. Eberhart stated it does not hurt being there but just seems unnecessary.

Page 15 – Section 5.07 – Mr. Eberhart questioned what (Access Area) means in this statement. Mr. Eberhart questioned whether Protection Area A (36 acres) is the Access Area. Mr. Pressler stated the access area would be at the cul-de-sac. Mr. Eberhart stated that the access area is only a small part of the 36 acres. Mr. Pressler stated there are three parking stalls at the cul-de-sac and it was requested that there be a larger parking area. Mr. Eberhart stated the way this is written there are ten spots within the 36 acres. Mr. Brown stated it was ridiculous to walk a bicycle through the Wildlife Corridor. Clarify where (Access Area) is.

Page 15 – Section 5.07 (a) – Mr. Eberhart stated this statement reads like the Township is given access to construct and maintain the trail and did not understand this to be part of the deal. Mr. Merritt stated he reads it as the Township is given the easement in perpetuity but Clearwater Conservancy would construct and maintain the trail and parking within the access area. Mr. Hoover stated (a) are the purposes but (b) are the limitations so that makes it read a little differently than how Mr. Merritt interpreted it. Clarify Section 5.07 – Grant of Public Access. Mr. Hoover stated he does not understand why (Access Area) is even included in this statement since it is already designated as Protection Area A. Mr. Eberhart stated this implies they are the same. Mr. Merritt questioned whether the cul-de-sac is part of the 36 acres or is it separate? Mr. Pressler stated the cul-de-sac goes up within 15 feet of the property. Mr. Eberhart stated the cul-de-sac belongs to Trotter Farms and they are talking about the 36 acres. The OSPB reviewed the definition of Access Area.

Page 16 – Section 5.07 (b) (ix) – Mr. Eberhart commented that if since hunting is prohibited you need to be able to carry an unloaded gun into the State Gamelands but it does not specify that you can do that. Mr. Hoover stated since it does not spell out that you can not carry an unloaded gun than it is not prohibited and should not have to be included. Mr. Eberhart stated he would like the language included. Mr. Merritt stated hunting would include all forms including bow. Mr. Eberhart questioned the OSPB if they did not know they could carry an unloaded gun across the property would they feel comfortable doing it? The Board agreed that they would not feel comfortable. Mr. Merritt questioned whether there could be a sign that states no hunting but access to Gamelands. Mr. Hoover stated it could

read, "No hunting on Wildlife Corridor – Access to Gamelands is permitted." Mr. Eberhart stated a sign could take care of that so people know they can not hunt on the Wildlife Corridor but they can carry an unloaded weapon across to reach the State Gamelands. Mr. Pressler stated Clearwater is supposed to provide the signage and parking spots for the Wildlife Corridor.

Page 16 – Section 5.07 (b) (x) – Mr. Brown stated it is hard to walk any place without disturbing wildlife or nesting areas. Mr. Merritt stated he thought the intent was to cut out the intentional disturbance. Mr. Brown stated harassment may be a better word than disturbance. Mr. Hoover commented disturbance should be stricken and harassment should be added. Mr. Merritt stated or intentional disturbance could be added.

Page 16 – Section 5.07 (b) – Mr. Hoover questioned the reasoning for prohibiting bicycles. Mr. Merritt stated it may be because they did not want racing since there is walking and jogging and is meant for much more passive recreation. Mr. Brown stated there should be no reason you can not ride a bicycle.

Page 7 – Section 3.02 (c) – Mr. Eberhart questioned who would construct the parking area for no more than 10 vehicles and trails. Mr. Pressler stated Clearwater Conservancy is going to construct the parking area. Mr. Eberhart stated it does not specify who constructs them and who patrols them to make sure there is no more than ten. Mr. Eberhart stated there should be some sort of plan or design provided by Clearwater Conservancy as to what they plan on doing with the Wildlife Corridor. Mr. Pressler stated he thought there will only be one trail from the cul-de-sac to the State Gamelands and that is it. Mr. Hoover questioned how horses could get to the Wildlife Corridor when horse trailers are not allowed. Mr. Pressler stated there should not have been a restriction on horse trailers. Mr. Eberhart commented that there should be some understanding of all the additional improvements on page 7 on who is going to be constructing them and maintaining them. Mr. Merritt stated it should state that the owner is responsible for the construction and maintenance of all the improvements. Mr. Pressler questioned how the four acres can be considered part of the Wildlife Corridor when all the restrictions do not pertain to that. Mr. Merritt stated these restrictions are pertinent to Protection Area A and Protection Area B is the four acres so they are delineating between the two.

Page 7 – Section 3.03 – Protection Area B - Mr. Pressler stated this section is omitted and stated this does not tell you anything. Mr. Hoover stated he just reads that as no improvements are allowed to be made. Mr. Pressler questioned how you call it a Wildlife Corridor then. Mr. Eberhart stated you can make additional improvements as listed in Protection Area A. Mr. Merritt stated you can make improvements in Protection Area B but it is not required as it is in Protection Area A. Mr. Pressler stated there is no public access to Protection Area B so how do you get to it? Mr. Merritt stated the improvements are not required they are permitted. Mr. Pressler stated the only right-of-way would be off of State Route 550. Mr. Brown stated the intent of the four acres is to be farmed for 5 years so then after that it should revert back to the rest of the Wildlife Corridor. Mr. Brown stated there should be something that states that and then access be provided after the farming practices are done. Mr. Way stated it is permitted not required and there is no guarantee that any of the listed improvements will be completed. Mr. Merritt stated the Township could put access in from State Route 550. Mr. Brown stated that would put it on the shoulders of the Township. Mr. Eberhart stated that that was his point that is does not specify who will construct and maintain any of these improvements. Mr. Hoover stated it should be part of the agreement which specifies who is going to provide the improvements and construction. Mr. Hoover questioned whether it was ever discussed by the Board of Supervisors. Mr.

Merritt stated that it was not specify discussed who would construct and maintain the parking area off of the cul-de-sac but was told if they wanted an access off of State Route 550 as the holder it was permitted. Mr. Brown stated it should be strictly specified. Mr. Hoover stated he suggests the OSPB makes a list of things they would like to see put in to the Wildlife Corridor and strongly suggest that they be added. Mr. Merritt stated he thought the discussion tonight is a list of suggestions. Mr. Brown commented that as much money that has been provided it should be a benefit to the public.

Mr. Way questioned where this document goes from here with the suggestions. Mr. Pressler suggested Ms. Smith provide the OSPB with a list of suggestions before Mr. Love discusses anything with Clearwater Conservancy.

Mr. Pressler stated he would like to know what exactly Clearwater Conservancy is going to provide. Mr. Hoover suggested Clearwater Conservancy was not going to pay for anything. Mr. Way stated they may ask for donations and then that person gets a tax credit. Mr. Way stated they may not put any money in it but they may solicit donations and ask for volunteers. Mr. Brown stated that does not provide a timeline. Mr. Pressler stated we should know what is going to be provided and when. Mr. Brown stated there should be a timeline on making it accessible at least to some degree.

Mr. Merritt thanked Mr. Eberhart for reviewing the document prior to the meeting.

Page 16 – Section 5.07 (b) - Mr. Hoover stated the prohibition of bicycles should be stricken and somewhere there should be a backdoor for whoever polices the Wildlife Corridor that allows the opportunity if necessary to further limit the use of the property. Mr. Hoover stated he feels the limitations are somewhat heavy handed and if problems come up then they can be dealt with at a later time. Mr. Hoover stated he is sure they were trying to anticipate what problems there may be before there are even problems.

Page 16 – Section 5.07 (vii) – There was discussion on the leash requirement being unnecessary. Mr. Hoover suggested changing that statement to: Pets are required to be under control. Mr. Hoover stated since Clearwater Conservancy is trying to create nesting habitat than it may be as simple as restricting dogs until the nesting birds are up and out.

Mr. Pressler stated there should be a statement that states: Limitations are at the discretion of the Township and changes as warranted. Mr. Pressler commented that as changes are made then the Township can decide what they want to police. Mr. Brown stated you should not be creating something that you have to police.

6. OTHER BUSINESS

Mr. Eberhart questioned whether there were any applications that have been submitted or any interest for this year. Mr. Brown questioned what happened at the meeting with the Halls. Mr. Pressler stated the Halls wanted to discuss the Conservation Easement/Fee Simple purchase and the lease program. Mr. Pressler stated they are interested but are unsure about which they are interested in.

Mr. Brown stated after discussion with Mr. Love he was informed that the 10% exemption was not as he thought is was setup. Mr. Brown stated as it turns out, there is automatically 10% set aside on every lease and does not have to be written out. Mr. Brown stated theoretically 100 acres would give you 10 one acre lots. Mr. Brown stated it states that on one page but on the next page it says you can only sell 10 acre lots so that would only be one ten acre lot for 100 acres. Mr. Brown stated it was suppose to be 10 one acre lots and

would like to change that. The applicant would get paid for the 10% up until it got developed. Mr. Eberhart stated the ten acre part is if you wanted to continue to use it as open space. Example: If you wanted to sell a neighboring farm 10% of your property you could do that still under the OSPP but you could not have less than 10 acres. Mr. Brown stated that is how he understood it but Mr. Love stated it limits it to one lot per every 100 acres. Mr. Pressler stated you had to have 60 acres in order to get 10% of it available for development or something else. Mr. Brown stated the OSPB should take another look at this and would like the OSPB to change it if it is not what they thought it was suppose to be so it is the way the OSPB intended. Mr. Brown commented that maybe it should be reviewed by a solicitor if Mr. Love insists that it is limited to one 10 acre lot for 100 acres. Mr. Way discussed his property and how many lots he would have using one acre and ten acre lots. Mr. Hoover stated 90% of the land needs to stay in the OSPP. Mr. Brown stated it may need to be reviewed by a few solicitors. Mr. Eberhart read the restrictions and exceptions stated he thought is says what the OSPB wants it to say.

7. CITIZEN'S COMMENTS

There were no citizen comments.

8. ADJOURNMENT

The meeting was adjourned at 9:05 p.m.

- ***MOTION: Mr. Merritt moved to adjourn the meeting at 9:05 p.m.; Mr. Eberhart seconded; Vote 6-0-0; Motion Carried.***