

**HALFMOON TOWNSHIP OPEN SPACE PRESERVATION BOARD  
REGULAR MEETING – MINUTES  
MAY 27TH, 2009**

**1. CALL TO ORDER**

Chair Lee Pressler called the meeting to order at 7:05 p.m. Other members present were Bob Eberhart, Ron Hoover, Jerry Brown, Andy Merritt and Dennis Thomson. Staff present was Greg Love and Township Solicitor, Kathleen Yurchak. No Audience present.

**2. PLEDGE OF ALLEGIANCE**

**3. MINUTES**

● ***MOTION: Mr. Brown moved to approve the minutes of May 6<sup>th</sup>, 2009; Mr. Hoover seconded; Vote 6-0-0; Motion Carried.***

**4. WILDLIFE CORRIDOR CONSERVATION EASEMENT**

Mr. Love and Ms. Yurchak reviewed questions from the last Open Space Preservation Board meeting.

Page 32 – Nonprofit Conservation Group, Organization or Beneficiaries Agreement Component: Mr. Love explained this is a separate document from the Conservation Easement and this is where the Township grants the funds for the easement purchase. Mr. Love stated pages 1-31 of this document is the Conservation Easement which will be donated to the Township. Mr. Eberhart questioned why it is a donation? Ms. Yurchak stated it is totally for tax purposes. Ms. Yurchak explained the IRS code allows a tax benefit to the Organization and its donors so it has to be set up this way. Mr. Eberhart questioned that since it is being donated to the Township is there a tax benefit for the Township? Ms. Yurchak stated there is no tax benefit to the Township but the benefit goes to the donor. Mr. Pressler questioned whether there were other parties donating monies to the project. Mr. Love stated the other parties and amounts are listed in the Conservation Easement Application. Mr. Eberhart stated the Township is not donating the money but is purchasing the easement. Mr. Love stated the Township and other party donations go to purchase the property as a whole. Mr. Eberhart stated he understood the \$5,000 an acre for 40 acres was to purchase the Conservation Easement. Ms. Yurchak stated the Township is giving a “grant” to Clearwater Conservancy to purchase the property and Clearwater is giving the easement back by “donating” it to the Township. Ms. Yurchak stated the Township is not purchasing the easement but is giving Clearwater Conservancy the money to purchase the property. Mr. Eberhart read a statement from the application document from Clearwater Conservancy regarding purchasing the conservation easement for \$5,000 an acre and stated that language is confusing. Mr. Hoover questioned whether that was a binding document and if it is binding shouldn't that language be changed to state what is really going on? Ms. Yurchak stated it does not have to be precise and the Township has no authority to do anything that is not stated in the Ordinance. The Board reviewed that section of the application. Ms. Yurchak stated that section only describes the appraisal process for the conservation easement. Mr. Love state the application is not a binding agreement but a description of what Clearwater Conservancy is attempting to accomplish.

There was discussion at the last meeting regarding clarification of the language “conservation easement is donated in whole or part.” Mr. Hoover questioned whether the

conservation easement is worth more than \$200,000. Mr. Love stated in the application it is stated where the monies are coming from and the easement is worth more than \$200,000.

Mr. Brown questioned whether a conservation easement was subject to an appraisal? Mr. Love stated under the provisions of the IRS Code, since the easement is for a period of over 30 years, and by Municipal Ordinance 2003-02 as amended by § 1300.4.2, and Act 153 an appraisal is required. Mr. Love read language provided by Mr. Hilshey in a memo regarding the appraisal. Mr. Hilshey stated he is not at liberty to disclose the results of this entities appraisal since it was commissioned by and for the current landowner, RT Ventures. A new appraisal by the sale comparison method must be completed to determine the value of the development rights. This appraisal is being commissioned by RT Ventures and Halfmoon Township. Mr. Love stated it was bid out for an appraisal of a conservation easement.

Mr. Pressler questioned whether a timeline has been received. Mr. Love stated he is hoping everything will be back 60-90 days from now. Mr. Thomson questioned what and why it is taking so long and why is it required. Ms. Yurchak stated there are three different things going on and the Township does not have a lot of control over what is being done with the property right now. Mr. Love stated the Open Space Preservation Board is given the information as the Township receives it. Ms. Yurchak stated right now they are waiting on the Township to provide comments regarding the conservation easement. Mr. Pressler stated there should be a subdivision plan submitted before this is approved. Mr. Eberhart questioned whether the Township could speed things up for subdivision submission.

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. Love stated a formal recommendation is needed for the Board of Supervisors from the Open Space Preservation Board and the Planning Commission regarding changes to sections 4.03.d.i and 5.07.a. Mr. Love stated the Open Space Preservation Board could propose that it read “Walking, hiking, jogging, cross country skiing on trails, horseback riding (at a walking gait) on designated trails, nature study, bird watching, bicycles are to be walked. Owner reserves the right to prohibit horseback riding.” From: “(i) Walking, horseback riding on trails, cross-country skiing on trails, nature study, bird watching, fishing and hunting.” Mr. Eberhart stated he and Mr. Hoover shared concerns that the decision on horseback riding went to Clearwater and since the Township has put money into this then the Township should have something to say since we are working on behalf of the citizens of the Township. Mr. Thomson stated he is not sure the OSPB should get involved in this decision since horseback riding is incompatible with open space and worries about liability. Mr. Love stated the PA Recreational Use Statue follows guidelines for public use of a property. Ms. Yurchak stated generally a conservation easement replaces restrictions on what the owner can do with the land and it generally does not put you in a partnership with the landowner. Mr. Love explained because DCNR monies are being used it has to be open to the public. Mr. Pressler stated if things continue to get eliminated than it is not a benefit to the public. Mr. Hoover stated there are too many restrictions. There was discussion on who would construct and maintain the trail. Mr. Love stated it was set up that the Township would have the right to construct and maintain the trail. Mr. Love stated Clearwater Conservancy has agreed to construct and maintain the trail. Mr. Love stated the OSPB could request an estoppel certificate or a separate agreement regarding who will construct or maintain trails. Mr. Eberhart stated if no one has to do it than it may not get done at all. Ms. Yurchak questioned whether DCNR had trail requirements. Mr. Love stated they did not. Mr. Love

questioned whether the OSPB wanted to make a formal recommendation to change the language. There was discussion whether holder should be added to the recommendation. Mr. Pressler stated if the one of the owners or holders says yes and one says no then it goes no place. Mr. Love suggested adding the owner/holder has the right to review. Mr. Thomson stated he has concerns that the Township is trying to micromanage restrictions that can not be anticipated intelligently. Ms. Yurchak questioned what the issue is with horseback riding. Mr. Hoover stated there was concern about potential damage and it may be an issue if there are too many horses going through the Wildlife Corridor. Mr. Eberhart stated his issue with horses is whether Clearwater Conservancy has the right to have the final decision whether that type of use can be allowed. Ms. Yurchak stated the OSPB would have to decide whether they wanted to help manage the Wildlife Corridor or leave it up to the Clearwater Conservancy. Mr. Thomson stated he has concerns that this may set a precedence that the Township should be this involved in other types of conservation easements. There was discussion on the Clean & Green program. Mr. Pressler suggested changing the language from prohibit to "restrict" and limit which trail it can be done on. Mr. Pressler stated he is not interested in prohibiting horseback riding but may be interested in restricting it in certain places. Ms. Yurchak stated Clearwater Conservancy and DCNR had to accept the language.

● ***MOTION: Mr. Hoover moved to recommend the following language change; Walking, hiking, jogging, cross country skiing on trails, horseback riding (at a walking gait) on designated trails, nature study, bird watching, bicycles are to be walked. Owner & Holder reserves right to prohibit horseback riding subject to review; Mr. Thomson seconded; Vote 6-0-0; Motion Carried.***

Mr. Brown had questioned erosion issues at the last meeting. Mr. Love stated erosion issues are covered under Section 4.03.b.v. as best management practices.

Mr. Love stated the property will be inspected once a year on no particular date but before the anniversary. Mr. Love stated the person that would do the inspections could consist of the OSPB or a designated appointee, owner and DCNR may be involved if they wish. A report is to be filed with the Township, OSPB and the School District 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. Mr. Love referred the OSPB to the Land Owner Letter of Understanding.

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. Love stated that yes, the 36 acres area is for public access and use with additional restrictions covered for the trail area. Mr. Love stated if DCNR was not involved the only portion that would be open to the public would be the trail but since DCNR is involved than all the 36 acres is open to the public. Mr. Love stated the four acres is not open for public access because for one there is no point of access and the primary use is for bird nesting areas. Mr. Eberhart stated access area could mean that is the area to park and is not defined in the definition. Ms. Yurchak stated the language should be made more clearer. Mr. Love stated they tried to provide definitions under access area A, B and C.

Mr. Love clarified where the parking access area would be and the amount of parking spaces available. The access area is off of Harness Downs Road at the cul-de-sac. It is located on the 36 acre tract and does have space for 10 vehicles to be parked and is the starting point of

the Trail Area. This will be show in detail on the Easement Plat when it is done also showing Protection Areas "A" (36 acres) and "B" (4 acres) also.

It was discussed who would construct the trail. Mr. Love stated in standard use the Trail Area is constructed by the Township. This is the way it was set up when the amendment was done for this type of easement. As it has been disclosed it will be constructed by Clearwater under Grant provisions from DCNR.

Mr. Love stated the cul-de-sac is not part of the 36 acres. It is owned and maintained by the Township under Deed of Dedication from S&A Homes to Halfmoon Township. It also abuts the Conservation Easement property at a point to be shown on the Conservation Plat. There is no separation between the Township property and the Conservation Property.

Mr. Love provided draft sign language that would be 8 1/2 X 11 in size. There was discussion on the size of the sign. Mr. Thomson stated on page 6 number 12. of the memo; All public use of this Wildlife Corridor area must conform to the requirements of the Commonwealth of Pennsylvania Recreational Use Statue. (Recreational Use of Land and Water Act) could include anything. Mr. Pressler questioned who will purchase the sign. Mr. Love stated the Township would pay for the sign. Mr. Pressler stated he has not seen anything so far that Clearwater Conservancy is paying for. Ms. Yurchak stated she did not think the Township would be restricted on the size of the sign. Ms. Yurchak explained that some of the language comes from other conservation easements that DCNR has participated in and if the OSPB would like to suggest a larger sign than it can be recommended. Mr. Brown questioned the language that read that all licensed pets are required to be restrained with a leash and questioned whether unlicensed ones were not required. Mr. Thomson questioned the language that reads that firearms may be carried by a licensed adult hunter and questioned whether it should read all hunters may carry firearms. There was discussion on concealed weapon permits.

There was discussion on the difference between human and animal harassment & disturbance. Ms. Yurchak stated the definition of harassment under the law has different elements including being intentional whereas disturbance is unintentional. Ms. Yurchak suggested leaving the language "disturbance" in the section.

Mr. Love stated the use of off-road bicycles can cause disturbance to the trail for safety purposes and damage to the trail. Mr. Love stated non-off-road bikes may be used in the access area if they are walked through the area.

The OSPB requested clarification on who constructs and maintains the trails. Mr. Pressler questioned why the owner would not be responsible for some of the costs and not just the holder being responsible. Ms. Yurchak questioned what costs Mr. Pressler was referring to. Mr. Pressler stated that should fall on the owner to construct the trails and parking area and not the "renter". Ms. Yurchak stated the Township would be the "renter" and wants the access for the public. Ms. Yurchak explained Clearwater wants it to so they agreed to pay for it but it will be on their schedule. Mr. Pressler stated when Clearwater came to the Township to discuss the Wildlife Corridor he understood that Clearwater stated they would provide things and never said the Township would have to pay for it to get the trails and parking area. Mr. Pressler stated he felt that was the advantage for the Township in providing \$200,000 for the Wildlife Corridor. Mr. Love stated that could be a separate document that could provide a timetable for completion of these items subject to funding availability. Mr. Love discussed grant options. Ms. Yurchak will draft a document that provides language that Clearwater Conservancy will be responsible for constructing and maintaining the trails and parking area.

Mr. Thomson recommended adding cost sharing language as available through grants from the Township.

Mr. Love stated protection areas A & B will be shown on the map and discussed the items that were omitted for the 4 acres tract (area B).

Mr. Way questioned at the last meeting where the document goes from here with the suggestions. Mr. Love stated after review by the OPSB it will go to the Planning Commission with an original copy and then to the Board of Supervisors and Solicitor.

Mr. Pressler stated he would like to know what exactly Clearwater Conservancy is going to provide. A timeline has been requested by March 31<sup>st</sup>, 2009 and has not been received.

Mr. Pressler questioned what type of rent will be collected for the four acres that is being farmed and can the Township or Clearwater collect the revenue. Mr. Love stated he does not have anything on that. Mr. Pressler stated there would need to be an agreement between the farmer and Clearwater Conservancy that provides the length of rental time, amount of rent to be paid and who collects payment. Ms. Yurchak stated Clearwater would collect the rent since it is their property.

Mr. Love stated there will be three additional documents provided for the appraisal, property survey and phase I study.

#### **6. OTHER BUSINESS**

Mr. Eberhart requested Mr. Love bring the OSPB up to date on where all the OSP applications are at. Mr. Love stated he is currently waiting for Amos Goodall to write the leases and get them back to him. Mr. Love stated he is waiting for two subdivisions and one legal description and the leases from Mr. Goodall then everything will be complete.

#### **7. CITIZEN'S COMMENTS**

There were no citizen comments.

#### **8. ADJOURMENT**

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

- ***MOTION: Mr. Merritt moved to adjourn the meeting at 8:50 p.m.; Mr. Hoover seconded; Vote 6-0-0; Motion Carried.***