

# Jefferson County Farmland Protection Board

**Board Meeting Thursday, February 23, 2023 6:00 PM**

## **Zoom Meeting**

### **Minutes**

- Board Attendees –, Mr. Banks, Mr. Berndt, Dr. Hetzel,, Dr. Stine, Ms. Tabb (JCC representative), Ms. Wheeler, (Director)
- A quorum was met with at least four voting members present.
- Absentees: Ms. Johnson, without notice.

6:23 PM .....Call to Order and Opening Remarks

#### **Introduction of Guests – no guests**

**Approval of Minutes of Previous Meeting** (January 9, 2023) \* Mr. Berndt moved to approve the minutes, seconded by Mr. Banks. The motion carried unanimously.

**Approval of Treasurer’s Report:** (January 2023) \* Dr. Stine moved to approve the Treasurer’s report, seconded by Mr. Berndt. The motion carried unanimously.

#### **Administrative Report (see attached)**

#### **New Business:**

1. Consider for approval: Purchase of one iPad mini tablet for easement monitoring for \$650, and \$300 annual fee for 1 Gigabyte/month base data plan from Comcast. Ms. Tabb moved to approve the purchase of the iPad mini tablet, seconded by Mr. Banks. The motion carried unanimously.
2. Consider for approval: MEMORANDUM of AGREEMENT between WEST VIRGINIA DEPARTMENT of ENVIRONMENTAL PROTECTION and THE JEFFERSON COUNTY FARMLAND PROTECTION BOARD and WEST VIRGINIA LAND STEWARDSHIP CORPORATION for LONG TERM STEWARDSHIP of THE MORGAN WETLAND IN-LIEU FEE MITIGATION PROJECT. Mr. Banks moved to accept the Memorandum of Agreement, seconded by Dr. Stine. The motion carried unanimously.
3. Consider for approval: New Era Legal invoice for \$1,237.50 for Latterell Deed of Correction drafting and revision. Mr. Berndt moved to accept the invoice for payment, seconded by Mr. Banks. The motion carried unanimously.

4. Consider for approval: New Era Legal invoice for \$726.00 for title work (Property 2023-01) Mr. Berndt moved to accept the invoice for payment, seconded by Mr. Banks. The motion carried unanimously.
5. Consider for Approval: Acceptance of IRS Form 8283 for Hendricks easement donation. Ms. Tabb moved to accept the IRS Form 8283, seconded by Mr. Banks. The motion carried unanimously.
6. Consider for approval: Driveway restoration plan for Ellis easement. Ms. Tabb moved to approve the driveway restoration plan, seconded by Mr. Banks. The motion carried, with Dr. Stine abstaining.

Public Comment – none.

Closing Remarks - none

Adjourn. The meeting adjourned at 7:09 PM.

The Jefferson County Farmland Protection Board reserves the right to re-arrange items on the agenda if necessary to accommodate time constraints of the public or the Board.

## Jefferson County Farmland Protection Board

## Balance Sheet

02/02/23

As of January 31, 2023

Accrual Basis

	Jan 31, 23	Jan 31, 22	\$ Change
<b>ASSETS</b>			
<b>Current Assets</b>			
<b>Checking/Savings</b>			
BCT - Operating x9741	139,889.71	133,222.21	6,667.50
BCT - Stewardship Reserve x7390	111,491.08	80,561.74	30,929.34
BCT - Stewardship Account x7412	13,265.28	13,214.23	51.05
BCT - Easement Acq. Fund x7404	0.00	209,437.61	-209,437.61
BCT - ICS x0740	3,469,729.42	2,901,878.48	567,850.94
BCT - ICS EAF x2034	295,302.05	0.00	295,302.05
<b>Total Checking/Savings</b>	4,029,677.54	3,338,314.27	691,363.27
<b>Other Current Assets</b>			
Transfer Taxes Receivable	65,719.50	91,499.63	-25,780.13
Legal Retainer	3,000.00	3,000.00	0.00
<b>Total Other Current Assets</b>	68,719.50	94,499.63	-25,780.13
<b>Total Current Assets</b>	4,098,397.04	3,432,813.90	665,583.14
<b>TOTAL ASSETS</b>	<b>4,098,397.04</b>	<b>3,432,813.90</b>	<b>665,583.14</b>
<b>LIABILITIES &amp; EQUITY</b>			
<b>Liabilities</b>			
<b>Current Liabilities</b>			
<b>Accounts Payable</b>			
Accounts Payable	0.00	56.04	-56.04
<b>Total Accounts Payable</b>	0.00	56.04	-56.04
<b>Other Current Liabilities</b>			
Due to Jefferson County Comm.	0.00	41,153.70	-41,153.70
<b>Total Other Current Liabilities</b>	0.00	41,153.70	-41,153.70
<b>Total Current Liabilities</b>	0.00	41,209.74	-41,209.74
<b>Total Liabilities</b>	0.00	41,209.74	-41,209.74
<b>Equity</b>			
Reserved for Encumbrances	2,270,740.00	1,621,485.00	649,255.00
Reserved for Farmland Protect.	1,864,053.44	1,663,431.01	200,622.43
Net Income	-36,396.40	106,688.15	-143,084.55
<b>Total Equity</b>	4,098,397.04	3,391,604.16	706,792.88
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>4,098,397.04</b>	<b>3,432,813.90</b>	<b>665,583.14</b>

## Jefferson County Farmland Protection Board

## Profit &amp; Loss

02/02/23

July 2022 through January 2023

Accrual Basis

	Jul '22 - Jan 23	Jul '21 - Jan 22	\$ Change
<b>Ordinary Income/Expense</b>			
<b>Income</b>			
Transfer Tax	716,817.60	885,899.83	-169,082.23
Interest/Dividends	26,638.22	15,734.35	10,903.87
<b>Contributions Income</b>			
Corporations	64.20	0.00	64.20
Foundations	0.00	15.00	-15.00
Individuals	3,452.50	82,339.97	-78,887.47
Contributions Income - Other	544.55	604.22	-59.67
<b>Total Contributions Income</b>	4,061.25	82,959.19	-78,897.94
<b>Miscellaneous Income</b>	165.00	0.00	165.00
<b>Total Income</b>	747,682.07	984,593.37	-236,911.30
<b>Expense</b>			
Advertising & Marketing Expense	806.88	761.15	45.73
Bank Service Charges	175.00	0.00	175.00
Dues and Subscriptions	150.00	611.85	-461.85
Licenses and Permits	0.00	150.00	-150.00
Miscellaneous	473.84	130.02	343.82
Office Supplies	284.73	230.26	54.47
Postage and Delivery	232.88	194.21	38.67
Printing and Reproduction	17.50	304.39	-286.89
<b>Professional Fees</b>			
Accounting	4,725.00	1,695.00	3,030.00
Computer Support	100.00	195.00	-95.00
Consulting/Contract	160.00	8,970.00	-8,810.00
Terra Firma Insurance	3,402.00	4,468.00	-1,066.00
<b>Total Professional Fees</b>	8,387.00	15,328.00	-6,941.00
<b>Salary &amp; Benefits Expense</b>	5,613.81	41,153.70	-35,539.89
Telephone	450.00	450.00	0.00
<b>Travel &amp; Ent</b>			
Travel	616.26	211.68	404.58
Travel & Ent - Other	210.25	439.74	-229.49
<b>Total Travel &amp; Ent</b>	826.51	651.42	175.09
<b>Utilities</b>	1,327.18	0.00	1,327.18
<b>Total Expense</b>	18,745.33	59,965.00	-41,219.67
<b>Net Ordinary Income</b>	728,936.74	924,628.37	-195,691.63
<b>Other Income/Expense</b>			
<b>Other Income</b>			
Prior Years Encumbrances			
Easement Acquisition	-203,146.00	0.00	-203,146.00
<b>Total Prior Years Encumbrances</b>	-203,146.00	0.00	-203,146.00
<b>Total Other Income</b>	-203,146.00	0.00	-203,146.00
<b>Other Expense</b>			
Conservation Easement Procure	0.00	603,559.00	-603,559.00
<b>Current Year Encumbrances</b>			
Easement Acquisition	540,536.00	209,191.00	331,345.00
<b>Easement Costs</b>			
Easement Administration	1,767.37	0.00	1,767.37
Baselines	3,235.76	1,158.75	2,077.01
Title Search/Appraisal Reimb.	0.00	53.00	-53.00
Surveys	5,250.00	0.00	5,250.00
Legal Fees	19,437.00	0.00	19,437.00
Settlement Charges	0.00	3,978.47	-3,978.47
Other	-9,890.49	0.00	-9,890.49
Easement Costs - Other	1,851.50	0.00	1,851.50
<b>Total Easement Costs</b>	21,651.14	5,190.22	16,460.92
<b>Total Current Year Encumbrances</b>	562,187.14	214,381.22	347,805.92

# Jefferson County Farmland Protection Board

## Profit & Loss

July 2022 through January 2023

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	Jul '22 - Jan 23	Jul '21 - Jan 22	\$ Change
Other Expenses	0.00	0.00	0.00
Total Other Expense	562,187.14	817,940.22	-255,753.08
Net Other Income	-765,333.14	-817,940.22	52,607.08
Net Income	<b>-36,396.40</b>	<b>106,688.15</b>	<b>-143,084.55</b>

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## **Jefferson County Farmland Protection Board**

### **Administrative Monthly Report .... February 23, 2023**

#### **Easement Progress:**

Property 2021-03 Lotze (45 ac) (\$203,146.00) Closed on January 20, 2023. (Easement No. 55)

Property 2020-02 – C & D Moler (93.5 ac) The survey is complete. NRCS approved the revised appraisal. Baseline draft prepared. Deed template prepared.

Property 2020-05 Kime (178.3 ac) Baseline draft prepared, survey corrected. Deed sent to Planning & Zoning and the Prosecuting Attorney for review. Additional corrections made.

Property 2020-04 RB Moler (175.53 ac) Initial project work is underway: The draft survey has been prepared. Issues of road identification and access are being addressed with NRCS. Baseline placeholder confirmed, and appraisal ordered.

#### **Existing Easements:**

Property 31 - Morgan/Hewitt - The MOU for the Long-Term Management Plan with WVDEP and endowment funding is complete (see agenda item) WVDEP will provide \$37,340.50 for the endowment and \$17,000 for fencing maintenance. Fencing repair is complete. I visited the property 2/15 to confirm.

Property 13 – Ellis/Brown: Rob Glenn is reviewing the Deed of Amendment with Land Trust of the E. Panhandle changes.

Property 3 – Latterell. The Deed of Correction has been bogged down in NRCS' and our bureaucracy since July. The landowners are upset by the delay. They want to put the property on the market and want the deed correction addressed. I petitioned the State Conservationist Jon Bourdon on Feb. 3 for an expedited review.

**Protected properties for sale:** Borden Farm (278 ac, \$1.8MM), Renaud (73 ac. \$1.1MM)  
Sold 12/28/22: Magaha (104 ac \$419K) to O'Sullivan Farms. (2020 easement price: \$411,243)

**Spring Monitoring Schedule:** March 20 – April 5 (21 properties) We visited the Knighten Farm at the owner's request on February 7.

#### **Easement FY23 Applications:**

Five applications were received and reviewed by the Easement Committee. Two were forwarded to NRCS.

The owner of **Property 2023-01** (154 acres) has requested that work on the easement be halted until April 30 to allow time to address estate planning issues. (See letter). Title work has been completed.

**Property 2020-01 (Aspen Pool)** Grant application submitted December 23, Grant award notification is pending. (JCFPB match: \$486,234.00).

**New Application:** 1/23/2023 100 acres, Shepherdstown District. Appraised \$900,000, \$600,000 offer. (33% donation).

**New Inquiry:** 2/17/2023: 42 acres in Kearneysville.

#### **Administration:**

NRCS delays: The WV NRCS easement specialist was appointed to a 4-month national-level assignment until June 1. The position is being advertised. Two other staff have left. That translates to little or no movement on existing easements in the pipeline and for applications submitted in November, and for 5 deeds of correction.

Grant Smith with LTEP is furthering deeds of correction for four battlefield easements with the ABPP office.

**Audit:** 2022 Audit is being conducted by Perry and Associates. Draft Audit report submitted 2/22/23.

**Financial:** Jan 10 – Feb 13: Individual gifts: \$1,515.

**Terrafirma:** Our stewardship insurance account will renew in March with three new easements.

**Legislative update:** HB 2476, introduced on Feb 6 by Fayette County Delegate Fast in the House Ag & Natural Resources Committee. It is intended to prohibit Farmland Protection Boards from acquiring land fee simple (also opening the code is perilous). I worked with The WV Association and WV Ag Land Authority to organize letters of opposition. Jane Tabb sent an email. The bill was removed from the agenda Feb 14.

**JCDA Director:** The County Commission reported on February 16 that Dennis Jarvis resigned.

### **Projects in process/pending:**

**Annual Report:** Eden Design is working on the report materials.

Local promotion: The current map of protected lands in Jefferson County will be on display for the American Conservation Film Festival (March 10 – 12)

Procedures manual: The Procedures Manual and Continuation of Operations Plan have been drafted.

Bylaws Revision: The current bylaws revisions should be reviewed.

Policy Review: Our policies established beginning in 2013 should be reviewed and updated. We should have a more explicit reimbursement policy.

### **Stewardship Coordinator/Administrative Assistant Rebecca Pearl**

Activity Report: January 2022

#### **Administrative Tasks**

- Filed paperwork.
- Backed up OneDrive to external hard drive at the end of the month.

#### **Stewardship Tasks**

- Created GIS data and maps for new inquiries.
- Prepared materials and GIS data for Lotze closing.
- Updated status map and web map to reflect new easement.
- Updated 2023 monitoring schedule and reassigned monitoring groups.
- Sent updated shapefile of newly closed easement to the GIS/Addressing Office.
- Continued project: using COGO to update all property boundaries and catalogue any issues after discovering errors in a few surveys.
- Final processing of 2022 fall monitoring reports; all reports filed away and mailed to property owners.
- Attended GIS training class in Morgantown on 4 January.
- Attended quarterly WVAFPB meeting in Petersburg on 12 January.

**MEMORANDUM OF AGREEMENT**  
Between  
**WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
And  
**THE JEFFERSON COUNTY FARMLAND PROTECTION BOARD**  
And  
**WEST VIRGINIA LAND STEWARDSHIP CORPORATION**  
  
**FOR LONG TERM STEWARDSHIP OF THE MORGAN WETLAND  
IN-LIEU FEE MITIGATION PROJECT**

This Memorandum of Agreement (MOA) supplements the previous Grant Agreement made on January 22, 2013 between Jefferson County Farmland Protection Board (JCFPB) and The Nature Conservancy (TNC) regarding long-term management activities and funding provided by the West Virginia Department of Environmental Protection (WV DEP). Except where expressly provided herein, this MOA does not alter or supersede any provisions of the January 22, 2013 Grant Agreement. Pursuant to this MOA, the JCFPB and West Virginia Land Stewardship Corporation (WVLSC) agree to provide long term stewardship activities for the Morgan Wetland In-lieu Fee Mitigation Project for WV DEP In-Lieu Fee Stream and Wetland Mitigation Program.

**Goals**

- Through this Memorandum of Agreement (MOA) between JCFPB, WVLSC, and WV DEP, JCFPB and WVLSC will provide long term stewardship as outlined in the long term management plan (attached hereto) for the WV DEP Morgan Wetland In-Lieu Fee (ILF) mitigation project.
- The overall goal of long-term management is to foster the long-term viability of the site while defending the project's declaration of restrictive covenants which were recorded on January 23, 2013. Routine monitoring and minor maintenance tasks are intended to assure the viability of the site.

**JCFPB will:**

1. Subject to availability of funds, undertake activities as outlined in the project long term management plan and as required by the declaration of restrictive covenants.
2. Notify the WVLSC of any action the JCFPB takes to enforce the declaration of restrictive covenants or of any declaration of restrictive covenants violations and of the eventual resolution of those issues within 60 days.
3. Provide 30 days advance notice to the USACE and WVLSC if any action is taken by JCFPB to void or modify the declaration of restrictive covenants. Notify the



USACE within ten (10) days of receipt by JCFPB of any notice of action by another party to void or modify the declaration of restrictive covenants.

4. Upon receipt of funds from WV DEP, immediately deposit the funds into an account maintained by the JCFPB at a federally insured depository institution that is “well- capitalized” or “adequately capitalized” as defined in Section 38 of the Federal Deposit Insurance Act. JCFPB will invest the stewardship funds for the ILF project to generate income that will be utilized for stewardship expenses incurred by JCFPB for such projects. JCFPB agrees that any annual income in excess of annual stewardship expenses shall be either reinvested in the stewardship fund or held in a reserve account for future stewardship needs. The stewardship funds may be commingled by JCFPB with other JCFPB funds as JCFPB sees fit in connection with its activities, but the principal of the stewardship fund shall remain intact and shall not be subject to invasion, unless required for enforcement of the declaration of restrictive covenants. JCFPB will invest the stewardship funds in good faith, provided, however, JCFPB makes no representations or guarantees with respect to the return on any such investment.
5. Use only the interest earned on the escrow account for the purposes of long-term stewardship. The principal shall remain undispersed in the account, unless required for legal defense and enforcement of the declaration of restrictive covenants.
6. Until final release from the USACE and WVDEP to JCFPB for long term stewardship, upon written request, provide to WVDEP JCFPB’s annual audited financial statements and/or an unaudited financial report that demonstrates that the funds are being maintained and managed as specified in this agreement.

**WVLSC will:**

1. Subject to availability of funds, undertake activities as outlined in the project long term management plan and as required by the declaration of restrictive covenants.

Notify JCFPB of any findings related to the Morgan Wetland In-lieu Fee Mitigation Project long-term management activities or of any violations of the declaration of restrictive covenants communicated to or observed during annual monitoring visits.

2. Upon receipt of funds from WV DEP, immediately manage those funds in accordance with the Long Term Stewardship Agreement signed 1/5/2021 between the WVDEP and the WVLSC incorporated by reference or any subsequent agreement between the WVDEP and the WVLSC.

### **WV DEP will:**

1. **Upon concurrence with JCFPB's long-term stewardship amount (\$37,340.50 for the endowment and \$17,000 for fencing repairs) and justification, provide JCFPB with long term stewardship funding.**
2. Upon concurrence with WVLSA's long-term stewardship amount (\$80,362.00 for the endowment) and justification, provide WVLSA with long term stewardship funding.
3. Provide written notification to the USACE of distribution of long-term stewardship funds to JCFPB and WVLSA and the project(s) for which these funds are established.
4. Provide and install the initial declaration of restrictive covenant boundary signs for the Morgan Wetland In-lieu Fee Mitigation Project at the acceptance of this MOA.

### **Amendments and Termination**

1. Modifications and amendments within the scope of this MOA must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least thirty (30) days prior to implementation of the requested change.
2. Any party may terminate this agreement at any time prior to expiration with written notice given one hundred twenty (120) days in advance. Prior to termination, the JCFPB shall provide an accounting of monies to WV DEP and immediately transfer all monies remaining, other than monies properly due and owing to JCFPB, to the control of DEP or an entity designated by the WV DEP to serve as successor.
3. This agreement shall begin at the time of both parties' signatures and extend for a period of 20 years, after which time this agreement shall automatically renew on an annual basis until such time either party terminates this agreement as specified in section 2 of Amendments and termination.

### **Points of Contact**

The points of contact for written communication among the parties are:

West Virginia Department of Environmental Protection  
Division of Water and Waste Management  
Kristy Rodrigue, In Lieu Fee Project Coordinator  
1159 Nick Rahall Greenway

Fayetteville, West Virginia 25840  
Phone: (304) 900-0340  
E-mail: [kristy.l.rodrique@wv.gov](mailto:kristy.l.rodrique@wv.gov)

Jefferson County Farmland Protection Board  
Elizabeth Wheeler  
P.O. Box 731  
Charles Town, West Virginia 25414  
Phone: (304) 728-3380  
E-mail: [jefferson@wvfp.org](mailto:jefferson@wvfp.org)

West Virginia Land Stewardship Corporation  
Taylor Bennett  
430 Spruce Street, Suite 201  
Morgantown, WV 26505  
Phone: (304) 942-4269  
Email: [tbennett@wvlsc.org](mailto:tbennett@wvlsc.org)

### **Non-Liability**

The WV DEP does not assume liability for any third-party claims for damages arising out of this MOA.

### **Participation in Similar Activities**

This MOA in no way restricts the parties from participating in similar activities with other public or private agencies, organizations or individuals.

### **Nonbinding Agreement**

This MOA creates no right, benefit or trust responsibility, substantive or procedural, enforceable at law or equity other than those obligations delineated herein. The parties shall manage their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purposes(s) of this MOA.

### **Commencement/Expiration Date**

This MOA is executed as of the date of the last signature and is effective until terminated.

### **Authorized Representatives**

By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this MOA. In witness whereof, the parties hereto have executed this MOA as of the last date written below.

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Katheryn D. Emery  
Director  
WV DEP Division of Water and Waste Management

Date

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Jane M. Tabb  
President  
Jefferson County Farmland Protection Board

Date

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Taylor Bennett  
Executive Director  
West Virginia Land Stewardship Corporation

Date