

Land Legacies

BLUE RIDGE FOOTHILLS CONSERVANCY

A Local Resource for Madison and Greene

Volume 11

Spring 2013

Landowners from Greene and Madison Listens to Key Note: There's No Time Like Now to Protect Open Space



A comfortable group of some 60 land workers and land owners turned out for the BRFC's Annual Barn Dinner on March 22 at Firnew Farm to chow down on very good and fresh fried fish and hear from BRFC members, the Virginia Outdoors Foundation (VOF), and the Piedmont Environmental Council (PEC) about working together to preserve our rural landscape and agricultural heritage.

In Virginia, voluntary conservation/open space easements are a most effective way individual property owners can preserve open space, farms, and forests and benefit the environment. Since 2000, the land protected this way in Madison and Greene has increased from 1,550 to over 24,000 acres.

Each individual property has to qualify for easements, but, for Virginia families who own 50-100 acres, easement

benefits could range from \$50,000 to \$200,000, depending on the property and landowner's situation. Larger properties would benefit more.

While dining and wine, the crowd learned about the easement process in Virginia from PEC's Rex Linville and BRFC board member Carl Schmitt and how matters like privacy, inheritance, and land value are managed. They also learned about significant Federal, State, and estate tax benefits associated with flexible, perpetual, and cost-effective voluntary easements.

VOF's Sherry Buttrick put the icing on the apple pie dessert by noting key characteristics of standard VOF conservation easements and easement terms, including forest management. Importantly, she described the new working farm or farmstead variant in Virginia, where "more flexibility is permitted in the farmstead area in exchange for fewer divisions." Under this variant championed by several organizations, including VOF, the Farm Bureau, and VA Agriculture and Consumer Services Commissioner Matt Lohr (see page 5 for more), large farm buildings can be allowed by

Expanded Federal tax benefits available this year but not assured for the future may make 2013 the best year to engage in a conservation easement, particularly for those with limited incomes.

right, including ag processing buildings of any size.

The audience also learned about Virginia's Open Space Lands Preservation Trust Fund which helps landowners with limited means with the cost of conveying open-space easements and, when funds allow, purchase of all or part of the value of the easements to pay out-of-pocket expenses. The Fund may include legal and appraisal costs, and all or part of the easement's value. Ms. Buttrick emphasized priorities in applying for the Fund, which include those that demonstrate financial need and cover a family owned- and operated farm.

Conservation easement loans are also available, including from the Madison County Conservation Fund and the Greene County Conservation Fund, whereby recipients can pay back monies borrowed at no interest once they receive State tax credits regarding their easements.

More information is available below on specifics of classic and variant benefits, such as the Federal Charitable Gift Deduction, Virginia State Tax Credit, Estate Tax Reduction, and Local Real Estate Taxes.

Heads could be seen nodding in interest over the new variant easement approach described by Ms. Buttrick, which essentially allows designating specific farmstead areas so that farming practices can easily evolve under an easement.

Further contact information for Madison and Greene:
Sherry Buttrick, VOF (434.293.3423)
 For Madison,
Kristin Ford, VOF (434.293.5169)
Trish Crowe, BRFC (540.948.5444)
Peter Hujik, PEC (540.395.2911)
 For Greene,
Carl Schmitt, BRFC(434.985.9815)

Rex Linville, PEC (434.977.2033 x23)
 For forestry easements,
Beth Burnam, DOF (434.220.9184).

General Tax Benefits of Conservation Easements (2013)

In Virginia, the gift of a conservation or open-space easement on a property may qualify as a non-cash charitable gift that can provide the donor with Federal and State income tax deductions and a State income tax credit. It is possible that estate and local real estate taxes on the property can be reduced. A qualified appraiser must establish the property's fee simple value and the amount by which the restrictions on the easement reduce the property's fee simple value. The difference is the easement value, which is primarily based on the value of the development rights forgone by the donor. The appraised easement value serves as the basis for calculating tax benefits.

- **Federal Charitable Gift Deduction:** Donations of conservation easements that meet Federal tax code requirements may entitle the donor to Federal income tax deductions. For tax year 2013, the deduction is set at 50% of adjusted gross income (AGI), which if not used up in 2013, may be carried forward at 50% of AGI for an additional 15 years until the donation is fully expended, whichever comes first. In addition, a farmer or rancher who will receive in 2013 more than 50% of AGI from the trade or business of farming is eligible for a tax deduction of 100% of AGI.
- **Virginia State Tax Credit:** The AGI reduction referred to above for Federal taxes is the same as the AGI used for

“Because many of your neighbors have made the commitment to protect their land, we have a unique opportunity to maintain a rural community as stunning and farm-and-forest-oriented in the future as it is today”
Trish Crowe

Virginia real estate taxes. State taxpayers can also claim a land preservation tax credit to offset State income taxes of 40% of the value of the donated easement, but the credit amount claimed by any one taxpayer may not exceed \$100,000. Even so, any unused amount may be carried over for up to 10 consecutive years. If a landowner has more credits than he or she can use against State tax liability, the credits may be sold or otherwise transferred, for which the tax department charges a small fee. Donors claiming a tax credit of \$1 million or more on an easement value of \$2.5 million or more need to know that the deed of easement will have to meet additional State Department of Conservation and Recreation criteria.

- **Estate Tax Reduction:** Transferring the development rights for a parcel of land through a conservation easement may reduce the value of the land for estate tax purposes, thus reducing estate taxes, often substantially. Also, Section 2031(c) of the Internal Revenue Code provides an estate tax exclusion of up to 40% of the remaining encumbered value of the land (but not improvements on the land) protected by a qualified conservation easement. The exclusion is capped at \$500,000 and is reduced if the easement the land's value by less than 30% at the time of the contribution. To qualify, the easement must prohibit all but *de minimis* commercial recreational use.
- **Local Real Estate Taxes:** May be reduced by placing an easement on the property; however, if the easement is given on land that already qualifies and is assessed at "use value," a further reduction in local real estate taxes is unlikely.

Farmers/Landowners: There Is No Time Like Now for Conservation Easements

- A landowner who donates a conservation easement in 2013 can deduct a maximum of 50% of their adjusted gross income (AGI). This previously percentage *was* 30%.
- Qualified farmers and ranchers who realize 50% of their income from agriculture can deduct an easement donation at the rate of 100% of their AGI.
- A donor can carry deductions forward for up to 16 years (it was 6 years, previously). This can result in significantly higher tax benefits for 2013 donors, especially those with limited income because they have a significantly greater number of years to use up their easement value for tax deduction purposes.

Greene and Madison 2012 Land Conservation Wrap Up

In 2012, eight landowners in Greene and Madison put acreage under voluntary easement. While 2011 was a banner year, 2012 was a very respectable year for voluntary easement, one that followed a more traditional pattern.

Let's Run the Numbers

In 2012, three landowners in Greene added 145 acres, and five landowners in Madison added 497 acres. **The total acreage under easement now stands at 13,814 in Madison and 10,253 in Greene.**

Diversity of Easement Holders

There is a growing diversity of options for landowners as to who they choose to hold their easements, including the Virginia DOF, the VOF, the PEC, the Natural Resource

“We’re about looking at the big land resources’ objective, and that is, when we’re gone, those farms and forests and their resources will still be here.”

***BRFC Board Member
Carl Schmitt***

Conservation Service, and the Land Trust of Virginia.

Conservation Areas

It is noteworthy that seven of the eight newly eased properties contributed to one of 13 Conservation Areas in Greene and Madison. This is where neighbors have joined together to put their land under easement. By preserving areas much larger than a single property, these neighbors protect larger view sheds, contiguous farmland and forests, lands critical to wildlife habitat, and watersheds critical to the quality and availability of our drinking water. Conservation Areas also serve to enhance property values because of the local protection afforded against future development. Thirteen years ago, there were no Conservation Areas in either county.

Conservation Funds

Both Greene and Madison counties now have Conservation Funds managed by the PEC with BRFC participation. These funds offer qualified landowners no interest loans to pay the costs of obtaining an easement. The loan can then be paid back from the State tax credit earned by the landowner.

How Far Have We Come?

At the end of 1999, Madison had 1,181 acres of land under easement; at the end of 2012, Madison had 13,814 acres under easement, involving 62 landowners and 7.8% of the County’s private land. At the end of 1999, Greene had 374 acres under easement; at the end of 2012, Greene had 10,253 acres under easement, involving 59 landowners and 12.75% of the County’s private land. As previously noted, at the end of 2012, the number of Conservation Areas in both counties has risen from 0 to 13.



Fairview Farm, Upcoming Voices of the Land project, Photo: Patricia Temples

What Are You Doing to Protect Your Family's Farm?

Matt Lohr, who serves as Virginia's 14th Commissioner of Agriculture and Consumer Services, wrote earlier this year about conservation easements as one way to protect the family farm. He and his family operate Valley Pike Farm, a 250-acre commercial poultry, beef, crops and agri-tourism operation in Rockingham County. Here are paraphrased highlights of a Lohr press release that in a slightly different form appeared in Cooperative Living magazine.

Agriculture is the very heart of Virginia's economy and has been for 400-plus years. Few would argue the point that well-managed farm and forestlands produce significant environmental benefits, require little or no public services, and make significant contributions to local economies, tourism, recreation, and our quality of life. And even fewer would dispute...that it is difficult to keep working farmland in production. Recent data from the National Resources Inventory (NRI) indicate that from 2002-2007, Virginia lost 60,800 acres of agricultural land directly to developed uses. Other data from the Census of Agriculture indicates that in the same time period, more than 520,000 acres of land ceased to be considered working farmland. Because rural landowners have much of their equity tied up in their land, they generally have to choose between selling their land for as much as possible or holding onto it for agricultural uses without the benefit of income from a farm sale.

The Good News: Conservation easements are available. A conservation easement is a voluntary perpetual agreement that restricts non-agricultural uses such as mining and large-scale residential and commercial development. The landowners continue to own, live on, and use the land. Land under easement may be sold or passed on to heirs,

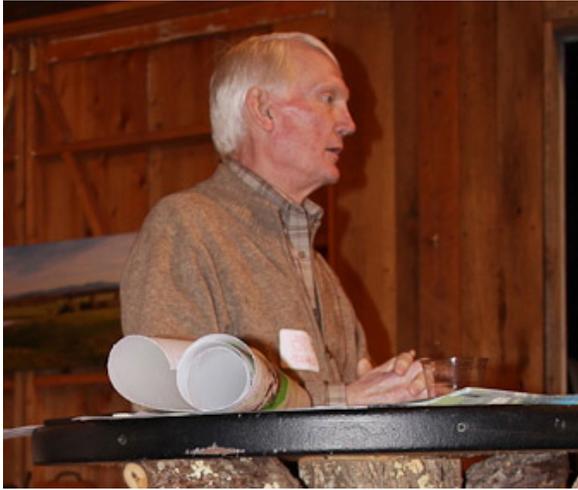
still bound by the easement restrictions. Generous State tax credits and Federal tax deductions are available for landowners who make these easement donations.

Matt Lohr: Mr. Lohr became involved in a project to increase the amount of working farm and forestland permanently protected from development. Data from the State DCR indicated that 66% of the 75,025 acres that received land preservation tax credits in 2011 was in production agriculture or active forestry, but Mr. Lohr "felt that additional work was needed." So he helped pull together a group to work with VOF around the goal of developing a conservation easement tailored to working farms "to increase the number of landowners who take advantage of conservation easements and the tax benefits that may result."

Thanks to this effort, VOF now offers a new working lands variant to its existing conservation easement. It provides a wider range of allowable uses on a farm; gives farmers more leeway in building new farm structures; and still maintains its core function of keeping the farm free from development.

Lohr Observation: "Whether a conservation easement is right for your family and your farm is a big decision. It is something my family and I are considering." Mr. Lohr has said he wouldn't be surprised if he has put an easement on his farm by this time next year. Sometimes, Mr. Lohr has observed, an easement is not the best option. However, "I feel strongly that donation of conservation easement warrants serious consideration by... working farm and forest landowners in Virginia, at decision, we are ready and eager to do so." Mr. Lohr urges Virginia farm owners interested in permanently protecting their lands to contact the Office of Farmland Preservation (OFP) and OFP coordinator Kevin Schmidt at 804.786.1346, or kevin.schmidt@vdacs.virginia.gov.

In Remembrance of Bob Roberts

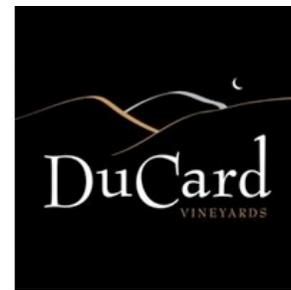


Earlier this year, BRFC Board Member Bob Roberts lost his long-standing battle with cancer. Bob was an inspirational person for many reasons. He and his wife, Susan, bought a large farm in Greene County and turned it into a thriving farm business while adopting conservation practices. For their efforts, they received a Clean Water award from the Culpeper Soil and Water Conservation District. They then went much further and placed their farm under voluntary conservation easement, thus protecting it for the future. As a member of the Greene County Young Farmers, Bob became a strong advocate for farm interests and, as a BRFC Board member, an equally strong advocate for land conservation.

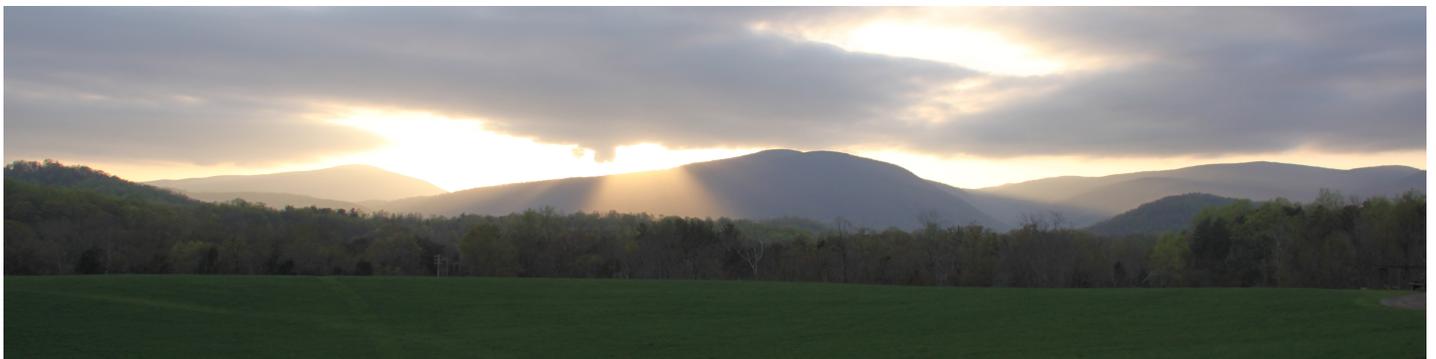
Bob was highly accomplished and an inspiration to those who knew him well. Even as he underwent harsh medical treatments to

combat his condition, if we needed help, he was there. He remained positive in his outlook and ready to move on with new ideas. He was a devoted family man and we on the BRFC Board became a part of that family.

It is very difficult to accept that Bob is gone from us, but we are all blessed for having known him. His was a life well lived, with purpose and determination. The lands he loved and worked to protect rejoice for his presence among us. His legacy lives on.



*Join us at 1 o'clock
on June 1st
to celebrate our
Diana Fackenthal Memorial Scholarship
&
our Tucker Hill Memorial Scholarship
recipients from
Madison County High School
&
William Monroe High School.*



***Civil War Lecture Series:
Madison County***



Plans are underway to commemorate Madison County's Civil War Sesquicentennial Cavalry Battle - the Battle of Jack's Shop (Rochelle) - which took place on September 22, 1863. The main commemorative event will take place on September 21, 2013, at Madison County High School. A web site will be available this April with more details. As a prelude to this main event, there will be a series of four lectures, the schedule for which follows. These will take place at the Madison County High School.

Lecture One: On Wednesday, September 4, 2013 at 7 p.m., Frank Walker, a noted local historian, will lecture on "Virginia and Madison County during the Civil War," which will place the Jack's Shop Battle in the context of the Civil War.

Lecture Two: On Monday, September 9, 2013, at 7 p.m., University of Virginia History Professor Ervin L. Jordan, Jr., will lecture on "Freedom at the Gates: African-Americans in Civil War Virginia." Dr. Jordan's talk is particularly important given that 50% of the County's population was African-American before the war. The war brought many changes to that population.

Lecture Three: On Wednesday, September 11, 2013, at 7 p.m., Jim Lillard, a highly

respected and popular local historian and speaker will address "Crossings," in terms of how the Madison County population depended on and built river and other crossings at that time.

Lecture Four: On Wednesday, September 18, 2013, at 7 p.m. Madison County's prolific and entertaining lecturer, Historian Laureate, Harold Woodward, Jr., will address "The Battle of Jack's Shop." He will detail troop movements leading up to the battle, the battle itself, and the aftermath. The battle pitted the Confederate cavalry under General J.E.B. Stuart against the combined efforts of Federal Generals John Buford and Judson Kilpatrick. Thousands of troopers and horses were engaged in this battle.

Please note: All lectures will be free of charge. Please arrive at the high school about 6:45 p.m. to permit all lectures to begin on time.

The Madison County High School is located at 68 Mountaineer Lane, Madison, VA, just south of the town of Madison on Rt. 29 and across from the Food Lion complex. Press contact: Douglas Graves or DUGMILL@aol.com.



Virginia's Civil War 150 History Mobile coming to Madison County on September 21, 2013.

VIRGINIA



Blue Ridge Foothills Conservancy, Inc.
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It is the mission of the Blue Ridge Foothills Conservancy to help facilitate an effective partnership between all of the various conservation groups and willing landowners who desire to make a commitment today for the benefit of future generations.

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I would like more information on land conservation.

Name

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