



Unison Preservation Society

NEWSLETTER

Working to Protect and Preserve our Historic Countryside



Canada Geese spend the winter on a pond near Unison. Photo by Dara Bailey

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• WINTER •

UNISON, VIRGINIA

Easements for all!

By Tara Connell

Conservation Easements. I don't have one, so the whole topic has always left me dry: Too complicated, too irrelevant and too rich for my three-acre-lot blood.

But lately, because zoning codes, comprehensive plans and righteous indignation didn't seem to be working, I realized conservation easements might just be western Loudoun's last, best hope to stay forever beautiful. It was time to figure that out.

So I turned to Sally Price, executive director of the Land Trust of Virginia (LTV), for help in explaining **what** they are, **how** they work, and **why** they should be meaningful to me. Also, why the topic is **so hot** right now.

Sally—whose group has lots of ties to Unison through the organization itself and properties in conservation—was exactly the right person to ask. She hit on the **why**—they-are-important-to-me part right away:

"We all benefit from people keeping their properties open: the wildlife habitat, the birds...the air quality, the water quality," said Sally. "We all benefit."

And the **what**: A conservation easement is a "forever" guarantee that the open-space or natural values of forests, fields, streams, wetlands, historic homes and pastures will stay essentially the same regardless of who owns them, according to the LTV website (landtrustva.org).

Those conservation or historic "values" are why local, state, and federal govern-

ments support them with generous tax incentives.

The actual easement itself is a private legal agreement between a landowner and a land trust (there are many of them in Virginia, see list on back page) that limits development on a private piece of property and "travels with the deed and cannot be erased or gotten rid of," said Sally.

The landowner still owns the land, but the land trust agency is responsible for ensuring that what is agreed to in the

easement document is forever upheld. That means things like yearly visits and the permanent protection of the land from all who own it.

Everyone gains, she said, not just the owner—who does get great tax breaks—but also all the owners nearby and the community surrounding them. The view out my front window is amazing because my neighbors have easements.

And it will stay that way despite the whims of landowners, neighbors, trends, pandemics or politics. "It's one of the best tools in our toolbox," said Maura Walsh-Copeland, chair of the Zoning Committee of the Loudoun County Preservation and



Easement map courtesy of Land Trust of Virginia.

Conservation Coalition and its representative on the County's Zoning Ordinance Committee.

"As boards change, terms end and so forth, the conservation easements ... will stand and protect open space, historic landscapes, the environmental benefits no matter what," said Jennifer Moore, president of the Virginia Piedmont Heritage Area Association (VPHA) and head of the easement committee of the Loudoun Coalition.

That they stand "no matter what" is the **why** and the **what** of easements.

Safely Feeding Our Feathered Friends

By Howard Lewis

Since moving to our farm 20 years ago, I have each year dutifully put out about a half dozen bird feeders in the fall and taken them down sometime in the spring, usually when the cow birds show up to dominate the scene. In the middle of winter, it has been nice to see the cardinals, juncos, nuthatches, chickadees, sparrows, tufted titmouse and woodpeckers congregating around the feeders. So, when the current issue of *The Ridgeline*, published by Blue Ridge Wildlife Center (BRWC) in Boyce, VA, showed up in my mail box recently, I read with interest an article, *Is Your Hobby Hurting Wildlife?*, by BRWC's Director of Veterinary Services, Dr. Jennifer Riley.

The article discussed the recent, dramatic increase the Center has seen in so-called feeder diseases. The number of wild birds with serious and highly contagious diseases brought into BRWC for treatment has doubled compared to the same time last year. This increase seems to correlate with the fact that people, shut in at home



The swollen area around the eye of this House Finch is classic of *mycoplasmosis*, but the puffed up posture is seen frequently in birds that are sick for a variety of reasons. Photo by Dr. Jen Riley, Blue Ridge Wildlife Center

The **how** takes a little explaining (see "How to" on back page) but the basic idea is that the highest, best value of land is based—rightly or wrongly—on what it's worth to developers. The difference between that value and its value in easement, which is less, is considered a tax deductible gift to a land trust when the landowner puts the property in easement.

As an example, a piece of land worth \$1 million to developers may be worth \$700,000 in easement. Right now, Virginia generously gives you 40 percent of that \$300,000 loss or \$120,000 in state

tax credits, and the IRS will let you take 60 percent of the rest, or \$180,000, as a charitable donation against 50% of your adjusted gross income.

And then there's the generously lower real property tax rate in Loudoun for land in conservation easement, which lasts even longer than the federal and state tax benefits. Whoo Hoo!

Ok. If you followed all that, you either have an easement or you really should get one.

But seriously, you don't have to be rich to get in on this. According to



during the Covid-19 pandemic, have started a new hobby—setting up feeders for wild birds. Dr. Riley had a warning for everyone using birdfeeders: "If you're feeding birds and NOT cleaning your feeders, you are causing these diseases to proliferate..."

Dr. Riley had the following advice on how to properly maintain your feeders:

- **Get the Right Feeder:** When shopping for a new feeder, be sure to find something that disassembles/reassembles easily and is made of non-porous material such as plastic, as opposed to a difficult-to-disinfect material like wood. Choose feeders that keep seeds dry since wet seeds can more easily harbor diseases.
- **Clean Your Feeders:** Take your feeders apart and clean them with 10% bleach solution at least every two weeks or more frequently in times of heavy use. Hummingbird feeders should be cleaned every three days. Wear gloves. Clean up the ground under your feeders since fallen seeds can lead to health issues, not to mention attract rodents and other wildlife.
- **Buy Quality Bird Food:** Buy from stores you trust where the bird food doesn't sit around forever. Recognize that some of those big bags of bird food are cheap for a reason; they're filled with classic "filler" food (red millet, rye, milo, oats and wheat), which don't have much nutritional value. And make sure to store the food safely in sealed bins.
- **Go Native:** It is important to realize that store-bought bird seed mixes can't replace the wide assortment of foods wild birds get from native plants and insects. Birds need a variety of many different food

sources as well as the skills and exercise associated with foraging. So, plant native trees, shrubs, grasses and flowers.¹

• **Protect Yourself:** If you find sick/deceased birds do not handle them without gloves. Your health should always be a priority and some feeder diseases—*Salmonella*, for example—can infect humans and domestic animals. Contact BRWC's Hotline (540-837-9000) for the steps you should take to deal with a sick bird.

Given the number of people around Unison with birdfeeders, all of this seemed like useful information to pass along. The complete article by Dr. Riley can be found on the BRWC's website (blueridgewildlifectr.org). It contains a lot more advice on how to support the wild bird population than could be covered in this article.

The point Dr. Riley makes about the importance of native food sources for wild birds is worth repeating here because it is particularly on point in connection to another article in this newsletter dealing with conservation easement around Unison. "Wild birds eat a huge variety of native seeds in addition to plant materials and insects," Dr. Riley wrote in an email to me. "I think feeding birds can be done safely if people clean feeders regularly, but I hope they understand that the best thing for these birds will always be protected habitat full of native food sources." Protecting habitat, of course, is what conservation easement is all about. ■

1. For further information on good native plants for the Unison area see: www.vnps.org/virginia-native-plant-guides/ and www.audubon.org/plantsforbirds.

Sally, most people go through the complicated process because they love their land and want to protect and conserve it. For them, the tax benefits, are an added bonus.

There are plenty of “buts:” both Sally and the people at the state-funded Virginia Outdoors Foundation (VOF) lace their comments about the easement process with cautions. It costs a lot, you should get good advisors, the process can take a long time, easements are forever so be absolutely sure...

Some offsets:

1) It costs a lot: With legal and appraisal fees, it can run as much as \$20,000 or more, depending on the property. LTV often lets you use tax credits to pay the costs. Also, there are funds to help (See Funds on back page) including up to \$15,000 from the county if you qualify. And in the end, you still own the property and can get property tax breaks.

2) You have to own a lot of land. Nope. There is no minimum size. The smallest LTV easement is 0.99 acres in Waterford. No tax breaks there, but a forever piece of property. In order to get tax breaks, the property has to have value to developers so it has to be divisible into building lots allowable under the zoning code. Without that, going into easement costs a lot and you get nothing back but good feelings. Check your zoning and talk to a lawyer.

3) The process takes too long. It can take a long time (although LTV has been able to process an easement in three months) so start early in the year if you need the tax credits in that year. The rush is often because Virginia’s pool of tax credit money sometimes runs out. This year it’s \$75 million and a lot of people want a piece of that.

And, finally, why is the topic of easements so hot right now.

On the bright side, the pandemic has caused a land rush business in easements, pun intended. The Virginia Outdoors Foundation reports it “protected more than one acre an hour in 2020.”

The LTV has done more business this past year than ever before, Sally said. Why? “Don’t know. People are at home, they may have more time to dig into it, do the paperwork, appreciate what they have? And it’s not just us. It’s across the industry.”

The pandemic also has caused a lot of property—particularly rural property—to

change hands. That, along with the constant pressure from developers to find and snap up open space has resulted in more than usual conflicts over easements. “New owners don’t necessarily have the conservation commitment of the person who put the property into easement,” said Sally.

But just last month, in a great victory for preservation, the Virginia state legislature voted overwhelmingly in favor of a bill that told judges, hearing easement lawsuits, to interpret the terms of an easement based on its original intent, thereby upholding its core preservation value. The bill was requested by the Virginia Supreme Court because of a 2016 Loudoun County lawsuit over a winery’s use of land in easement.

And in an example of holding onto an easement for dear life, the LTV is currently in the midst of a seven-year battle with Mt. Aldie LLC—a Jack Andrews company—which bought land in easement in Aldie and, the LTV charges, then began violating the easement terms. The LTV is insured, lawyers are donating services, and the group says it will continue to fight the easement violation. Said Sally: “We are not giving up.”

Land Trusts

There are multiple options in Virginia for putting your property into easement, including private land trusts like the Land Trust of Virginia or government options such as the Virginia Outdoors Foundation.

Virginia’s Department of Conservation and Recreation lists 43 land trusts at dcr.virginia.gov and gives contact information.

Four land trusts that are accredited and have local addresses are: Land Trust of Virginia, the Virginia Outdoors Foundation, the Piedmont Environmental Council and the Northern Virginia Conservation Trust.

And that attitude, after all, is why conservation easements and the land trusts that stand behind them are going to make all the difference in the fight for western Loudoun. ■

The cost of putting a property in easement and keeping it that way is not covered by the fees charged by the land trusts. That’s why these land trusts need to continue to do fundraising. Donations to land trusts can be made through their websites.

Unison Updates

Unison Approved for Water/Sewer Study

Unison has won formal approval for a feasibility study to determine if the Village can have Loudoun County-built public water and/or sewer facilities instead of the current individual wells and septic. The study will look at geology, test soil and water, research community needs and history. The goal of the project: to end Unison’s notoriously bad water availability and issues with septic systems. Next steps include a village meeting to discuss results of the initial application review.

Fall Heritage Day Date Set

In an explosion of optimism, the Unison Preservation Society Board of Directors has set Nov. 6, 2021 as the date for Heritage Day. Finger’s crossed, we will be able to gather at the Store, eat barbeque and oysters, bid on great items in the public auction and breathe a maskless sigh of relief that the pandemic is behind us.

St. Louis/Aldie Land Deals

A deal announced by the county to buy the troubled St. Louis development from

builder Jack Andrews’s company MOJAX took an unexpected twist in January when it was suddenly replaced by a new deal that included the historic Aldie tavern site on Route 50 in MOJAX’ compensation package. The change brought howls of opposition from Aldie residents and most preservation groups in Loudoun at a public hearing. Blue Ridge Supervisor Tony Buffington, who first supported the new deal, changed his vote to oppose it and was harshly critical of Andrews. Andrews owns 60 acres behind the Tavern site and has announced plans to build a shopping center and access to his property through the Tavern site (see easement story this issue). Why should Unison care? A pledge in the 2019 Comprehensive plan that historic villages should be able to decide their own destinies is not being respected by the Board of Supervisors, again. Meanwhile, St. Louis is turning to the U.S. Army Corps of Engineers for relief after the Virginia Department of Environmental Quality (DEQ) failed to increase its penalties against Andrews for MOJAX’ violations of DEQ regulations at the St. Louis site.



Unison Preservation Society Newsletter

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The Unison Preservation Society
P.O. Box 606
Middleburg, VA 20118
www.unisonva.org

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How to Support the Unison Preservation Society (UPS):

UPS depends upon contributions from people living in our community who want to preserve our historic village and the countryside surrounding it. Since the UPS is a not-for-profit 501 (c) (3) corporation registered in Virginia, all contributions are tax deductible. Contributions should be made to the Unison Preservation Society and sent to the post office box listed above.

Ideas for Newsletter Articles:

We are particularly interested in gathering material about Unison for future UPS newsletters. If you have ideas for newsletter stories, please e-mail us at unisonpreservsoc@unisonva.org.



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Newsletter Design:

Dara Bailey Design • Bluemont, VA
darabaileydesign@gmail.com

Unison Preservation Society
P.O. Box 606
Middleburg, VA 20118

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Organization
U.S. Postage Paid
Mr. Print
Purcellville, VA
20132

How to Get a Conservation Easement

Each land trust has its own process of granting an easement, although they follow a similar template. Here is a wildly oversimplified idea of what it takes and costs.:

1) Pick a land trust: Are they accredited? What do they focus on? Some have specialties such as battlefields, wetlands and forests. Check with people you know who have easements. How does the trust monitor their easements? "I advise people to shop around," said Sally Price of the Land Trust of Virginia (LTV).

2) Hire an attorney and appraiser, preferably ones that do easements. The appraisal is critical. You will find out the difference between the development value of your land and the easement value of your land? Everything economic flows from that.

3) Start the paperwork. If you have a mortgage or other lien holder, let them in on it. This is where the fees begin. There may be a refundable deposit to get going, then fees begin in earnest. Virginia Outdoors Foundation's (VOF) first step fee is \$1,500. LTV's is \$2,500, inclusive of the deposit.

4) For that first fee, there is a determination if your property has the requisite conservation or historic values, and complies with the various governments' rules. Applications are made, reviews are done, and negotiations over what to include in the actual easement document begin. A document is drafted.

5) Really think about what you want in that document. "There's this misconception that a property in easement can't be touched," said Sally. It can, as long as it was included in some form in the easement documents. The drafting of these really count.

6) The next big step is compiling the Baseline Documentation Report or BDR. It's a complete inventory of the property and it's required by the IRS. Soil quality, types and sizes of buildings, photos, what's in the woods, everything is included. "One hundred years from now, when someone goes out to check on the property, they will have this baseline report," Sally said. LTV charges \$2,500 for this step; VOF charges \$3,000 to \$3,500 for this phase.

7) At the end of the process, Land Trust of Virginia charges a Stewardship fee that can range from \$5,000 to \$30,000 depending on the size and complexity of the property. This fee goes into an endowment that helps pay for any future violations of the landowner's easement.

8) The conservation easement document is then recorded in the county with the property's deed. ■

Funds to Tap

Here are some of the assistance programs available to landowners who wish to put their properties in conservation easement in Loudoun.

Malcolm Forbes Baldwin Fund – Established by the Land Trust of Virginia (landtrustva.org) in the name of the late Loudoun Conservationist Malcom Baldwin. The Fund is designed to help local farmers put their land in conservation easement.

Deborah Whittier Fitts Battlefield Stewardship Fund – Established in 2009 by the Land Trust of Virginia Board of Directors for landowners interested in protecting properties where Civil War battles took place.

Bondi Family Land Conservation and Battlefield Preservation Fund – Established by Unison area resident Bradley J. Bondi to help offset costs of putting properties into easement that are at least partially located in the Unison Battlefield area. The fund is administered by the Virginia Piedmont Heritage Area Association (piedmontheritage.org).

James M. Rowley Goose Creek Conservation Fund – Newly revived by the Piedmont Environmental Council (PEC.org), the Goose Creek Fund aids the PEC's easement work which focuses heavily on environmental conservation.

Loudoun County Conservation Easement Assistance Program – Launched in 2019, the program provides eligible landowners with up to \$15,000—or half—of the upfront costs of placing land under conservation easement in the county. Owners apply through their chosen land trust. Information is available at Loudoun.gov.

Open-Space Lands Preservation Trust Fund (PTF) – Available through the Virginia Outdoors Foundation to help income eligible landowners with new easement processing fees and some other costs of getting an easement with the VOF.