

NORTH CAROLINA LAND AND WATER FUND
BOARD OF TRUSTEES MEETING

VIRTUAL MEETING

Tuesday, December 5, 2023

1:02 P.M.

Volume 1

Pages 1 through 84

A P P E A R A N C E S

Board of Trustees:

John Wilson, Chairman
Jason Walser, Vice-Chairman
Ann Browning, Chairman Restoration, Innovative
Stormwater and Planning Committee
Amy Grissom, Chairman Acquisition Committee
Greer Cawood
Mike Rusher
Clement Riddle
David Womack

Staff:

Will Summer, Executive Director
Christina Benton, Acquisition Project Manager
Steve Bevington, Restoration Program Manager
Marissa Hartzler, Acquisition Program Manager
Justin Mercer, Stewardship Manager
Damon Hearne, Western Field Representative
Chelsea Blount, Central Field Representative
Jill Fusco, Eastern Field Representative
Will Price, Restoration Program Assistant
Donna Morris, Acquisition Program Assistant
Terri Murray, Executive Assistant
Deans Eatman, DNCR Director of Legislative Affairs
Marie Meckman, Acquisition Project Manager
Phil Feagan, DNCR General Counsel

P R O C E E D I N G S

1:02 P.M.

1
2 Chairman Wilson: I would like to
3 call today's meeting of the North Carolina Land and
4 Water Fund Board of Trustees to order. I am John
5 Wilson, the board chair, and I'd like to welcome all
6 who are with us today, whether in person or by Teams or
7 phone or otherwise. And with that, I'd like to call
8 the role of our nine trustees. Please let us know if
9 you are here; Ann Browning?

10 Innovative Stormwater and Planning Committee
11 Chair Browning: Here.

12 Chairman Wilson: Greer Cawood?

13 Ms. Cawood: Here.

14 Chairman Wilson: Amy Grissom?

15 Acquisition Committee Chair Grissom: Here.

16 Chairman Wilson: Clement Riddle?

17 Mr. Riddle: Here.

18 Chairman Wilson: Mike Rusher?

19 Mr. Rusher: Here.

20 Chairman Wilson: Jason Walser?

21 Vice Chair Walser: Here.

22 Chairman Wilson: Darrel

23 Williams; Darrel, I'm not hearing you. Are you maybe
24 muted, or is Darrel not with us?

25 Executive Director Summer: I believe

1 Darryl's not on the call yet.

2 Chairman Wilson: Okay, David
3 Wommack?

4 Mr. Womack: Here.

5 Chairman Wilson: And John Wilson
6 is also here. I would just like to say that it's great
7 to be one of four trustees with last names starting
8 with the letter W, and one more of those and we will
9 have a majority on this board. So everyone just watch
10 yourselves. General Statute § 138A-15 mandates that
11 the chair inquire as to whether any trustee knows of
12 any conflict of interest or the appearance of a
13 conflict of interest with respect to matters on the
14 agenda. If any trustee knows of a conflict of interest
15 or the appearance of a conflict, please state so at
16 this time. Okay, I'm not hearing anything from
17 trustees, so I just want to move on, and mention also
18 that General Statute § 138-A also requires us to record
19 into our minutes any conflicts of interest or potential
20 conflicts of interest identified by the State Ethics
21 Commission after it reviews our board members' annual
22 submissions of our statements of economic interest.
23 The Ethics Commission did not find any actual conflicts
24 of interest this year, but it did identify the
25 potential for a conflict of interest for one Trustee,

1 Clement Riddle. In a September 25th letter, the Ethics
2 Commission stated, quote, the potential conflict
3 identified does not prohibit service on this entity.
4 Continuing to quote from the letter, Mr. Riddle is a
5 senior scientist with the environmental consulting
6 company, EnviroScience. As such, he has the potential
7 for a conflict of interest and should exercise
8 appropriate caution in the performance of his public
9 duties, should issues involving EnviroScience or its
10 clients come before the board for official action, end
11 quote. As Clement knows, he is expected to announce
12 any actual or potential conflicts as they may arise in
13 the future at future meetings and to recuse themselves
14 from any discussion or action on those matters. And
15 the September 25th letter from the Ethics Commission is
16 hereby incorporated into the minutes by reference. All
17 right, so we will move on, and now let me just ask
18 everyone to please make sure your phones, computers,
19 watches, et cetera, won't make any noise unless you are
20 recognized to speak. And next, I'll ask the trustees
21 if there are any suggestions or revision -- suggestions
22 for revisions or additions to today's agenda.

23 Innovative Stormwater and Planning Committee

24 Chair Browning: I move approval
25 of the agenda as presented.

1 Chairman Wilson: Okay, thanks,
2 Ann; do we have a second?

3 Mr. Riddle: Second.

4 Chairman Wilson: Is that
5 Clement?

6 Mr. Riddle: Yes.

7 Chairman Wilson: Okay, thank
8 you, Clement; any discussion regarding the agenda; all
9 right, please let me know how you vote on the agenda to
10 approve the agenda; Ann?

11 Innovative Stormwater and Planning Committee

12 Chair Browning: Yes.

13 Chairman Wilson: Greer?

14 Ms. Cawood: Yes.

15 Chairman Wilson: Amy?

16 Acquisition Committee Chair Grissom: Yes.

17 Chairman Wilson: Clement?

18 Mr. Riddle: Yes.

19 Chairman Wilson: Mike?

20 Mr. Rusher: Yes.

21 Chairman Wilson: Jason?

22 Vice Chair Walser: Yes.

23 Chairman Wilson: And, Will, will
24 you let me know if Darrell joins us?

25 Executive Director Summer: Will do.

1 Chairman Wilson: Okay, thanks;
2 David?

3 Mr. Womack: Yes.

4 Chairman Wilson: And John is a
5 yes also, so we have adopted our agenda. Moving on, is
6 there any discussion regarding the minutes from our
7 September 2023 board meeting, any suggested revisions,
8 any changes, corrections?

9 Acquisition Committee Chair Grissom: I have
10 just a couple.

11 Chairman Wilson: Okay, Amy.

12 Acquisition Committee Chair Grissom: Yeah,
13 on page 4, it's just an attribution issue on line 10
14 where you've called role, Jason responds, but the
15 attribution is to Mr. Rusher, who had answered just
16 prior to you calling on Vice Chair Walser, so that's
17 one minor change. And then second --

18 Chairman Wilson: Thank you, Amy.

19 Acquisition Committee Chair Grissom: Yeah,
20 and then secondly, on page 40, line 2, this was in a
21 comment that I made. It was describing our
22 deliberations and multi-part funding motion, and I'm --
23 I say that it was done shortly after 5:00 P.M., which
24 was, and the word I must have used was pandemonium, and
25 a long day like that can be pandemonium, but what I

1 intended to say was phenomenal that we managed that all
2 in the day by 5:00. So if it's possible to make that
3 change, I think that would be more accurate for my
4 intention, whether I said that or not.

5 Chairman Wilson: Okay, this is
6 going to be -- this is going to take a lot of
7 discussion, Amy, pandemonium versus phenomenal. Okay,
8 so we have a couple of suggested corrections from Amy,
9 page 4, line 10, changing the attribution to Jason
10 rather than Mike, correct, Amy?

11 Acquisition Committee Chair Grissom: Yes.

12 Chairman Wilson: And then page
13 40, line 2, in Amy's comment changing pandemonium to
14 phenomenal; any discussion, any more suggested changes?
15 If not, I will entertain a motion to accept these two
16 changes from Amy.

17 Mr. Womack: So moved; this
18 is David.

19 Chairman Wilson: David, and a
20 second, anyone?

21 Vice-Chair Walser: Sure, Jason
22 seconds.

23 Chairman Wilson: Jason seconds;
24 okay, and then with those two changes, how about a
25 motion to approve the minutes, and a second? And then

1 we'll vote on the whole kit and caboodle with Amy's
2 changes and the minutes all in one vote.

3 Mr. Womack: So moved, this
4 is David.

5 Chairman Wilson: David; motion
6 to approve the minutes with Amy's changes. Is there a
7 second?

8 Mr. Riddle: Second.

9 Chairman Wilson: Was that
10 Clement?

11 Mr. Riddle: Yes, it is.
12 I'm sorry. I didn't identify myself.

13 Chairman Wilson: Okay, all
14 right, any more discussion; okay, how do you vote on
15 approving the minutes with the two changes from Amy,
16 please; Ann?

17 Innovative Stormwater and Planning Committee
18 Chair Browning: Yes.

19 Chairman Wilson: Greer?

20 Ms. Cawood: Yes.

21 Chairman Wilson: Amy?

22 Acquisition Committee Chair Grissom: Yes,
23 and thank you.

24 Chairman Wilson: Phenomenal;
25 Clement?

1 Mr. Riddle: Yes.

2 Chairman Wilson: Mike?

3 Mr. Rusher: Yes.

4 Chairman Wilson: Jason?

5 Vice Chair Walser: Yes.

6 Chairman Wilson: David?

7 Mr. Womack: Yes.

8 Chairman Wilson: And John is a

9 yes also; thank you very much. We have approved our
10 minutes from our last meeting, and we'll move on to the
11 executive director's update over to you, Will Summer.

12 Executive Director Summer: Thank you, Mr.
13 Chair, and good afternoon, trustees, staff, and guests;
14 before I begin my report, let me offer regrets on
15 behalf of Secretary Wilson and Deputy Secretary
16 Michael. They're both out of town in meetings as we
17 speak, but did want me to share their appreciation for
18 the board's stewardship of the program and the
19 thoughtful manner in which you all approach our work
20 and that they believe the recent increases in funding
21 are a result of not only a bipartisan commitment to
22 land and water protection but also of the confidence
23 the Governor and the Legislature have in the board and
24 the staff doing its work. So let me start by sharing
25 what has happened since last we met. When we adjourned

1 in September, you awarded a little over 40 million in
2 grant funds, and as we expected, the budget passed
3 shortly thereafter and increased our recurring funding
4 by nearly 4 million with a non-recurring increase of
5 another 2 million. And with the addition of some
6 license plate revenue and the withdrawal of a large
7 grant from a previous year, today you are at over 51
8 million in grants awarded this year. Conservatively, I
9 expect at least another 3 million in license plate
10 revenue this fiscal year. Looking ahead, we've set our
11 board meeting and grant schedule for 2024. I've shared
12 the meeting dates with all of you, which are largely
13 similar to recent years, but let me highlight a few
14 changes to our grant cycle dates. First, we've shifted
15 most key dates in our grant cycle back about two weeks.
16 We received feedback from our partners that many are
17 unable to really begin work on our applications until
18 after the holidays and the associated end-of-year
19 closings. You may recall from last year that we had
20 moved the application deadline from February 1st to
21 February 15th, for which we received a lot of positive
22 feedback. And this year, we're moving it back a little
23 further to March 1st. And that also allows us to do
24 something else for which we received input, which is to
25 move our deadline for updates to the matching fund

1 status until after June 30th, which should allow for
2 more match coming directly from local government to be
3 secured. And finally, we moved our funding meeting
4 back from mid-September to October 1st and 2nd, which
5 may actually decrease the likelihood of budget
6 uncertainty somewhat. And in summary, the length of
7 our grant cycle is actually pretty much unchanged.
8 It's just shifted slightly. Our meetings are also
9 roughly similar, though we did add one additional
10 virtual business meeting in August, and that will
11 permit us to keep non-funding related requests and
12 policy issues moving forward without encroaching on our
13 busy funding meeting in October. I'd also like to
14 share one update to a stat Marissa shared two weeks ago
15 in the acquisition committee. As of today, we have
16 completed a total of 32 closings in the acquisition
17 program. And by my count, that's the most we've closed
18 in at least five years, and I want to thank the
19 acquisition team and legal staff for all their hard
20 work on this. It's a number I'm really excited about.
21 Now I have to acknowledge that as awesome as that
22 number is, we need it to be bigger. As you know, our
23 funding has increased substantially in recent years,
24 and the demand on staff has thus increased. Adding
25 capacity is a priority for me, and one of the

1 recommendations from the executive committee today will
2 be a huge help in this area. Moving on to some other
3 items before you today, we have a few easement
4 amendments, some updates to our practices, an
5 informational item, and I will say there's something
6 I'm very excited about are some proposed updates to our
7 donation mini-grant program, which I think are overdue.
8 Finally, before I conclude my report, I have some great
9 news to share. Zoe welcomed Baby Girl to the world
10 recently, and everyone is healthy. Mr. Chair, that
11 concludes my report.

12 Chairman Wilson: Thank you,
13 Will; wonderful news about Zoe and baby; any questions,
14 comments for Will; I saw some thumbs up during your
15 remarks, Will, but I won't tell you who was doing it.
16 Okay, moving on to the public comment section of our
17 meeting, before I open the floor for public comment, I
18 would like to remind our guests that North Carolina
19 Land and Water Fund policy prohibits using this time to
20 advocate for individual projects before the board.
21 Other public comments on general issues falling within
22 the jurisdiction of the North Carolina Land and Water
23 Fund are welcome, but please limit any comments to
24 three minutes per person. Are there any members of the
25 public with us today that would like to speak? If so,

1 please let yourself be known with a hand raise or an
2 unmute or something. Okay, I'm not seeing any. Are
3 you, Will?

4 Executive Director Summer: No, sir.

5 Chairman Wilson: Okay, thank
6 you; we will now move on to the business section of our
7 meetings, starting with consideration of acquisition
8 committee recommendations, and I'll hand it over to
9 Acquisition Committee Chair Amy Grissom.

10 Acquisition Committee Chair Grissom: Okay,
11 thank you, Chairman Wilson; first of all, I'd just like
12 to thank Marissa and Justin and all the staff, of
13 course, for their hard work and moving so many of these
14 projects forward, as Will just noted, and also for
15 their continued efforts to streamline and standardize
16 our policies and guidelines; so in the ditches, but
17 flying at 50,000 feet at the same time, so I appreciate
18 that. Acquisition Committee met twice in November, and
19 I just am absolutely delighted with the work of the
20 committee. There is an immense amount of experience
21 with Land and Water Fund on the committee, but also
22 each individual member has amazing knowledge and
23 expertise that they bring to our discussions. And the
24 discussions are moved forward in ways that are really
25 wonderful. They ask good questions, and for all of the

1 five topics that we considered in these two meetings,
2 we reached consensus in all of them. Today, we have
3 four recommendations for the entire board. The fifth
4 topic that we considered was a request for a contract
5 amendment, and we felt like we needed some additional
6 information before bringing that to the board, but we
7 are hoping to move that forward as expeditiously as
8 possible. So with that, I will turn it over to Marissa
9 for the first item, the donation mini-grant program
10 update.

11 Acquisition Program Manager Hartzler: Good
12 afternoon; thank you so much; are you able to see my
13 slide I shared? Thank you so much; all right, agenda
14 item 1(a) is on the donation mini-grant program,
15 formerly known as donated mini-grant program. We'll
16 get into that name, slight change, in just a minute,
17 but the intent of this agenda item was to look at this
18 long-standing program, which has been with the Land and
19 Water Fund since 2003 and to document its guidelines
20 and practices and also to revisit some of the terms
21 that have not changed in the 20 years since this
22 program has been started. I recognize that the
23 donation mini-grant program does not come before the
24 full board very often because this is something that
25 has an administrative authority approval process that

1 is delegated to the board chair. We'll talk about that
2 in just a little bit, so I wanted to, and please
3 forgive me acquisition committee, sort of walk through
4 all of this presentation again so that you get a sense
5 of the two guidelines that were authored and worked on
6 throughout the two acquisition committee meetings we
7 had. So the first of the guidelines is DMG-001, and
8 this sets up the guidelines for the program itself.
9 The first section, which you see on the screen right
10 now, is the background of the program. Again, it
11 started in 2003 as a donated easement program for
12 nonprofits and local governments to accept a
13 conservation easement donated by the landowner, and
14 then the Land and Water Fund would reimburse for
15 transaction costs and stewardship costs up to
16 \$25,000.00. That is the cap on the program,
17 \$25,000.00. In 2014, this program changed slightly in
18 order to allow for the reimbursement up to \$25,000.00
19 for situations where the landowner wants to actually
20 donate the land outright, donate the fee simple
21 absolute interest in the property to the organization.
22 And as such, it was also added that state agencies were
23 eligible applicants. And to reflect that change, the
24 program was renamed to the donated mini-grant program.
25 So as I mentioned, the purpose of DMG-001 is to

1 document the program in the guidelines and practices
2 manual, update a few things, and also to update the
3 program name to the donation mini-grant program. I
4 think this just fixes the naming a little bit and is a
5 little bit more accurate, and as I said, doesn't change
6 the acronym, which is fantastic. So with that little
7 bit of the history on the program, I will dive into the
8 specific requirements listed in the guidelines. These
9 are screenshots from the version of the guidelines that
10 were shared in your agenda. First, nonprofits, local
11 governments, and state agencies are eligible to apply
12 to the DMG program to accept the donation of a
13 conservation agreement and/or the fee simple absolute
14 interest in a property. This is largely the same, but
15 it removes the reference to state agencies being
16 eligible to apply only if they do not have a dedicated
17 land acquisition funding mechanism. This language is a
18 bit of a mouthful, but we felt, as staff, that all
19 state agencies should be able to apply to the program
20 as needed, regardless of whether they have other
21 funding sources for land acquisition, because at the
22 end of a successful DMG acquisition, those properties
23 will be permanently protected. They will be dedicated
24 through the Natural Heritage Program, and it felt like
25 a good change to make so that these properties would be

1 protected. Obviously, state agencies can enter into
2 dedications voluntarily, but this ensures that more
3 property will be protected through dedications. Number
4 two, the acquisition of the conservation agreement or
5 fee simple absolute interest must be an absolute
6 donation, and so no funds will be reimbursed for
7 acquisition, cannot pay for the acquisition in this
8 program. That remains the same. Number three, all
9 property must be restricted to protect the natural,
10 historic, or cultural features on the property, and
11 that is in line with our funding purposes.

12 Restrictions may include conservation easements,
13 declarations of covenants and restrictions or
14 dedication under the State's Nature Preserves Act, and
15 restrictions that are not held by the State shall grant
16 the State third-party rights of enforcement. This
17 largely remains the same, but outlines potential
18 conservation restrictions. And I do want to mention
19 that that third-party right of enforcement, I know the
20 board has talked about that maybe in the past year or
21 so, that is fairly standard in acquisition, especially
22 for match conservation agreements. It's fairly
23 standard in restoration and has been a feature of the
24 DMG program for some time. So that gives the State the
25 option, not the obligation, to enforce the conservation

1 agreement if it was felt that the holder was not doing
2 so. Number four, we start transitioning into the
3 actual budget for a project. So the total maximum
4 amount for reimbursement is \$50,000.00 per award. If
5 you remember back to the introduction, the cap has been
6 since 2003 \$25,000.00. So this does recommend
7 increasing the cap to \$50,000.00. The funds are used
8 for transaction costs and for stewardship costs.
9 \$25,000.00 simply is not adequate to cover transaction
10 and stewardship costs to date. The committee has
11 talked a lot. Today, we'll talk in this meeting a lot
12 about transaction costs alone. They are very
13 expensive. This includes things like surveys, boundary
14 marking, legal fees, phase one environmental site
15 assessments. The list goes on. More and more we're
16 seeing that just a complicated survey itself could cost
17 upwards of \$25,000.00. Seeing that this cap has not
18 increased in the 20 years that the program has existed,
19 \$50,000.00 was the staff recommendation, and would, I
20 think, provide funds so that there was more available
21 to do good due diligence prior to accepting a
22 conservation easement or donation of land. The next
23 two items remain the same, but I think are important
24 for understanding the program. The value of the
25 donation must be greater than the requested funds. So

1 if the grant recipient requests \$50,000.00 from the
2 fund, they need to have donated value of more than
3 \$50,000.00. There was a great question that came up
4 about setting a certain donation minimum. Honestly, in
5 this program, we oftentimes see a huge return on the
6 investment. Typically, the donation is something
7 around three times the amount that's being requested.
8 So number five is met very easily in the majority of
9 these projects. Number six, the value of the donation
10 can be determined either by appraisal or the tax value
11 of the land, and that must be included as the matching
12 funds. So if the grant recipient is going to use an
13 appraisal, all structures must be excluded from that
14 appraisal, so it's only an appraisal of the land. And
15 unlike in our regular acquisition program, appraisals
16 do not require review by the State Property Office.
17 These appraisals are between the landowner and their
18 appraiser and their tax professionals. When the grant
19 recipient uses tax value in lieu of an appraisal, that
20 also, of course, must exclude the value of any
21 structures. Up to 100 percent of the value may be
22 claimed for a fee donation, and 80 percent of the value
23 may be claimed for a conservation easement donation.
24 Again, this all remains the same, but is now
25 documented. Number seven, this one is a new proposal.

1 Appraisals may only be reimbursed if the grant
2 recipient is required to have an appraisal and the
3 grant recipient can substantiate that there is no
4 deduction being taken for the project. More simply
5 put, appraisals to support state or federal tax
6 incentives are not reimbursable through the program.
7 It has long been the practice that appraisals are not
8 reimbursable. And this is again, because as I said,
9 the appraisals were being used for that tax incentive
10 and were best left up to the landowner. But we have
11 had a number of applicants and grant recipients who
12 have noted there are situations where their landowner
13 is not planning to take a tax deduction, and so there
14 is no reason for them to get an appraisal. This has
15 put the burden on the land trust to get the appraisal.
16 They need to know the value of the conservation
17 easement so that they may fill that into their easement
18 template. And that's basically all around the fact
19 that if there is a future eminent domain issue or some
20 other taking of the conservation easement, they need to
21 have the percentage, the value of that easement
22 established in the document, so it really is an
23 important piece for the land trust to determine. And
24 it is proposed that when the land trust can
25 substantiate that there is no tax incentive being

1 sought, that we can reimburse and help cover those real
2 costs, which can be sometimes in, you know, a couple
3 thousand dollars. We move into the other reimbursable
4 and match budget items. Transaction costs, which I've
5 already talked about, those remain the same.

6 Administrative costs for up to 10 percent of the total
7 transaction costs, that remains the same and is
8 actually covered by multiple program practice 001. The
9 last bullet, the third one you see here, is the new
10 proposal. Property management costs that do not exceed
11 \$5,000.00, and that would be per the requirements of
12 acquisition 007, property management costs. This was a
13 recently updated guideline that really helps with the
14 immediate protection of conservation values. So by
15 including this as a reimbursable expense, one example
16 is you could have a grant recipient who receives
17 donation of land, and perhaps this piece of land has
18 had a long history of trespass, maybe by ATVs. This
19 would allow them to immediately install a gate and
20 control that ATV trespass and help protect the
21 conservation values on the property. I think this is a
22 good way, a good investment to help protect those
23 conservation values immediately and is possible with
24 increasing the cap to \$50,000.00. I don't think it
25 will be used often, but when it will be, I think it

1 will be very important for the resource protection.
2 And then finally, when a Land Trust nonprofit with a
3 dedicated stewardship endowment will steward and
4 monitor the donation in perpetuity, they may request 50
5 percent of stewardship endowment funds. This remains
6 the same. I think in previous iterations of the
7 program, it was up to 100 percent could be paid to the
8 grant recipient; however, staff felt comfortable; I
9 think the committee did as well, with keeping this as
10 50 percent, which has been the amount in recent years.
11 I'll just quickly transition into DMG-002, which is the
12 second guideline that came out of the committee. And
13 this guideline is to really explain and establish the
14 administrative approval system that we have been
15 working under for the past several years, but to also
16 set up an alternate administrative approval delegation
17 when needed. Again, these grants do not come to the
18 full board at the fall funding meeting. They're
19 handled throughout the year so that we may expedite
20 their review and really get these approved so that it
21 can leverage that charitable intent, which oftentimes,
22 you know, has a timeline and a ticking clock. So the
23 first piece of 002 is that the authority to approve the
24 DMG program awards is delegated to the board chair. As
25 I mentioned, this remains the same. Applications will

1 be considered on a schedule set by Land and Water Fund
2 staff based on the annual demand, and the date of
3 approval by the board chair will be the effective award
4 date of the grant. Number two is the new piece. So
5 regardless of this delegation, the board chair may
6 elect to seek approval of an application from the
7 acquisition committee. In those instances, the date of
8 approval by the committee will be the effective award
9 date of the grant. So this just establishes an
10 alternate pathway so that if the board chair is unable
11 or needs additional input, maybe has a conflict of
12 interest on a particular project, that it can be sent
13 to the acquisition committee and approved by the
14 committee without needing to go to the board. And
15 finally, the expiration date of grants made via
16 administrative approval, either by the board chair or
17 the acquisition committee, shall be no more than 12
18 months from the award date. This is standard. These
19 grants have always been encouraged to be sort of ready
20 to record within 12 months. But this does add that
21 Land and Water Fund staff may elect to approve one six-
22 month extension of the expiration date, and any other
23 extension requests be approved by the board through a
24 recommendation from the acquisition committee. We have
25 seen examples where grant recipients have worked

1 diligently on projects incurring a number of costs, and
2 there's something that is outside of the land -- of the
3 grant recipient's control. Perhaps the landowner has
4 entered into a new mortgage, or the Council of State
5 has not been able to meet to approve the acquisition by
6 the State. Modest grant extensions of six months, when
7 we can see that there is absolutely forward progress
8 and something outside of the control of the grant
9 recipient, seems very reasonable and will help to get
10 more of these projects closed. Otherwise, if an
11 extension beyond six months is really needed, that
12 would come to the full board to be approved after a
13 recommendation from the acquisition committee. With
14 that, the committee did recommend approval of the
15 donation mini-grant guidelines with two changes that
16 were requested by our chair. Those changes were made
17 in the copy that were attached to the agenda, and they
18 were shown on the screen within this presentation. So
19 I'm happy to take any questions or turn it back over to
20 our committee chair.

21 Acquisition Committee Chair Grissom: I would
22 just like to encourage anyone who, you know, would like
23 more information or explanation to please ask Marissa.
24 I think it's really efficient that the board chair is
25 in the weeds on this project, but -- this program I

1 guess I should say. But you know, this was the first
2 time I had really taken a look at all of these
3 guidelines and details, and we spent two -- we
4 addressed this at two of our, both of our, I should
5 say, meetings. So we feel good about it, but please
6 ask questions if you'd like.

7 Innovative Stormwater and Planning Committee
8 Chair Browning: I have one
9 question, Marissa. I might have missed this when you
10 said it. But on the appraisal reimbursement, so that
11 is only if no tax deduction is taken or because
12 sometimes they're not taken, then we've said we'll
13 reimburse for appraisals.

14 Acquisition Program Manager Hartzler: Yes,
15 it is only if the landowner does not intend and that
16 the land trust, the grant recipient, can substantiate
17 that. They say they won't sign the IRS form, et
18 cetera. In those cases where that cost would need to
19 be borne by the land trust, that's when it would be
20 reimbursable.

21 Innovative Stormwater and Planning Committee
22 Chair Browning: Got you; okay,
23 thank you.

24 Acquisition Program Manager Hartzler:
25 Absolutely.

1 Chairman Wilson: Okay, we have
2 these two policies that are coming to us from the
3 acquisition committee, so we do not need a motion and a
4 second. We can just go straight into discussion and a
5 vote on this; Amy, anything more from the committee or
6 the chair?

7 Acquisition Committee Chair Grissom: I would
8 just ask John if you can confirm that the couple of
9 corrections you have requested at the end of our last
10 meeting are indeed made? I think they have been, but
11 if you could just confirm that.

12 Chairman Wilson: Yes, they have,
13 thank you; thanks, Marissa. Yeah, I think are both
14 ready for prime time; okay, any more discussion on this
15 from trustees before we vote?

16 Mr. Riddle: I just had one
17 -- excuse me, one question. I'm just curious about how
18 the number \$50,000.00 was determined and if that was
19 just based on what you'd seen other projects saying
20 they needed to get to. I'm just thinking about large
21 projects that are a thousand acres or something of that
22 acquisition. We've seen, like you mentioned earlier, a
23 survey for that could be 25-50,000.00 by itself. So I
24 was just wondering if all easements are treated the
25 same, a 30-acre easement versus a thousand-acre

1 easement, and if you know, if there is just any more
2 discussion or explanation about that number?

3 Acquisition Program Manager Hartzler:

4 Absolutely, great question; I'm happy to address that.
5 We did go into these potential program revisions by
6 seeking input from both grant applicants who are using
7 the program a lot today, as well as those who used to
8 use the program or never used the program, you know, to
9 sort of get a sense of what the limitations are for
10 them, and we did unanimously hear that \$25,000.00 was
11 not enough as we expected.

12 Mr. Riddle: Yes, I agree.

13 Acquisition Program Manager Hartzler: I
14 think \$50,000.00 was a number that felt like it was
15 workable for most of the applicants. I think that's --
16 they're mostly seeing in terms of these donated
17 projects smaller. I'm thinking of some recent ones, 10
18 acres, 30 acres, you know, the donation of small lots,
19 when it's the fee simple. So I think that \$50,000.00
20 will be a great, you know, it's a doubling of the cap.
21 I think that will definitely go a long way just for the
22 size of projects we have seen. I think it'll give us
23 some wiggle room in the future should things, you know,
24 continue to get more expensive. But I think,
25 absolutely, if there are -- you know, we see -- if we

1 see a change in the climate and the kind of projects
2 that are being proposed, maybe if tax credits come back
3 for the State, and we start seeing larger projects, I
4 think you're absolutely right that it could be time to
5 look at, you know, an even higher cap if needed. But I
6 do feel comfortable. I think staff, especially the
7 field team who spoke with grant applicants, felt like
8 \$50,000.00 was a good number to move to at this time.

9 Mr. Riddle: Great, thank
10 you; I'm all in favor. I was just curious on that.

11 Chairman Wilson: And, Marissa,
12 isn't it also the case that, say, we saw a thousand-
13 acre project if the donation mini-grant program feels
14 inadequate for a project of that size, they could
15 always come through our regular acquisition application
16 funding program?

17 Acquisition Program Manager Hartzler:
18 Absolutely; I would suspect that would be the case, or
19 they could phase and do multiple donation mini-grants
20 as well. So I think there are options if a really
21 large project comes through, yeah.

22 Mr. Riddle: Okay, thank
23 you.

24 Chairman Wilson: Okay, any more
25 discussion on these two coming to us from the

1 acquisition committee; are we ready to vote? If not,
2 stop me. All right, I'm going to call the vote now,
3 please. Ann, how do you vote?

4 Innovative Stormwater and Planning Committee

5 Chair Browning: Yes.

6 Chairman Wilson: Greer?

7 Ms. Cawood: Yes.

8 Chairman Wilson: Amy?

9 Acquisition Committee Chair Grissom: Yes.

10 Chairman Wilson: Clement?

11 Mr. Riddle: Yes.

12 Chairman Wilson: Mike?

13 Mr. Rusher: Yes.

14 Chairman Wilson: Jason?

15 Vice Chair Walser: Yes.

16 Chairman Wilson: David?

17 Mr. Womack: Yes.

18 Chairman Wilson: And John is a
19 yes and still no Darrell, Will?

20 Executive Director Summer: Correct, I
21 haven't have not seen -- heard from him.

22 Chairman Wilson: Okay, thank
23 you; all right, those pass, thank you, and back to you,
24 Amy.

25 Acquisition Committee Chair Grissom: Thank

1 you; Mr. Chairman, I don't know if you notice the chat,
2 but there's a notice there from Mr. Walser.

3 Vice Chair Walser: Thank you, Amy;
4 I just laid out that I'm going to have to leave this
5 meeting early, and I apologize, but I wanted to make
6 sure everybody knew. I was in the executive committee
7 and the acquisitions committee, and I fully support all
8 the recommendations that are going to happen today. I
9 know that's not a formal vote, but I am going to have
10 to leave probably in another 20 minutes or so, and I'm
11 sorry.

12 Chairman Wilson: Thanks, Jason;
13 understood.

14 Acquisition Committee Chair Grissom: Okay,
15 so back to the acquisition committee, the next item is
16 transaction costs, and back to Marissa for that one.

17 Acquisition Program Manager Hartzler: Thank
18 you; so this item centers on acquisition 003, which is
19 the guideline for reimbursing transaction costs for
20 state agencies. And in the full acquisition program
21 now, we're moving away from donation mini-grant to the
22 full acquisition program. Transaction cost
23 reimbursements have been handled differently depending
24 on who the grant applicant grant recipient is.
25 Nonprofits and local governments have been eligible to

1 receive 100 percent of transaction costs paid
2 reimbursed to them. So again, that's surveys, boundary
3 line work, legal fees, environmental site assessments,
4 appraisals in this program; whereas, state agencies
5 have been capped at \$25,000.00 for transaction costs.
6 And this came about because historically when, prior to
7 2013, the Clean Water Management Trust Fund did not
8 reimburse any transaction costs for state agencies,
9 only reimbursing for nonprofits and local governments.
10 Clean Water merged with the Natural Heritage Trust
11 Fund, and the Natural Heritage Trust Fund did reimburse
12 state agencies for transaction costs, I believe at 100
13 percent if required. And so in 2014, with the merging
14 of the two trust funds acquisition 003 was created to
15 find a compromise, and that is the situation that you
16 see on the screen; 100 percent for nonprofits and local
17 governments, \$25,000.00 for state agencies. Looking at
18 this and looking too at the donation mini-grant program
19 and recognizing that transaction costs have gone up so
20 much in recent years and recognizing that this work is
21 so important for doing good conservation work, it was
22 the staff recommendation that the committee and the
23 board consider not capping on transaction costs for any
24 grant applicant or grant recipient, that all grant
25 recipients should be able to receive up to 100 percent

1 of the required transaction costs for doing a good
2 thoughtful conservation project. I advance here, so
3 the committee recommended repealing acquisition 003,
4 transaction costs for state agencies, to remove that
5 cap on transaction costs for state agencies. Again,
6 the effect would be that all grant applicants in the
7 acquisition program could apply for up to the real cost
8 for their transaction costs. So I'm happy to take any
9 questions on this one.

10 Chairman Wilson: Amy, before we
11 move into a voting phase, do you want to say anything
12 more coming from the committee?

13 Acquisition Committee Chair Grissom: I guess
14 the only thing I would say is, you know, this sort of
15 evolved from some of the consideration of transaction
16 cost in the donation mini-grant program, somewhat, and
17 seems like a completely reasonable -- you know,
18 everyone felt comfortable with this, that it's
19 important to make sure transaction costs are handled
20 and that that due diligence is done and done well ahead
21 of time.

22 Chairman Wilson: Okay, any more
23 discussion before we vote on this recommendation from
24 the acquisition committee to repeal acquisition
25 guideline 003, transaction costs for state agencies?

Innovative Stormwater and Planning Committee

1 Chair Browning: I'll just asked
2 one question out of curiosity. Currently, for most
3 grants that we provided to state agencies, have they
4 taken advantage of the reimbursement to the limit
5 that's been, you know, in place?
6

7 Acquisition Program Manager Hartzler: Yes,
8 for the most part, we're seeing requests up to
9 \$25,000.00. Sometimes that's being covered, especially
10 when a land trust may be helping the state agency with
11 a transaction. Sometimes that's being covered by the
12 land trust. I don't know if that's been for
13 simplicity's sake or their contribution to the project
14 or maybe because of the cap on \$25,000.00. In some
15 cases, we're seeing that augmented as well by the state
16 agency will claim match for maybe the remainder of the
17 transaction costs that they anticipate. But
18 oftentimes, the transaction line item has been a little
19 bit leaner for acquiring the fee, tend to not be as
20 expensive as, you know, more complicated conservation
21 easement projects which are being handled by non-state
22 agency applicants. Is that helpful?

23 Innovative Stormwater and Planning Committee

24 Chair Browning: Yeah, thank
25 you.

1 Chairman Wilson: Okay, are we
2 ready to vote on this recommendation from the
3 acquisition committee? All right, how do you vote,
4 please; Ann?

5 Innovative Stormwater and Planning Committee
6 Chair Browning: Yes.

7 Chairman Wilson: Greer?

8 Ms. Cawood: Yes.

9 Chairman Wilson: Amy?

10 Acquisition Committee Chair Grissom: Yes.

11 Chairman Wilson: Clement?

12 Mr. Riddle: Yes.

13 Chairman Wilson: Mike?

14 Mr. Rusher: Yes.

15 Chairman Wilson: Jason?

16 Vice Chair Walser: Yes.

17 Chairman Wilson: David?

18 Mr. Womack: Yes.

19 Chairman Wilson: And John is a
20 yes also; back to you, Amy.

21 Acquisition Committee Chair Grissom: Okay,
22 thank you, and then the last two items from the
23 acquisition committee today Justin will be presenting.
24 Its impact -- it's a project that's going to impact two
25 different contracts. So as Justin will explain, I'm

1 sure better than I will, they are paired somewhat,
2 although the committee makes individual recommendations
3 for each of the projects. So with that, I'll turn it
4 over to Justin.

5 Stewardship Manager Mercer: Thank you, and
6 as was mentioned, we do have two conservation
7 agreements being considered for amendment today. They
8 are part of the same DOT bridge replacement project.
9 And so as was done with the committee, my
10 recommendation will be to hear presentation on both of
11 them before the board votes. I do have committee
12 recommendations available for each one individually,
13 but again, they're -- they are kind of paired, so my
14 recommendation is to go ahead with both presentations
15 and then sort of come back and vote on them separately
16 after that. All right, can everybody see my screen?
17 Okay, fantastic; all right, our first one, agenda item
18 1(c), is Shocco Creek Game Land Dedication. Just a
19 little bit of history on this, in 2006 a grant of one
20 million 500 -- sorry, \$1,005,130.00 was awarded by the
21 Natural Heritage Trust Fund for the acquisition of
22 approximately 886 acres. This was attached to Natural
23 Heritage Trust Fund Grant 2006-09605. In 2012,
24 qualifying portions of the property were dedicated
25 under the State Nature Preserves Act. In 2020, or

1 sorry, 2013, the Land and Water Fund became the de
2 facto successor to the Natural Heritage Trust Fund and,
3 therefore, the body responsible for considering
4 amendment requests. It's important to point out here
5 that interpretation of the conservation agreement is
6 solely the responsibility of the Natural Heritage
7 Program, but because of the funding through the Natural
8 Heritage Trust Fund, it does come to us when that
9 interpretation determines that an amendment is
10 necessary. Earlier this year, the Department of
11 Transportation requested an amendment to the Dedicated
12 Nature Preserve to facilitate the replacement of the NC
13 561 Bridge over Fishing Creek. So they're requesting
14 an impact of approximately 0.97 acres of the plus or
15 minus 8,000 acre Shocco Creek Game Land Dedicated
16 Nature Preserve. That amendment would facilitate a
17 number of different activities, a 0.46 acre release
18 from the Dedicated Nature Preserve for right of way.
19 As we can see in the map right here, our Dedicated
20 Nature Preserve boundary is shown in yellow. In red
21 over here is the adjoining Nealey tract, which we'll
22 talk about in a few minutes. And these orange areas
23 are the areas of impact, with this rectangle in the
24 middle being that 0.46-acre release for right of way,
25 and the remaining orange area being the 0.51-acre

1 temporary construction easement that will be needed to
2 facilitate an in-place replacement of the existing
3 bridge and an on-site detour, which means they will
4 have to build a temporary bridge within that temporary
5 construction easement. Ordinarily, both this request
6 and the next one would be considered minor amendments
7 and would fall to staff to evaluate and ultimately make
8 a decision on, but our amendments guidelines do require
9 that certain conditions be met in order for those to be
10 considered minor amendments. This project meets the
11 first two being less than one acre or 5 percent of the
12 total conservation agreement area and being
13 perpendicular to or minimal distance to parallel
14 surface waters. So if that were it, this would've been
15 a staff decision, and the board wouldn't see it until
16 you get an update on amendments in -- at the May board
17 meeting. However, the third condition requires that
18 the project would have no significant impact on other
19 conservation values, except in cases where impacts can
20 be fully mitigated by plant rescue or other operation.
21 Determination of conservation impact will be subject to
22 the conservation benefit analysis outlined in section
23 three of this policy. And as we can see here, staff
24 determined that it failed that consideration, which
25 elevates this to a major amendment. Just a quick

1 snapshot here to show sort of what goes into making
2 that determination and what the impacts on conservation
3 values are; we have an example of a worksheet that I
4 created based upon our new requirement for a -- or our
5 new guideline for a conservation benefit analysis. We
6 can see that this project has no impact to historic and
7 cultural or riparian greenway values, but Fishing Creek
8 with the riparian buffer value does support federally
9 threatened endangered species and will give us a
10 resource score of 45 if this were run through our
11 current application rating system. Likewise for
12 Natural Heritage, there are a number of Natural
13 Heritage elements here, including the exceptionally
14 rated Fishing Creek Aquatic Habitats, Notched Rainbow,
15 Atlantic Pigtoe, Neuse River Waterdog, Northern Lance,
16 Yellow Lance, North Carolina Spiny Crayfish, and
17 Carolina Madtom. All of that results in a very high
18 resource score for Natural Heritage of 50 points. And
19 again, putting this through our scoring system, you get
20 the 50 points for Natural Heritage plus an additional 3
21 points for the lesser resource, so to speak, of
22 riparian buffer, which would give us a total resource
23 score of 53. Now with this being a public works
24 project and us accepting a -- typically accepting a
25 one-to-one cash reimbursement offset for impacts, this

1 doesn't really go to sort of make a case for what we're
2 getting in return, rather to demonstrate that this does
3 have impacts to conservation values and therefore had
4 to be elevated to a major amendment request. Just a
5 couple of quick pictures here, we've got a picture of
6 Fishing Creek at the location from the Shocco Creek
7 Game Land side, as well as a couple of examples of
8 those federally threatened and endangered species that
9 live in Fishing Creek. That brings us to our section
10 on major amendments, and just to break this down, our
11 guidelines do call out public works projects and
12 specify that amendment requests to accommodate public
13 works projects that are not covered in section one may
14 be approved by the Land and Water Fund Board. If this
15 were not a public works project, it would be subject to
16 several other considerations that I would take you
17 through. But that not being the case, this is sort of
18 where the conversation ends. It's a public works
19 project, and the board has the authority to make a
20 decision on whether or not they believe that it should
21 be approved. The one thing that I will point out here
22 is that with any amendment request that comes in, I do
23 make the requester demonstrate that no practical
24 alternatives exist, and there were a number of things
25 that we looked at with this project, the first being

1 the presence of the on-site detour. We've got a
2 bridge. There's really no way around replacing that
3 bridge on site, but we can discuss whether or not they
4 need to build that temporary bridge to get across in
5 the meantime. In evaluating alternatives, DOT did come
6 up with a couple of alternatives that involved a 20-
7 plus minute detour, which is problematic for passage of
8 emergency vehicles. It also was problematic for truck
9 traffic. The identified alternate route would include
10 at least one hairpin turn that would require
11 significant improvements to be able to accommodate
12 truck traffic. So between those things combined, staff
13 was satisfied that there was no practical alternative
14 to an on-site detour. The other thing discussed is we
15 have conservation agreements on the downstream side of
16 the bridge, but not on the upstream side. So I asked
17 if the bridge, the temporary bridge, could be
18 constructed on the upstream side, and the response that
19 I got was that given the temporary fill material that
20 would be required for that, putting the bridge, the
21 temporary bridge, on the upstream side would be more
22 susceptible to greater erosive forces, and therefore, a
23 negative -- a greater negative for water quality. Now
24 a couple of other things worth mentioning with this one
25 is, as it is a Dedicated Nature Preserve, it was

1 required to go through the Natural Heritage Advisory
2 Committee for the first run-through of it and first
3 step in the decision-making process. The Natural
4 Heritage Advisory Committee ultimately voted to approve
5 the amendment request and pass it along to us. In
6 talking to the Natural Heritage Program staff, I did do
7 a site visit with both Judy Ratcliffe and Scott
8 Pullman. While it's not ideal, they did both agree
9 that the impacts to the conservation values were small
10 enough or could be mitigated enough to where they
11 didn't have any major heartburn. The other piece of
12 this is that the existing bridge has at least one bent
13 or supporting structure in the middle of Fishing Creek.
14 And both the new replacement bridge and the temporary
15 detour bridge will fully span the channel of Fishing
16 Creek, eliminating the need for those in-stream
17 structures and providing some amount of habitat
18 improvement along with that. The committee
19 recommendation for this one was to approve the
20 amendment request authorizing the Natural Heritage
21 Program, North Carolina Department of Transportation,
22 and State Property Office to amend the Articles of
23 dedication as recommended by the Natural Heritage
24 Advisory Committee. The North Carolina Land and Water
25 Fund shall be reimbursed for the value of the entire

1 0.97-acre area of impact. I will go ahead and move
2 right into our next amendment request, agenda item
3 1(d). This is Land and Water Fund project 2014-063,
4 the Nealey tract. Again, in 2014, a grant in the
5 amount of \$96,200.00 was awarded by the North Carolina
6 Land and Water Fund for acquisition of approximately 55
7 acres. In 2015, the conservation easement in favor of
8 the State of North Carolina was recorded on the entire
9 property, and the same request has come in from the
10 Department of Transportation to replace the NC 561
11 Bridge over Fishing Creek. Similarly to the other map
12 I showed you, we've got the Shocco Creek Game Lands
13 boundary here in yellow. We've got the Nealey tracks
14 shown in red and our area of impact in orange. This
15 one is a slightly lesser total impact area with 0.91
16 acres of the 55-acre Nealey tract. The property is
17 owned and managed by Tar River Land Conservancy and
18 encumbered with a state-held conservation easement.
19 The amendment would facilitate a 0.45-acre release for
20 a permanent right of way, so again, this rectangle
21 right in here. In addition, there would be a 0.45-acre
22 release for that temporary construction easement shown
23 in this remainder of the orange area, same in-place
24 bridge replacement and on-site detour. I won't go
25 through this again. It was subject to the same

1 considerations for minor amendments, had the same
2 conservation benefit analysis done resulting in the
3 same score differential as a result of that analysis.
4 The one thing that is worth pointing out is that while
5 there are the exact same resources in Fishing Creek and
6 the Fishing Creek Aquatic Habitat, the Nealey tract
7 also has terrestrial National Heritage value in the
8 form of Piedmont bottomland forest and Piedmont levee
9 forest, which are part of the Shocco Creek Bluffs and
10 Floodplain, which is another exceptionally rated
11 natural area, so more Natural Heritage here, but the
12 way our scoring system works, it comes out to the same
13 final score; same species impacted in Fishing Creek,
14 but a couple of different pictures here. Here, we've
15 got the same section of Fishing Creek from the Nealey
16 track side, and down here, an example of the Piedmont
17 bottomland forest on site. Again, the same
18 considerations for major amendment, it is a public
19 works project, so the Land and Water Fund board has
20 full discretion over whether or not to approve it.
21 They did give the same justification for no practical
22 alternatives. With the addition of the terrestrial
23 natural areas, we did have further conversation with
24 the Natural Heritage Program, and again while it's not
25 ideal, they did feel that the impacts of the natural

1 heritage values did not have a significant overall
2 impact on the viability of those element occurrences or
3 the natural area rating. Similarly here, the committee
4 recommended to authorize the North Carolina Department
5 of Transportation and the State Property Office to
6 terminate up to 0.91 acres of the conservation easement
7 on 2014-063 Nealey tract to facilitate replacement of
8 the NC 561 bridge across Fishing Creek. The North
9 Carolina Land Water Fund shall be reimbursed for the
10 value of the entire 0.91-acre area of impact
11 proportionate to the original funding contribution.
12 With that, both of these need board action to approve,
13 amend, or deny the committee recommendation. And just
14 as a reminder, all major amendments must be affirmed by
15 a two-thirds vote by the board in order to pass. And
16 with that, I will turn it back to the committee chair.

17 Acquisition Committee Chair Grissom: Okay,
18 thanks so much, Justin; any questions for Justin about
19 this?

20 Mr. Riddle: Yeah, I have
21 another question. Thanks for that; this is very
22 helpful to understand, and I don't really have a
23 problem with releasing the 0.97 acre of the easement.
24 Is there any consideration, though, because the
25 permanent easement in the temporary construction area,

1 you know, will be abandoned once the new road and
2 bridge are put in place? Do you all have any influence
3 on how that area is actually restored or reforested or
4 revegetated to minimize invasive species and things of
5 that nature adjacent to the preserve?

6 Stewardship Manager Mercer: Yes, and for
7 this particular set of requests the National Heritage
8 Program has played a big role in that. With the
9 Dedicated Nature Preserve portion, the right of way is
10 the only piece that is being -- actually being released
11 from that. The remainder of it will remain as
12 Dedicated Nature Preserve, and the Natural Heritage
13 Program will oversee the restoration of that area. I
14 believe they have input/guidance on approving what seed
15 mixes or what species are used to restore that area.
16 For the potential amendment on the Nealey tract, it's
17 kind of part of that same discussion. They'll use the
18 same seed mix for it, but with that since the entire
19 0.91 acres will be removed from the easement, there is
20 perhaps less room to negotiate, but we still have some
21 of that power. And with it -- being paired with the
22 other one, it's all sort of part of the same set of
23 restrictions or conditions to the approval, so to
24 speak, but that is a good point. In the rare cases
25 where we do keep part of the temporary construction

1 easement within our conservation easement, we
2 absolutely have the authority to negotiate or dictate
3 how it should be restored. In most cases, though, it's
4 simpler to completely cut that out of the easement,
5 because no amount of restoration that DOT does is going
6 to return it to exactly the same condition as what is
7 being given up.

8 Mr. Riddle: Sure; I
9 definitely agree on that, and then -- you know, once
10 it's gone, it's definitely gone for good, but in the
11 transition, certainly any influence on having DOT's
12 better than best effort, because, you know, I'm not
13 going to pick it on anybody, but they build roads.
14 They do a great job. But so any -- you know, I just
15 think that's really an important consideration. There
16 wasn't much sort of -- I didn't really understand that
17 from the presentation, so that sounds really good to me
18 that you all are on that and taking that into
19 consideration on the heritage side, but I think any
20 influence to make it consistent on both sides and
21 protect them both equally would be very, very
22 important.

23 Stewardship Manager Mercer: Absolutely.

24 Acquisition Committee Chair Grissom: Yeah;
25 thank you so much for that comment and question, and

1 absolutely disturbance tends to lead to invasives that
2 need to be controlled.

3 Stewardship Manager Mercer: If I can --

4 Acquisition Committee Chair Grissom: So
5 any other --

6 Stewardship Manager Mercer: I'm sorry, if I
7 could just add one more point on that. The Nealey
8 tract will continue to be owned by Tar Riverland
9 Conservancy. So while the temporary construction
10 easement will not -- will no longer be protected by our
11 easement, it will still be in their ownership. And so
12 they do still have the power to sort of negotiate terms
13 of restoration for that portion as well.

14 Acquisition Committee Chair Grissom: Okay,
15 any other questions for Justin about this one or these
16 two, I should say? I guess I'm comforted by the fact
17 that a couple of folks from Natural Heritage went out
18 with Justin to see the site and really assess it and
19 that the advisory board for Natural Heritage is okay
20 with this, so that's it for me.

21 Chairman Wilson: Okay, thank
22 you, Justin and Amy, and good questions, Clement; we
23 have these two recommendations coming to us from the
24 acquisition committee; the Shocco Creek Game Land
25 Dedication Amendment that Justin read to us and had on

1 our screen, and also the Nealey Tract Amendment; any
2 more discussion before we vote on these two? And we
3 will vote on them together unless anybody wants to
4 split them apart. If so, speak up, please.

5 Innovative Stormwater and Planning Committee
6 Chair Browning: I have just one
7 question on the value. How will that be determined,
8 the value to be reimbursed?

9 Stewardship Manager Mercer: Sure, great
10 question; there are a couple of things that go into
11 that. Typically, DOT does their own in-house
12 valuation, and that's sort of our starting point. From
13 that, our guidelines suggest that for a public works
14 project, we will accept a one-to-one reimbursement, and
15 so that is typically based off of either that in-house
16 valuation or tax value or a prorated amount of the
17 original grant contribution. In this case, the two
18 will be treated a little bit differently with the --
19 with each one falling in a different county. The
20 Nealey tract being in Nash County and the Shocco Creek
21 Game Lands property being in Halifax County, tax
22 valuation is treated differently on the two. It seems
23 relatively accurate for the Halifax County portion;
24 whereas, the Nash County piece seems to take into
25 consideration the diminution based on the conservation

1 Acquisition Committee Chair Grissom: Yes.

2 Chairman Wilson: Clement?

3 Mr. Riddle: Yes.

4 Chairman Wilson: Mike?

5 Mr. Rusher: Yes.

6 Chairman Wilson: And, Jason, are
7 you still with us?

8 Vice Chair Walser: I'm here, and I
9 vote yes.

10 Chairman Wilson: All right;
11 David?

12 Mr. Womack: Yes.

13 Chairman Wilson: And John is a
14 yes also. Those both pass; thank you, Justin, and
15 thank you, Amy. Amy, did we cover all your bases?

16 Acquisition Committee Chair Grissom: Yep, we
17 got everything; hopefully, one more to come next
18 meeting.

19 Chairman Wilson: Okay, thanks;
20 we will now consider a couple of business items from
21 the executive committee dealing with administrative
22 expenses and also E-bikes, the potential for E-bikes on
23 our conservation easements. Will Summer, will you
24 please lead us through the discussion of administrative
25 expenses?

1 Executive Director Summer: I'm happy to do
2 so. Let me get my screen shared here. I believe that
3 is up, just so you folks can see the language. So as
4 you all may recall, on the eve of our September board
5 meeting, a draft of the budget was released, which
6 contained a provision that if approved, would allow use
7 of up to 3 percent for administrative expenses. At
8 that time, the board agreed not to spend those funds in
9 the event that the budget bill passed, which it did,
10 and that's on the screen here in the middle. The
11 language says of the funds appropriated to the fund,
12 the Trustees may use no more than 3 percent for
13 operating expenses associated with the programs and
14 activities authorized by this part. So as you all
15 know, this was a real big deal, much needed, if not a
16 few years overdue. For many years, our average
17 occurring appropriation was about 13 million, give or
18 take, and we had 10 full-time staff. As of this budget
19 year, our recurring appropriation has increased to 28
20 million, and current administrative resources and
21 staffing levels are just not sufficient to implement
22 these funds, not to mention the large non-recurring
23 bump that we had in each of the two previous years.
24 These funds could be used for staff positions,
25 equipment, supplies, travel, training, or really any

1 other regular administrative expenses. This language
2 as written requires board action to access these funds,
3 which would be this year \$900,000.00 based on the
4 current appropriation. But I think the portion we
5 could count on for -- based on the current recurring
6 budget of 28 million is \$840,000.00. The funds would
7 be non-reverting, and any unused at the end of the year
8 could be rolled over into the next year for future
9 administrative needs or returned to be used for grants.
10 So let me inject a little history here. Until 2013,
11 all of our operational funds were allocated as a
12 portion of grant funds, and at that time, the executive
13 director and the staff served at the pleasure of the
14 board. And in those days, the board would have hired
15 the executive director, approved the annual operating
16 budget, including replacing the copier, purchasing
17 vehicles, office supplies, et cetera. And in 2013, the
18 statute was changed so that the director and staff were
19 officially moved into the department's chain of command
20 and administration of operating funds became the
21 purview of the executive director, and our
22 administrative funds came outside of the grant budget.
23 So outside of the grant funds, we got a separate pot of
24 administrative money, so the two were kind of
25 completely separated in 2013. And at the same time,

1 the board's role was refocused solely to policy and
2 funding decisions. So, and I think the recommendation
3 that the committee has for these funds are consistent
4 with that separation of duties. So with that in mind,
5 the staff recommendation that was supported by the
6 committee is that the full 3 percent be set aside for
7 administrative purposes going forward. And at the end
8 of each fiscal year, unspent administrative funds will
9 be returned to be used for grants, and then staff will
10 report annually on the status of any funds and how they
11 were spent. Mr. Chair, that concludes my report on
12 that, and I will now take any questions.

13 Mr. Womack: Hey, Will, this
14 is David. I think I heard embedded in that report that
15 the 3 percent number applies to all funds granted from
16 the General Assembly, not just recurring funds, is that
17 correct?

18 Executive Director Summer: That is
19 correct.

20 Mr. Womack: So this number
21 will change from year to year, obviously.

22 Executive Director Summer: It will change
23 from year to year. The recurring part is important for
24 me, because as I consider the most important thing that
25 I want to do with these funds, which is bring on

1 permanent full-time staff, I kind of have to keep in
2 mind that 840 number that's based on recurring because
3 I can't very well bring on a staff member for the -- or
4 staff members that encroaches into that fluctuating
5 part, but yes, that's absolutely true.

6 Mr. Womack: I'm not asking
7 -- my question is, so when you budget, you will budget
8 3 percent of the recurring, right, and -- correct or
9 right?

10 Executive Director Summer: Well, for the
11 -- for administrative purposes, I will plan to set
12 aside the entire 3 percent of whatever that
13 appropriation is with the expectation that much of it,
14 particularly the part that is on the non-recurring,
15 will be put back into the grant funds via the
16 provisional list at the end of the fiscal year.

17 Mr. Womack: Right, but when
18 you -- but you'll do your -- I'm trying to figure out
19 the timing. Will you do your budget and your employee
20 payroll based on the recurring funds? And if so, will
21 the delta between the recurring funds and whatever
22 other largesse we may get from the General Assembly,
23 how will that be accounted for, either in the budget or
24 in your concept of what's needed going forward?

25 Executive Director Summer: Oh, it would --

1 I understand, David. It would only be used for one-
2 time expenses, equipment. It could be used for temp
3 staff that could help with a, --

4 Mr. Womack: Okay.

5 Executive Director Summer: -- you know, a
6 large increase in workload. But yeah, it would not be
7 -- for my planning purposes, I only plan ongoing
8 expenses with the recurring amount, which is the 840,
9 and the additional this year, which would be \$60,000.00
10 and other years could be more or less would just be
11 planned for one-time expenses.

12 Mr. Womack: Okay, all
13 right, that's all one-time expenses and not all
14 recurring full-time employees; got it, thanks.

15 Executive Director Summer: Exactly, sorry
16 it took me --

17 Mr. Womack: No, you may
18 have cleared that up in your presentation, but I
19 apologize if I didn't hear it when you explained it.

20 Executive Director Summer: No, no, I think
21 you -- it took me two laps to get to where you wanted
22 to go, but thank you for asking that.

23 Chairman Wilson: Okay, any more
24 questions for Will or discussion; we have a
25 recommendation from the executive committee that the

1 full 3 percent of funds that are appropriated to the
2 fund be set aside for administrative purposes going
3 forward. At the end of each fiscal year, unspent
4 administrative funds will be returned to be used for
5 grants, and staff will report annually on the status of
6 funds. That is the committee recommendation. Any more
7 discussion on this before we vote on it; okay, how do
8 you vote, please; Ann?

9 Innovative Stormwater and Planning Committee

10 Chair Browning: Yes.
11 Chairman Wilson: Greer?
12 Ms. Cawood: Yeah.
13 Chairman Wilson: Amy?
14 Acquisition Committee Chair Grissom: Yes.
15 Chairman Wilson: Clement?
16 Mr. Riddle: Yes.
17 Chairman Wilson: Mike?
18 Mr. Rusher: Yes.
19 Chairman Wilson: Jason; Jason
20 has left us; David?
21 Mr. Womack: Yes.
22 Chairman Wilson: And John is a
23 yes. This passes, and what a great day it is; aye,
24 Will?
25 Executive Director Summer: Absolutely,

1 thank you all so much.

2 Chairman Wilson: And I think I
3 hear your fellow staff members all gearing or at least
4 breathing a big sigh of relief.

5 Executive Director Summer: The cavalry
6 will be here in 6 to 12 short months.

7 Chairman Wilson: Okay, our next
8 topic from the executive committee, the discussion will
9 be led by Justin regarding E-bikes and Land and Water
10 Fund conservation easements -- agreements over to you,
11 Justin.

12 Stewardship Manager Mercer: Thank you, and
13 I'll get my screen shared here again. But while I'm
14 doing that, I will point out that this is being
15 presented as it was to the executive committee largely
16 as an informational item. That said, please do not
17 hesitate to comment or ask questions or give feedback
18 as you have them. With that, we'll start here the
19 discussion with of E-bikes and North Carolina Land and
20 Water Fund conservation agreements with just a reminder
21 of our existing guidelines and practices concerning
22 construction of natural surface trails. I won't go
23 through that entire document, just hit some of the key
24 components here. These guidelines were developed by
25 staff and the acquisition committee and the board back

1 in 2017 with input from partners and trails experts and
2 lots of other folks, so a lot of thought was put into
3 what we have as part of these guidelines. Basically,
4 what this does is it requires that all new trail
5 construction in realignment within our conservation
6 agreements must have review and prior approval by Land
7 and Water Fund staff, and this is typically done
8 through stewardship. Now it's worth pointing out that
9 this applies for every conservation agreement reported
10 after, I think July 2017, and it does apply
11 retroactively to easements prior to that where trails
12 were allowed, but perhaps mountain bike trails were not
13 specifically allowed or prohibited. So these
14 guidelines do apply retroactively to those conservation
15 agreements. Mostly, this is the -- these guidelines
16 are to ensure that minimal impact to conservation
17 values occurs with any trail construction or
18 realignment. As part of it, Land and Water Fund
19 retains the right to deny any new trails or require
20 maintenance or closing of existing trails if they don't
21 meet our standards. In addition to that, any grant
22 recipient or landowner may request that biking or other
23 trail uses be excluded from the conservation easement.
24 So hiking trails are part of our standard reserve
25 rights. Mountain biking trails are part of our

1 standard optional rights. In other words, an applicant
2 has to ask for them at the time of funding, but they
3 are routinely approved when that request is made. The
4 last thing worth pointing out with these guidelines is
5 that they affirm that the prohibition on uses of
6 motorized vehicles, except for management and
7 stewardship purposes, remain as standard language. And
8 that's sort of what I want to key on here is that that
9 phrase motorized vehicles and what exactly that means,
10 and that brings us to the discussion of E-bikes. And
11 we've been through the executive committee meeting on
12 this, but I want to give a recap for everybody that
13 maybe wasn't part of that, and just answer, what is an
14 E-bike? And in short, it's not a motorcycle. It's not
15 a dirt bike. It's something that looks and functions
16 much like a traditional bicycle, but it's equipped with
17 a battery and a small electric motor. The E-bike
18 industry has split E-bikes into three different
19 classifications with class one bikes being those where
20 the motor only engages while the user is pedaling and
21 disengages at 20 miles per hour. So these are very
22 much pedal assist devices. It's not something where
23 you're going to get on and ride fully self-propelled.
24 You've got to be pedaling in order for that motor to
25 assist. It does disengage at 20 miles per hour. That

1 doesn't mean that it can't go faster than 20 miles per
2 hour. It just means that if it does go faster than
3 that, it's either being propelled by the user or by
4 gravity. Class two bikes are those where a motor can
5 be engaged without pedaling. So they have the pedal
6 assist function, but they are also capable of being
7 fully self-propelled. Again, the motor disengages at
8 20 miles per hour, whether it's through the pedal
9 assist or through the use of the throttle. Lastly,
10 they have class three E-bikes where the motor, again,
11 typically only engages when the user is pedaling,
12 mostly a pedal assist, but some models can have a
13 throttle, and that motor disengages at 28 miles per
14 hour. So the biggest difference here is that that top
15 assisted speed is 28 miles per hour as opposed to 20.
16 Now, again, those definitions were created by the
17 biking industry. There have been other agencies, other
18 organizations, that have come up with their own ways to
19 describe E-bikes. The National Park Service has
20 recently come up with their own definition, as well as
21 the North Carolina Division of Motor Vehicles. And
22 this isn't to suggest that we are beholden to the -- to
23 what DMV decides an E-bike is, but it's worth going
24 over how they define these vehicles. And by statute,
25 an electric-assisted bicycle is defined as a bicycle

1 with two or three wheels that's equipped with a seat or
2 saddle for use by the rider, fully operable pedals for
3 human propulsion, and an electric motor of no more than
4 750 watts, whose maximum speed on a level surface when
5 powered by such a motor is no greater than 20 miles per
6 hour. So that fits reasonably well with the definition
7 of a class one E-bike. By comparison, DMV defines a
8 motor vehicle as every vehicle which is self-propelled
9 and every vehicle designed to run upon highways which
10 is pulled by a self-propelled vehicle. Except as
11 specifically provided otherwise, this term shall not
12 include mopeds or electric-assisted bicycles. So
13 again, that just to demonstrate that DMV and certainly
14 other organizations are not considering pedal assist
15 E-bikes to be considered motor vehicles. So then that
16 brings the question is, why should we consider E-bikes?
17 And that was something that came up early on. Why are
18 we even having this discussion? And admittedly, there
19 is part of this discussion that is reactive. We've had
20 several inquiries in the last couple of years from
21 private individuals, from local governments, from our
22 nonprofit partners about the use of E-bikes within Land
23 and Water Fund easements. And the answer up to this
24 point has been they are motorized vehicles; therefore,
25 they are prohibited. However, there is also a

1 proactive element to this discussion in the sense that
2 it -- this is still a growing form of recreation, and
3 it would benefit Land and Water Fund to define our
4 stance now rather than waiting until it's fully out
5 there. Several federal agencies, state agencies, and
6 nonprofit organizations have also revisited their
7 stances on E-bikes in recent years or are in the
8 process of revisiting those stances. It does create an
9 opportunity to offer greater accessibility enjoyment of
10 lands protected by North Carolina Land and Water Fund
11 funds. There's been a lot of discussion in recent
12 years on diversity, equity, and inclusion, primarily
13 with how funds can be accessed on the front end, but
14 there's not been a lot discussed on how we can make our
15 existing conserved areas more accessible. And so this
16 potentially gives us an avenue to increase
17 accessibility to a number of different user groups or
18 within our existing conservation agreements. Again,
19 growing interest and availability will inevitably lead
20 to more widespread use than we're seeing now, so there
21 is benefit in us sort of defining our stance at this
22 point in time. There are a number of things that have
23 sort of gone into the background research and the
24 development of where staff is proposing our stance to
25 be on this, not the least of which is a survey that was

1 sent out to several of our partners. I also did a lot
2 of reading of available literature, discussions with
3 other organizations and agencies, talked to several
4 trails specialists and got their opinions on it, as
5 well as going out and testing an E-bike ourselves to
6 sort of get an idea for what the limitations might be
7 and what the pros of potentially allowing E-bikes
8 within our easements might be. But to focus in on the
9 survey here, the survey was emailed to 81 North
10 Carolina Land and Water Fund local government and
11 nonprofit partners. This certainly didn't reach
12 everybody that we work with, but was sent to at least
13 one representative from each of our active land trusts
14 and several local government partners. The survey was
15 ten questions. A lot of those questions were just
16 general informational items, name, organization,
17 organization type. Do you manage properties with
18 natural surface trails, so on. It's important to point
19 out this was not necessarily intended to shape our
20 ultimate decision on this, but to gauge where our
21 partners stand on the issue and to get an idea for what
22 other considerations should be accounted for. In all,
23 we had 36 respondents. Some of these were multiple
24 respondents from the same organization. Some of these
25 were folks that sort of got together with their

1 coworkers and submitted a single response, but
2 ultimately our responses represent 31 unique
3 organizations. During the executive committee meeting,
4 I presented a couple of pie charts, but I've sort of
5 pared that down to some key takeaways from these
6 surveys, but happy to go into a little bit more detail
7 if anybody would like. The key takeaway is here about
8 half of our respondents have received inquiries on --
9 regarding E-bikes. The purpose of that question was
10 just to give us an idea for who we're talking to and
11 how much thought they may or may not have given the
12 topic. With half of respondents having received
13 inquiries, that tells us that those half of respondents
14 have probably thought about the issue and considered
15 the pros and cons. The other half who had not received
16 inquiries may or may not have thought about the topic
17 because it just perhaps hasn't come up. About 50
18 percent of the respondents viewed E-bikes as no
19 different than mountain bikes, but with the added
20 benefit of greater accessibility, so the premise here
21 being that they view them as not being any better or
22 worse necessarily from a conservation standpoint than
23 their traditional mountain bike counterparts. Having
24 that additional benefit of accessibility and an
25 additional 33 percent of respondents viewed E-bikes as

1 potentially appropriate on a case-by-case basis. So
2 combined, that gives us 83 percent of our respondents
3 saw some level of appropriateness for E-bikes within
4 conserved areas. There were a number of specific
5 concerns raised through the survey regarding the use of
6 E-bikes, among them were trail degradation, safety,
7 user conflicts, off-trail impacts, and enforcement
8 issues. I think that all of the concerns raised were
9 certainly valid concerns and worth giving thought to.
10 But there are a couple things that I would like to
11 point out. And sort of grouping safety and user
12 conflicts into the same category, those are absolutely
13 things that should be of concern to anybody managing
14 natural surface trails. But in my opinion, those
15 concerns fall to the individual land managers or
16 landowners rather than the Land and Water Fund. It's
17 definitely something that we want folks thinking about,
18 but it's not necessarily our issue to manage those
19 things. Off-trail impacts, again a valid concern,
20 anytime you invite the public onto a property, you have
21 the potential for those off-trail impacts. So my
22 argument there would be that those potential issues
23 exist already, whether they're hiking trails or
24 mountain biking trails or equestrian trails. You've
25 always got the potential for folks to go off trail.

1 Those impacts can be mitigated through trail design and
2 educational opportunities. Enforcement is the other
3 thing or probably the second most common concern that
4 was raised. And I agree that is a potential issue.
5 It's already very difficult to distinguish between
6 class one, class two, or class three mountain bikes
7 alone with just a quick glance. But it's equally as
8 difficult to -- in a lot of cases, to tell the
9 difference between a standard mountain bike and an
10 E-bike. When you are -- when you've got somebody
11 moving 10, 15, 20 miles per hour on a bike, you get a
12 quick look at it. And unless you see them going uphill
13 not pedaling, in a lot of cases, you're not going to
14 have a solid idea of whether that was an E-bike or a
15 standard mountain bike. So, again, that enforcement
16 issue, I believe already exists, and it's not going to
17 go away by continuing to prohibit E-bikes within our
18 conserved areas. The remaining concern here is trail
19 degradation, and we'll touch on that a little bit more
20 later, but there certainly is a perception that E-bikes
21 might have a greater impact on trail conditions than
22 their traditional counterparts. And again, we'll touch
23 on that here in a minute. The last part of the survey
24 I'll mention is roughly 80 percent of responses
25 indicated that pedal assist E-bikes would be most

1 appropriate should they be permitted within Land and
2 Water Fund conservation agreements. So that sort of
3 takes the element of should E-bikes be allowed and
4 phrases it as if E-bikes were allowed, what's an
5 appropriate level of use? And the majority of folks
6 responded that a pedal assist function would be the
7 most appropriate use within our conserved areas. So
8 that brings up the question. Do E-bikes have greater
9 impacts to trails than their conventional counterparts?
10 There are a number of studies out there on the topic,
11 some have been -- some more recent than others. This
12 perception of greater trail degradation, again, is the
13 most significant single objection to E-bikes that I've
14 heard, both through our survey and through anecdotal
15 conversations with our partners and other user groups.
16 The National Park Service, Bureau of Land Management,
17 NC State Parks, and other agencies now allow E-bikes on
18 natural surface trails at some level. I believe state
19 parks now allows them on every trail that is open to
20 bikes. Other agencies have set parameters that will
21 likely open up consideration in the near future, but
22 there are multiple studies that suggest there is no
23 significant difference in impacts to soils between
24 E-bikes and traditional bicycles. The first one that
25 I've got referenced here is an assessment done by the

1 National Park Service that was finalized in June of
2 this year, so a very recent study. And that study says
3 the available literature regarding the difference in
4 impacts between E-bikes and traditional bicycles
5 concludes that while there is a perception that E-bikes
6 result in more impacts to trail surfaces than
7 traditional bicycles, observed effects indicate that
8 there is no significant difference in impacts to soils
9 between E-bikes and traditional bicycles. It goes on
10 to specify that trail design is more determinative of
11 the level of impacts than the type of use. So a couple
12 things to kind of focus in on there, the first is that
13 absolutely there's a perception that there's greater
14 trail degradation from E-bikes, but the evidence, the
15 scientific evidence doesn't necessarily back up that
16 perception. The other piece here that really resonated
17 with me is that trail design is more determinative of
18 the level of impacts than type of use. And that's
19 something I remember very specifically from
20 conversations back in 2017 when our natural surface
21 trails guidelines were being developed that that was
22 echoed by state parks trail staff when we discussed it
23 with them then. As long as trail approvals are going
24 through a process, as long as they're being designed
25 and built sustainably, whether it's a mountain --

1 traditional mountain bike or an E-mountain bike
2 shouldn't make a difference on the level of trail
3 degradation. The other study that I'll mention is one
4 done by the International Mountain Bike Association, I
5 believe it was back in 2015 or 2016, said the impacts
6 from class one e-mountain bikes and traditional
7 mountain bicycles were not significantly different.
8 Observations suggest that class one E-mountain bikes
9 may lead to more displacement under certain trail
10 conditions, and this is something we know. When trails
11 are wet, when trails aren't maintained properly, we
12 know that there are -- there is potential for greater
13 trail degradation, whether it's an E-mountain bike or a
14 traditional mountain bike. That's why we have
15 maintenance requirements in place along with those
16 trail design and construction considerations. The
17 chart that I've got on the screen here is another IMBA
18 study that, or part of the same study that compared
19 mountain bikes to pedal-assist E-bikes to those
20 equipped with a throttle. And mountain bikes in green
21 compared to pedal-assist E-bikes in blue, there is a
22 slightly greater level of soil disturbance with
23 E-bikes, but not significantly so from a statistical
24 standpoint. When you look at the red section though,
25 those are those bikes that are equipped with a throttle

1 that are capable of being fully self-propelled, and
2 that's where it seems you get a significant increase in
3 the amount of soil disturbance associated with that
4 use. I did specifically have a conversation with a
5 trail expert. I took part in a sustainable trail
6 design and construction workshop about a month ago.
7 And in talking to the instructor there, he really said
8 he doesn't understand why public agencies don't allow
9 E-bikes on their trails, because the impact is
10 minimally different than their traditional mountain
11 bike counterparts. The only difference that he might
12 consider is not a difference in design or construction
13 standard,s but perhaps a slightly more frequent level
14 of maintenance on these trails. As opposed to
15 conducting maintenance on a trail every two to three
16 years, you might look at maintaining certain portions
17 of that trail every year or two. So slightly more
18 frequent maintenance might be the only consideration
19 that he would give to the use of E-bikes as opposed to
20 traditional bikes. With that, that brings us to our
21 interpretation of motorized vehicle. Our current
22 interpretation is a motorized vehicle is any mode of
23 transportation equipped with a motor capable of self-
24 propulsion or assisted propulsion. When I look at our
25 easements and I see prohibition motorized vehicles,

1 this is what I think; anything that has a motor of any
2 kind is not allowed. And I believe that's where my
3 predecessors have been on the topic as well, and how
4 ultimately we sort of arrived at the conclusion up to
5 this point that E-bikes were prohibited. However, the
6 change that I'm proposing here is not to change that
7 basic interpretation, but to update and include a
8 couple of exclusions to this interpretation, the first
9 being electric bicycles with a motor not exceeding 750
10 watts that have a pedal assist function, but are not
11 equipped with a throttle. In talking to a staff member
12 of a fellow state agency, I got a really good piece of
13 advice, and that was not to base any decisions off of
14 the class definitions, class one, two, and three,
15 because those are defined by the industry and are
16 subject to change. So by including more detail on
17 specifications, we can maintain some level of control.
18 To point out, 750 watts here is roughly equivalent to
19 one horsepower. So these are E-bikes equipped
20 essentially with a one horsepower motor that is -- has
21 pedal assist function only, but is not capable of being
22 fully self-propelled. That number's a little bit
23 arbitrary, but what it does is helps us to definitively
24 distinguish between say an electric dirt bike or
25 something that may come up down the road and allow us

1 to continue pushing back and excluding those devices
2 that we don't want within our easements. The other
3 piece here that I've sort of tagged on, because it to
4 me just makes sense, is medically necessary mobility
5 devices. The way we have interpreted our easements up
6 to this point, and that prohibitional motorized
7 vehicle, would also prohibit the use of, say, a
8 motorized wheelchair. And to be perfectly honest, I
9 don't want to be the guy that goes out there and tells
10 somebody in their motorized wheelchair that they can't
11 be on our easement. And so I think adding that to the
12 proposed exclusion here is appropriate as well. And so
13 ultimately, this would keep our definition of motorized
14 vehicle the same, but allow for pedal assist E-bikes
15 and other medically necessary mobility devices. The
16 last thing I want to point out with this is that it's
17 not the intent to dismiss the concerns raised by our
18 partners. Instead, we feel it's appropriate to leave
19 the decision on whether or not to allow electric
20 bicycles to the individual land managers. They're the
21 ones that are on the ground dealing with the potential
22 user conflicts, dealing with the potential safety
23 issues that really don't have an impact on the
24 conservation values of the property, and it's my
25 opinion that they are best suited to make those

1 decisions rather than the Land and Water Fund. So by
2 updating this interpretation, we are not requiring
3 folks to allow E-bikes, but allowing them to make that
4 decision on their own. Lastly, it's important to point
5 out that all trails subject to use by E-bikes would
6 still be subject to our established guidelines and
7 practices for natural service trail design and
8 construction. So if an event were to arise where there
9 were increased trail degradation or other issues, we
10 would still have the authority to close or require
11 maintenance or require redesigns to accommodate for
12 those things and ensure that the conservation values
13 are being protected. With that again, this was
14 presented as largely an informational item, but happy
15 to take any questions or comments, and we'll turn it
16 back over to the chair.

17 Chairman Wilson: Thanks, Justin;
18 questions, comments for Justin?

19 Ms. Cawood: Justin, this is
20 Greer.

21 Mr. Womack: Justin, this is
22 -- you go ahead.

23 Ms. Cawood: You go ahead,
24 David.

25 Mr. Womack: Well, I was

1 just going to commend you and the -- and whoever helped
2 you put this together because I mean E-bikes are -- I
3 mean, you think they're big now; you look back on this
4 three years from now and especially with -- I won't
5 categorize too many of us, but some of us are aged to
6 the point where we just don't get uphill as quick as we
7 used to on a bicycle. So and I commend you for taking
8 this stand or working out the interpretations before we
9 had a real issue with it rather than after. So you all
10 ahead of the curve on this, and I commend you for it;
11 good job.

12 Ms. Cawood: Mr. Chair,
13 coming from a little bit different perspective that
14 maybe Justin, you can answer, and you did a thorough
15 job as you do with everything that we task you with. I
16 guess because I'm sitting in Austin, Texas on my
17 daughter's college campus, and so scooters and E-bikes
18 are just crazy and picturing them on some of the trails
19 with traditional hikers, being a traditional hiker,
20 where already, you know, quite normal mountain bikes
21 can sometimes be a little precarious, I just want on
22 the record that -- and, David, you know, went to this
23 point. As this escalates in popularity, we really want
24 our partners to think about the safety of all of their
25 clients that are using the lands. So I have a little

1 pause on this. I like that we're getting in front of
2 it. I like that we're leaving it to partners to
3 decide, but we're not prohibiting it. But I'll just
4 have to say, I have a little bit of pause with us
5 allowing E-bikes.

6 Chairman Wilson: Justin, how
7 much, if at all, do we get involved in conversations
8 with our partners or landowners regarding the issue
9 that Greer raised, which is not just degradation of the
10 environment and of conservation resources, but of
11 public safety, of making sure that trails are safe for
12 hikers as well as if mountain bikes or E-bikes are
13 legal on them, keeping everybody safe, because, you
14 know, I've had some experiences that I'm sure Greer has
15 had as well where I've been on trails that either
16 mountain bikes were allowed on, but in many places
17 where mountain bikes are not allowed, and have had to,
18 for example, snatch my then six-year-old daughter and
19 her friend out of the way of an oncoming mountain bike
20 where two mountain bikers flew past us where they
21 shouldn't be and almost ran over my daughter and her
22 friend and are really, really lucky that my wife did
23 not get her hands on those two bikers, which is
24 probably why they fled for their lives.

25 Stewardship Manager Mercer: That's a great

1 question, and both of those are certainly valid
2 concerns. I will say typically in my review and my
3 outlook on things, it puts the conservation values at
4 the forefront. And so when I'm reviewing a trail plan
5 or granting approvals or denials or whatever, it's
6 based off of the impacts to the resource and the
7 sustainability of the design. That said,
8 sustainability certainly has social aspects to it as
9 well and user experience is part of that. Safety and
10 user experience is typically something that I've felt
11 is at least somewhat out of our purview. I don't
12 typically stand in the way of somebody taking action to
13 increase user safety, but it's not necessarily
14 something that is at the forefront of our approval
15 process because it's -- that's really on the landowner
16 to ensure that folks have a safe experience, and I
17 think Will has something to add to that.

18 Executive Director Summer: If it's all
19 right, Mr. Chair, to Greer's, I am both a mountain
20 biker, not an E-biker, and a hiker, and I've had
21 experiences on both sides of that. And I will just
22 share with you, Greer and others, what I've seen, at
23 least in my back yard, here with one of our local land
24 trusts that has several of the preserves that are open
25 to traditional mountain bikes and hikers, TLC, Triangle

1 Land Conservancy, Bromley, and Williamson. So Bromley,
2 which is well loved in Orange County, has kind of
3 dedicated hiking trails, which are no bikes allowed,
4 and then the other trails which are multi-use, but it's
5 kind of understood that here's where you -- if you want
6 battle bikes, go over here, but if you want to be left
7 alone, use the hiking only trails. And then at one of
8 their less frequented preserves, they have common
9 trails -- they have some hiking only trails, but where
10 they have common trails, they're dictated that Tuesday,
11 Thursday, Saturday bikes go this way and hikers go that
12 way so that you can see one another. You know, you're
13 going in counter directions, which is their way of
14 helping to manage it, which is not to say that it's not
15 an issue, Greer, but that our partners, at least where
16 I've seen, they're thinking about it. They're managing
17 it because ultimately people don't complain to us when
18 the mountain biker runs them off the trail. They go to
19 TLC or who's managing the land, but I do think it's
20 definitely a concern of our partners, and I'm
21 interested in it, but I don't want to be too -- I don't
22 want to get into their land management in that sense,
23 but I hear you 100 percent.

24 Ms. Cawood:

Thank you,

25 Will; no, no, that's great, and I think just having on

1 the record that there is some concern, and I guess
2 being the old ladies on the board, I was part of the
3 discussion of mountain bikes to begin with, so the
4 progression of this -- I just think it's important that
5 we ask our partners to think about all of their
6 constituents' safety.

7 Chairman Wilson: And I just want
8 to be clear that the experiences that I've had, that
9 I've described were not on land trust property or even
10 state property. They were on federal property so, and
11 thanks for the reassurance and reminder, Will, of how
12 conscientious our partners are. Okay, so as Justin
13 said, this was more of a informational opportunity to
14 inform the board of where we were, where Justin is and
15 get any thoughts, feedback, even direction from the
16 board. And so this is the opportunity for that;
17 comments, questions, suggestions, and I've made Justin
18 promise that one day he'll give us a mini version of
19 his trail building seminar that he took.

20 Stewardship Manager Mercer: Absolutely, and
21 I know we've got several partners that are eagerly
22 awaiting an update from me on this. And so in any
23 update I send out, I will certainly include concerns
24 over safety and make sure that our partners are
25 considering potential safety and user conflict issues

1 as they make a decision on whether or not to allow
2 E-bikes on their specific properties.

3 Acquisition Committee Chair Grissom: I would
4 just like to add one quick comment about stewardship
5 and just prioritizing stewardship with partners as
6 we're, you know, making great progress in that, you
7 know, to just prioritize that there are going to be
8 eyes on regularly and perhaps even more frequently as
9 you were suggesting. You know, it might be something
10 to do that every year or two versus every three or
11 more.

12 Chairman Wilson: Okay, anything
13 left on this agenda item or on agenda item or non-
14 agenda item, so this is the speak now or forever hold
15 your peace until 2024?

16 Mr. Riddle: I feel like
17 everyone's weighed in on this. So the only thing I'll
18 say and sort of echo some of what's been said is about
19 getting out in front on this issue. I have an E-bike.
20 I love my E-bike, and I'm going to take it everywhere
21 I'm allowed. So put your signs up now or, you know,
22 get the guidelines out there to protect others and --
23 for conservation and everything else, but because it --
24 they're fun.

25 Chairman Wilson: Yeah, I said

1 during the executive committee meeting, Clement, that I
2 had just recently talked to a friend, and I hadn't even
3 mentioned that this was a discussion with the Land and
4 Water Fund, and he mentioned to me that -- he's my age;
5 he's 60, and he goes riding -- mountain biking with
6 guys that are less than half his age and his E-mountain
7 bike enables him to keep up with them within reason to
8 where they don't spend all their time regretting the
9 fact that they let the old guy come with them. And so
10 I thought that was I thought that was interesting. And
11 also, David, I'll say to your -- you mentioned E-bikes
12 helping us older folks get up the hill. It's actually
13 not that we're getting older. There was a study, I'm
14 pretty sure, that says that gravity has gotten stronger
15 recently. So I don't think we're getting older. I
16 think it's proven that gravity is just getting
17 stronger.

18 Mr. Womack: Can you send me
19 a copy of that study? I need to share that with a lot
20 of my friends.

21 Chairman Wilson: Yeah, I'm not
22 quite sure where I saw it, but I'll get that --

23 Mr. Womack: All right.

24 Chairman Wilson: I'll get that
25 to you by April 1st; how about that?

1 Mr. Womack: All right,
2 thanks.

3 Chairman Wilson: All right.

4 Innovative Stormwater and Planning Committee
5 Chair Browning: Hey, John, I
6 would like to -- on an earlier agenda item, I just
7 would like to express a word of appreciation to any and
8 all who helped educate our Legislators about the vital
9 need for additional administrative funds and certainly
10 thanks to the Legislators to responding affirmatively.
11 That's really important, and as Will said, a bit
12 overdue.

13 Chairman Wilson: That's right;
14 thanks, Ann. Okay, unless anybody else wants to say
15 anything, I will entertain a motion to adjourn and then
16 look for a second, and then just let everybody vote all
17 at once.

18 Innovative Stormwater and Planning Committee
19 Chair Browning: Motion to
20 adjourn.

21 Chairman Wilson: Motion by Ann.

22 Ms. Cawood: I second it.

23 Chairman Wilson: Oh, Greer, got
24 that; good job, Greer; any discussion; hearing none,
25 all in favor, say aye?

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All Board Members: Aye.

Chairman Wilson: All right, we
are adjourned; happy holidays, everybody; Happy New
Year; see you next year.

(The proceedings were concluded at 2:53 P.M.)

NORTH CAROLINA

WAKE COUNTY

C E R T I F I C A T E

I, Dona E. Overby, Notary/Reporter, do hereby certify that this Board of Trustees Meeting was taken by me and transcribed under my direction and that the eighty-four pages which constitute this Board of Trustees Meeting are a true and accurate transcript.

IN WITNESS THEREOF, I have hereunto set my hand this 17th day of February, 2024.

Dona E. Overby

Dona E. Overby
Notary Public
Certificate No.: 19971920107