



MINUTES

COLORADO DIVISION OF REAL ESTATE

**CONSERVATION EASEMENT OVERSIGHT
COMMISSION MEETING
September 20, 2010**

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MINUTES
CONSERVATION EASEMENT OVERSIGHT COMMISSION MEETING
September 20, 2010
Colorado Division of Real Estate
1560 Broadway, Suite 1250 C
Denver, CO 80202

A Conservation Easement Oversight Commission public meeting was held on September 20, 2010. The commissioners in attendance were; Cindy Lair, representing the Colorado Department of Agriculture; Martha Cochran, representing a local land trust; Chris West, representing a statewide land trust; R. Jay Winner, representing a local government land conservation agency; Janis Whisman, representing a historic preservation organization with experience in easements on properties of historical significance; and Mark Weston, representing certified general appraisers. Max Vezzani, representing landowners who have donated a conservation easement; Doug Robotham, representing the Colorado Department of Natural Resources and Lise Aangeenbrug, representing Great Outdoors Colorado were absent.

Also in attendance were Marcia Waters, Director Acting Director of the Division of Real Estate; Hollis Glenn, Conservation Easement Program Manager; Lisa Brenner Freimann, Assistant Attorney General; Harold Ovsowitz, Compliance Investigator and Jordan Beezley, Compliance investigator for the Division of Real Estate; Ted Wiatr, from the Conservation Easement Section of the Department of Revenue; and other staff and legal counsel for the Department of Revenue. The meeting was open to the public.

Full and timely notice of the meeting was given to the public and the meeting was held pursuant to the Colorado Sunshine Law, Title 24, Article 6, C.R.S., as amended.

Call to order, determination of a quorum:

The meeting was called to order by Commission-Chair Cochran at 1:03PM and a quorum was determined.

Approval of minutes:

It was motioned by Vice-Chair Whisman and seconded by Commissioner Weston to approve the minutes of May 17, 2010

Motion unanimously carried

Introduction of New Commissioner:

Chris West was introduced as the newest member of the Commission. Commissioner West is the Executive Director of the Colorado Cattlemen's Agricultural Land Trust and is the statewide land trust representative for the Commission.

Staff Updates:

Hollis Glenn provided the Commission the following updates:

- Appraisal Update Course: Design of the course has mostly been completed. A rule was adopted by BOREA making it a requirement for conservation easement appraisers to take the course once every two years. The first course is November 4, 2010 and the second course will be held on March 9, 2011. A copy of the course material was provided to the Commission for review.

- Renewal Application: A copy of the renewal application was provided to the Commission. Mr. Glenn asked the Commission to supply feedback or comments in the following weeks.
- CEOC Retreat: Staff would like to organize a staff retreat for the January meeting to define the Commissions goals for 2011 and provide further educational opportunities for the Commission. Retreats are usually four hours long, following a scheduled Commission meeting.
- Secure Website: Staff will provide a secure website for the Commission in which agenda packets will now be sent.
- Other: Staff is making changes to the Appraisal Affidavit and will provide a copy to the Commission for input.

Department of Revenue Request for Consultation:

Ted Wiatr, Tax Examiner in the Taxpayer Services Division of the Department of Revenue, requested that the Commission establish a systematic review process for the Department to consult with the Commission and the Division regarding specific conservation easements for which a tax credit has been claimed.

Motion: It was motioned by Vice-Chair Whisman and seconded by Commissioner Lair at 1:28 PM that the Commission enter into Executive Session for the purpose of receiving legal advice on specific legal questions, pursuant to C.R.S. section 24-6-402(3)(a)(II) regarding consultation with the Department of Revenue on conservation easements for which a state tax credit is claimed.

Commissioners West and Weston voted against. Motion failed to produce an affirmative vote of two-thirds of the Commission.

Commission-Chair Cochran elected to table further discussion on this topic until later in the meeting.

Public comment:

Michael Woodward informed the Commission about his legal struggle with Rod Atherton to preserve his ranch in Elbert County. Mr. Woodward declared his intentions to re-acquire his property from Mr. Atherton and work with the State to complete the conservation easement project.

HB10-1197: Tax Credit Certificate:

Staff provided the Commission a draft copy of the Tax Credit Certificate Application and Rule C-1. Rule C-1 will outline the process and requirements for taxpayers to submit an application for a tax credit certificate. The Rule will be noticed on September 30, 2010, and a rulemaking hearing will be held on November 3, 2010 at 10:00AM at the Division. The Rule will become effective January 1, 2010. The Commission provided comments and suggestions regarding the documents.

The Commission further commented that a copy of the tax credit certificate should be provided to the land trust.

Implementation of Probationary Certification:

Staff requested input on whether the Certification program should develop a probationary status for organizations that don't adequately demonstrate minimum qualifications for full certification.

Commissioners' comments included:

- Education should be a big component
- Developing more of a mentorship
- Creating a preliminary advisory opinion for an organization before they apply
- Establishing a "restricted license" as part of a mentorship program
- Determine the impact and appeal for a landowner to work with an organization on probationary status

Motion: It was moved by Commissioner Winner and second by Commissioner Lair to recommend that Staff get input from specific Commissioners on the possibility of a restricted license/certification.

Motion unanimously carried

Government Certification Reviews:

- Applicant 201030: The report was presented to the Commission and a discussion ensued. Of concern for the Commission was the lack of a policy to prevent a private benefit and lapses in the organization's easement monitoring. It was motioned by Commissioner Winner and seconded by Vice-Chair Whisman to recommend approving this organization for certification with these concerns added to the report.

Motion unanimously carried

- Applicant 201032: The report was presented to the Commission and a discussion ensued. Of concern for the Commission was the need for the organization to inform the taxpayer they do not guarantee the qualification of the tax credit. It was motioned by Commissioner Weston and seconded by Commissioner Winner to recommend approving this organization for certification with these concerns added to the report.

Motion unanimously carried

- Applicant 201034: Vice-Chair Whisman disclosed a potential conflict of interest regarding the application for this organization and exited the room. The report was presented to the Commission and a discussion ensued. It was motioned by Commissioner Winner and seconded by Commissioner Lair to recommend approving this organization for certification.

Motion unanimously carried

Vice-Chair Whisman returned to the meeting.

Executive Session:

Motion: It was motioned by Vice-Chair Whisman and seconded by Commissioner Weston at 2:57 PM that the Commission enter into Executive Session for the purpose of receiving legal advice on specific legal questions, pursuant to C.R.S. section 24-6-402(3)(a)(II) regarding consultation with the Department of Revenue on conservation easements for which a state tax credit is claimed.

Motion unanimously carried

The Commission re-entered open session at 3:43PM.

Department of Revenue Request for Consultation (Continued):

The commission discussed their advisory role in the consultation described in C.R.S. section 39-22-522 (3.5)(a). After discussion, the Commission felt that when the Department of Revenue requests consultation on specific conservation easement appraisals they will adhere to the language of the statute to help the Executive Director of the Department of Revenue to accept or reject the conservation easement.

Adjournment:

Motion: It was motioned by Commissioner West and seconded by Commissioner Winner to adjourn the meeting.

Motion unanimously carried

The meeting adjourned at 3:55 PM on September 20, 2010.

_____ Absent _____
Lisa Aangeenbrug, Great Outdoors Colorado

_____ Absent _____
Doug Robotham, Colorado Department of
Natural Resources

Cindy Lair, Colorado Department of Agriculture

Martha Cochran, Commissioner

R. Jay Winner, Commissioner

Janis Whisman, Commissioner

Chris West, Commissioner

Mark Weston, Commissioner

Absent

Max Vezzani, Commissioner

Marcia Waters, Director
Colorado Division of Real Estate

