**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION**

**OPEN MEETING MINUTES**

**AUGUST 22, 2017**

**Trustees Present:**

Michael Calkins, Chair

Jerome Klasmeier, representing Comptroller Peter Franchot

Susanne Brogan, representing Treasurer Nancy Kopp

William Allen

Deborah Herr Cornwell, representing Secretary Wendi Peters, Maryland Department of

Planning

Catherine Cosgrove

Bernard L. Jones, Sr.

Tom Mason

Milly Welsh

Joe Wood

J. Bruce Yerkes

**Trustees Absent:**

James Eichhorst, representing Secretary Joseph Bartenfelder, Maryland Department

of Agriculture

Ralph Robertson

**Others Present:**

Carol S. West, MALPF Executive Director

Michelle Cable, MALPF Administrator

Diane Chasse, MALPF Administrator

Chana Kikoen Turner, MALPF Administrator

Kim Hoxter, MALPF Monitoring, Enforcement and Database Coordinator

Amanda Wilson, MALPF Fiscal Specialist

Tamekia Dent, MALPF Office Secretary

Justin Hayes, Assistant Attorney General, Department of Agriculture

Nancy Forrester, Assistant Attorney General, Department of General Services

Billy Gorski, Anne Arundel County Planner

Keeve Brine, Baltimore County Planner

Jason Keppler, MDA Resource Conservation

Steve O’Connor, Cecil County Program Administrator

Scott Petrey, Cecil County, Stream Engineer

Troy Anderson, Cecil County, Ecosystem Investment Partners (EIP)

Nick Dilks, Cecil County, Ecosystem Investments Partners (EIP)

John Griffin, EIP Consultant

**Others Present By Web Conferencing:**

Kaylee Justice, Baltimore County staff

Chris Boggs, Washington County Staff

Eric Seifarth, Washington County Program Administrator

Michael Calkins, Chair, called the meeting to order at 9:00 a.m. at the Maryland Department of Agriculture building, Annapolis, Maryland. The guests and then the Board and staff introduced themselves.

**I. APPROVAL OF MINUTES**

1. Approval of Open Minutes from July 25, 2017.

Motion #1: To approve minutes from July 25, 2017 with one minor change.

Motion: Bernard Jones Second: Milly Welsh

Abstain: Susanne Brogan

Status: Approved

**II. ADDITION / DELETION OF AGENDA ITEMS**

Items IV.B.1 and IV.D.6. were withdrawn.

**III.** **ANNOUNCEMENTS**

There will be a Closed Session meeting that will include requesting approval of two Round One offers.

Ms. West stated that there have been a couple changes to the Board. Michael Calkins has officially been appointed Chair of the Board of Trustees. Bernard Jones has agreed to continue serving as a member of the Board until Governor Hogan appoints a replacement for his At-Large position. J. Bruce Yerkes has been appointed to replace Don Moore as the Board’s representative for the Maryland State Grange.

The Board will be asked to vote for a new Vice-Chair. Ms. West will not requesxt the vote until Mr. Jones’ replacement has been appointed.

1. **EASEMENT AMENDMENTS**

A. WORCESTER COUNTY:

1. 23-98-01 Corker’s Creek Farms, LLC ~214.66 acres

(Martin, Charles and Linda and T. Jean Culver)

Request:

Requests approval of an Amended Deed of Easement (right-of-way easement) to resolve a right-of-way violation on the Foundation easement.

Ms. Chasse introduced the item. There were no questions.

Motion #2: To approve the request of an Amended Deed of Easement

(right-of-way easement) to resolve a right-of-way violation on the

Foundation easement.

Motion: Bernard Jones Second: Milly Welsh

Status: Approved

1. 23-98-01 Corker’s Creek Farms, LLC ~214.66 acres

(Martin, Charles and Linda and T. Jean Culver)

Request:

Retroactive request for 19-month lease to Delmarva Power and Light Company for purpose of replacing poles along Snow Hill Road.

Recommendation:

Staff recommends approval, as the lease could be considered a temporary easement for a utility.

Ms. Chasse introduced the item. There were no questions.

Motion #3: To approve the retroactive request for 19-month lease to

Delmarva Power and Light Company for purpose of replacing

poles along Snow Hill Road.

Motion: Bernard Jones Second: Catherine Cosgrove

Status: Approved

1. ST. MARY’S COUNTY

1. 18-85-03 Magnani, Donald and Delores ~123 acres

Request Approval for a Tenant House

Request

The Landowners request approval for a tenant house, to be located in an area that was

previously approved as a child lot for their daughter, Adele (Adele’s Lot).

Item Withdrawn

1. CARROLL COUNTY

1. 06-11-03 Braswell, George ~127 acres

Request for retroactive approval to relocate a  
 non-subdividable building envelope

Request :

Request retroactive approval to relocate a non-subdividable building envelope for a residence.

Recommendation :

Staff recommends approval.

Ms. Turner introduced the item. Upon hearing the circumstances that will require Board approval to relocate the non-subdividable building envelope in order to cure the existing violation, the Board voted to table the request until: 1) Mr. Braswell could be present to answer questions regarding the violation; 2) written notice is received from Carroll County that all zoning and permit requirements have been met and there are no remaining issues that would prevent the County from issuing the U&O certificate for a residential use; and that MALPF receives satisfactory confirmation that all improvements will be located within the 1-acre footprint allowable for the non-subdividable building envelope.

Motion #4: To table the request until 1) Mr. Braswell could be present to answer questions from the Board; 2) written notice is received from Carroll County that all zoning and permit requirements have been met and there are no remaining issues that would prevent the County from issuing the U&O certificate for a residential use; and 3) confirmation satisfactory to MALPF that all improvements will be located within a 1-

acre footprint allowable for the non-subdividable building envelope.

Motion: Bernard Jones Second: Bill Allen

Status: Approved

1. CECIL COUNTY
2. 07-94-02 Granger, Paul ~57.1 acres

Request approval of a stream mitigation overlay easement over 13.4 acres.

Motion #5: To approve the request for the Little Elk Creek Stream Restoration Project to overlay an easement on the MALPF easement property, with the following conditions:

1. The final form of the overlay easement must include language acknowledging MALPF’s superior right in title and be reviewed and approved by MALPF staff and assistant attorneys general, prior to the parties signing the easement agreement; and
2. A survey must be provided to delineate the stream restoration area, including how the area is accessed by the easement holder, or their designees, for future monitoring, and designated crossing location(s). The required survey is subject to Foundation review and approval.
3. This is a onetime approval for the State Highway Administration project that benefits all of Maryland;
4. This project does not include any sale of mitigation or banking credits (present or future);
5. This project does not have any impact on the agricultural operation or productive lands outside the buffer easement area;
6. Any approval is specific to Ecosystem Investment Partners (EIP), and will not transfer to another company or entity without written Board of Trustees’ approval;
7. EIP will make every effort for the final size of the buffer (50’ on each side of the restored channel alignment) to be less than the estimated figure provided above; and
8. Any best management practice disturbed by the stream restoration construction shall be re-installed in the appropriate location to meet NRCS standards (for example, if there was a fence installed through a MDA cost-sharing program, the fence must be re-installed at the edge of the stream buffer);
9. Prior to the March 1, 2018, expiration date of the nutrient management plan on each farm, MDA’s nutrient management specialists will schedule an implementation review to verify that farmers are managing nutrients on their farms to protect water quality in compliance with each farms’ nutrient management plan;
10. EIP will establish an appropriate endowment for long-term stewardship and management of the overlay easement area, subject to MALPF staff approval; and
11. The Grangers must resolve the outstanding matter with their lender, which requires the lender to amend their legal description to include the entire MALPF easement area (as described in attached letter dated July 20, 2017).

Motion: Milly Welsh Second: Catherine Cosgrove

Status: Approved

1. 07-93-07A Cline, Burnard W., Jr. & Burnard R. ~38 acres

Request approval of a stream mitigation overlay easement over 6.9 acres.

Motion #6: To approve the request for the Little Elk Creek Stream Restoration Project to overlay an easement on the MALPF easement property, with the following conditions:

1. The final form of the overlay easement must include language acknowledging MALPF’s superior right in title and be reviewed and approved by MALPF staff and assistant attorneys general, prior to the parties signing the easement agreement;
2. The MALPF easement must be amended to waive the 25-year provision to request to termination of the easement. The amended easement requires lenders to subordinate their liens, if any, on the property. Accordingly, you will need to speak with any lenders about the amended easement. The lenders may have some requirements, such as modification of the loan documents; and
3. A survey must be provided to delineate the stream restoration area, including how the area is accessed by the easement holder, or their designees, for future monitoring, and designated crossing location(s). The required survey is subject to Foundation review and approval.
4. This is a onetime approval for the State Highway Administration project that benefits all of Maryland;
5. This project does not include any sale of mitigation or banking credits (present or future);
6. This project does not have any impact on the agricultural operation or productive lands outside the buffer easement area;
7. Any approval is specific to Ecosystem Investment Partners (EIP), and will not transfer to another company or entity without written Board of Trustees’ approval;
8. EIP will make every effort for the final size of the buffer (50’ on each side of the restored channel alignment) to be less than the estimated figure provided above; and
9. Any best management practice disturbed by the stream restoration construction shall be re-installed in the appropriate location to meet NRCS standards (for example, if there was a fence installed through a MDA cost-sharing program, the fence must be re-installed at the edge of the stream buffer);
10. Prior to the March 1, 2018, expiration date of the nutrient management plan on each farm, MDA’s nutrient management specialists will schedule an implementation review to verify that farmers are managing nutrients on their farms to protect water quality in compliance with each farms’ nutrient management plan; and
11. EIP will establish an appropriate endowment for long-term stewardship and management of the overlay easement area, subject to MALPF staff approval.

Motion: Bernard Jones Second: Milly Welsh

Status: Approved

1. 07-93-08A Cline, Burnard W., Jr. & Burnard R. ~93.6 acres

Request approval of a stream mitigation overlay easement over 4.4 acres.

Motion #7: To approve the request for the Little Elk Creek Stream Restoration Project to overlay an easement on the MALPF easement property, with the following conditions:

1. The final form of the overlay easement must include language acknowledging MALPF’s superior right in title and be reviewed and approved by MALPF staff and assistant attorneys general, prior to the parties signing the easement agreement;
2. The MALPF easement must be amended to waive the 25-year provision to request to termination of the easement. The amended easement requires lenders to subordinate their liens, if any, on the property. Accordingly, you will need to speak with any lenders about the amended easement. The lenders may have some requirements, such as modification of the loan documents; and
3. A survey must be provided to delineate the stream restoration area, including how the area is accessed by the easement holder, or their designees, for future monitoring, and designated crossing location(s). The required survey is subject to Foundation review and approval.
4. This is a onetime approval for the State Highway Administration project that benefits all of Maryland;
5. This project does not include any sale of mitigation or banking credits (present or future);
6. This project does not have any impact on the agricultural operation or productive lands outside the buffer easement area;
7. Any approval is specific to Ecosystem Investment Partners (EIP), and will not transfer to another company or entity without written Board of Trustees’ approval;
8. EIP will make every effort for the final size of the buffer (50’ on each side of the restored channel alignment) to be less than the estimated figure provided above; and
9. Any best management practice disturbed by the stream restoration construction shall be re-installed in the appropriate location to meet NRCS standards (for example, if there was a fence installed through a MDA cost-sharing program, the fence must be re-installed at the edge of the stream buffer);
10. Prior to the March 1, 2018, expiration date of the nutrient management plan on each farm, MDA’s nutrient management specialists will schedule an implementation review to verify that farmers are managing nutrients on their farms to protect water quality in compliance with each farms’ nutrient management plan; and
11. EIP will establish an appropriate endowment for long-term stewardship and management of the overlay easement area, subject to MALPF staff approval.

Motion: Bernard Jones Second: Milly Welsh

Status: Approved

1. 07-88-02sub#1 Stoltzfus, Elam & Lizzie ~84 acres

Request approval of a stream mitigation overlay easement over 10.6 acres.

Motion #8: To approve the request for the Little Elk Creek Stream Restoration Project to overlay an easement on the MALPF easement property, with the following conditions:

1. The final form of the overlay easement must include language acknowledging MALPF’s superior right in title and be reviewed and approved by MALPF staff and assistant attorneys general, prior to the parties signing the easement agreement; and
2. A survey must be provided to delineate the stream restoration area, including how the area is accessed by the easement holder, or their designees, for future monitoring, and designated crossing location(s). The required survey is subject to Foundation review and approval.
3. This is a onetime approval for the State Highway Administration project that benefits all of Maryland;
4. This project does not include any sale of mitigation or banking credits (present or future);
5. This project does not have any impact on the agricultural operation or productive lands outside the buffer easement area;
6. Any approval is specific to Ecosystem Investment Partners (EIP), and will not transfer to another company or entity without written Board of Trustees’ approval;
7. EIP will make every effort for the final size of the buffer (50’ on each side of the restored channel alignment) to be less than the estimated figure provided above; and
8. Any best management practice disturbed by the stream restoration construction shall be re-installed in the appropriate location to meet NRCS standards (for example, if there was a fence installed through a MDA cost-sharing program, the fence must be re-installed at the edge of the stream buffer);
9. Prior to the March 1, 2018, expiration date of the nutrient management plan on each farm, MDA’s nutrient management specialists will schedule an implementation review to verify that farmers are managing nutrients on their farms to protect water quality in compliance with each farms’ nutrient management plan; and
10. EIP will establish an appropriate endowment for long-term stewardship and management of the overlay easement area, subject to MALPF staff approval.

Motion: Milly Welsh Second: Catherine Cosgrove

Status: Approved

1. 07-88-02sub#4 Harnish, Lamar ~147.3 acres

Request approval of a stream mitigation overlay easement over 28.2 acres.

Motion #9: To approve the request for the Little Elk Creek Stream Restoration Project to overlay an easement on the MALPF easement property, with the following conditions:

1. The final form of the overlay easement must include language acknowledging MALPF’s superior right in title and be reviewed and approved by MALPF staff and assistant attorneys general, prior to the parties signing the easement agreement; and
2. A survey must be provided to delineate the stream restoration area, including how the area is accessed by the easement holder, or their designees, for future monitoring, and designated crossing location(s). The required survey is subject to Foundation review and approval.
3. This is a onetime approval for the State Highway Administration project that benefits all of Maryland;
4. This project does not include any sale of mitigation or banking credits (present or future);
5. This project does not have any impact on the agricultural operation or productive lands outside the buffer easement area;
6. Any approval is specific to Ecosystem Investment Partners (EIP), and will not transfer to another company or entity without written Board of Trustees’ approval;
7. EIP will make every effort for the final size of the buffer (50’ on each side of the restored channel alignment) to be less than the estimated figure provided above; and
8. Any best management practice disturbed by the stream restoration construction shall be re-installed in the appropriate location to meet NRCS standards (for example, if there was a fence installed through a MDA cost-sharing program, the fence must be re-installed at the edge of the stream buffer);
9. Prior to the March 1, 2018, expiration date of the nutrient management plan on each farm, MDA’s nutrient management specialists will schedule an implementation review to verify that farmers are managing nutrients on their farms to protect water quality in compliance with each farms’ nutrient management plan; and
10. EIP will establish an appropriate endowment for long-term stewardship and management of the overlay easement area, subject to MALPF staff approval.

Motion: Milly Welsh Second: Catherine Cosgrove

Status: Approved

1. 07-88-03 Mackie, John & William ~142 acres

Request approval of a stream mitigation overlay easement over 5.9 acres.

Item Withdrawn

1. 07-88-02sub#2 Mackie, Franklin & Leah ~53.6 acres

Request approval of a stream mitigation overlay easement over 3.8 acres.

Motion #10: To approve the request for the Little Elk Creek Stream Restoration Project to overlay an easement on the MALPF easement property, with the following conditions:

1. The final form of the overlay easement must include language acknowledging MALPF’s superior right in title and be reviewed and approved by MALPF staff and assistant attorneys general, prior to the parties signing the easement agreement; and
2. A survey must be provided to delineate the stream restoration area, including how the area is accessed by the easement holder, or their designees, for future monitoring, and designated crossing location(s). The required survey is subject to Foundation review and approval.
3. This is a onetime approval for the State Highway Administration project that benefits all of Maryland;
4. This project does not include any sale of mitigation or banking credits (present or future);
5. This project does not have any impact on the agricultural operation or productive lands outside the buffer easement area;
6. Any approval is specific to Ecosystem Investment Partners (EIP), and will not transfer to another company or entity without written Board of Trustees’ approval;
7. EIP will make every effort for the final size of the buffer (50’ on each side of the restored channel alignment) to be less than the estimated figure provided above; and
8. Any best management practice disturbed by the stream restoration construction shall be re-installed in the appropriate location to meet NRCS standards (for example, if there was a fence installed through a MDA cost-sharing program, the fence must be re-installed at the edge of the stream buffer);
9. Prior to the March 1, 2018, expiration date of the nutrient management plan on each farm, MDA’s nutrient management specialists will schedule an implementation review to verify that farmers are managing nutrients on their farms to protect water quality in compliance with each farms’ nutrient management plan; and
10. EIP will establish an appropriate endowment for long-term stewardship and management of the overlay easement area, subject to MALPF staff approval.

Motion: Bernard Jones Second: Milly Welsh

Status: Approved

1. 07-88-02sub#3 Stoltzfus, Jonas & Rebecca ~92.6 acres

Request approval of a stream mitigation overlay easement over 11.3 acres.

Motion #11: To approve the request for the Little Elk Creek Stream Restoration Project to overlay an easement on the MALPF easement property, with the following conditions:

1. The final form of the overlay easement must include language acknowledging MALPF’s superior right in title and be reviewed and approved by MALPF staff and assistant attorneys general, prior to the parties signing the easement agreement; and
2. A survey must be provided to delineate the stream restoration area, including how the area is accessed by the easement holder, or their designees, for future monitoring, and designated crossing location(s). The required survey is subject to Foundation review and approval.
3. This is a onetime approval for the State Highway Administration project that benefits all of Maryland;
4. This project does not include any sale of mitigation or banking credits (present or future);
5. This project does not have any impact on the agricultural operation or productive lands outside the buffer easement area;
6. Any approval is specific to Ecosystem Investment Partners (EIP), and will not transfer to another company or entity without written Board of Trustees’ approval;
7. EIP will make every effort for the final size of the buffer (50’ on each side of the restored channel alignment) to be less than the estimated figure provided above; and
8. Any best management practice disturbed by the stream restoration construction shall be re-installed in the appropriate location to meet NRCS standards (for example, if there was a fence installed through a MDA cost-sharing program, the fence must be re-installed at the edge of the stream buffer);
9. Prior to the March 1, 2018, expiration date of the nutrient management plan on each farm, MDA’s nutrient management specialists will schedule an implementation review to verify that farmers are managing nutrients on their farms to protect water quality in compliance with each farms’ nutrient management plan; and
10. EIP will establish an appropriate endowment for long-term stewardship and management of the overlay easement area, subject to MALPF staff approval.

Motion: Bernard Jones Second: Milly Welsh

Status: Approved

1. 07-88-05ex1 Combs, Kimberly et al ~228.1 acres

Request approval of a stream mitigation overlay easement over 34.8 acres.

Motion #12: To approve the request for the Little Elk Creek Stream Restoration Project to overlay an easement on the MALPF easement property, with the following conditions:

1. The final form of the overlay easement must include language acknowledging MALPF’s superior right in title and be reviewed and approved by MALPF staff and assistant attorneys general, prior to the parties signing the easement agreement;
2. The MALPF easement must be amended to waive the 25-year provision to request to termination of the easement. The amended easement requires lenders to subordinate their liens, if any, on the property. Accordingly, you will need to speak with any lenders about the amended easement. The lenders may have some requirements, such as modification of the loan documents; and
3. A survey must be provided to delineate the stream restoration area, including how the area is accessed by the easement holder, or their designees, for future monitoring, and designated crossing location(s). The required survey is subject to Foundation review and approval.
4. This is a onetime approval for the State Highway Administration project that benefits all of Maryland;
5. This project does not include any sale of mitigation or banking credits (present or future);
6. This project does not have any impact on the agricultural operation or productive lands outside the buffer easement area;
7. Any approval is specific to Ecosystem Investment Partners (EIP), and will not transfer to another company or entity without written Board of Trustees’ approval;
8. EIP will make every effort for the final size of the buffer (50’ on each side of the restored channel alignment) to be less than the estimated figure provided above; and
9. Any best management practice disturbed by the stream restoration construction shall be re-installed in the appropriate location to meet NRCS standards (for example, if there was a fence installed through a MDA cost-sharing program, the fence must be re-installed at the edge of the stream buffer);
10. Prior to the March 1, 2018, expiration date of the nutrient management plan on each farm, MDA’s nutrient management specialists will schedule an implementation review to verify that farmers are managing nutrients on their farms to protect water quality in compliance with each farms’ nutrient management plan; and
11. EIP will establish an appropriate endowment for long-term stewardship and management of the overlay easement area, subject to MALPF staff approval.

Motion: Milly Welsh Second: Catherine Cosgrove

Status: Approved

1. **NEW AGRICULTURAL PRESERVATION EASEMENT PETITIONS:**

N/A

1. **PROGRAM POLICY**

Washington County Re-certification Request

Ms. Cable introduced the item. Ms. Herr-Cornwell provided support from MDP. Mr. Boggs was available to answer any questions.

Motion #13: To approve Washingrton County’s request for re-certification

until June 30, 2020.

Motion: Bernard Jones Second: Milly Welsh

Status: Approved

**VII. INFORMATION AND DISCUSSION**

n/a

**VIII. CLOSED SESSION**

Mr. Calkinsa**sked for a motion for adjournment of the meeting to move into a closed session, pursuant to the applicable provisions of General Provisions Article Section 3-305 (b): (3) to consider the acquisition of real property for a public purpose and matters directly related to the acquisition; (7) to consult with counsel to obtain legal advice; and (8) to consult with staff, consultants, or other individuals about pending or potential litigation.**

Motion # 14: To adjourn the **regular session to move into a closed session to consider the acquisition of real property for a public purpose and matters directly related to the acquisition;** to consult with counsel to obtain legal advice; and to consult with staff, consultants, or other individuals about pending or potential litigation.

Motion: Bernard Jones Second: Catherine Cosgrove

Status: Approved

The Closed Meeting of the Board was held from 10:50 a.m. to 11:50 a.m. on August 22, 2017 at the Maryland Department of Agriculture building, Annapolis, Maryland, pursuant to the provisions of the **General Provisions Article Section 3-305 (b):** Annotated Code of Maryland**:**

General Provisions Article Section 3-305(b):

**(3) to consider the acquisition of real property for a public purpose and matters directly related to the acquisition;**

**(7) to consult with counsel to obtain legal advice; and**

**(8) to consult with staff, consultants, or other individuals about pending or potential litigation.**

During the Closed Meeting, the following Board members were present: Michael Calkins, Chair, Cathy Cosgrove, Milly Welsh, Tom Mason, Jerome Klasmeier, representing Comptroller Peter Franchot, Deborah Herr Cornwell, representing Secretary Wendi Peters, Maryland Department of Planning, J. Bruce Yerkes, Susanne Brogan, representing Treasurer Nancy Kopp, William Allen, and Joe Wood.

The following Board members were absent: James Eichhorst, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture, Ralph Robertson, and Bernard Jones.

The following legal representatives were also present during the closed session meeting: Justin Hayes, Assistant Attorney General, Maryland Department of Agriculture and Nancy Forrester, Assistant Attorney General, Maryland Department of General Services.

TOPICS DISCUSSED:

1. Approval of July 25, 2017 Closed Session Minutes
2. Status Report of Pending Legal Issues.

C. Round One Offers

D. Frederick County Easement – MALPF File #10-92-08e

Respectfully Submitted:

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Carol S. West. MALPF Executive Director