

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION  
OPEN MEETING MINUTES  
February 28, 2017**

**Trustees Present:**

Bernard L. Jones, Sr., Chair  
Michael Calkins, Vice Chair  
William Allen  
Catherine Cosgrove  
Ralph Robertson  
Jerome Klasmeier, representing Comptroller Peter Franchot  
Donald Moore  
Dan Rosen, representing Secretary Wendi Peters, Maryland Department of Planning  
Joe Wood

**Trustees Absent:**

Susanne Brogan, representing Treasurer Nancy Kopp  
James Eichhorst, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture  
Tom Mason  
Milly Welsh

**Others Present:**

Brian Baker, Harford County Landowner  
Michelle Cable, MALPF Administrator  
Diane Chasse, MALPF Administrator  
Tamekia Dent, MALPF Office Secretary  
Kelly Dudeck, Grow & Fortify  
William Gorski, Anne Arundel County, Planner  
Justin Hayes, Assistant Attorney General, Department of Agriculture  
Nancy Forrester, Assistant Attorney General  
Kim Hoxter, MALPF Monitoring, Enforcement and Database Coordinator  
Kaylee Justice, Baltimore County Staff  
Wally Lippincott, Baltimore County Program Administrator  
Jeanine Nutter, Prince George's County Program Administrator  
Chana Kikoen Turner, MALPF Administrator  
Carol West, MALPF Executive Director  
Amanda Wilson, MALPF Fiscal Specialist

**Others Present By Web Conferencing:**

Chris Boggs, Washington County staff  
Deborah Bowers, Carroll County Program Administrator  
Keeve Brine, Baltimore County Planning & Zoning  
Angela Daniel, Baltimore County Public Works  
Debbie Herr-Cornwell, Caroline County Program Administrator  
Eric Seifarth, Washington County Program Administrator  
Martin Sokolich, Talbot County Program Administrator  
Katrina Tucker, Kent County Program Administrator  
Joseph Wiley, Baltimore County Planning & Zoning

Bernard L. Jones, Sr., Chair, called the meeting to order at 9:10 a.m. at the Maryland Department of Agriculture building, Annapolis, Maryland. The guests and then the Board and staff introduced themselves.

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**I. APPROVAL OF MINUTES**

A. Approval of Open Minutes from January 24, 2017.

Motion #1: To approve minutes from January 24, 2017 with changes.

Motion: Michael Calkins                      Second: Catherine Cosgrove  
Status: Approved

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

None.

**III. ANNOUNCEMENTS**

Ms. West informed the Board that at the Capital Budget Hearing, MDA was informed that the Department of Legislative Services Analyst had proposed a cut of \$5 million from the MALPF program to go to the Next Generation Farmland Acquisition Program (NGFAP). In the Operating Budget, \$2.5 million of the \$5 million originally slated for NGFAP had been cut by the Governor. The Legislative Analyst had proposed the remaining \$2.5 million in the Operating Budget also be cut and for NGFAP to be funded in whole by the \$5 million cut from the MALPF program. MDA opposed this recommendation. The Board will be kept up to date as new information becomes available.

**IV. EASEMENT AMENDMENTS**

A. BALTIMORE COUNTY

1. 03-99-18A      Warfield, Catherine & Joseph                      ~71 acres

Request:

Request to redesignate the approved owner's lot to child's lot for Christopher Warfield.

Recommendation:

Staff recommends approval.

Ms. Cable introduced the item. Mr. Lippincott and Ms. Justice were available for any questions or comments.

Motion #2: To approve the request to redesignate the approved owner's lot to child's lot for Christopher Warfield.

Motion: Cathy Cosgrove                      Second: Ralph Robertson  
Status: Approved

2) 03-97-22      3500 Belmont Road LLC (Sagamore Farm)                      ~175.5 acres

Request:

Baltimore County is proposing roadway improvements (construction of a roundabout) at the intersection of Tufton Ave., Greenspring Ave., and Worthington Ave. The roadway improvement will require the release of 0.777 acre and a 0.161 acre temporary construction overlay agreement.

Recommendation:

Foundation staff is providing this outline of the project for informational purposes only. This will be a combination of a fee simple area and a temporary construction area over a MALPF easement property. Board of Public Works approval is required for the fee simple portion and it will require a pay back to the Foundation of \$1,981.35.

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Ms. Cable introduced the item for information only. Mr. Lippincott and Ms. Justice were available for any questions or comments. Ms. Daniel, Jr. Wiley and Mr. Brine were also available by web conferencing. Mr. Lippincott informed the Board that studies were done of the intersection to determine the best method to improve safety, between a stop light or a roundabout. It was determined the roundabout was the best option for this location.

The Board was informed that since the Baltimore County Department of Public Works has the power to condemn, the Board is not required to approve or disapprove this item. However, when bringing the request before the Board of Public Works it is appreciated to know that the MALPF Board had no objection to the road improvement project regarding the impact on the MALPF easement property.

Motion #3: To state no objection to Baltimore County acquiring in fee 0.777 acre and to use as a temporary construction overlay site 0.161 acre of MALPF easement property for the purpose of construction of a roundabout at the intersection of Tufton Ave., Greenspring Ave., and Worthington Ave.

Motion: Cathy Cosgrove Second: Jerry Klasmeier  
Status: Approved

B. CECIL COUNTY

1) 07-88-05 Estate of Beverly Mackie ~220 acres

Request:

Request to exclude up to 2.0 acres from the easement for a child's lot for Scott Hurm.

Recommendation:

Staff recommends approval.

Ms. Cable introduced the item. She noted to the Board that the configuration of the proposed lot and access driveway created an area of easement property divided from the rest. Staff recommended to the Board to include a condition of approval that the lot and access drive be configured in a manner that will not create an "island" surrounded by the lot and access drive so that it is physically separated from the farm.

Motion #4: To approve the request to exclude up to 2.0 acres from the easement for a child's lot for Scott Hurm, with the staff recommended condition that the lot and access drive be configured in a manner that will not create an "island" surrounded by the lot and access drive so that it is physically separated from the farm.

Motion: Don Moore Second: Michael Calkins  
Status: Approved

C. CHARLES COUNTY

1) 08-92-05 Berkleigh LLC ~182.3 acres

Request:

Request to retroactively approve an 8.873 acre forest conservation easement (FCE #4) as an overlay on the Easement property.

Recommendation:

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Staff recommends approval, subject to the requirements of COMAR 15.15.13. – Guidelines for Forest Easement Overlays, including an amendment to the existing FCE #4 to acknowledge the MALPF easement. In addition, staff recommends approval to be conditioned upon the removal of the other forest conservation easements that encumber the property (FCE #1, 2, 3, 5, 6, and 7), totaling 33.757 acres, within 90 days.

Ms. Cable introduced the item. Mr. Rice was available for any questions or comments. Ms. Cable informed the Board that she and Mr. Rice had discussions to ensure there were review mechanisms in place so Charles County will not use MALPF easement properties for forest conservation mitigation sites in the future without obtaining MALPF prior approval.

Motion # 5: To approve the request to retroactively approve an 8.873 acre forest conservation easement (FCE #4) as an overlay on the Easement property including staff recommendation that this approval is conditioned upon the removal of the other forest conservation easements that encumber the property (FCE #1, 2, 3, 5, 6, and 7), totaling 33.757 acres, within 90 days.

Motion: Michael Calkins                      Second: Joe Wood  
Status: Approved

**D. SOMERSET COUNTY**

1) 19-0-09                      Horace & Elwath, LLC                      ~66.3 acres

Request:

Request approval of a land exchange of 2 acres for 2 acres.

Recommendation:

Per the terms of COMAR 15.15.11.03.C.(1), Staff recommends approval of the request, contingent upon a valuation assessment from the Department of General Services lead appraiser (per COMAR 15.15.11.03.C.(1)(b)).

Ms. Chasse introduced the item.

Motion # 6: To approve the request for a land exchange of 2 acres for 2 acres. Approval is contingent upon a valuation assessment from the Department of General Services lead appraiser (per COMAR 15.15.11.03.C.(1)(b)).

Motion: Joe Wood                                      Second: Jerry Klasmeier  
Status: Approved

**V. EASEMENT PETITIONS**

**A. TALBOT COUNTY**

1. 20-17-08                      Brooks, John and Sherrill                      ~165 acres

Request:

Request for a 1.0 acre non-subdividable building envelope.

Recommendation:

Staff recommends approval.

Ms. Turner introduced the item. Mr. Sokolich, the Talbot County Program Administrator,

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was available by phone for questions or comments.

This item was presented at the January 24, 2017 meeting. The landowners' originally requested a 3-acre buildable lot to be withheld from the easement property. The lot is located in the center of the property. The item was tabled so that Ms. Turner could discuss other lot options with the landowners. Having been presented with all lot options, the landowners have agreed to request a 1.0 acre non-subdividable building envelope.

Motion # 7: To approve the request for a 1.0 acre non-subdividable building envelope.

Motion: Mike Calkins Second: Cathy Cosgrove  
Status: Approved

**VI. PROGRAM POLICY**

A. Legislative Update

Ms. West and Ms. Turner presented the Board with an update of current bills affecting MALPF. Mr. Robertson presented concerns regarding HB 1355 [*Sewerage Systems – Residential major Subdivisions in Tier III and Tier IV Areas*]. Mr. Robertson expressed that the bill could have a detrimental effect on the MALPF program because it will allow for more development in Priority Preservation Areas.

B. Overlay Easements Regulations, including Wetland and Forest Overlays

Ms. Chasse presented the item.

Motion # 8: To approve the General Overlay Regulations.

Motion: Cathy Cosgrove Second: Mike Calkins  
Status: Approved

Motion # 9: To approve the Wetland Overlay Regulations.

Motion: Cathy Cosgrove Second: Mike Calkins  
Status: Approved

Motion # 10: To approve the Forest Overlay Regulations

Motion: Cathy Cosgrove Second: Mike Calkins  
Status: Approved

C. Permitted Uses Policy

Ms. Cable presented the item. The Board reviewed the events section of the proposed policy, which was tabled at the January meeting. The discussion was primarily focused on Section D. Events (non-agricultural related). Ms. Bowers relayed her concerns and the concerns of the Carroll County Agricultural Board regarding allowing any commercial non-agricultural related events at all. Specifically referencing the legislative intent of the program and the problems that could arise from permitting non-agricultural activities or events on the MALPF easement properties.

There was discussion regarding the use of structures associated with non-ag events. The proposed policy does not permit new structures to be built, but is silent on the conversion of ag structures (like barns) into non-ag uses, such as space for gathering for events. The Board asked the County Administrators present to share how their counties would view a change of use of an ag structure to a non ag use. The County Administrators shared that the new use of the structure would first have to be permitted by zoning, and if so, then there would be a permitting process and requirements to convert a structure to a new use, ultimately requiring a new use and occupancy permit for the new use.

Mr. Baker, a Harford County MALPF easement owner, was present and provided his opinion to the Board from a perspective of a subsequent owner hoping to expand the operations on

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his property into a weddings and events location.

The Board further discussed whether or not there is a need to include a maximum number of non-ag events as part of the policy, or if it should be decided on a case by case basis. Ms. Cable shared with the Board that during the committee meetings, the counties were polled to learn what each county currently permitted. The results were incredibly wide, some allowed zero non-ag events in an agriculturally zoned area, and some allowed hundreds per year.

Mr. Klasmeier suggested that a set of guiding principles should be created for the Board to use when reviewing non-ag event requests. Mr. Klasmeier stated that if the Board considered reviewing the requests on a case-by-case basis, there needed to be clear guidelines or principles established to assist the Board when making recommendations. He stressed that there needed to be consistency across the state when the Board made their recommendations to try and reduce or eliminate arbitrary or subjective decisions by the Board.

The Board directed Staff to formulate guiding principles for the Board to use when reviewing non-agricultural events.

**D. Solar Panels – Roof Mounted Systems**

Ms. Cable presented the item. Since the Board permitted MALPF Staff to approve alternative energy systems to be installed on MALPF farms in January 2014, only solar panel systems have been built. Even though it was becoming more common and frequent for farm owners to install solar panel systems, most easement owners do not realize that MALPF review and approval has been necessary.

A significant number of solar panel systems are located on roofs of existing structures (houses and ag structures). Since locating the panels on roofs do not take any land out of agricultural production, including using existing roads/lanes to the structures, Staff requested Board to consider permitting roof mounted solar systems for on farm residential and agricultural uses to be allowed without any MALPF approval.

Motion # 10: To allow roof mounted solar systems solely for on-farm residential and/or agricultural purposes without MALPF approval.

Motion: Cathy Cosgrove                      Second: Ralph Robertson  
Status: Approved

**VII. INFORMATION AND DISCUSSION**

**A. News Articles**

**VIII. CLOSED SESSION**

Mr. Jones asked 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): (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 # 11: To adjourn the regular session to move into a closed session to consult with counsel to obtain legal advice; and to consult with staff, consultants, or other individuals about pending or potential litigation.

Motion: Cathy Cosgrove                      Second: Don Moore  
Status: Approved

The Closed Meeting of the Board was held from 11:35 a.m. to 11:40 a.m. on February 28, 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:

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General Provisions Article Section 3-305(b):

(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: Bernard L. Jones, Sr., Chair, Michael Calkins, Vice-Chair, William Allen, Cathy Cosgrove, Jerome Klasmeier, representing Comptroller Peter Franchot, Donald Moore, Ralph Robertson, Dan Rosen, representing Secretary Wendi Peters, Maryland Department of Planning, and Joe Wood.

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:

- A. Approval of January 24, 2017 Closed Session Minutes
- B. Status Report of Pending Legal Issues.

Respectfully Submitted:

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Carol S. West, MALPF Executive Director