MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION OPEN MEETING MINUTES NOVEMBER 24, 2020

This meeting was held via internet and telephone conference call.

Trustees Participating:

William Allen, Chair

Taylor Huffman, Vice Chair

Jerome Klasmeier, representing Comptroller Peter Franchot

Joanna Kille, representing Treasurer Nancy Kopp

Deborah Herr Cornwell, representing Secretary Robert McCord, Maryland

Department of Planning

Julie Oberg, representing Secretary Joseph Bartenfelder, Maryland Department

of Agriculture

Catherine Cosgrove

Cricket Goodall

Robin Kable

J. Bruce Yerkes

Trustees Absent:

Elizabeth Hill Joseph Wood

Others Participating:

Michelle Cable, MALPF Executive Director

Diane Chasse, MALPF Administrator

Chana Turner, MALPF Administrator

Sarel Cousins, MALPF Administrator

Amanda Massoni, MALPF Fiscal Specialist

Kim Hoxter, MALPF Monitoring, Enforcement and Database Coordinator

Justin Hayes, Assistant Attorney General, Department of Agriculture

Patrick Martyn, Assistant Attorney General, Department of General Services

Renee Dyson, Assistant Attorney General, Department of General Services

Mike Steadman, Jr., Assistant Attorney General, Maryland Department of Agriculture

Wally Lippincott, Baltimore County Program Administrator

Beth Beales, Caroline County Program Administrator

Rob Tracey, Kent County Program Administrator

Mike Scheffel, Montgomery County Program Administrator

Bill Amoss, Harford County Program Administrator

Deb Bowers, Carroll County Program Administrator

J.P. Smith, Carroll County Staff

Stacey Kubofcik, MARBIDCO staff

Bill Beach, DGS Appraiser

Will LeFort, DGS Appraiser

Julie Enger, DGS Appraiser

Todd Bingaman, Carroll County landowner

Christina McKenzie, MDOT SHA

Dave Robison, MDOT SHA

John Narer, MDOT SHA

Donna Sasscer, St. Mary's County Program Administrator

Mr. Allen, Chair, called the meeting to order at 9:05 a.m. via internet and telephone conference call. Ms. Cable stated the names of the participants on the conference call, for the record, and asked anyone that was not named to identify themselves.

I. APPROVAL OF MINUTES

A. Approval of Open Minutes from October 27, 2020.

Motion #1:

To approve minutes from October 27, 2020.

Motion:

Goodall

Second:

Klasmeier

Status:

Approved

II. ADDITION / DELETION OF AGENDA ITEMS

N/A

III. ANNOUNCEMENTS

Ms. Cable thanked all the attendees for participating in the MALPF teleconference Board meeting, the final one of the calendar year. Ms. Cable asked all participants to keep themselves muted, and when unmuted, to clearly state their names before asking a question, or making a motion, etc. Ms. Cable also reminded the Board members that when motions were made, Board members only needed to state their names if they were voting in opposition to the motion, rather than saying "aye" to vote in favor of a motion.

Ms. Cable informed the attendees that this was the last MALPF Board meeting for Wally Lippincott, Jr., the Baltimore County Program Administrator. Mr. Lippincott will be retiring at the end of the year. Ms. Cable thanked Mr. Lippincott for all the effort and commitment he has contributed to land conservation in Maryland over his career.

IV. EASEMENT AMENDMENTS

A. CARROLL COUNTY

1. 06 -86-15

Rhodes Family (Marlin, Lucas & Linda) ~161.876 acres

and Leonard C. Schisler

Request - Carroll County:

Request approval for an overlay easement over 1,200 square feet/.0275 acres to be used as a driveway to benefit two lots of a neighbor (Todd and Jeanette Bingaman).

Recommendation:

Staff recommends consideration of the request due to the following factors:

- The location of the impact is on a small portion of the easement property across the road from the farm. Under current MALPF policy, this is a piece of land which would be excluded from a MALPF easement.
- 2. The impact itself is very small at 1,200 square feet.
- 3. If approved, the benefitted neighbor will remove the large 425 foot long gravel road from the neighboring property and restore the land and trees thereon, which will be a significant benefit to the conservation values of the neighboring property.

If the Board approves the request, the landowners will provide a draft of an overlay easement for review by MALPF's Assistant Attorney General. Board approval should be conditioned upon (a) the overlay easement providing the landowners' acknowledgment and agreement that the failure of the Bingamans to remove the existing gravel drive from their property and restore the land and trees thereon within a reasonable time will constitute a violation of the MALPF easement and (b) final review and approval of the overlay easement by the Office of the Attorney General.

Ms. Chasse introduced the item. Ms. Bowers, Mr. Smith, and Mr. Bingaman were available to address the Board. Mr. Bingaman provided additional detail about the current and proposed access that would benefit his property if the Board approved the request.

Motion #2:

To approve the overlay easement to be used as a driveway for adjacent lots, incorporating MALPF staff recommended

conditions.

Motion:

Cosgrove

Second:

Klasmeier

Status:

Approved

2. 06-82-07e

Stambaugh, Ralph and Brenda

~ 63.29 acres

Request - Carroll County:

Request approval of a land exchange of 1 acre for 1.2 acres.

Recommendation:

Staff recommends approval, subject to the following:

- 1. Department of General Services Appraisal review of value,
- 2. Completion of a Corrective Easement,
- 3. Approval by the Board of Public Works of the land exchange, and
- The landowners shall pay for all expenses associated with the corrective easement transaction, including all title work, title insurance premiums, and surveys.

Ms. Chasse introduced the item and informed the Board of new information regarding one of the required conditions per the regulations - the market value evaluation provided by the Department of General Services (DGS). As noted in staff condition #1, approval was subject to receiving a supportive market value review of value from the DGS appraiser. That analysis, provided to MALPF staff prior to the meeting, included DGS' determination that "the value of the easement would be diminished by this proposed land exchange." Since one of the regulatory requirements was not satisfied for this land exchange request, the Board does not have the authority to approve the request as presented.

Ms. Cable noted to the Board that the task of the DGS appraiser was to provide an analysis of the market value of the easement at a specific point in time with the information available at that time. The original easement owners withheld land from the easement with the intent to develop it for residential purposes, which was incorporated into the appraisal at the time the easement was established. However, the current owners of the easement did not attempt to fully develop the withheld area until this past year. The engineering analysis of the withheld areas does not pass a perc test, therefore the withheld 1.2 acre area is not independently able to be developed for residential purposes. In contrast, the 1-acre area the current easement owners were requesting to release from the easement to be developed for residential purposes does pass current perc testing, thereby having the potential to be independently developed for residential purposes. When comparing the current monetary value of this exchange, the value of the easement would be diminished. Mr. Beach confirmed Ms. Cable's explanation of how the valuation analysis was performed and the result that was reached.

Ms. Bowers and Mr. Smith addressed the Board and expressed their disappointment with the appraisal analysis.

As the Board did not have the authority to approve the request under these circumstances, no motion was made.

B. ST. MARY'S COUNTY

18-01-02a 1.

Jones, Ancel & Gloria

~51 acres

Request - St, Mary's County:

Request approval for an owner's lot for Ancel C. Jones, up to 2-acres.

Recommendation:

Staff recommends approval.

Ms. Cousins introduced the item.

Motion #3:

To approve the owner's lot request up to 2-acres, as presented.

Motion: Status: Cosgrove Approved

Second:

Yerkes

C. HARFORD COUNTY

1. 12-98-11A

Phillips Trusts

~ 11.079 acres

12-98-10A

Phillips Trusts

~ 96.584 acres

Request - Harford County:

Request approval for special occasion events area.

Recommendation:

Staff recommends approval pursuant to Section 2-513(d), Agriculture Article, Annotated Code of Maryland (special events statute) conditioned upon:

- 1) Approval from Natural Resource Conservation Service, as the 11-acre easement has federal funding;
- 2) The landowners' signature acknowledging the approval letter with conditions;
- 3) The landowner providing a survey as provided below;
- 4) A baseline on-site inspection of the events area report completed to MALPF's satisfaction prior to the first scheduled event; and
- 5) Entering into an unrecorded agreement with the Foundation to memorialize the location of the special occasion events area, specifying the means of access to the special events area and acknowledging that the special events area will be extinguished upon a transfer of the property.

Ms. Chasse introduced the item. Mr. Amoss was available to address the Board.

Ms. Cable informed the Board that this will be the first special occasion events designation that MALPF has pursued on one of the federally funded easement properties. MALPF staff had requested, but was denied, a waiver to the NRCS requirement of obtaining an appraisal and a NEPA evaluation of the property to be submitted with the request to NRCS. MALPF and county staff will work with the landowners to discuss what the complete NRCS request submission will entail, including the landowner's expense of obtaining the NEPA evaluation and appraisal.

Motion #4:

To approve the special occasion events designation, as requested, incorporating the MALPF staff recommended

conditions.

Motion: Status: Cosgrove Approved

Second:

Klasmeier

D. GARRETT COUNTY

1. 11-03-06

Edgell, Phoebe & Laurra Dawn McLean

~ 103 acres

Request - Garrett County:

Request approval for a partial release in lieu of condemnation of 0.619 acres of MALPF-eased property for purposes of a road improvement project by the Maryland Department of Transportation State Highway Administration (MDOT SHA).

Recommendation:

Staff recommends approval in accordance with Article Agriculture, Section 2-515, Maryland Annotated Statutes (Section 2-515), and subject to the following conditions:

Staff recommends approval conditioned upon the following:

 Receipt of a copy of the signed contract between MDOT SHA and the landowner for the taking, in a form acceptable to the Office of the Attorney General;

- Approval of the partial release by the Board of Public Works;
- 3. Receipt of a copy of the death certificate for Jack James Hebb, Sr.
- Receipt of a metes and bounds description of the land to be released, dated, signed and sealed by a land surveyor or engineer licensed to do business in the State of Maryland; and
- 5. Receipt of reimbursement to MALPF in the amount of \$1,343.92.

Ms. Turner introduced the item. Ms. McKenzie, Mr. Robison, and Mr. Narer with MDOT SHA were available to address the Board. Mr. Robison and Mr. Narer each reiterated the need for the project for public safety and welfare.

Motion #5:

To approve a partial release of 0.619 acres of MALPF-eased property for purposes of a road improvement project by MDOT SHA, as presented, incorporating MALPF staff recommended conditions.

Motion:

Cosgrove

Second:

Klasmeier

Status:

Approved

V. NEW AGRICULTURAL PRESERVATION EASEMENT PETITIONS:

N/A

VI. PROGRAM POLICY

A. Draft Revised Regulations for Corrective Agricultural Land Preservation Easements (COMAR 15.15.11)

Request:

MALPF Staff requests that the Board approve proposed changes to COMAR 15.15.11 "Corrective Agricultural Land Preservation Easements."

Ms. Cable presented the item and informed the Board that there were no suggested changes or comments from any of the Counties since the item was presented last month. Ms. Cable and Mr. Steadman were available for any questions from the Board.

Motion #6:

To approve the revised regulations as presented, initiating the formal review process to obtain Secretary Bartenfelder's support to submit the revisions through the standard regulatory review process.

Motion: Status:

Klasmeier Approved Second:

Huffman

B. Draft Revised Regulations for Guidelines for Granting Overlay Easements and Rights-of-Way (COMAR 15.15.16)

Ms. Cable presented the item and informed the Board that there were no suggested changes or comments from any of the Counties since the item was presented last month. Ms. Cable and Mr. Steadman were available for any questions from the Board.

Motion #7:

To approve the revised regulations as presented, initiating the formal review process to obtain Secretary Bartenfelder's support to submit the revisions through the standard regulatory review process.

Motion:

Goodall Approved Second:

Cosgrove

C. Closing FY 2020 Easement Application Cycle

Ms. Cable asked the Board to formally close the FY 2020 Easement Application Cycle. All Round 1 and Round 2 offers have been extended, including the contingent offers when higher ranked applicants rejected initial offers.

Motion #8:

To approve to close the FY 2020 Easement Application Cycle.

Motion: Status: Yerkes Approved Second: Kla

Klasmeier

VII. INFORMATION AND DISCUSSION

A. Board meeting dates for 2021

Ms. Cable provided the meeting dates for calendar year 2021. Meetings will be held on the 4th Tuesday of every month at 9:00 am, except for December (no meeting).

VIII. CLOSED SESSION

Mr. Allen 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): (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 #9:

To adjourn the regular session at 10:13 a.m. 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:

otion:

Yerkes

Second: Huffman

Status:

Approved

The Closed Meeting of the Board was held from 10:23 a.m. to 11:22 a.m. on November 24, 2020 via internet and telephone conference call, 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: William Allen, Chair, Taylor Huffman, Vice Chair, Jerome Klasmeier, representing Comptroller Peter Franchot, Joanna Kille, representing Treasurer Nancy Kopp, Deborah Herr Cornwell, representing Secretary Robert McCord, Maryland Department of Planning, Julie Oberg, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture, Cathy Cosgrove, Cricket Goodall, Robin Kable, and J. Bruce Yerkes.

The following Board members were absent: Elizabeth Hill and Joe Wood

The following MALPF staff and legal representatives were also present during the closed session meeting: Michelle Cable, Diane Chasse, Chana Turner, Sarel Cousins, Kim Hoxter, Amanda

Massoni, Michael Steadman, Jr., Assistant Attorney General, Maryland Department of Agriculture, Patrick Martyn, Assistant Attorney General, Maryland Department of General Services and Renee Dyson, Assistant Attorney General, Maryland Department of General Services.

TOPICS DISCUSSED:

- A. Approval of October 27, 2020 Closed Session Minutes
- B. Status Report of Pending Legal Issues
- C. MALPF Audit Findings Discussion
- D. Charles County FY20 easement offer
- E. Caroline County FY20 easement offer

Respectfully Submitted:

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Michelle Cable, MALPF Executive Directo

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