

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
OPEN MEETING MINUTES
AUGUST 24, 2021**

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
Cricket Goodall
Elizabeth Hill
Joseph Wood

Trustees Absent:

Catherine Cosgrove
Robin Kable
J. Bruce Yerkes

Others Participating:

Michelle Cable, MALPF Executive Director
Sarel Cousins, MALPF Administrator
Amanda Massoni, MALPF Fiscal Specialist
Kim Hoxter, MALPF Monitoring, Enforcement and Database Coordinator
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
Charles Rice, Charles County Program Administrator
Jeanine Nutter, Prince George's County Program Administrator
Nyree Weyand, Prince George's County Dept. of Environment
Jim Lyons, Prince George's County Dept. of Environment
J.P. Smith, Jr., Carroll County Program Administrator
Barbara Polito, Anne Arundel County Program Administrator
Bill Amoss, Harford County Program Administrator
Gary Pusey, Somerset County Program Administrator
Donna Landis-Smith, Queen Anne's County Program Administrator
Will Lefort, DGS Appraiser
Julie Enger, DGS Appraiser
Stacey Kubofcik, MARBIDCO staff
Catherine Skeeter, Somerset County

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.

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V. NEW AGRICULTURAL PRESERVATION EASEMENT PETITIONS:

Ms. Cable reviewed the Withheld Acreage Policy with the Board as well as how MALPF treats the requests for designated uses envelopes as a refresher to the Board before beginning the review of the new FY 2022 easement applications.

A. CHARLES COUNTY

1. 08-22-01 Bealle, Robert & Bernice ~89.846 acres

Request to approve the application, located entirely within a planned 10-year water and sewer service district. Agriculture Article Section 2-509(d)(4) and COMAR 15.15.01.03.D.(3) allow for land in a water and sewer area to be eligible "only if that land is outstanding in productivity and is of significant size." The property consists of 60% qualifying soils and is located within the most restrictive zoning in the County.

Discussion:

Mr. Wood, Ms. Cousins, and Mr. Rice conducted a site visit on August 17, 2021. Mr. Wood shared with the Board that he was supportive of the County's request to allow the property to be considered an eligible applicant to sell an easement to MALPF.

Board members asked about the surrounding neighbors and ownership structure, as well as how the Foundation had reviewed these types of requests in the past. Ms. Cable noted that the Board had on prior occasions approved similar requests where the properties consisted of at least 60% qualifying soils and 100 acres, but that these were not 'minimums' required by statute or regulation.

Based on the site visit, the supporting information from the County Department of Planning, the County Advisory Board, and a DNR Forester, the Board determined that the subject property met the "outstanding in productivity and significant size" criteria.

Motion # 3: To approve the Bealle application as presented

Motion: Kille Second: Huffman
Status: Approved

2. 08-22-06 Long, Dale & Colleen ~82.7136 acres
(excludes withheld acres)

Request to approve the application withholding 1.0 acre for a future dwelling. The 1.0 acre will require a Declaration of Restrictions that documents one development right with the acreage.

3. 08-22-10 Sharp Turn Investment, LLC ~96.418 acres
(Mike McDonald) (includes unpaid acres)

Request is to approve the application designating ~2.68518 acres from the easement with zero development rights associated with it as a permitted uses envelope for telecommunications tower, including access.

4. 08-22-12 Weisman, Robert, Jacob, Judy, & Lynsi ~179.007 acres
(includes unpaid acres)

Request is to approve the application designating ~2.0 acres from the easement with zero development rights associated with it as a permitted uses envelope for telecommunications tower, including access.

Motion # 4: To approve the Charles County requests as presented

Motion: Klasmeier Second: Herr-Cornwell
Status: Approved

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B. ST. MARY'S COUNTY

1. 18-22-04 Hall, Damian & Kimberly ~36 acres
(excludes withheld acres)
Request to approve the application withholding ~2 acres for a telecommunications tower lease. The withheld acreage has one development right associated with it. The ~2 acres will require a Declaration of Restrictions that document one development right with the acreage.
2. 18-22-08 Wicomico Valley Foundation of ~184.77 acres
Southern Maryland, Inc. (includes unpaid acres)
Request is to approve the application designating ~5.0 acres from the easement with one development right associated with it as a permitted uses envelope for use as commercial wedding/events venue. If the area is no longer used for the wedding/ events venue, the area could be used for other non-residential commercial operations that are consistent with the rural landscape and permitted by the county.

Motion # 5: To approve the St. Mary's County requests as presented

Motion: Wood Second: Huffman
Status: Approved

C. WASHINGTON COUNTY

1. 21-22-11 Thomas, Tracy & Brenda ~247.66 acres
(includes unpaid acres)
Request is to approve the application designating ~10.0 acres from the easement with no development right associated with it as a permitted uses envelope for commercial uses, currently a septic tank contracting operation. If the area is no longer used for the septic tank contracting operation, the area could be used for other non-residential commercial operations that are consistent with the rural landscape and permitted by the county. An additional 4.3 acres are encumbered by a forest conservation easement and will not be included in the payment calculation for the MALPF easement.

Motion # 6: To approve the Washington County requests as presented

Motion: Herr-Cornwell Second: Kille
Status: Approved

D. CARROLL COUNTY

1. 06-22-12 Rinehart, Byran & Jena ~125.6857 acres
(includes unpaid acres)
Request to approve the application withholding ~1.62 acres to potentially be used as a fee simple access strip for the adjacent property. The withheld acreage has no development rights associated with it. The ~1.62 acres will not require a Declaration of Restrictions as the shape does not allow for a residential dwelling.

Motion # 6: To approve the Carroll County requests as presented

Motion: Wood Second: Herr-Cornwell
Status: Approved

E. HARFORD COUNTY

1. 12-22-03 Stephen T. Cooper Trust ~199 acres
(includes unpaid acres)
Request to approve the application designating 1-acre as a non-subdividable building envelope from the easement with 1 development right associated, as located on the

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map.

2. 12-22-10 Schwartz, Bernard & Carol ~199 acres
(includes unpaid acres)
Request to approve the application designating 1-acre as a non-subdivide able building envelope from the easement with 1 development right associated, as located on the map.
3. 12-22-11 Schwartz, William ~92.88 acres
(includes unpaid acres)
Request to approve the application designating 1-acre as a non-subdividable building envelope from the easement with 1 development right associated, as located on the map.
4. 12-22-12 Weekly, Diane ~79.9 acres
(includes unpaid acres)
Request to approve the application designating 1-acre as a non-subdivide able building envelope from the easement with 1 development right associated, as located on the map.

Motion # 7: To approve the Harford County requests as presented

Motion: Goodall Second: Huffman
Status: Approved

F. QUEEN ANNE'S COUNTY

1. 17-22-01 Cole Farm, LLC ~124 acres
(excludes withheld acres)
Request to approve the application withholding ~2.0 acres for an existing dwelling, access to the withheld area will be a right-of-way. The ~2.0 acres will require a Declaration of Restrictions that documents one development right with the acreage.
2. 17-22-02 Higgs Family Land, LLC ~290.763 acres
(excludes withheld acres and
includes unpaid acres)
Request to approve the application withholding ~2.0 acres for a future dwelling. The ~2.0 acres will require a Declaration of Restrictions that documents one development right with the acreage. An additional 26.645 acres are encumbered by a deed restricted open space and will not be included in the payment calculation for the MALPF easement.
3. 17-22-03 Leager, Thomas & Betsy ~199 acres
(excludes withheld acres)
Request to approve the application withholding an unimproved ~4.0 acres on the west side of Dell Foxx Road. The withheld area does not require a Declaration of Restrictions, as the public road legally divides the parcel.
4. 17-22-05 Wye Mills Gardens, LLC ~98 acres
(includes unpaid acres)
Request to approve the application designating ~0.5 acres from the easement with no development rights associated with it as a permitted uses envelope for a theatre, parking area, and access venue. If the area is no longer used for the theatre venue, the area could be used for other non-residential commercial operations that are consistent with the rural landscape and permitted by the county.

Motion # 8: To approve the Queen Anne's County requests as presented

Motion: Kille Second: Wood
Status: Approved

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G. SOMERSET COUNTY

1. 19-22-03 Hydrock Duck Club, LLC ~188.969 acres
(includes unpaid acres)

Request to approve the eligibility of the application, located entirely within a planned 10-year water and sewer service district. Agriculture Article Section 2-509(d)(4) and COMAR 15.15.01.03.D.(3) allow for land in a water and sewer area to be eligible "only if that land is outstanding in productivity and is of significant size." The property consists of 90% qualifying soils, the size of the property is larger than the state's average farm size of 160 acres, and a letter was provided by NRCS that states the soils of the property are "on the state's list of prime farm land and they have the capability of outstanding production."

If the application is determined to be eligible, request to approve designating ~3.0 acres from the easement with one development right associated with it as a permitted uses envelope for a hunting club cabin and associated events and parking. If the area is no longer used for the hunting club, the area could be used for other non-residential commercial operations that are consistent with the rural landscape and permitted by the county.

Discussion:

MALPF staff informed the Board that given the high percent of qualifying soils, the significant size of the farm, and the supporting documents provided by the County and NRCS, the applicant is consistent with the guidelines the Board has used in the past to approve properties located within the water and sewer district and therefore did not require a Board member to conduct a site visit of the property.

Motion #9: To approve the Somerset County requests as presented

Motion: Herr-Cornwell Second: Huffman
Status: Approved

VI. PROGRAM POLICY

N/A

VII. INFORMATION AND DISCUSSION

A. FY 2021 Inspection Deadline Extension Request

Request:

Garrett County was granted an extension by the Board on June 22, 2021 to have all FY 2021 inspections completed and reports submitted by July 31, 2021. Due to staffing issues addressed in their letter dated August 9, 2021, Garrett County hereby requests another extension to complete inspections by November 1, 2021 and submit reports by December 1, 2021.

Ms. Hoxter presented the request and recommends approval.

Motion #10: To approve the inspection extension deadline for Garrett County, as presented

Motion: Herr-Cornwell Second: Wood
Status: Approved

B. End of FY 2021 Inspection Report

Due to Covid 9 concerns, on March 24, 2020, the Board approved the proposal to waive the FY 2020 inspection requirements, and allow counties to inspect 15% of the state funded easements in FY 2021 & 2022, instead of the usual 10%. Counties had the option to conduct some inspections in FY 2020 and pick up the remainder in FY 2021.

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Federally funded easement inspections were suspended in FY 2020 and resumed in FY 2021.

Six counties are short of the 15% state inspection goal. These range from 0% to just short at 14%. These counties are Caroline, Carroll, Dorchester, Howard, Prince Georges and Talbot counties.

Ms. Hoxter presented the item. The Board discussed the situation and agreed the counties that did not meet the inspection requirements this year need to include the additional inspections next year.

Motion #11: To allow the counties that did not meet the inspection requirements in FY21 to include the missing inspections during FY22.

Motion: Herr-Cornwell Second: Wood
Status: Approved

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 #12: To adjourn the regular session at 10:25 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: Wood Second: Oberg
Status: Approved

The Closed Meeting of the Board was held from 10:34 a.m. to 11:16 a.m. on August 24, 2021 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, Cricket Goodall, Elizabeth Hill, and Joe Wood.

The following Board members were absent: Cathy Cosgrove, Robin Kable, and J. Bruce Yerkes.

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The following MALPF staff and legal representatives were also present during the closed session meeting: Michelle Cable, 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 July 27, 2021, Closed Session Minutes
- B. Status Report of Pending Legal Issues
- C. FY 2021 Offers – Round Two
- D. FY 2021 Assignment of Option Contract
- E. Implementation of MALPF Special Occasion Events statute for federally funded easements that are further subject to federal statutory and regulatory use restrictions.

Respectfully Submitted:



Michelle Cable, MALPF Executive Director