

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION**  
**OPEN MEETING MINUTES**  
**June 24, 2014**

**TRUSTEES PRESENT:**

John Draper, Jr., Chair  
Bernard L. Jones, Sr., Vice Chair  
Susanne Brogan, representing Treasurer Nancy Kopp  
Michael Calkins  
Jerome W. Klasmeier, representing Comptroller Peter Franchot  
Patricia A. Langenfelder  
James (Bubby) Norris, Jr.  
Jonathan C. Quinn  
Eugene Roberts, Jr.  
Dan Rosen, representing Secretary Richard E. Hall, Maryland Department of Planning  
Mary Ellen Setting, representing Secretary Earl F. Hance, Maryland Department of Agriculture

**TRUSTEES ABSENT:**

Craig Highfield  
Donald T. Moore

**OTHERS PRESENT:**

Anne Bradley, Frederick County, Program Administrator  
Michelle Cable, MALPF Administrator  
Diane Chasse, MALPF Administrator  
Kelly Collins, DNR, Climate Policy and Planning  
Tamekia Dent, MALPF Temporary Staff  
Peter D. J. Ensor, Baltimore County, Landowner  
Peter W. Ensor, Baltimore County, Farmer  
Nancy Forrester, Assistant Attorney General, Department of General Services  
Angela Gaither, MALPF Secretary  
Billy Gorski, Anne Arundel County, Assistant Program Administrator  
Rob Gunter, Queen Anne's County, Program Administrator  
Justin Hayes, Assistant Attorney General, Maryland Department of Agriculture  
Debbie Herr-Cornwell, Caroline County, Program Administrator  
Kim Hoxter, MALPF Monitoring, Enforcement, and Database Coordinator  
Zoe Johnson, DNR, Program Manager for Climate Policy and Planning  
Lenae Johnson, Baltimore County, Intern  
Wally Lippincott, Baltimore County, Program Administrator  
Jeanine Nutter, Prince George's County, Program Assistant  
Heather Price, Caroline County, Attorney  
Sue Simmons, Caroline County, Ag Preservation Administrator  
Martin Sokolich, Talbot County, Program Administrator  
Chana Turner, MALPF Administrator  
Edward Wade, Frederick County, Landowner  
James Wallace, MDA, Director of Administrative Services  
Carol West, MALPF, Executive Director

**OTHERS PRESENT BY WEB CONFERENCING:**

Deborah Bowers, Carroll County, Acting Program Administrator  
Carla Gerber, Kent County, Program Administrator  
Fatimah Hasan, MD National Capital Area Parks & Planning  
Steve O'Connor, Cecil County, Program Administrator  
Donna Sasscer, St. Mary's County, Program Administrator  
Ned Sayre, Harford County, Ag Preservation Outreach Specialist

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John W. Draper, Jr., Chair, called the meeting to order at 9:01 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**

A. Approval of Open Minutes: May 27, 2014 Minutes.

Motion #1: Approve minutes for May 27, 2014.

Motion: Patricia Langenfelder      Second: Mary Ellen Setting  
Status: Approved

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

There were no additions or deletions to the agenda items.

**III. ANNOUNCEMENTS**

Ms. West introduced MALPF's new administrator Chana Turner. Ms. Turner started employment with Maryland Department of Agricultural on June 11, 2014 and has been assigned counties.

The Board received a letter from Mr. Robert Long, who is a MALPF easement owner. Mr. Long lives directly across the street from a Oak Ridge wood processing plant that received approval earlier this year. Mr. Long's property is a part of the original easement that was subdivided. He has been complaining about the plant and mentioned that they are not taking the proper steps to obtain all of their necessary approvals. This item will be discussed at the July meeting to determine the Board's response. Ms. West and Ms. Hoxter would review his concerns, speak with county staff, and bring any updates to the July meeting.

MALPF's Fiscal Year 2013 audit is complete. The single finding of the audit revealed that MALPF did not insure that easement violations were resolved in a timely manner. As of June 30, 2014 there were 348 unresolved violations including 49 that MALPF stated were high priority, some of which have been outstanding for up to 7 years.

This was a repeat audit finding from 2012. The Program had already made some changes regarding the unresolved violations. With this repeat finding, we have made additional changes.

**IV. EASEMENT AMENDMENTS**

A. CARROLL COUNTY

- |                |                             |            |
|----------------|-----------------------------|------------|
| 1. 06-79-03ex2 | NW Farms, LLC               | ~208 acres |
|                | (J. Steven & Diane Arbaugh) |            |

Request –Carroll County:

Request to relocate a pre-existing dwelling.

Recommendation:

Staff recommends approval in accordance with COMAR 15.15.04.

Background:

NW Farms, LLC (J. Steven & Diane Arbaugh) are subsequent owners of the easement property. The easement was originally established in October 1980 by John H. and Doris Arbaugh. Under the original owners, the Board approved two child lots under the one-stage release process for Nancy Arbaugh (1983) and Steven Arbaugh (1984). In 1991, the Board also approved a proposed agricultural subdivision plan, including permission to construct 2 tenant houses by the new owner. The agricultural subdivision approval is now void because the property was conveyed before the division of the easement property

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was accomplished.

The current owners informed the Foundation that the pre-existing dwelling subject to today's relocation request was destroyed in 2003. The Foundation provided an acknowledgement letter to the owners confirming they have the ability to rebuild, or relocate the destroyed pre-existing dwelling with Foundation approval. The destroyed pre-existing dwelling was located near the heart of the dairy operation. This area has been reclaimed for agricultural purposes (calf hutches and an agricultural structure).

The proposed relocation site fits with the Foundation's lot location policy, as it is located along the perimeter of the property, using an existing access lane, and clustered near other residential development. The owners plan to release the relocated pre-existing dwelling from the easement once the site has been approved and the engineering/surveying work has been completed.

The request has been approved by the County and is in accordance with all County requirements. When the lot is released, the reimbursement amount will be calculated on any acreage to be released above the first acre at \$873.67 per-acre.

Ms. Cable presented the item. Deborah Bowers, Acting Carroll County Program Administrator, was present for questions and comments.

Motion #2            Approve request to relocate a pre-existing dwelling to the location shown on the application submitted by the property owners.

Motion:            Patricia Langenfelder      Second:            Eugene Roberts, Jr.  
Status:            Approved

2. 06-90-23            Roger M.B. Schnell Residuary Trust U/W            ~115 s acres  
(Barbara Schnell, David Penn, Beverly Penn, Trustees)

Request –Carroll County:

Request to correct easement legal description by releasing ~15,000 square feet of easement area.

Recommendation:

Staff recommends approval in accordance with COMAR 15.15.11.

Background:

Rober M.B. Schnell was the original owner of the easement property, established in November 2001. No requests have been made regarding this easement. There are two pre-existing dwellings documented on the property. The current owners inherited the property in 2010.

The Richards family owns property across Houcksville Road from the Schnell property. The Richards have been working with the Schnells over the past few months regarding an approximately 15,000 square foot area on the South / Southeast side of Houcksville Road that has historically been openly used and maintained by the Richards family for five generations. The Richards have consulted with an attorney to search the title of this area in question and have come to a proposed solution to resolve the matter with the Schnells without proceeding with an adverse possession claim. All parties have agreed to the solution.

Through the documentation provided, it seems apparent that the 15,000 square feet in question never should have been included as part of the Schnell's ownership, and therefore not encumbered with the MALPF easement.

COMAR 15.15.11. states the following regarding boundary line adjustment:

**.02 Definitions.**

B. Terms defined.

(2) "Boundary line adjustment" means a change in the legal description contained in the Deed of Easement for the purposes of this Chapter.

**.03 Criteria**

C. Boundary Line Adjustment.

(3) If the proposed corrective easement only involves the correction of an error in the legal description contained in the easement, the Executive Director of the Foundation may approve the correction of the error, with concurrence of the Chairman of the Board of Trustees and the Secretary of Agriculture.

**.05 Requirements Upon Approvals.**

A. A landowner may not proceed with plans pursuant to the approval until the corrective easement has been recorded among the land records in the county in which the land is located, unless the Foundation issues a letter permitting the landowner to proceed.

B. Boundary Line Adjustment.

(1) If the Foundation approves the request for corrective easement for boundary line adjustment, the landowner shall submit to the Foundation, 10 copies of a survey plat, signed and sealed by a surveyor registered in the State of Maryland depicting the land area to be released from the easement, if any, and the land area to be encumbered by the easement, along with separate written metes and bounds descriptions of those areas; and

(2) If the Board of Public Works approves the request, the landowner shall remit funds in the amount and manner directed by the Foundation to cover the costs of the transaction as specified in Regulation .03 of this chapter, and shall furnish such other documentation as directed by the Foundation.

The Richards family has agreed to pay the expenses associated with documenting the revised legal description of the Schnell property. If the Board approves the legal description correction, per COMAR 15.15.11.03.C.(3), this action is not required to be approved by the Board of Public Works. MALPF Staff and attorneys will work with the Richards and Schnell owners to complete the necessary documentation to be recorded in the Land Records of Carroll County to memorialize the revised legal description.

The request has been approved by the County and is in accordance with all County requirements.

Ms. Cable presented the item. Ms. Deborah Bowers, Acting Carroll County Program Administrator, was present for questions and comments.

**Discussion:**

Ms. Cable confirmed that the Foundation will be compensated for the 15,000 square foot area being released. The purchase price was \$2,797.38/acre, which results in a reimbursement of slightly under \$1,000.00.

The Richards' attorney has been informed that a survey may be required. The legal description used to acquire the Schnell easement is not very good. If the property were to receive an easement offer today, a new survey would be required to provide an accurate description of the easement perimeter. The Board may require a survey as a condition of approving the release of the acreage requested.

Motion #3                      Approve request to correct the easement legal description by releasing ~15,000 square feet of easement area as shown in the application, conditional upon a new survey to delineate the area to be released, as well as the remainder of the entire Schnell easement property, as well as a payback for the area to be release at \$2,797.38/acre.

Motion:                      Jonathan Quinn                      Second:                      Susanne Brogan  
Status:                      Approved

3. 06-00-03    Wilhide, Glenn & Joan    ~119 acres

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Request –Carroll County:

Request to exclude up to 2.0 acres from the easement for a child's lot for Vincent Albert Wilhide.

Recommendation:

Staff recommends approval. If the county requires a road dedication along Keysville Road, that acreage must be included within the 2.0 acre maximum size of the lot.

Background:

Glenn and Joan Wilhide are the original owners of the easement property. The easement was established in April 2004. There is one pre-existing dwelling on the property. No requests have been made impacting this easement property.

This child's lot will be located along Keysville Road along the perimeter of the property. The lot location will have minimal to no impact on the farming operation. Access will be directly from Keysville Road. Once the lot has been released, the remainder of the farm still consists of greater than 50% qualifying soils. The location of the lot meets the Foundation's Lot Location Policy.

The request has been approved by the County and is in accordance with all County requirements. The reimbursement amount will be \$1,761.34 per-acre being released.

Ms. Cable presented the item. Ms. Deborah Bowers, Acting Carroll County Program Administrator, was present for questions and comments.

Motion #4      Approve request to exclude up to 2.0 acres from the easement for a child's lot for Vincent Albert Wilhide, limited to the area designated in the application.

Motion:          Bernard Jones, Sr.      Second:          Michael Calkins  
Status:          Approved

**B. FREDERICK COUNTY**

1. 10-87-04e      Harrison, Paul and Susan      ~215 acres

Request from Frederick County

Retroactive request for a tenant house on easement property.

Background:

Mr. and Mrs. Harrison are subsequent owners of the easement property. The current request is for approval for a tenant house for the use of their daughter, Shannon Harrison, who is fully engaged in the operation of the farm. The Harrisons run a 200 head cattle operation.

There are two documented pre-existing dwellings on the property (a mobile home and a double-wide). (There is one additional pre-existing dwelling near the creek, which was not documented at the time of the sale of the easement.) There is also one other tenant house on this property, which was approved in September 1993 for their son, Paul F. Harrison, III. The tenant house where Ms. Harrison lives is shown on the attached aerial photograph. It is clustered with existing farm buildings. Access to the property is through an existing farm lane.

There has been no other activity on the property except that, in April 1989, the original owners of the property (Thomas and Beverly Poss) requested 1 owners' lot and 4 child's lots. They were approved, but the landowners did not act on these approvals.

The Frederick County Agricultural Land Preservation Advisory Board recommended approval of the tenant house for Shannon Harrison in July 2002, but the request was never processed by the Foundation. The request is consistent with the county's zoning regulations.

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In their application, the applicants have acknowledged that the proposed tenant house cannot be subdivided from the easement property.

**Recommendation:**

Foundation staff recommends approval based on the terms and conditions of the regulations at the time of the request. The grantors have the right to construct, subject to the approval of the Foundation, houses for tenants fully engaged in the agricultural operation of the farm, provided such construction does not exceed one tenant house per each 100 acres.

Staff also recommends that the Foundation ask the landowners to acknowledge in writing that if either son or daughter becomes an owner of the property in the future that they must not live in the tenant dwelling as only a tenant fully engaged in the farm operation may reside in the tenant dwellings.

Ms. Chasse presented the item. Ms. Anne Bradley, Frederick County Program Administrator, was present for questions and comments.

**Discussion:**

Ms. Bradley mentioned that the tenant house was noticed during a routine inspection that was conducted in spring of 2013. The inspection also revealed a non-documented pre-existing dwelling which is #5 on the photo.

Mr. Draper commented that Mr. & Mrs. Harrison need to understand that they cannot live in a tenant house if they become owners. Ms. Chasse responded saying that she is sending them a letter to sign showing that they understand this limitation.

Ms. West concluded that any landowners in the future have the right to subdivide a documented pre-existing dwelling but since pre-existing dwelling #5 was not documented this changes everything. Pre-existing dwelling #5 was not included in the appraisal process, nor was it considered when the easement was purchased. Accordingly, pre-existing dwelling #5 should be deemed non-subdividable.

Motion #5 Approve request for retroactive request for a tenant house on easement property.

Motion: James B. Norris, Jr. Second: Michael Calkins  
Status: Approved

2. 10-98-09 Wade, Edward and Susan ~139 acres

**Request – Frederick County:**

The request is for approval for the placement of a tenant house on the property.

**Recommendation:**

Foundation staff recommends approval of the request for a tenant house, subject to the applicants providing additional information about their son's role in the farm operation. The Foundation's requirements found in COMAR 15.15.03 are as follows:

A. The approval for the construction of a tenant house by the Foundation is not an absolute right of a landowner, and requests shall be reviewed by the Foundation on a case-by-case basis. Each request shall be reviewed to determine if a proposed tenant house is necessary based on the nature of the farming operation. When applying for approval of a tenant house, a landowner shall demonstrate to the Foundation a current and compelling need. To do so, a landowner shall show:

(1) The nature of the farm operation and the reasons why one or more tenants is necessary to carry out farm operations; and

*The owners grow corn, soybeans, and hay. They also have a tree farm and are also considering getting beef cattle. The owners want to have the tenant house for their son so that he can assist*

*with, and eventually take over, the operation. If the son acquires the easement property, he will not be eligible to live in the tenant house because he will no longer qualify as a tenant. Staff recommends that the Board inquire about any future intent to sell the easement property to the son so the applicants understand the use limitations associated with a tenant house.*

- (2) That one or more tenants will be fully engaged in the operations of the farm.

*The tenant house regulations require the applicants to demonstrate a current need for a tenant house. Although the applicants have expressed their intent to have their son assist with and take over the operation in the future, the son's current role regarding the farm operation is unclear.*

#### B. Farm Size

- (1) A request for a tenant house may not be considered by the Foundation for any farm of less than 100.00 acres, unless the Foundation grants an exception based on compelling need.

*Because the property consists of 139 acres, the easement property is eligible for one tenant house, so long as all other criteria are satisfied.*

- (2) Not more than one tenant house per full 100.00 acres may be considered by the Foundation for a farm (for example, one house for 100.00-199.99 acres, two for 200.00-299.99 acres, etc.).

*Only one tenant house is proposed for the 139 acre property.*

- C. A tenant house may be approved for and occupied only by tenants of whom one or more is fully engaged in the operation of the farm.

*See A.1. and A.2.*

- D. The Foundation shall approve the location and size of the tenant house as an accessory structure. Unless the Foundation approves otherwise, a tenant house:

- (1) Shall be located in the vicinity of other farm buildings;

- (2) May not be located on a farm field;

*The tenant house is proposed to be built directly on an existing farm lane. This site is not adjacent to existing farm buildings, but it is in a grassy area of Class IV soils that is not in agricultural use. While the proposed location of the tenant house does not appear to satisfy all criteria of this regulation, the Board has discretion to approve the proposed location based on the following language in the regulation: "Unless the Foundation approves otherwise."*

- (3) May not be larger in size than at least one nontenant dwelling house on the property, if any exist; and

*The primary residence on the property is 2,700 square feet in size. The proposed tenant house will be less than 1,500 square feet. Accordingly, it appears that this requirement is satisfied.*

- (4) May not be more than 2,000 square feet, unless provided otherwise by the Foundation, calculated by first multiplying the exterior footprint of the portions of the structure with multiple stories by the number of stories with windows, and then adding the exterior footprint of any portions of the structure with one story, but excluding basements, attics, porches not used as living space, garages, and unenclosed decks.

*The proposed tenant house is less than 1,500 square feet..*

- E. A tenant house, including its size and location, may not be approved by the Foundation unless it conforms to local planning and zoning regulations.

*The Frederick County Agricultural Advisory Board approved the request and it meets County*

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requirements.

F. A tenant house and the land where it is constructed may not be subdivided and separately conveyed from the farm subject to the easement.

*The applicants have been informed of this condition and acknowledge that the proposed tenant house cannot be subdivided from the farm subject to the easement.*

G. The Foundation may not approve the construction of a tenant house solely for the purpose of producing rental income.

*The applicants have been informed of this condition and have acknowledged that the proposed tenant house cannot be used to produce rental income.*

**Background:**

The Wades are subsequent owners of the easement property. There have been no previous requests. The property has one pre-existing residence.

Ms. Chasse presented the item. Ms. Anne Bradley, Frederick County, Program Administrator, was present for questions and comments.

**Discussion:**

Mr. Jones asked Mr. Wade if his son was currently living in Mr. and Mrs. Wade’s house. Mr. Wade said that his son was living in the same house. Mr. Hayes mentioned that the regulations require that his son be currently working on the farm. Mr. Wade responded that his son is currently working on the farm.

Mr. Hayes also asked if Mr. Wade’s son was working 30 hours a week on the farm. Mr. Wade said that his son worked on the farm for 30 hours during some weeks. Mr. Wade said his son also has a full time job off the farm. Michelle Cable mentioned that the 30 hour per week requirement has been applied in a flexible manner in the past due to seasonal needs.

Mr. Hayes asked Mr. Wade if his son was aware that if he were to become an owner of this property that he would no longer be able to live in the tenant house. Mr. Wade says that his son is aware that he would have to move into the primary residence.

Mr. Jones questioned whether Mr. Wade’s son could satisfy the 30 hour per week requirement during the low peak times. Ms. Cable stated that the average of 30 hours was just for a year and not for a two week cycle, which includes seasonal work hours.

Motion #6 To approve request for a tenant house on the property as shown in the application.

Motion: Eugene Roberts, Jr. Second: Michael Calkins  
Status: Approved

**C. BALTIMORE COUNTY**

- 1. 03-94-09A Ensor, Peter & Alice ~92 acres

**Request –Baltimore County:**

Request to exclude up to 2.0 acres from the easement for a child’s lot for Peter William Ensor.

**Recommendation:**

Staff recommends approval. If the county requires a road dedication along West Liberty Road, that acreage must be included within the 2.0 acre maximum size of the lot.



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**Background:**

Peter and Alice Ensor are the original owners of the easement property. The easement was established in May 1996. There is one pre-existing dwelling on the property. No requests have been made impacting this easement property.

This child's lot will be located along West Liberty Road at the edge of the property. The lot location along the perimeter of the farm will have minimal to no impact on the farming operation. Access will be directly from West Liberty Road. The location of the lot meets the Foundation's Lot Location Policy.

The request has been approved by the County and is in accordance with all County requirements. The reimbursement amount will be \$2,967.35 per-acre being released.

**Additional Information:**

The County conducted a site inspection on May 30, 2014. There are numerous vehicles and old pieces of farm equipment on the property that need to be removed. The County has informed the landowner of the need to clean up the easement property.

Ms. Cable presented the item. Mr. Wally Lippincott, Jr. Baltimore County Program Administrator, Peter D. J. Ensor and Peter W. Ensor, landowners, were present for questions and comments.

**Discussion:**

Mr. Lippincott advised the Board that the landowners have cleaned up, removed and sold some of the vehicles that were found on the property during the last inspection.

Motion #7 Approve request to exclude up to 2.0 acres from the easement for a child's lot for Peter William Ensor, limited to the area designated in the application.

Motion: Patricia Langenfelder Second: Michael Calkins  
Status: Approved

**D. SOMERSET COUNTY**

19-94-03 Nancy E. Vessey, Dennett Alan Butler, and ~314.5  
acres Mary Katherine Vessey Corbin

**Request –Somerset County:**

Request approval of an agricultural subdivision of property creating a ~180 acre parcel and a ~144 acre parcel. The proposed 144 acre parcel includes 9.5 acres of land that was withheld from the easement.

**Recommendation:**

In accordance with our Agricultural Subdivision regulations, staff recommends approval, subject to the condition that 9.5 acres of land, which was withheld from the easement, be included in the Corrective Easement for the resulting 144 acre parcel. There is an existing mobile home on the 9.5 acre area, which shall be a residential right that is non-subdividable from the newly created 144 acre parcel. Also, per the Statement of the Landowner, Nancy E. Vessey is willing to make the documented pre-existing dwelling on the 180 acre parcel non-subdividable. Having a house permanently associated with each divided parcel will assist the future profitability of each farm operation.

**Background:**

Mr. William Vessey and Mrs. Nancy M. Vessey were the original easement grantors (1996). There is one documented pre-existing dwelling on the 180-acre portion. There is a mobile home on the 9.5 acre area that was originally withheld from the easement (though the Board did not approve it). This 9.5 acre area is the land proposed to be included in the 144 acre resulting parcel. The 18.6 acre area on the east side of the proposed 144 acre parcel was also withheld from the easement and is not proposed to be added to the easement through this application.

Subdivision Regulation Criteria:

Under COMAR 15.15.12.04 B if the Board approves an agricultural subdivision, approval shall accommodate a plan that the Foundation has determined will benefit the agricultural operation. The required Corrective Easements may include other additional terms, conditions, waivers, or restrictions that the Foundation considers appropriate to protect the agricultural purpose and the future profitability of the resulting divided parcels. The regulations provide landowners the ability to request a subdivision if the following conditions are met:

- (1) The proposed agricultural subdivision serves an agricultural purpose;

*The easement area will be divided to facilitate separate farming operations on the land. On the 180 acre portion, Nancy E. Vessey intends to operate a small orchard and manage the woodlands. Mr. Alan Butler intends to engage in crop farming (grain and vegetable) on the 144 acre portion.*

- (2) The proposed agricultural subdivision will enhance or have no effect upon the agricultural operations being conducted upon the land; and

*The agricultural subdivision will have no effect upon the agricultural operations being conducted on the land, but the addition of the 9.5 acres with significant road frontage and non-subdividable dwellings will assist future operations.*

- (3) The resulting divided parcels from the agricultural subdivision are able to sustain long-term agricultural production, independent from each other.

*Each parcel will be able to maintain agricultural production independently of the other, given the size of the parcels and the quality of the soils (100% Class I-III plus Woodland Groups soils).*

Nancy E. Vessey has agreed to pay for the expenses associated with the transaction and corrective easement process. Nancy E. Vessey and Alan Butler have also been informed that the termination request provision will be extinguished through the corrective easements for both newly configured easement properties.

This request has been approved by the local advisory board and meets Planning & Zoning requirements.

Ms. Chasse presented the item. Mr. Tom Lawton, Somerset County, Program Administrator, was present and Mr. Smethurst, an attorney for the Vessey family was present by web conference for questions and comments.

**Discussion:**

Mr. Lawton said that when the original owner passed, the property went to auction and the County agricultural advisory board was concerned that the new buyers may not have an interest in farming. When the farm was sold at auction and the new buyers were family members, his board was pleased.

Motion #8 Approve request of an agricultural subdivision of property creating a ~180 acre parcel and a ~144 acre parcel. The proposed 144 acre parcel shall incorporate the adjacent 9.5 acres of land that was originally withheld from the easement area. The existing dwelling on the 9.5 acre area shall be non-subdividable from the newly created 144 acre easement parcel. The existing dwelling on the newly created 180 acre parcel shall also be non-subdividable.

Motion: Bernard Jones, Sr.                      Second: Mary Ellen Setting  
Status: Approved

E. CAROLINE COUNTY

1. 05-84-12A

Rieck Family Revocable Living Trust ~71 acres

Request –Caroline County:

Caroline County requests the Foundation to release ~12 acres from the Easement area. The County has expressed its intent to acquire the property by condemnation to satisfy a public purpose. The County's stated public purpose is provided in its application, which is attached to this Staff Report.

Recommendation:

MD Agriculture Code Ann. Section 2-515 governs the Foundation regarding condemnation of land under agricultural preservation easement. Caroline County has provided a thorough, detailed request that addresses all the criteria established in the statute. Caroline County's request, with supporting exhibits, is attached to this Staff Report.

MD Agriculture Code Ann. Section 2-515 requires the Board to make the following determinations:

1. That that County has declared a public purpose for acquiring the land (§2-515(a)(1));
2. The County's declared public purpose outweighs or is greater than the public purpose served by the Foundation Easement (§2-515(a)(2)(iii)); and
3. The County established that there are no reasonable alternative sites to accomplish the declared public purpose (§2-515(a)(2)(iii)).

If the public purpose for the acquisition is for: 1) economic development; 2) residential development; or 3) parkland, the Board of Public Works must approve the acquisition, based on the Foundation's review and recommendation. Because the County's proposed public purpose may be characterized as parkland or economic development, it appears that the BPW must approve the proposed acquisition. For purposes of this meeting, however, the Board need only decide whether the County's application satisfies the three criteria outlined above.

If the County acquires the land through condemnation or threat of condemnation, the County should pay the Foundation the amount paid for the easement area to be released (§2-515(b)(2)). The Board should ask the County whether it will also pay for the administrative costs to amend the Easement (e.g., revised survey, title review and title insurance).

Background:

Victor and Vera Rieck are the original owners of the Easement property, established in November 1986. There are no pre-existing dwellings documented on the property. The Board terminated 1.5 acres of the Easement area in June 1988, at the request of Caroline County Commissioners. This area was released to accommodate parking at the adjacent County-owned Choptank Marina. The Partial Release and Agreement was recorded in April 1998.

In 1999, the Foundation approved a Dredge Material Placement Site License Agreement that permits the County to deposit dredge material on approximately 14.6 acres of the subject property for 5 years, with one additional year allowed for an extension. The County extended the Agreement in 2004 for an additional 10 years without Foundation approval.

The request before the Board today is from Caroline County, supported by the Riecks, to use the County's condemnation authority to release ~12 acres from the Foundation Easement.

Enclosed are the request and supporting documents from Caroline County. MD Agriculture Code Ann. Section 2-515, which governs the County's application, is also enclosed.

The request has been approved by the Caroline County Agricultural Advisory Board and is in accordance with all County requirements.

Ms. Cable presented the item. Debbie Herr Cornwell, Caroline County Program Administrator, Victor Rieck, landowner, Sue Simmons, Caroline County Director of Recreation and Parks, and Heather Price,

Caroline County Attorney, were present for questions and comments.

**Discussion:**

Mr. Draper, Board Chair, recused himself from this discussion item due do a conflict of interest. Mr. Jones, Board Vice-Chair, acted as Chair for the item.

Ms. Simmons mentioned that this item is a big project and is significant for Caroline County from both an economic and parkland stand point. The park owns a bridge that has been nationally classified as an historic site. The County would like to provide access to this area, but currently the bridge is not open for pedestrian or automobile use. Release of the easement on that portion of the property would allow this use by allowing the County to compete for other funding so that the development plan to allow access to the bridge can begin. The area would also provide a bus turn-around for visitors. In addition to the park use, the County would like to continue to lease the land and continue to provide the dredge site disposal area.

If the Board provides a favorable recommendation for the County's application, the County must still seek approval from the Board of Public Works. The County must also repay the Foundation if it acquires the land through condemnation or the threat of condemnation. Ms. West stated that the payback MALPF would receive from the landowner would be approximately \$600 an acre, which is only enough money for the Foundation to re-purchase 2 or 3 acres somewhere else in the County. She asked if the County would consider donating some acres to the Foundation's program. Ms. Cornwell responded that the County did some research on what lands they own that were of significant size. The County owns only eight properties. Out of the eight, the majority have been acquired through various state and federally funded grants.

Mr. Hayes informed the Board that Caroline County's declared public purpose for acquiring the land must be weighed against MALPF's public purpose under the preservation easement. Mr. Hayes reviewed and looked at materials that the County submitted for alternative sights. He thinks that the Board must exercise its discretion to determine that the County has done its due diligence to investigate other locations. The Board can determine, based on that information, that they have satisfied the criteria and no other sites were available. He thinks it is up to the Board to make sure that the criteria are satisfied.

The County representatives agreed to pay any administrative costs that will be associated with removing this approximately 12 acre area from the easement, to include survey, title insurance and title search costs.

Motion #9      Recommend approval to release ~12 acres from the MALPF easement in Caroline County for the dredge area and parkland purpose. The County must reimburse MALPF for both: 1) the area to be released; and 2) administrative costs to amend the easement. The Board made the following findings to satisfy the criteria provided in MD. Code Ann., Agric. Section 2-515:

1. That that County has declared a public purpose for acquiring the land (§2-515(a)(1));
2. The County's declared public purpose outweighs or is greater than the public purpose served by the Foundation Easement (§2-515(a)(2)(iii)); and
3. The County established that there are no reasonable alternative sites to accomplish the declared public purpose (§2-515(a)(2)(iii)).

Motion:      Dan Rosen  
Status:      Approved

Second:      Jerry Klasmeier

**V. EASEMENT PETITIONS**

**VI. PROGRAM POLICY**

A. Talbot County – Re-Certification Request

Reporting Period: Fiscal Years 2009-2013  
Recommendation: Recertify for Fiscal Years 2015-2017 (July 1, 2014 – June 30, 2017).

Mr. Rosen presented the item. Ms. Chasse, and Mr. Martin Sokolich, Talbot County Program Administrator were present for questions and comments.

Motion #10: Approve Re-Certification of Talbot County for Fiscal Years 2015-2017 (July 1, 2014 – June 30, 2017).

Motion: Jonathan Quinn                      Second: James B. Norris, Jr.  
Status: Approved

**VII. INFORMATION AND DISCUSSION**

A. DNR Presentation on climate change impact and land preservation

Ms. Zoe Johnson, Program Manager, and Ms. Kelly Collins for Climate Policy and Planning, Department of Natural Resources, made an informational presentation to the Board and were present for questions and comments.

The presentation is being made so MALPF can be made aware of landowner concerns. Nothing has been mandated, but this information will allow MALPF to see if we want to include additional climate impacts in future application cycles.

MALPF staff has asked the Department of Natural Resources to look at their completed 2012 easements to see if any easement acquisitions would be included in the 2-5 feet range area that would have been in the analysis of impact for sea level rise. Only 2 parcels were in the sea level range of 2-5. Going forward, if there are large areas on an easement MALPF may want to think about the impact to development rights and increasing or establish a buffer around any wetlands.

There are different mapping and GIS layers to help with determining ecological, corrosion, and storm surge areas of impact.

Tom Lawton, Somerset County Program Administrator, added that his Rural Legacy Area may be totally submerged at some point. He had discussions with several landowners and he does not want to recommend them for agricultural easement sales because 50 years from now they may be under water. He feels that MALPF would not want to include those properties in the easement program that would be at risk of being underwater in future years.

Ms. Johnson stated that at the federal level she has been working on the Presidents Climate Task Force. This task force has been looking into what the federal government can do to offset local governments. One recommendation is to have the USDA Conservation Program conduct more research to look at the value of these areas in terms of services and benefits. A wetland area has a value, but a dollar figure is unknown, and if a cost would be put on what this easement is worth it may have less development potential because of vulnerability.

Ms. Johnson suggests that MALPF should look at climate changes at the landscape level as it pertains to applications being received for the 2014 easement acquisition cycle, as well as future cycles. She agreed that their office would be prepared to look at our lists of property owners to give MALPF an idea of how many of them are in those vulnerable areas so we can make some determinations about those properties for the future.

**B. Fiscal Year 2014 June Inspection Report**

Please refer to the list of counties for the inspection results as of June 16, 2014. Eight counties have completed inspections, nine counties have indicated that they are still on schedule for completion by the end of June. I have had no response from six counties (Baltimore, Caroline, Carroll, Prince George's, St. Mary's and Somerset).

Completed Inspections

Targets:

100%

10%

	COUNTY	FEDERAL				STATE			
		Percent		Completed	Total	Percent		Completed	Total
01	Allegany	NA	%	NA	0	0	%	0	5
02	Anne Arundel	0	%	0	4	0	%	0	35
03	Baltimore	7	%	1	15	0	%	0	199
04	Calvert	100	%	3	3	13	%	4	32
05	Caroline	0	%	0	11	0	%	0	209
06	Carroll	0	%	0	10	0	%	0	357
07	Cecil	100	%	14	14	11	%	9	83
08	Charles	100	%	3	3	0	%	0	36
09	Dorchester	100	%	13	13	6	%	4	69
10	Frederick	0	%	0	12	0	%	0	112
11	Garrett	100	%	1	1	22	%	11	51
12	Harford	100	%	10	10	11	%	13	118
13	Howard	100	%	1	1	10	%	3	31
14	Kent	0	%	0	9	0	%	0	81
15	Montgomery	0	%	0	3	0	%	0	27
16	Prince George's	NA	%	NA	0	0	%	0	15
17	Queen Anne's	100	%	19	19	10	%	14	139
18	St. Mary's	15	%	2	13	0	%	0	90
19	Somerset	0	%	0	7	0	%	0	35
20	Talbot	0	%	0	6	0	%	0	65
21	Washington	100	%	11	11	14	%	9	66
22	Wicomico	100	%	8	8	13	%	6	46
23	Worcester	0	%	0	5	0	%	0	36

Ms. Hoxter, presented the item and was present for questions and comments.

**C. News Articles**

**VIII. CLOSED SESSION**

John W. Draper, Jr. asked for a motion for adjournment of the meeting to move into a closed session, pursuant to the provisions of State Government Article Section 10-508 (a) (3) to consider the acquisition of real property for a public purpose and matters directly related thereto.

Motion #11 To adjourn the regular session to move into a closed session to consult with counsel to consider the acquisition of real property for a public purpose and matters directly related thereto.

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Motion: Bernard Jones, Sr. Second: Michael Calkins  
Favor: John Draper, Jr., Bernard Jones, Sr., Susanne Brogan, Michael Calkins, Jerome Klasmeier, Patrica A. Langenfelder, James Norris, Jr., Jonathan Quinn, Eugene Roberts, Jr., Dan Rosen, and Mary Ellen Setting.  
Status: Approved

The Open Board Meeting was adjourned at approximately 11:39 a.m.

The Closed Meeting of the Board was held from 11:40 a.m. to 11:52 a.m. at the Maryland Department of Agriculture building, Annapolis, Maryland, pursuant to the provisions of State Government Article Sections 10-508(a) (3), Annotated Code of Maryland:

State Government Article Section 10-508(a):

[X] (3) To consider the acquisition of real property for a public purpose and matters directly related there thereto;

During the Closed Meeting, the following Board members were present:  
John Draper, Jr., Bernard Jones, Sr., Susanne Brogan, Michael Calkins, Jerome Klasmeier, Patrica A. Langenfelder, James Norris, Jr., Jonathan Quinn, Eugene Roberts, Jr., Dan Rosen, and Mary Ellen Setting.

**TOPICS DISCUSSED:**

VIII.A Approval of April 22, 2014 Closed Session Minutes

VIII.B Status Report of Pending Legal Issues

The Closed Meeting was adjourned at 11:52 a.m.

Respectfully Submitted:

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Angela Gaither, MALPF Secretary

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Carol S. West, Executive Director