MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION OPEN MEETING MINUTES October 28, 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

Donald T. Moore

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

OTHERS PRESENT:

Joel Abramson, Mullinix Attorney

Bill Bodenstein, Stenographer, Conference Reporting Services

Michelle Cable, MALPF Administrator

Diane Chasse, MALPF Administrator

Tamekia Dent, MALPF Staff

Rama Dilip, MALPF Administrative Specialist

Patricia Draper, Queen Anne's County, Visitor

Howie Feage, Howard County, Farm Bureau

Thomas Filbert, Assistant Attorney General, Maryland Department of Agriculture

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

Kim Hoxter, MALPF Monitoring, Enforcement, and Database Coordinator

Wally Lippincott, Baltimore County, Program Administrator

Mark Mullinix, Mullinix Brothers Partnership

Mike Mullinix, Mullinix Brothers Partnership

Craig Nielsen, Assistant Attorney General, Maryland Department of Agriculture

Donna Landis-Smith, Queen Anne's County Soil Conservation

Katrina Tucker, Kent County, Program Administrator

Chana Turner, MALPF Administrator

James Wallace, Assistant Secretary, Administration, MDA

Carol West, MALPF Executive Director

OTHERS PRESENT BY WEB CONFERENCING:

Bill Amoss, Harford County, Program Administrator

Chris Boggs, Washington County, Land Preservation Planner

Debbie Herr-Cornwell, Caroline County, Program Administrator

Carmela Iacovelli, Baltimore County, Assistant Program Administrator

Stephen O'Connor, Cecil County, Program Administrator

Eric Seifarth, Washington County, Program Administrator

John W. Draper, Jr., Chair, called the meeting to order at 9:03 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: September 23, 2014 Minutes with changes.

Motion #1: Approve minutes for September 23, 2014.

Motion: Bernard Jones, Sr. Second: Michael Calkins

Status: Approved

II. ADDITION / DELETION OF AGENDA ITEMS

A. Item VI.C - Draft Regulations for Renewable Energy Generation Facilities were withdrawn and will be discussed at next month's meeting.

- B. The memo for Item VI.B was replaced by a handout.
- C. Item VI.A, Mullinix Contested Case Hearing, will be presented as the first item on the agenda.

III. ANNOUNCEMENTS

- A. Former MALPF Board member, Joe Scott, celebrated his 100th birthday.
- B. The Foundation's 2015 meeting schedule was distributed. There will be no Board meeting in Decemer, 2014.

IV. EASEMENT AMENDMENTS

None

V. EASEMENT PETITIONS

A. QUEEN ANNE'S COUNTY

 17-15-01 Appenzeller, Edward, Jr. ~102.204 acres
 17-15-02 Estates of Kennard & Mary Joanne Bostic ~274.981 acres (Laura Bostic & Luanne Coleman Personal Representatives)

Ms. Cable presented the items. Ms. Cable and Mr. Gunter, Program Administrator, representing Queen Anne's County were available for questions and comments.

17-15-01 Appenzeller, Edward, Jr.

Request is to approve the Edward, Appenzeller, Jr. petition for a preservation easement withholding 1.2 acres with 0 development rights associated with it. The landowner is reserving the right to an unrestricted lot for future development.

17-15-02 Estates of Kennard & Mary Joanne Bostic (Laura Bostic & Luanne Coleman Personal Representatives)

Request is to approve the Estates of Kennard & Mary Joanne Bostic (Laura Bostic & Luanne Coleman Personal Representatives) petition for a preservation easement withholding 6.5 acres with 1 development right associated with it. The landowner is reserving the right to an unrestricted lot for future development.

Motion #2 Approve Queen Anne's County Easement Petitions 1-2 as

requested.

Motion: Patricia Langenfelder Second: Mary Ellen Setting

Status: Approved

B. WASHINGTON COUNTY

21-15-01 Beard, Donald L. & Linda E. ~136.04 acres
 21-15-03 Miller, Jay Richard & Robin Ann ~177.13 acres

Ms. Cable presented the items and was available for questions and comments.

21-15-01 Donald L. & Linda E. Beard

Request is to approve the Donald L. & Linda E. Beard petition for a preservation easement withholding 3.84 acres with 0 development rights associated with it. The landowner is reserving the right to an unrestricted lot for future development.

21-15-03 Jay Richard & Robin Ann Miller

Request is to approve the Jay Richard & Robin Ann Miller petition for a preservation easement withholding 6.92 acres with 2 development rights associated with it. The landowners are reserving family lot rights for future development.

Motion #3 Approve Washington County Easement Petitions 1-2 as requested.

Motion: Bernard Jones, Sr. Second: Michael Calkins

Status: Approved

VI. PROGRAM POLICY

A. Mullinix Contested Case Hearing

Mr. Draper introduced himself as John W. Draper, Jr., Chairman, of the Board of Trustees. He stated the purpose of this hearing was to consider whether to dismiss or grant the Mullinix request to terminate the agricultural landowner's easement on the four farms in Howard County.

Mr. Draper preceded over the hearing and introduced the Board of Trustees members that were in attendance as follows: Susanne Brogan, State Treasurer representative; Jerry Klasmeier, Comptroller representative; Dan Rosen, representing the Secretary of the Department of Planning; Mary Ellen Setting, representing the Secretary of the Department of Agriculture; Bernard L. Jones, Sr. Vice Chairman; James B. Norris, Jr.; Donald T. Moore; Eugene B. Roberts, Jr.; Jonathan Quinn; Patricia A. Langenfelder; and Michael Calkins. Craig Highfield was not in attendance.

The Mullinix Contested Case Hearing was recorded by a Court Reporter and lasted about an hour, listening to argument first by Mr. Filbert and Mr. Hayes (Presenters of Evidence) on their Motion for Summary Decision and then argument in support of (Opposition) and Motion to Terminate the Easement by Mr, Abramson for Mullinix. Each side was given an opportunity to present a rebuttal argument.

 B. Draft Regulations – Chapter 01 Guidelines for the Maryland Agricultural Land Preservation Program

During the 2014 legislative session, SB 71 (see Attachment B, Chapter 12, attached) was passed. The law authorizes the Maryland Agricultural Land Preservation Foundation (MALPF) to limit the purchase price of an easement so that the maximum purchase price can be no more than 75% of the appraised fair market value of the land. The law also provides that MALPF will not pay less than 25% of the appraised

fair market value of the land for an easement, unless the landowner's asking price is less than 25% of the appraised fair market value of the land.

Comments from Counties:

Bill Amoss, Harford County:

Comment: Add 15.15.01.10B(5) to read something like: In determining the fair market of the land, 1 development right will be deducted from each existing dwelling unit or: In determining fair market value of the land, 1 development right will be deducted for the main dwelling but all additional dwelling units will be treated as tenant homes and documented as such and no development rights shall be deducted.

Staff Response: This would require a change of the Foundation's Law.

Comment: Add 15.15.01.10B(6) to read something like: In determining the fair market value a MALPF form must be filled out and signed by the County administrator detailing the total number of potential residential lots that can be recorded on the property and any residual TDR's that also could be sold or transfered after taking in effect SB236 and other limitations.

Staff Response: A form has been created and is being used for the current cycle. To satisfy this particular comment, a sentence could be added to the form.

Comment: Add 15.15.01.10C(1) to read: MALPF will review and adjust capitalization rate within the formula for current market conditions each program cycle.

Staff Response: The Valuation Committee discussed adjusting the capitalization rate for each cycle and decided to wait until we have a chance to assess the impact on easement values from recent legislation for both the Septics and the Value of Easement (minimum/maximum of fair market value) laws.

Ms. West presented the item and was available for questions and comments.

Discussion:

Ms. West mentioned that in the 2014 legislative session SB 71 was passed to impose a maximum and minimum easement value on MALPF's offers. Last month the Board discussed the Draft Regulations and they were forwarded to the County Program Administrators for review and comment.

Mr. Amoss requested additional information for his comment on reduction of development rights for each existing dwelling during appraisals. He was provided with the statute reference, §2-511(b) and (d)(iii).

Motion #4 Approve request for Draft Regulations – Chapter 01 Guidelines for

the Maryland Agricultural Land Preservation Program for submission to the Administrative, Executive and Legislative Review Committee (AELR) and published for comments in the Maryland Register.

Motion: Susanne Brogan Second: Bernard Jones, Sr.

Status: Approved

C. Withdrawn

D. Update/Revise Deed of Easement

Mr. Roberts presented the item and was available for questions and comments.

Discussion:

Mr. Roberts, Valuation Committee Chairman, gave an update on the revised MALPF Deed of Conservation Easement. The purpose of this Committee was to review and revise the Deed of Easement to improve its readability. The draft has already gone to the County Program Administrator's for review.

The Committee only received 3 responses from the counties that included additional suggestions. Many of those suggestions had already been discussed and resolved by the Committee.

However, as suggested by Baltimore County, Mr. Roberts requested that the acronym "IRC" be spelled out as "Internal Revenue Code" and that a reference to federal law be added to clarify that the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is a federal law.

The Board agreed to incorporate changes into the MALPF Deed of Easement and to institute its use for the current cycle of applications.

Motion #5 Approve revised MALPF Model Deed of Easement.

Motion: Michael Calkins Second: Donald Moore

Status: Approved

VII. INFORMATION AND DISCUSSION

A. Fiscal Year 2015 Quarterly Inspection Report

Please refer to the list of counties for the inspection results as of October 7, 2014. In summary, one county has started inspections, Carroll County. This minimal activity is typical for the fall; not many inspections are conducted due to tall crops and hunting seasons which begin in the fall and continue into winter, and of course, the extreme western counties wait until spring. It is during the spring months when most of the inspection activity begins.

Targets: 100% 10%

	COUNTY	FEDERAL				STATE			
		Percen t		Completed	Total	Percen t		Completed	Total
01	Allogopy	NA	%	NA	0	0	%	0	7 7
	Allegany					_			•
02	Anne Arundel	0	%	0	4	0	%	0	35
03	Baltimore	0	%	0	15	0	%	0	199
04	Calvert	0	%	0	3	0	%	0	32
05	Caroline	0	%	0	11	0	%	0	209
06	Carroll	0	%	0	10	1	%	5	361
07	Cecil	0	%	0	14	0	%	0	83
80	Charles	0	%	0	3	0	%	0	37
09	Dorchester	0	%	0	13	0	%	0	71
10	Frederick	0	%	0	12	0	%	0	114
11	Garrett	0	%	0	1	0	%	0	51
12	Harford	0	%	0	10	0	%	0	118
13	Howard	0	%	0	1	0	%	0	31
14	Kent	0	%	0	9	0	%	0	82
15	Montgomery	0	%	0	3	0	%	0	28
16	Prince George's	NA	%	NA	0	0	%	0	15
17	Queen Anne's	0	%	0	19	0	%	0	143
18	St. Mary's	0	%	0	13	0	%	0	92
19	Somerset	0	%	0	7	0	%	0	37
20	Talbot	0	%	0	6	0	%	0	65
21	Washington	0	%	0	11	0	%	0	67
22	Wicomico	0	%	0	8	0	%	0	47
23	Worcester	0	%	0	5	0	%	0	36

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

B. 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 #20 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.

Motion: Bernard Jones, Sr. Second: Patricia Langenfelder

Favor: John Draper, Jr., Bernard Jones, Sr., Susanne Brogan, Michael

Calkins, Jerome W. Klasmeier, Patrica A. Langenfelder, Donald T. Moore, James Norris, Jr., Jonathan Quinn, Eugene Roberts,

Jr., Dan Rosen, and Mary Ellen Setting.

Status: Approved

The Open Board Meeting was adjourned at approximately 12:03 p.m.

The Closed Meeting of the Board was held from 12:05 p.m. to 12:36 p.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 W. Klasmeier, Patrica A. Langenfelder, Donald T. Moore, James Norris, Jr., Jonathan Quinn, Eugene Roberts, Jr., Dan Rosen and Mary Ellen Setting.

TOPICS DISCUSSED:

VIII.A VIII.B VIII.C VIII.D	Approval of August 26, 2014 Closed Session Minutes Board discussion of Mullinix Contested Case Hearing Status Report of Pending legal Issues Worcester County, 23-01-01-08a Lambertson, Diane					
		Respectfully Submitted:				
		Angela Gaither, MALPF Secretary				
		Carol S. West, Executive Director				