

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
OPEN MEETING MINUTES
October 27, 2015**

Trustees Present:

Bernard L. Jones, Sr., Acting Chair
Donald Moore
Patricia Langenfelder
Michael Calkins
Eugene Roberts
Craig Highfield
Jerry Klasmeier
Jonathan Quinn
Susanne Brogan, representing Treasurer Nancy Kopp
Dan Rosen, representing Secretary David Craig, Maryland Department of Planning
James Wallace, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture

Trustees Absent:

James (Bubby) Norris, Jr.

Others Present:

Anne Bradley, Frederick County Program Administrator
Tonya Burnside, MALPF Office Secretary
Michelle Cable, MALPF Administrator
Sharon Carrick, Prince Georges County Landowner
Tamekia Dent, MALPF Office Secretary
Paul Dial, Frederick County Director of Parks & Recreation
Nancy Russell-Forrester, Assistant Attorney General, Department of General Services
Billy Gorski, Assistant Anne Arundel County Program Administrator
Eric Groot, Cecil County, Aide to Tucker Mackie Estate
Justin Hayes, Assistant Attorney General, Department of Agriculture
Bob Hicks, Frederick County Assistant Director Parks & Recreation
Kim Hoxter, MALPF Monitoring, Enforcement, and Database Coordinator
Franklin Mackie, Cecil County Landowner
Osborne Mackie, Cecil County Landowner
Tammy Maenner, Prince Georges County Landowner
David Maenner, Prince Georges County Landowner
James Moore, St. Mary's County Landowner
Jeanine Nutter, Prince George's County Program Administrator
Stephen O'Connor, Cecil County Program Administrator
Charles Rice, Charles County Program Administrator
Julie Ryder, MALPF Fiscal Specialist
Donna Sasscer, St. Mary's County Program Administrator
Christ Taylor, Beiler - Campbell Realtors
Chana Turner, MALPF Administrator
Carol West, MALPF Executive Director

Others Present By Web Conferencing:

William Amoss, Harford County Program Administrator
Debbie Herr-Cornwell, Caroline County Program Administrator
Martin Sokolich, Talbot County Program Administrator

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Bernard L. Jones, Sr., Acting Chair, called the meeting to order at 9:05 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 from August 25, 2015

Motion #1: Approve minutes from August 25, 2015.

Motion: Michael Calkins Second: Patricia Langenfelder
Status: Approved

II. ADDITION / DELETION OF AGENDA ITEMS

A. Item IV.A Forest Conservation Easement Overlay Clarification has been withdrawn

III. ANNOUNCEMENTS

A. The Uses Committee will be reconvening to review and consolidate the three separate policies for Uses, Winery and Equine. Ms. West will contact the original members and set a date for the first meeting.

IV. EASEMENT AMENDMENTS

A. CHARLES COUNTY

1. 08-01-04 Mudd, Mathew & Melody ~219.755 acres

Request –Charles County:

Request to relocate a pre-existing dwelling as a non-subdividable building envelope.

Recommendation:

Staff recommends approval in accordance with COMAR 15.15.04, subject to the following conditions: 1) the new dwelling being non-subdividable from the easement property, 2) the existing dwelling being demolished within 60 days of the owners receiving a use and occupancy permit for the new dwelling or sooner, if required by county law, 3) the land beneath the existing dwelling being restored to agricultural use, and 4) execution of a written agreement memorializing the relocation approval and conditions

Ms. Cable introduced the item. Mr. Rice was available for questions and comments.

Motion #2: To approve the request to relocate a pre-existing dwelling as a non-subdividable building envelope.

Motion: Susanne Brogan Second: Patricia Langenfelder
Status: Approved

2. 08-81-01C Serenity Farms, Inc. (Robinson Family) ~222.755 acres

Request – Charles County:

To confirm the correct area map of an approved 2001 50-acre agricultural subdivision configuration.

Recommendation:

Staff recommends that the Board confirm the correct area map of the previously approved 50-acre agricultural subdivision.

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Ms. Cable introduced the item. Mr. Rice was available for questions and comments.

Motion #3: To confirm the correct area map of an approved 2001 50-acre agricultural subdivision configuration.

Motion: Susanne Brogan Second: Donald Moore
Status: Approved

Susanne Brogan was not present for the remainder of the meeting.

B. CECIL COUNTY

- | | | |
|----------------|-----------------------------------|--------------|
| 1. 07-94-02A | Estate of Tucker Mackie | ~57.12 acres |
| 07-88-02Sub #1 | Stoltzfus, Elam & Lizzie | ~84 acres |
| 07-88-02Sub #2 | Estate of Richard (Tucker) Mackie | ~289 acres |

Ms. Cable introduced the item. Mr. O'Connor, Mr. Groot, Mr. Taylor, along with Mr. Mackie's heirs, Franklin and Osborne Mackie, were present for questions or comments.

Mr. O'Connor presented a slide show with maps of the Richard "Tucker" Mackie properties in Cecil County. Mr. Mackie passed away in 2013 and his heirs are considering the best way to move forward with the properties. Mr. O'Connor explained how the heirs are considering dividing the property into several separate and distinct operations. The changes are going to be done in phases. There are two properties that were never encumbered with a MALPF easement (a 12-acre parcel and a 18-acre parcel). The estate would like to pursue incorporating acreage, and development rights, from these parcels in exchange for non-subdividable building envelopes located centrally within the current MALPF easement properties. MALPF has approved this type of request on previous easements. Mr. O'Connor also explained that if the agricultural subdivisions are ultimately approved, the most likely purchasers of the properties will be Amish and/or Mennonite families.

Mr. Taylor, who is a real estate specialist in Amish and Mennonite families (collectively known as Anabaptist families) for over 25 years, explained the needs of Anabaptist families that have migrated into Cecil County (an estimate of 40 families in recent years). The Anabaptists travel by horses so they try to live in communities that already have other families so that they could help each other. Because they use horses as their mode of transportation, they are limited to the amount of land they can farm; therefore they prefer to purchase properties around 80 acres, more or less. They tend to have an average of seven (7) children and prefer their houses to be located in the middle of the farm along with the barn so that it is easier to operate the business.

During the Board's review of this request, the conversation turned to the request for an access easement from the northernmost parcel to the property located to the south. Mr. Quinn asked if the landowners had yet sought information from soil conservation about their ability to allow large equipment to use the existing access road. Mr. O'Connor expressed the local Board's concern about a possible dairy operation on one of the parcels and having a milk truck visit the property every other day. The road would continue to be 'crush and run', not blacktopped. It is the Board's opinion that they need to investigate in more detail the process/requirements of establishing an access easement over the current farm lane that could be used for significant agricultural use and potential residential use on a daily basis. The specific concern focused on crossing a small stream and what will be required to improve that crossing to establish a permanent access road. The Board cautioned that it could be a major undertaking with significant expenses to install an adequate crossing.

The Board also briefly discussed the need to possibly visit the question of the maximum

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number of divisions they will allow for any one easement. Ms. West pointed out that when the MALPF policy for agricultural subdivision was re-done in 2000 to move from a minimum of 20 to a minimum of 50 acres, there was language that restricted agricultural subdivisions to one per a full 100 acres. That language was not carried forward when the policy was made into Regulations in 2014. Had this proposal been presented to the Board when there was a number restriction, the original 373 acre property (07-88-02) could only receive approval for two more divisions (to create a total of 4 separate easements out of the original easement property). By not having that language in the current Regulations, it gives the Board flexibility to look at an entire property and decide if it makes sense to allow it to be broken into smaller parcels. Mr. Quinn expressed his concern about cutting the easements into smaller farms.

2. 07-94-02A Estate of Tucker Mackie ~57.12 acres

Request – Cecil County:

Request a 30-foot wide access easement for the benefit of the adjacent MALPF easement property over a pre-existing farm lane.

Recommendation:

Staff recommends approval to acknowledge the pre-existing farm lane, and expand it to 30'wide, in accordance with COMAR 15.15.01.17.F., subject to two conditions recommended by the Cecil County Agricultural Advisory Board:

1. That access be designed with the County's Department of Public Works to ensure proper technical specifications are met; and
2. That the access easement shall be for farm equipment access (agricultural use) only, and any expanded use (vehicular traffic) be reviewed as a separate request.

Ms. Cable introduced the item. Mr. O'Connor was available for questions or comments.

Ms. Cable asked if the Board wanted to entertain all of the requests at a later date, review the second request for the access right-of-way today, or table the access request for another day. Mr. Quinn stated that he doesn't think that they can vote on any specific requests until the landowners provide additional information regarding the details and requirements that will be involved with establish a permanent access right of way over the existing farm lane, specifically associated with the stream crossing.

Ms. West asked the landowners if they have any alternate access possibilities. Currently there is no alternate access.

Motion #4: Table the item until additional information is brought forward to the Board.

Motion: Jonathan Quinn Second: James Wallace
Status: Approved

C. St. Mary's County

1. 18-00-12A Moore, James and Mary ~63.7 acres

Request – St. Mary's County:

Request approval of a land exchange where .988 of an acre will be incorporated into the easement area and .836 of an acre will be released from the easement area. The request is also for an additional ~.07 of an acre to be released in order to resolve an issue of State Highway Administration potential future right-of-way which is documented on the plat of the .836 of an acre parcel.

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Recommendation:

Per the terms of COMAR 15.15.11.03.C (1), Staff recommends approval of the request, subject to receiving the funds for title work within 90 days of the staff's letter to the landowner.

Ms. Turner introduced the item. Ms. Sasscer and the landowner, Mr. Moore, were available for question and comments.

Motion #5: To approve the request for a land exchange where .988 of an acre will be incorporated into the easement area and .836 of an acre plus an additional .07 of an acre will be released from the easement area.

Motion: Michael Calkins Second: Jonathan Quinn
Status: Approved

D. Prince Georges County

1. 16-07-04 Maenner, David and Carrick, Sharon ~61.48 acres

Request – Prince George's County

Request approval of a land exchange where 2.0 acres will be released from the easement property in exchange for 3.43 acres to be incorporated into the easement property.

Recommendation

Staff recommends approval in accordance with COMAR 15.15.11.03 C.(1)(a)-(d), conditioned upon the deed to the 3.43 acres coming into the easement is conveyed to the current owner of the easement property, so that the entire, newly configured easement is titled commonly.

Ms. Turner introduced the item. Ms. Nutter, Mr. Maenner and Ms. Carrick were available for questions and comments.

Motion #6: To approve the request of a land exchange where 2.0 acres will be released from the easement property in exchange for 3.43 acres to be merged into the easement property.

Motion: James Wallace Second: Eugene Roberts
Status: Approved

E. WICOMICO COUNTY

1. 22-90-16 Brittingham, Lloyd and Alice ~91.98 acres

Request- Wicomico County

Request approval for an exclusion of up to 2.0 acres for a child lot for the landowners' daughter, Susan Brittingham Marshall.

Recommendation

Staff recommends approval for the exclusion of up to 2.0 acres for a child lot for Susan Brittingham Marshall.

Ms. Turner introduced the item and was available for questions and comments.

Motion #7: Approve the request for an exclusion of up to 2.0 acres for a child lot for the landowners' daughter, Susan Brittingham Marshall.

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Motion: James Wallace Second: Jonathan Quinn
Status: Approved

V. EASEMENT PETITIONS

- A. none

V. PROGRAM POLICY

- A. Forest Conservation Easement Overlay Clarification. Item withdrawn
- B. Pre-Existing Dwelling Valuation/Tenant House Designation Policy

In Baltimore County, their very restrictive zoning has made it more difficult for their landowners to apply to sell an easement than in other areas of the State. On a 100 acre property where there are two pre-existing dwellings and zoning is 1 per 50, there are no remaining development rights and therefore, the landowner could not apply to MALPF. In the mid-1990's, a policy was introduced to allow a landowner to declare that one of the pre-existing dwellings is a tenant house which would not count as a used density right. This designation has been accepted when the county provides an affidavit that there is an approved tenant house that is used for the housing of one or more persons engaged in the farm operation.

When the policy was first introduced, other counties did not have a need to adopt it. However, since passage of the Septic Law in 2012, other counties are finding that some of their landowners no longer have enough remaining density to apply to the program. In some cases, the counties may wish to adopt the policy.

Ms. Turner explained that the Pre-Existing Dwelling Valuation Committee has met a couple of times and has devised a Draft Policy. Staff is asking if we can introduce the Draft Policy to the Program Administrators at a meeting with them scheduled for November 12. The usual protocol is to bring a draft policy first to the Board for review and comments, then introduce it to the counties for their review and comments. The policy would then come back to the board for review and consideration for approval. Because Staff is meeting with the program administrators before the next board meeting, Staff asks for the Board's blessing to have the program administrators review and comment before the Board's first review. .

If the Board is okay with staff processing this Draft Policy in this manner, the Program Administrator's comments will be incorporated and brought to the Board at its November meeting. It is our hope that it will be approved by the Board in time to make it an addendum to the upcoming 2017 easement application.

The Board's general consensus was to allow staff to present the Draft Policy to the Program Administrators at the November 12 meeting, prior to the Board's initial review.

VII. INFORMATION AND DISCUSSION

- A. Quarterly Inspection Report

Ms. Hoxter presented the Quarterly Inspection Report. This is the first report of FY 2016. Baltimore, Calvert and Washington counties have already started doing their inspections.

- B. News Articles

VIII. CLOSED SESSION

Bernard L. Jones Sr. 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; (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 #8: To adjourn the regular session to move into a closed session

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to to consider the acquisition of real property for a public purpose, consult with counsel to obtain legal advice; and to consult with staff, consultants, or other individuals about pending or potential litigation.

Motion: Patricia Langenfelder Second: Michael Calkins
Favor: Bernard L. Jones Sr., Dan Rosen, Jerry Klasmeier, James Wallace, Craig Highfield, Patricia Langenfelder, Jonathan Quinn, Donald Moore, Eugene Roberts, Michael Calkins

The Open Board Meeting was adjourned at approximately 12:10 p.m.

The Closed Meeting of the Board was held from 12:20 p.m. to 1:05 p.m. 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:

General Provisions Article Section 3-305(b):

- (3) to consider the acquisition of real property for a public purpose;
- (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., Acting Chair; Michael Calkins; Patricia A. Langenfelder; Jonathan Quinn; Craig Highfield; Eugene Roberts; Jerry Klasmeier Donald Moore; Dan Rosen, representing Secretary David Craig, Maryland Department of Planning; James Wallace, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture.

The following legal representative was also present during the closed session meeting: Justin Hayes, Assistant Attorney General, Maryland Department of Agriculture and Nancy Russell-Forrester Assistant Attorney General, Maryland Department of General Services.

TOPICS DISCUSSED:

- A Approval of August 25, 2015 Closed Session Minutes
- B Status Report of Pending Legal Issues
- C Legal Advice on 02-15-01: Carter-Trimble, County-required additional easement language
- D. FY 2015 Easement Offers (Round 1)
- E. Legal Advice on Potential Uses on Gift of MALPF Easement Property to Frederick County.

Respectfully Submitted:

Tonya Burnside, MALPF Secretary

Carol S. West, Executive Director