**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION**

**OPEN MEETING MINUTES**

**January 24, 2017**

**Trustees Present:**

Bernard L. Jones, Sr., Chair (via web conferencing)

Michael Calkins, Vice Chair

William Allen

James Eichhorst, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture

Catherine Cosgrove

Ralph Robertson

Jerome Klasmeier, representing Comptroller Peter Franchot

Tom Mason

Donald Moore

Dan Rosen, representing Secretary Wendi Peters, Maryland Department of Planning

Joe Wood

Milly Welsh

**Trustees Absent:**

Susanne Brogan, representing Treasurer Nancy Kopp

**Others Present:**

Michelle Cable, MALPF Administrator

Diane Chasse, MALPF Administrator

Stuart Cooper, Mid-Atlantic Farm Credit, representing Cathy & Larry Scott

Dan Crippen, St. Mary’s County Landowner

Tamekia Dent, MALPF Office Secretary

William Gorski, Anne Arundel County, Planner

Justin Hayes, Assistant Attorney General, Department of Agriculture

Joanne Howley, Director of Operations, Grow & Fortify

Kim Hoxter, MALPF Monitoring, Enforcement and Database Coordinator

Hugh Hanson, Worcester County, representing Cathy & Larry Scott

Chana Kikoen Turner, MALPF Administrator

Tom McManus, St. Mary’s County, representing Phil Dorsey

Steve Metz, St. Mary’s County, representing Dan Crippen

Cathy Scott, Dorchester County Landowner

Larry Scott, Jr., Dorchester County Landowner

Katrina Tucker, Kent County Program Administrator

Carol West, MALPF Executive Director

Amanda Wilson, MALPF Administrative Specialist

John Zawitoski, Montgomery County Program Administrator

**Others Present By Web Conferencing:**

William Amoss, Harford County Program Administrator

Chris Boggs, Washington County staff

Deborah Bowers, Carroll County Program Administrator

Keeve Brine, Baltimore County staff

Debbie Herr-Cornwell, Caroline County Program Administrator

Thomas Haschen, Caroline County Landowner

Kaylee Justice, Baltimore County Staff

Eric Seifarth, Washington County Program Administrator

Martin Sokolich, Talbot County Program Administrator

Michael Calkins, Vice Chair, called the meeting to order at 9:30 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**

1. Approval of Open Minutes from November 22, 2016.

Motion #1: To approve minutes from November 22, 2016 with changes.

Motion: Milly Welsh Second: Jerry Klasmeier

Status: Approved

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

Agenda Item IV.C.1, Dorsey/Crippen request for approval of Corrective Easements on separately-owned portions was placed as the first item on the agenda.

**III.** **ANNOUNCEMENTS**

Ms. West informed the Board that Mr. Jones, Board Chair, was present via web conferencing. Mr. Calkins, Board Vice-Chair, would chair the meeting in Mr. Jones’ absence.

Introduction of Joe Wood of St. Mary’s County, Mr. Wood replaces the at-large position vacated by Craig Highfield. The appointment of Mr. Wood makes the MALPF Board of Trustees complete.

Ms. West informed the Board that the Governor’s budget bill has been introduced. The bill proposes an appropriation of $32,923,777 for the MALPF program (assumes $5,000,000 will be county contributions for the Matching Funds Program). As the budget bill moves through the legislative process, both the House and Senate have an opportunity to reduce the proposed appropriation. They cannot add any funding to the bill. If the funding for MALPF were to survive the session intact, it would provide a total MALPF funding of over $44 million for the combined FY 2017/2018 cycle which could result in almost $1 million of allotted funding per county.

1. **EASEMENT AMENDMENTS**
2. CARROLL COUNTY

1. 06-87-05e Savage, Donald and David ~111.5 acres

Request:

Request retroactive approval of tenant house.

Recommendation:

Staff recommends approval.

Ms. Turner introduced the item. Ms. Bowers was available via the Go-To-Meeting option for any questions or clarifications. The Board was advised that the original easement grantor, the current owners’ father, neglected to obtain MALPF approval before putting a tenant house on the property. The original grantor went through all county permitting procedures; the county did not pick up on the need for MALPF approval.

There was no discussion, and no questions.

Motion #2: To approve the request for retroactive approval of tenant house.

Motion: Cathy Cosgrove Second: Milly Welsh

Status: Approved

1. MONTGOMERY COUNTY
   1. 15-84-03 18210 Brooke Run Road, LLC ~115 acres

Request:

Request to approve a 10 acre forest mitigation bank easement as an overlay on the Easement property

Recommendation:

Staff recommends approval, subject to reaching an agreement on the language of the overlay easement with MNCPPC, along with the other requirements of COMAR 15.15.13. - Guidelines for Forest Easement Overlays.

In addition, Staff concurs with the recommended condition of the Montgomery County advisory board that on a case by case basis, the applicant and Forest Mitigation Bank owner must provide documentation to MALPF staff showing that the FMB mitigation will be utilized in each instance to offset development sited in a priority funding area.

Ms. Cable introduced the item for information only. Mr. Zawitoski was available for questions or comments. Ms. Cable informed the Board that if MALPF and MNCPPC were unable to reach an agreement regarding the language of the overlay easement, the mitigation bank would not proceed.

Motion #3: To approve the request for a 10 acre forest mitigation bank

Easement as an overlay on the easement property with the following conditions: 1) that MALPF is able to reach an agreement on the language of the overlay easement with MACPPC, along with the other requirements of COMAR 15.15.13. – Guidelines for Forest Easement Overlays; and 2) that on a case by case basis, the applicant and Forest Mitigation Bank owner must provide documentation to MALPF staff showing that the FMB mitigation will be utilized in each instance to offset development sited in a priority funding area.

Motion: Milly Welsh Second: Don Moore

Status: Approved

1. ST. MARY’S COUNTY
   1. 18-94-02A Dorsey, Philip, III and Dona Jean ~54.94 acres

Crippen, Dan L. ~23.89 acres

Request:

Request for Corrective Easements on the separately-owned portions to resolve a subdivision easement violation.

Recommendation:

Staff recommends approval per COMAR 15.15.11.03 A., subject to the following conditions (#1-4 are requested by Mr. Crippen regarding his portion of the Easement property, 23.89 acres):

1. Neither the Foundation nor its representative shall enter Mr. Crippen’s land without providing at least one week’s notice.

2. The shop/barn that Mr. Crippen previously constructed is expressly permitted for agricultural purposes in the Corrective Easement on his portion (subject to Foundation inspection to occur on January 12, 2017).

3. Neither the Foundation nor its representative shall inspect Mr. Crippen’s land more than once annually, unless the Foundation receives information that would require an inspection.

4. The one acre around the existing dwelling on Mr. Crippen’s property may be used for additions for residential purposes as long as they are contained within the one acre footprint and any additions comply with local zoning requirements.

5. Both Corrective Easements will be perpetual. (The Dorseys and Mr. Crippen have agreed to waive the right to request termination.)

6. The Dorseys will amend another Foundation easement, File # 18-06-10, 50.99 acres, to extinguish the unrestricted lot right on that property.

7. The Corrective Easements will use the Foundation’s current easement template.

Furthermore, if the Board approves this application, Foundation Staff recommends the Board retain sole discretion to revoke its approval if the Foundation determines that any of the landowners are not acting with due diligence to satisfy any conditions of approval. This approval condition is recommended because this application is designed to resolve an outstanding easement violation. The Foundation does not want to approve a method to resolve the violation without the landowners working towards their obligations to satisfy any approval conditions.

Prior to convening the Open Session meeting, the Board of Trustees held a closed session meeting to give Mr. Hayes an opportunity to brief the Board about the issues involved in this discussion.

Ms. Chasse introduced the item. Messrs. Crippen, Metz and McManus were available for questions or comments.

There was no discussion or questions. The Board voted.

Motion #4: To approve the request for Corrective Easements on the separately-owned portions to resolve a subdivision easement violation. This approval includes all of the recommended conditions as listed above.

Motion: Dan Rosen Second: Milly Welsh

Status: Approved

1. CAROLINE COUNTY
   1. 05-89-17 Haschen, Thomas S. ~161.5 acres

Request:

Request approval of an agricultural subdivision.

The Landowner is requesting to agriculturally subdivide the easement property to create an ~84.5-acre parcel (Parcel 1) and a ~77-acre parcel (Parcel 2). The proposed parcels are divided by a continuous line created by a tax ditch and private road, and by the wooded area existing on the property.

Recommendation:

Staff recommends approval, subject to the condition agreed upon by the landowner that the owner’s lot previously subdivided from the property be merged with the ~85.5-acre parcel and become non-subdividable.

Ms. Turner introduced the item. Mr. Haschen and Ms. Herr-Cornwell were available via web conferencing for questions or comments.

There was no discussion, and no questions.

Motion #5: To approve the request for an agricultural subdivision subject to the condition that the owner’s lot previously subdivided from the property will be merged with the 85.5 acre parcel and become non-subdividable.

Motion: Cathy Cosgrove Second: Jerry Klasmeier

Status: Approved

1. DORCHESTER COUNTY
   1. 09-95-02 Scott, Larry and Catherine ~148 acres

09-99-06 Scott, Catherine and Cordrey, James L. ~138 acres

Request:

Request a retroactive approval of an agricultural subdivision that reconfigures two easements into an ~103-acre easement property and an ~183-acre easement property. Approximately 44.7 acres were transferred from owners of land encumbered by easement 09-95-02 to owners of land encumbered by easement 09-99-06.

Recommendation:

In accordance with the Foundation’s Agricultural Subdivision regulations, Staff recommends approval, subject to the condition that the 183-acre easement property be reduced to one tax parcel. The 103-acre easement property would only need to be reduced to one tax parcel if the proceeding request is not approved.

Ms. Chasse introduced the item. Mr. & Mrs. Scott, Mr. Hanson and Mr. Cooper were available for comments and questions.

Motion #6: To approve the request for retroactive approval of an agricultural

subdivision that reconfigures two easements into an ~103-acre easement property and an ~183-acre easement property. This approval is conditional on the 183-acre easement property being reduced to one tax parcel.

Motion: Milly Welsh Second: Cathy Cosgrove

Status: Approved

* 1. 09-95-02 Scott, Larry and Catherine ~103 acres

Request:

Request approval of an agricultural subdivision that divides the ~103-acre easement property. The Scotts may also wish to join 1.7 acres (their residence) to one parcel, if they do, the resulting easement properties will be a 50.46-acre easement property and a 54.22-acre easement property.

Recommendation:

Staff requests guidance on whether the request meets the agricultural purpose test of the proposed subdivision. In Staff’s recollection, an agricultural purpose has always included separate ownership of the two portions. However, the regulation does not specifically say that separate ownership is required. If it is the Board’s opinion that an agricultural purpose exists, then Staff recommends approval. If the Board’s opinion that an agricultural purpose does not exist, then Staff recommends denial.

Ms. Chasse introduced the item. Mr. & Mrs. Scott, Mr. Hanson and Mr. Cooper were available for comments and questions.

Mr. and Mrs. Scott, and Mr. Cooper spoke. The Scotts do not wish to include the 1.7 acres with the easement. Mr. Mason was of the opinion that the Mid-Atlantic Farm Credit could change its’ Deed of Trust and the subdivision would not be necessary.

Motion #7: To approve the request for an agricultural subdivision that

divides the ~103-acre easement property.

Motion: Milly Welsh Second: Don Moore

Opposed: Tom Mason

Recused: Ralph Robertson

Status: Approved

1. **EASEMENT PETITIONS**
2. ALLEGANY COUNTY

1. 01-17-01 Yonker, Wilda ~108.44 acres

Request to withhold 10.5 acres with 0 density associated to qualify for soils. The withheld acreage will be conveyed to MALPF by way of donation.

2. 01-17-02 Romsburg, Roy and Betty ~140.48 acres

Request to withhold 29.9 acres with 0 density associated to qualify for soils. The withheld acreage will be conveyed to MALPF by way of donation. As the property boundary has not been determined, a survey will be required if an offer is made for this property.

3. 01-17-05 Perrin, Michael and Diane ~104.68 acres

Request to withhold 17.9 acres with 0 density associated to quality for soils. The withheld acreage will be conveyed to MALPF by way of donation.

Motion #8: To approve petitions for Yonker, Romsburg and Perrin as

presented.

Motion: Milly Welsh Second: Cathy Cosgrove

Status: Approved

1. TALBOT COUNTY
2. 20-17-08 Brooks, John and Sherrill ~165.00 acres

Request to withhold 3 acres with 1 density associated for a future home site.

Ms. Turner presented the item. Staff expressed concern about the location of the withheld acreage. As requested, the withheld acreage would create a separate lot in the middle of the farm, inconsistent with MALPF’s lot location policy. Ms. Turner will discuss with the landowner the possibility of revising the request to a non-subdividable building envelope.

Motion #9: To table the request in order to receive additional

information.

Motion: Milly Welsh Second: Jerry Klasmeier

Status: Approved

1. WICOMICO COUNTY
2. 22-17-01 Stephens, Michael ~112.33 acres

Request to withhold 4.02 acres with 1 density associated. The 4.0 acres surrounds a dwelling and existing poultry houses.

Ms. Turner presented the item. The board was advised that the 4-acre parcel has a lot of debris and dumping on it. After discussion, the board decided to deny the landowner’s request.

Motion #10: To deny the request for Stephens to withhold 4.02 acres

surrounding a dwelling and existing poultry houses.

Motion: Don Moore Second: Milly Welsh

Status: Approved

1. 22-17-04 Harcum, Michael and Dawn ~174.91 acres

Request to withhold 9.8 acres with 2 densities associated surrounding a dwelling and farmstead.

Motion #11: To approve the petition for Harcum as presented.

Motion: Milly Welsh Second: Jerry Klasmeier

Status: Approved

1. **PROGRAM POLICY**
2. Permitted Uses Policy

Ms. Cable reviewed the current draft of the proposed uses policy (version 5). Ms. Cable went through the comments and suggestions provided by the counties to obtain the Board’s recommendation. The Board went through all the comments for the proposed policy up to the Events section, deciding to postpone the review of Events until the February Board. The Board directed Ms. Cable to update the policy reflecting the decisions made today and bring back the revised policy for review in February, which will also include the review of the Events section.

1. Legislative Update

Ms. West and Ms. Turner presented the Board with an update of current bills affecting MALPF.

Motion #12: To not support HB 779, Conserving Working Waterfront Farms

Act of 2017

Motion: Ralph Robertson Second: Cathy Cosgrove

Status: Approved

1. Overlay Easements Regulations, including Wetland and Forest Overlays

This item was tabled until the next Board meeting.

**VII. INFORMATION AND DISCUSSION**

1. Fiscal Year 2017 Quarterly Inspection Report
2. News Articles

**VIII. CLOSED SESSION**

Michael Calkinsa**sked 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): (7) to consult with counsel to obtain legal advice; and (8) to consult with staff, consultants, or other individuals about pending or potential litigation.**

Motion13: To adjourn the **regular session to move into a closed session** to consult with counsel to obtain legal advice; and to consult with staff, consultants, or other individuals about pending or potential litigation.

Motion: Milly Welsh Second: Cathy Cosgrove

Status: Approved

The Closed Meeting of the Board was held from 9:00 a.m. to 9:25 a.m. on January 24, 2017 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):

**(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., Chair, (via web conferencing), Michael Calkins, Vice-Chair, William Allen, Cathy Cosgrove, James Eichhorst, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture, Jerome Klasmeier, representing Comptroller Peter Franchot, Tom Mason, Donald Moore, Ralph Robertson, Dan Rosen, representing Secretary Wendi Peters, Maryland Department of Planning, Milly Welsh, and Joe Wood.

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

TOPICS DISCUSSED:

1. Approval of November 22, 2016 Closed Session Minutes
2. 18-94-02A, Dorsey/Crippen request for approval of Corrective Easements on separately-owned portions.

Respectfully Submitted:

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Carol S. West, MALPF Executive Director