

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION  
OPEN MEETING MINUTES  
February 23, 2016**

**Trustees Present:**

Bernard L. Jones, Sr., Chair  
Donald Moore  
Milly B. Welsh  
Michael Calkins  
Catherine Cosgrove  
James B. Norris, Jr.  
Jerome Klasmeier, representing Comptroller Peter Franchot  
Dan Rosen, representing Secretary David Craig, Maryland Department of Planning  
James Wallace, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture

**Trustees Absent:**

Susanne Brogan, representing Treasurer Nancy Kopp  
Craig Highfield  
Jonathan Quinn

**Others Present:**

Michelle Cable, MALPF Administrator  
Diane Chasse, MALPF Administrator  
Tamekia Dent, MALPF Office Secretary  
Eileen Eagle, MALPF Fiscal Specialist  
Eric Groot, Personal Representative for Tucker Mackie Estate  
Nancy Russell-Forrester, Assistant Attorney General, Department of General Services  
Justin Hayes, Assistant Attorney General, Department of Agriculture  
Kim Hoxter, MALPF Monitoring, Enforcement, and Database Coordinator  
Osborne Mackie, Cecil County Landowner  
Franklin Mackie, Cecil County Landowner  
Jeanine Nutter, Prince George's County Program Administrator  
Stephen O'Connor, Cecil County Program Administrator  
Donna Landis-Smith, Queen's Anne County Program Administrator  
Eugene Roberts, former MALPF Board Member  
Daniel Stultzfus, Cecil County Landowner  
Elam Stoltzfus, Cecil County Landowner  
Julie Ryder, MALPF Fiscal Specialist  
Dwight Thomey, Attorney for Tucker Mackie Estate  
Chana Turner, MALPF Administrator  
Carol West, MALPF Executive Director

**Others Present By Web Conferencing:**

William Amoss, Harford County Program Administrator  
Anne Bradley, Frederick County Program Administrator  
Debbie Herr-Cornwell, Caroline County Program Administrator  
Kaylee Justice, Baltimore County  
Katherine Munson, Worcester County Program Administrator  
Martin Sokolich, Talbot County Program Administrator

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Bernard L. Jones, Sr., Chair, called the meeting to order at 9:10 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 November 24, 2015

Motion #1: Approve minutes from November 24, 2015 as presented.  
Motion: Donald Moore                      Second: Jerome Klasmeier  
Status: Approved

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

None

**III. ANNOUNCEMENTS**

Ms. West reminded the Board members to complete their Ethics Forms (Financial Statements) they are due on April 1, 2016.

She introduced Ms. Eagle and thanked Ms. Ryder for her outstanding service to the Program. Ms. Eagle is replacing Julie Ryder as the Program's fiscal specialist.

The Governor's Appointments Office has confirmed appointment of Mr. Jones as the MALPF Board of Trustees Chair. A Vice-Chair will be elected by members of the Board following remaining outstanding appointments.

There have been two new Board member appointments: Ms. Welsh is replacing Mr. Roberts as the Agricultural Commission representative; Ms. Cosgrove is replacing Ms. Patricia Langenfelder as an At-Large member.

We are awaiting word from the Governor's Appointments Office on appointments to replace three positions: 1) Maryland Farm Bureau which was vacated by John Draper in July, 2015; 2) an At-Large position that will end for James Norris on June 30, 2016; 3) an At-Large position that will end for Jonathan Quinn on June 30, 2016.

The Board said farewell to Mr. Roberts and thanked him for four years of service.

**IV. EASEMENT AMENDMENTS**

**A. CECIL COUNTY**

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

Request – Cecil County:

Request approval of multiple agricultural subdivisions of the Sub#2 Easement property, creating three separate parcels consisting of ~ 51 acres (New Sub#2), 90 acres (Sub#3), and 149 acres (Sub #4). The request includes incorporating ~3.3 acres of an adjacent, unencumbered parcel into the ~91 acre parcel as an exchange for a non-subdividable building envelope.

Recommendation:

In accordance with the Foundation's Agricultural Subdivision regulations, Staff recommends approval, subject to regulatory conditions, the conditions agreed upon by the landowners (both pre-existing dwellings become non-subdividable), and the

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additional conditions recommended by the Cecil County Agricultural Preservation Advisory Board (APAB) detailed in its letter dated December 31, 2015 (attached). Additional Staff recommendations are included within the analysis of the APAB conditions below.

Ms. Cable introduced the item. Mr. O'Connor, Mr. Groot, Mr. Thomey, Mr. O. Mackie, Mr. F. Mackie, and Mr. E. Stoltzfus were available for questions and comments.

Mr. F. Mackie stated that the heirs have been working on this proposal for more than eight months. They have tried to look at all angles and this configuration is the one that works best for them.

Mr. E. Stoltzfus joined the conversation and stated that he is in agreement with the proposed configuration. His son will be purchasing Sub #3 and will operate a dairy operation. There is a need for a house and a barn. His plans include the approximately 8 acres that are located on the east side of Elk Creek Road.

Following much discussion and given the challenges associated with providing access across Little Elk Creek, the Board agreed to accept the landowners' proposal and would not require that a house right be added to Sub #4 at this time. The Board agreed that they wished to keep the possibility open for a future landowner to request a boundary line adjustment should they desire to include a future house right with Sub #4.

Mr. Hayes asked for a verbal confirmation from all of the landowners that they understand and are agreeable to all of the conditions as set forth by staff. The landowners indicated that they do understand and agree with the conditions.

Motion #2: To approve the agricultural subdivision request as presented by staff in accordance with the landowner's configuration for Sub #4 with the following conditions:

1. The agricultural subdivision must comply with COMAR requirements, including waiver of the right to apply to terminate after 25 years, and the execution and recordation of corrective easements. The Corrective Deeds of Easement must encumber the four resulting parcels. The cost of surveys, title work and title policies required in the documentation process must be paid by the Mackie Estate, including the work on the Stoltzfus piece.
2. All existing dwellings must be made non-subdivideable.
3. One of the two existing dwelling rights associated with the ~18 acre adjacent Parcel 637 must be associated with the ~3+ acre portion of that parcel to be joined with proposed Corrective Easement Sub#3, in exchange for a centrally located non-subdividable residential building envelope upon Corrective Easement Sub #3.
4. The remainder of Parcel 637, ~15+ acres, must be subjected to a Declaration of Restrictions to limit those acres to a single dwelling right in perpetuity.
5. The Corrective Easements Sub#1, #2, #3, and #4 must prohibit further Agricultural Subdivision per COMAR 15.15.12.04. A., without exception.
6. In accordance with COMAR 15.15.11.03 C., Sub #4 may participate in land exchange or boundary line

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adjustment with Sub #3 and/or land outside the original easement to permit Sub #4 to gain a non-subdivideable building envelope in accordance with COMAR.

7. The Corrective Easement Sub#4 must specifically permit a future boundary line adjustment or land exchange to permit a non-subdividable residential building envelope to be associated with Corrective Easement Sub#4.

Motion: Michael Calkins                      Second: Donald Moore  
Status: Approved

- 2) 07-94-02A      Estate of Richard ("Tucker") Mackie                      ~57.12 acres  
    07-88-03      John Mackie, et al    ~141.5 acres

Request – Cecil County:

Request to memorialize an access easement by a formal right of way agreement and expand it to 30-feet wide for the benefit of the adjacent MALPF easement property over a pre-existing farm lane for agricultural use only.

Recommendation:

Staff recommends approval to acknowledge the pre-existing farm lane, and expand it to 30' wide, for agricultural use at the current level/frequency only (per MDE guidance) in accordance with COMAR 15.15.01.17.F.

Ms. Cable introduced the item. Mr. O'Connor, Mr. Groot, Mr. Thomey, Mr. O. Mackie, and Mr. F. Mackie were available for questions and comments.

Motion #3:                      To approve the request to establish a formal right-of-way agreement and expand it to 30-feet wide for the benefit of the adjacent MALPF easement property over a pre-existing farm land for agricultural use only, as presented and in accordance with COMAR 15.15.01.17.F.

Motion: Michael Calkins                      Second: Donald Moore  
Status: Approved

**B. FREDERICK COUNTY**

- 1) 10-15-10                      Nowell, Tyler    ~116.9 acres

Request –Frederick County:

Request to relocate a pre-existing dwelling.

Recommendation:

Staff recommends approval in accordance with COMAR 15.15.04.

Ms. Chasse introduced the items and was available for questions or comments.

Motion #4:                      To approve the request to relocate a pre-existing dwelling as Presented and in accordance with COMAR 15.15.04.

Motion: James Norris                      Second: Jerome Klasmeier  
Status: Approved

- 2) 10-97-06                      Valentine, Michael and Denise      ~213.41 acres

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Request – Frederick County:

Request to approve up to a 2 acre lot from the easement for a child's lot for Jessica Valentine.

Recommendation:

Staff recommends approval.

Ms. Chasse introduced the items and was available for questions or comments.

Motion #5: To approve the request for an up to 2.0 acre lot for a child's lot for daughter, Jessica Valentine as presented.

Motion: Michael Calkins                      Second: Donald Moore  
Status: Approved

**C. HARFORD COUNTY**

1) 12-00-06                      Ehrhardt Farms, LLC                      ~189.182 acres

Request – Harford County:

Request to retroactively approve a 2 acre lot from the easement for a child's lot for Charles Ehrhardt.

Recommendation:

Staff recommends approval.

Ms. Chasse introduced the items and was available for questions or comments.

This request is retroactive and will resolve a violation. As the lot was conveyed to the landowners' son with Foundation approval, the violation can be resolved by designating the lot as a child's lot, for which the landowners are eligible, and releasing it from the easement using existing protocol.

Because the amount of the reimbursement is quite significant, Mr. Ehrhardt has requested approval to make payments over a two year period. He will make three payments of \$2,171.96, with a final payment of \$2,171.97. Mr. Hayes will develop a contract/payment schedule for the landowners to sign. The lot will not receive a Final Release until the last payment has been received.

Ms. Forrester confirmed that this 2 acre lot existed separately but was mistakenly included within the easement and the landowners were paid for the parcel. She reminded the Board that cases of this nature are the reason why we now do baseline documentation prior to settlement.

Motion #6: To approve the request for a 2.0 acre lot release from the easement for a child's lot for Charles Ehrhardt, as presented.

To approve the request to reimburse the Foundation over a period of two years, as stated. If total repayment is not received within the two year timeframe, the lot will remain with the easement and the violation will be pursued in accordance with the Foundation's Violations Policy.

Motion: Michael Calkins                      Second: Jerome Klasmeier  
Status: Approved

**D. BALTIMORE COUNTY**

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- 1) 03-94-03 Merryman, Edwin & Sarah ~79.858 acres  
03-94-02 Ann Merryman Revocable Living Trust ~111.269 acres

Request:

Request a boundary line adjustment, transferring ~4.804 acres from Edwin & Sarah Merryman's property to the Ann Merryman Revocable Living Trust property.

Recommendation:

Staff recommends approval in accordance with COMAR 15.15.11.03.C.(2):

"If the proposed corrective easement involves the adjustment of boundary lines and no part of the land encumbered by the easement is to be released, then the Foundation may approve the corrective easement if it will either enhance or have no effect upon the agricultural operations being conducted upon the land. The Foundation may not pay additional consideration for land gained by any corrective easement without Board of Public Works approval."

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

Motion #7: To approve a boundary line adjustment, transferring ~4.804 acres from Edwin & Sarah Merryman's property to the Ann Merryman Revocable Living Trust property.

Motion: James Norris Second: Michael Calkins  
Status: Approved

**V. EASEMENT PETITIONS**

- A. none

**VI. PROGRAM POLICY**

- A. Worcester County Ranking – Proposed Minimum LESA Score

Ms. Chasse introduced the item and Ms. Munson was available for questions or comments.

Worcester County is attempting to approve the quality of the applications that are forwarded to the Foundation for consideration. By changing the ranking system to require a minimum valuation score of 25 points for properties with less desirable soils, they will no longer include applications that will be too low on their ranking list to receive an offer. This will reduce the amount of funds needed to secure appraisals on properties that will not move forward.

Motion #8: To approve the request to revise the Worcester County ranking in order to require a minimum Land Evaluation score of 25 points, with a maximum score of 80 points.

Motion: Michael Calkins Second: James Norris  
Status: Approved

- B. Cecil County Ranking – Revised LESA scoring system

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

Cecil County is requesting approval to change their ranking system in order to prioritize offers to the best farms in areas of the County that are better protected from development and reflect changes over the past decade.

Motion #9: To approve the request to revise the Cecil County ranking in order to prioritize offers to the best farms in areas of the County that are better protected from development and reflect changes over the past decade.

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Motion: Donald Moore                      Second: Michael Calkins  
Status: Approved

**VII. INFORMATION AND DISCUSSION**

A. Fiscal Year 2015 Quarterly Inspection Report

Ms. Hoxter introduced the item and was available for questions.

Baltimore, Calvert, Frederick and Washington Counties have begun inspections. It is anticipated that most of the county inspections will be done in the spring months.

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 #10: To adjourn the regular session to move into a closed session 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: James Wallace                      Second: Donald Moore  
Favor: Bernard L. Jones Sr., Dan Rosen, James Wallace, Jerome Klasmeier, James Norris, Milly Welsh, Donald Moore, Catherine Cosgrove, Michael Calkins

**The Open Board Meeting was adjourned at approximately 10:30 a.m.**

The Closed Meeting of the Board was held from 10:35 a.m. to 11:40 a.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., Chair; Michael Calkins; James B. Norris, Jr.; Catherine Cosgrove; Milly B. Welsh; Donald Moore; Jerome Klasmeier, representing Comptroller Peter Franchot; Dan Rosen, representing Secretary David Craig, Maryland Department of Planning; James Wallace, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture.

The following legal representatives were 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.

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TOPICS DISCUSSED:

- A Approval of October 27, 2015 and November 24, 2015 Closed Session Minutes
- B Easement Acquisitions
- C FY 2015 Easement Offers (Round 2)

Respectfully Submitted:

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Carol S. West, Executive Director