

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
OPEN MEETING MINUTES
NOVEMBER 26, 2019**

Trustees Present:

Michael Calkins, Chair
William Allen, Vice-Chair
Jerome Klasmeier, representing Comptroller Peter Franchot
Joanna Kille, representing Treasurer Nancy Kopp
Deborah Herr Cornwell, representing Secretary Robert McCord, Maryland
Department of Planning
Julie Oberg, representing Secretary Joseph Bartenfelder, Maryland Department
of Agriculture
Taylor Huffman
Bernard L. Jones, Sr.
Joe Wood
J. Bruce Yerkes (Via Phone Call)

Trustees Absent:

Catherine Cosgrove

Others Present:

Michelle Cable, MALPF Executive Director
Diane Chasse, MALPF Administrator
Chana Turner, MALPF Administrator
Sarel Cousins, MALPF Administrator
Amanda Wilson, MALPF Fiscal Specialist
Kim Hoxter, MALPF Monitoring, Enforcement and Database Coordinator
Robert Day, MALPF Office Secretary
Justin Hayes, Assistant Attorney General, Department of Agriculture
Nancy Forrester, Assistant Attorney General, Department of General Services
Renee Dyson, Assistant Attorney General, Department of General Services
Paul Cucuzella, Assistant Attorney General, Department of Planning
Wally Lippincott, Baltimore County Program Administrator
Donna Landis-Smith, Queen Anne's Program Administrator
Bill Amoss, Harford County Program Administrator
Devyn King, Cecil County Program Administrator
Barbara Polito, Anne Arundel Program Administrator
Joy Levy, Howard County Program Administrator
Billy Gorski, Anne Arundel County Planner
Steve O'Connor, Cecil County Chief of Planning & Zoning
Tina Emmerich, Anne Arundel County Land owner
Dorsey Emmerich, Anne Arundel County Land owner
Mark Forrester, Baltimore County Guest
Carla Gerber, Kent County Government
Vera Mae Schultz

Others Present By Phone Conferencing:

Lairsey Hummel, Cecil Co.

Mr. Calkins, Chair, called the meeting to order at 9:34 a.m. at the Maryland Department of Agriculture building, Annapolis, Maryland. The guests and then the Board and staff introduced themselves.

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Recommendation:

Staff recommends approval.

Ms. Turner is the Administrator for Anne Arundel County but had lost her voice, so Ms. Cable introduced the item. Mr. & Mrs. Emmerich & Mr. Gorski were available to address the Board. Ms. Cable provided the overview of all four agenda items requested by the Emmerich family. Ms. Cable shared with the Board that she had grown up learning to ride and care for horses at the Emmerich farm, where she also gathered much of her direct agricultural knowledge on their farm, including driving tractors.

Ms. Cable and Mr. Gorski informed the Board that the existing, dilapidated pre-existing dwelling will be required to be demolished per County regulations once the Use & Occupancy permit is issued for the owner's lot, as the new owner's lot will become the property's primary dwelling. MALPF will document the non-subdivideable owner's lot through an overlay easement rather than the normal lot release process. The overlay easement will document the right to replace the pre-existing dwelling that is to be demolished, with location approval required by the Board.

Motion #3: To approve the request to exclude 1 acre for a non-subdivideable owner's lot for H.W. Dorsey Emmerich.

Motion: Wood Second: Jones
Status: Approved

3. File #02-81-07 Emmerich, H.W. Dorsey, Joseph, Jr., & Steven ~224 acres

Request:

Request approval to exclude up to 2 acres for a child lot for Joseph R. Emmerich (Joe).

Recommendation:

Staff recommends approval.

Ms. Turner is the Administrator for Anne Arundel County but had lost her voice, so Ms. Cable introduced the item. Mr. & Mrs. Emmerich & Mr. Gorski were available to address the Board. Ms. Cable provided the overview of all four agenda items requested by the Emmerich family. Ms. Cable shared with the Board that she had grown up learning to ride and care for horses at the Emmerich farm, where she also gathered much of her direct agricultural knowledge on their farm, including driving tractors.

Motion #4: To approve the request to exclude up to 2 acres for child lot for Joseph R. Emmerich (Joe).

Motion: Jones Second: Oberg
Status: Approved

4. File #02-81-07 Emmerich H.W. Dorsey, Joseph, Jr., & Steven ~224 acres

Request:

Request Board's recognition of an undocumented pre-existing dwelling.

Recommendation:

Staff recommends approval.

Ms. Turner is the Administrator for Anne Arundel County but had lost her voice, so Ms. Cable introduced the item. Mr. & Mrs. Emmerich & Mr. Gorski were available to address the Board. Ms. Cable provided the overview of all four agenda items requested by the Emmerich family. Ms. Cable shared with the Board that she had grown up learning to ride and care for horses at the Emmerich farm, where she also gathered much of her direct agricultural knowledge on their farm, including driving tractors.

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C. FREDERICK COUNTY

1. File#10-17-03 Kline Farm Properties LLC (Robert Kline) ~114 acres

Request:

Request approval for an overlay restriction covenant document overlaying 1.2 acres, as required by the Maryland Department of Environment for a wetlands violation.

Recommendation:

Staff recommends approval of overlay restrictive covenant document overlaying 1.2 acres, and requests authority for staff approval for up to a 1.5 acre area. If approved, the approval is contingent on review of the final Declaration of Restrictive Covenants by the Assistant Attorney General, Patrick Martyn.

Ms. Chasse introduced the item.

Motion #8: To approve the request for an overlay restriction covenant document overlaying 1.2 acres, with staff authority for up to 1.5 acres, as required by the Maryland Department of Environment for a wetlands violation. The final Declaration of Restrictive Covenants shall be reviewed and approved by MALPF AAG.

Motion: Wood Second: Klasmeier
Abstained: Huffman
Status: Approved

D. HARFORD COUNTY

1. File#12-83-02 O'Neill family ~106 acres

Request:

Request a 5-year extension of preliminary release for Bettina O'Neill Collie.

Recommendation:

Under COMAR 15.15.06.05.B.2, Staff recommends approval for the extension, subject to approval of the local advisory board which meets in December.

Ms. Chasse introduced the item.

Motion #9: To approve the request a 5-year extension of preliminary release for Bettina O'Neill Collie, subject to Harford County advisory board approval.

Motion: Jones Second: Wood
Status: Approved

E. ST. MARY'S COUNTY

1. File #18-13-06 Lyon Family ~77 acres

Request:

Request approval of a land exchange to release approximately 0.558 acres of encumbered land in exchange for receiving approximately 0.784 acres of unencumbered land.

Recommendation:

Per the terms of COMAR 15.15.11.03C (1), Staff recommends approval of the request, subject to required regulatory conditions.

Ms. Cousins introduced the item.

Motion #10: To approve the request for a land exchange to release approximately 0.588 acres of encumbered land in exchange for receiving approximately 0.784 acres of unencumbered land.

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3. File#03-20-06 Freefolle Farms, LLC ~123.26 acres (withheld acres subtracted)

Request is to approve the application withholding ~0.25 acres from the easement with zero development rights associated with it for the area is a narrow strip of grass that juts into neighboring property.

4. File#03-20-07 London ~51.249 acres (withheld acres subtracted)

Request is to approve the application withholding ~2.0 acres from the easement with zero development rights associated with it. Withheld acreage is for a business office.

Motion 14: To approve the Baltimore County requests as presented.

Motion: Wood Second: Klasmeier
Status: Approved

C. GARRETT COUNTY

1. File#11-20-01 Beitzel, Randall & Lillian ~142.3.67 acres (withheld acres subtracted)

Request is to approve the application withholding a 0.39 acre area for the use of a cell tower (direct access from road). There are zero development rights associated with it.

2. File#11-20-03 Buckel, Dennis & Eileen ~381.79 acres (withheld acres subtracted)

Request is to approve the application withholding a total of ~5.6 acres from the easement with 2 development rights associated with it. Approximately 1.6 acres is non-contiguous land and therefore not eligible to be included as part of the easement (no declaration of restrictions required). Approximately 4 acres of the withheld area surrounds two dwellings, designating 2 acres for each dwelling lot.

Motion 15: To approve the Garrett County requests as presented.

Motion: Wood Second: Jones
Status: Approved

D. KENT COUNTY

1. File#14-20-05 Foster, Virginia ~199.052 acres (includes unpaid acres)

Request is to approve the application including a ~43.88 acre already encumbered wetland easement area on the property that will be included within the MALPF easement but will not be included in the compensation.

2. File#14-20-06 Hill, Bonnie ~257.59 acres (includes unpaid acres)

Request is to approve the application designating ~5.0 acres from the easement with zero development rights associated with it as a permitted uses envelope for an existing seed and hay business. If the area is no longer used for the seed & hay business, the area could be used for other non-residential commercial operations that are consistent with the rural landscape and permitted by the county.

Motion 16: To approve the Kent County requests as presented.

Motion: Jones Second: Wood
Status: Approved

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E. WICOMICO COUNTY

1. File#22-20-01 Harcum, Michael & Dawn ~174.91 acres (withheld acres subtracted)

Request is to approve the application withholding ~9.8 acres from the easement with 1 development right associated. Withheld acreage is for the ability to create one future residential lot.

2. File#22-20-02. Holloway, Robert & Virginia ~160.00 acres (includes unpaid acres)

Request is to approve the application designating 1.0 acre or less (including access) as a non-subdivideable permitted use envelope for the use commercial billboard. There are zero development rights associated with it. The area may be used for a billboard lease for as long as a lease is current. After a period of one year after the expiration of the lease, the envelope will dissolve and the area shall be returned to agricultural use.

Motion 17: To approve the Wicomico County requests as presented.

Motion: Huffman Second: Jones
Status: Approved

VI. PROGRAM POLICY

- A. Revised Regulations for Certification of County Land Agricultural Land Preservation Programs (COMAR 34.03.03)

Ms. Cable introduced the item, with Mr. Hayes and Mr. Cucuzella available for any questions put forth by the Board. Ms. Cable informed the Board that there was one edit for clarification regarding the definition of county governing bodies, but the counties had expressed no concerns regarding updating these regulations. Mr. Cucuzella and Mr. Hayes discussed the process of filing the regulations, since they impact two Departments, Agriculture and Planning.

Motion 18: Recommend approval to forward the Revised Regulations for Certification of County Land Agricultural Land Preservation Programs (COMAR 34.03.03) to the Secretaries of Agriculture and Planning to seek formal adoption.

Motion: Jones Second: Wood
Status: Approved

- B. Request to Close FY 19 Easement Acquisition Cycle

Motion 19: Officially close the FY19 Easement Acquisition Cycle.

Motion: Jones Second: Wood
Status: Approved

- C. Delegation of Additional Authority to MALPF Staff re: Pre-existing Lot Releases

Request #1:

MALPF Staff requests the Board to delegate the authority to MALPF Staff to approve future right-of-way overlay easements/agreements associated with releases of pre-existing dwellings when the ROW is required under County regulations as a condition to subdivision of the lot to be released.

Motion 20: Approve the delegation of authority to MALPF Staff to approve right-of-way overlay easements/agreements associated with the release of pre-existing dwellings when a ROW is required under county regulations as a condition to subdivide the released lot.

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Motion: Wood Second: Jones
Status: Approved

Request #2:

MALPF Staff requests the Board to delegate the authority to MALPF Staff, in consultation with the Office of the Attorney General, to approve small configuration changes of new easement acquisitions when issues were discovered during the title review or survey work. Staff requests the ability to adjust the configuration, including excluding areas of concern, that the acreage change would be 2% or less of the total easement property.

Motion 21: Approve the delegation of authority to MALPF Staff, consulting with the Office of the Attorney General, to approve configuration changes of new easement acquisitions of 2% or less of the overall easement property when issues are discovered during the title review of survey process.

Motion: Jones Second: Allen
Status: Approved

VII. INFORMATION AND DISCUSSION

A. Fiscal Year 2019 Inspection Update

On July 23, 2019 the Board granted Dorchester County an extension to submit FY 2019 inspection reports. Rodney Banks, county program administrator reported that they were short four people in the office. At the October 22, 2019 board meeting Mr. Richard Colburn representing Secretary Joe Bartenfelder asked how many people that county has in the office. Rodney said they have 10 employees; but some good news, they filled two positions, Planning Director and Zoning Inspector. Rodney got the MALPF inspections completed and submitted reports on October 31, 2019.

B. News Articles (via email only)

VIII. CLOSED SESSION

Motion 22: To adjourn the regular session at 11:02 a.m.

Motion: Jones Second: Wood
Status: Approved

The open and closed sessions were held in reverse order, with the closed session being held first. At 9:02 a.m., Mr. Calkins asked for a motion 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 and matters directly related to the acquisition; (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 23: To move into a closed session to consider the acquisition of real property for a public purpose and matters directly related to the acquisition; to consult with counsel to obtain legal advice; and to consult with staff, consultants, or other individuals about pending or potential litigation.

Motion: Jones Second: Wood
Status: Approved

The Closed Meeting of the Board was held from 9:02 a.m. to 9:21 a.m. on November 26, 2019 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:

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General Provisions Article Section 3-305(b):

(3) to consider the acquisition of real property for a public purpose and matters directly related to the acquisition;

(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: Michael Calkins, Chair, Jerome Klasmeier, representing Comptroller Peter Franchot, Joanna Kille, representing Treasurer Nancy Kopp, Deborah Herr Cornwell, representing Secretary Robert McCord, Maryland Department of Planning, Julie Oberg, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture, William Allen, Taylor Huffman, Bernard Jones, Joe Wood, and J. Bruce Yerkes.

The following Board member was absent: Cathy Cosgrove

The following legal representatives were also present during the closed session meeting: Justin Hayes, Assistant Attorney General, Maryland Department of Agriculture, Nancy Forrester, Assistant Attorney General, Maryland Department of General Services, and Renee Dyson, Assistant Attorney General, Maryland Department of General Services.

TOPICS DISCUSSED:

- A. Approval of September 24, 2019 Closed Session Minutes
- B. Status Report of Pending Legal Issues
- C. FY 2019 Offers

Respectfully Submitted:



Michelle Cable, MALPF Executive Director