

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
OPEN MEETING MINUTES
May 26, 2015**

Trustees Present:

John Draper, Jr., Chair
Bernard L Jones, Sr., Vice Chair
Susanne Brogan, Representing Treasurer Nancy Kopp
Craig Highfield
Patricia A. Langenfelder
James (Bubby) Norris, Jr.
Eugene B. Roberts, Jr.
Daniel Rosen, Representing Secretary David Craig, Maryland Department of Planning
Jim Wallace, Representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture

Trustees Absent:

Michael Calkins
Jerome W. Klasmeier, representing Comptroller Peter Franchot
Donald T. Moore
Jonathan Quinn

Others Present:

David Bramble, Queen Anne's County Landowner
Michelle Cable, MALPF Administrator
Diane Chasse, MALPF Administrator
Tamekia Dent, MALPF Secretary
Rama Dilip, MALPF Administrative Specialist
Tom Filbert, Assistant Attorney General, Maryland Department of Agriculture
Justin Hayes, Assistant Attorney General, Maryland Department of Agriculture
Kim Hoxter, MALPF Monitoring Enforcement, and Database Coordinator
Melissa Keshishian, Montgomery County Landowner
Donna Landis-Smith, Queen Anne's County Program Administrator
Samantha Mazo, Attorney representing Keshishian Family
Jeanine Nutter, Prince George's County Program Administrator
George Stevens, MALPF Office Secretary
Chana Turner, MALPF Administrator
Katrina Tucker, Kent County Program Administrator
Emily Vaias, Attorney representing Keshishian Family
Carol West, MALPF Executive Director

Others Present By Web Conferencing:

William Amoss, Harford County Program Administrator
Deborah Bowers, Carroll County Program Administrator
James Clifford, Attorney representing Walsh Family
Debbie Herr Cornwell, Caroline County Program Administrator

John W. Draper, Jr., Chair, called the meeting to order at 9:00 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: April 28, 2015

Motion #1: Approve minutes from April 28, 2015.

Motion: Bernard Jones Second: Patricia Langenfelder
Status: Approved

II. ADDITION / DELETION OF AGENDA ITEMS

None

III. ANNOUNCEMENTS

A. The first Round One offers for the FY 2015 Easement Acquisition Cycle will be made at the June 23, 2015 Board meeting. There are some funding challenges that staff is working out. We will not know the final amount of funding available for the FY 2015 offer cycle until after the June 17, 2015 Board of Public Works meeting.

IV. Easement Amendments

A. Calvert County

1. 04-01-02e Baker, Raymond , et al 101 acres

Request from Calvert County:

Request is for a 5-year extension to the validity of the preliminary release for the approved child lot for Peter Baker.

Recommendation:

Under COMAR 15.15.06.05.B.2, Staff recommends approval for a 5 year extension.

Discussion:

Ms. Turner presented the item.

Motion #2: To approve the request for a 5 year extension for a child's lot for Peter Baker

Motion: James B. Norris Second: Eugene Roberts
Status: Approved

2. 04-84-05Aex1 Estate of William Zentgraft , Sr. 77 acres

Request – Calvert County:

Request is for a 5-year extension to the validity of the preliminary release for the approved child lot for William Zentgraft, Jr.

Recommendation:

Under COMAR 15.15.06.05.B.2, Staff recommends approval for a 5 year extension.

C. Queen Anne's County

1. 17-88-07 Willis, Linda & Lori ~224 acres

Request – Queen Anne's County:

Request for a 5-year extension to the validity of the preliminary release for the child's lot approved for Lori Willis.

Recommendation:

Under COMAR 15.15.06.05.B.2, Staff recommends approval for a 5 year extension.

Discussion:

Ms. Cable presented the item. Ms. Landis-Smith was available for questions.

Motion #6: To approve the request for a 5-year extension of a child's lot for Lori Willis.

Motion: Susanne Brogan Second: Bernard Jones
Status: Approved

2. 17-90-03A Bramble, David & Clara ~74.3 acres

Request – Queen Anne's County:

Request approval of a land exchange that will add 1-acre into the easement area in exchange for creating a 1-acre non-subdividable residential building envelope to remain encumbered with the MALPF easement.

Recommendation:

Per the terms of COMAR 15.15.11.03.C (2), Staff recommends approval of the request.

Discussion:

Ms. Cable presented the item. Ms. Landis-Smith and Mr. Bramble were available for questions.

Ms. Landis-Smith added that at one time in the past there was a house in the exact location of the 1.0 acre non-subdividable residential building envelope and an access lane still exists.

Mr. Bramble explained that he is a subsequent owner of the property. He intends to establish a beef cattle operation and it would be next to impossible run and manage the operation without the owner living on the property.

Motion #7: To approve the request for a land exchange of 1-acre into the easement area in exchange for creating a 1-acre non-subdividable residential building envelope to remain encumbered with the MALPF easement and to amend the Deed of Easement to allow for the construction of a dwelling on the 1.0 acre non-subdividable residential building envelope.

Motion: Susanne Brogan Second: Eugene Roberts
Status: Approved

D. Montgomery County

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|----|----------|------------------|--------------|
| 1. | 15-85-01 | Keshishian Trust | ~122 acres |
| | | Walsh, James | ~43.13 acres |

Request - Montgomery County:

Request a retroactive approval of an agricultural subdivision that creates two separate easements consisting of ~43.13 acres (Walsh property) and ~122 acres (Keshishian property).

Recommendation:

In accordance with the Foundation's Agricultural Subdivision regulations, Staff recommends approval, subject to the conditions presented by the owners as part of the resolution as well as the regulatory conditions.

Discussion:

Ms. Cable presented the item. Ms. Vaias, representing the Keshishian family, and Mr. Clifford, representing the Walsh family, were available for questions.

Mr. Walsh has agreed to enter into a Declaration of Covenant, to be recorded in the land records of Montgomery County, which requires the 1.0 acre owner's lot and the ~42.13 acre Walsh property to be owned in common, but permitted to remain separate tax parcels.

On the 122 acre property, the Keshishians have agreed to make the main house non-subdividable from their easement property, retaining the full pre-existing dwelling rights for the second documented pre-existing dwelling. The legal description for the Keshishian property must also be amended to account for a loss of .77 acres of land, which land was part of the original easement area. The original easement grantor did not own this part of the easement area. The landowner must reimburse the Foundation for the reduction in easement area.

Motion #8: To approve the request for a retroactive agricultural subdivision that creates two separate easements consisting of ~43.13 acres (Walsh property) and ~122 acres (Keshishian property). Approval is conditional on Mr. Walsh entering into a Declaration of Covenant, to be recorded in the land records of Montgomery County, that requires the 1.0 acre owner's lot and the ~42.13 acre Walsh property to be owned in common, but permitted to remain separate tax parcels and the Keshishians making the main house non-subdividable from their easement property, retaining the full pre-existing dwelling rights for the second documented pre-existing dwelling. Furthermore, for the Keshishian property, a revised survey must be prepared to show the reduction of approximately .77 acres that the original easement grantor did not own. The Foundation must be reimbursed for this reduction in easement area.

Motion: Susanne Brogan Second: Bernard Jones
Status: Approved

E. Dorchester County

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|----|----------|----------------------------|---------------|
| 1. | 09-95-02 | Scott, Larry and Catherine | ~102.98 acres |
|----|----------|----------------------------|---------------|

Request – Dorchester County:

Request a retroactive approval of a right-of-way easement (ROW) along Cokesbury Road. The area overlaid by the ROW is 11,627.99 square feet. The purpose of the ROW is for the construction and maintenance of pipes for the purpose of draining Cokesbury Road.

Recommendation:

Staff recommends approval because of the public purpose for the ROW which is for the drainage of a public road. State law permits condemnation of agricultural easements for public purposes (but not for economic or residential development).

Discussion:

Ms.Chasse presented the item.

Motion #9: To approve the request for a 11,627.99 square foot retroactive right-of-way easement along Cokesbury Road.

Motion: Bernard Jones Second: Patricia Langenfelder
Status: Approved

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|----|----------|--|------------|
| 2. | 09-95-02 | Scott, Larry and Catherine | ~148 acres |
| | 09-99-06 | Scott, Catherine and Cordrey, James L. | ~138 acres |

Request – Dorchester County:

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 a Parcel 18 be added to Easement #09-95-02. This parcel is already connected to the Easement by a "Covenant not to Separate Lots" (969/202) in favor of Dorchester County. The downside of this Covenant is that it could be used to permit accessory structures to be built for the house on the MALPF-eased land. However, if this parcel is included in the Corrective Easement, then the Easement gains a non-subdividable residence.

Discussion:

Ms.Chasse presented the item.

In conversations with Ms. Chasse, Ms. Scott, one of the landowners, agreed to add Parcel 18 to 09-95-02, but she had second thoughts before the meeting. This lot has a covenant on it which could create problems for the Foundation. The landowners do not want to restrict the 2 pre-existing dwellings, as they want to convey those to their children in the future.

As there are outstanding issues, the Board asked that the item be tabled for a later date with additional landowner input.

Motion #10: To table 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 in order to give the landowner an opportunity to resolve some issues.

Motion: Bernard Jones Second: James Wallace
Status: Approved

V. EASEMENT PETITIONS

- A. none

VI. Program Policy

A. Draft Policy to Enforce Potential Easement Violations – Update

Ms. Turner presented the item.

Ms. West notified the Board that it has been brought to the Foundation's attention that the requirement for updating a soil conservation and water quality plan (scwqp) may not be a requirement of the Deed of Easement. Mr. Hayes is researching the matter and this section may be removed from the Policy in the future. If this is the case, the Foundation would continue to be concerned about the plans being kept up to date and it would continue to be a question asked during easement inspections.

In Section B.3, Ms. Brogan was concerned that some non-agricultural uses are being assigned a Medium priority. Some of the Foundation's largest issues have involved non-agricultural uses on easement property. Section B.3.c (Medium Priority) will be changed to add "unapproved, compatible uses," which are activities that are occurring on easement property that could be approved within the rules and regulations of the program.

Section B.3.b (High Priority) will be changed to add "unapproved, non-compatible uses," which are activities that are not allowed on the easement property.

Motion #11: To approve the Draft Policy to Enforce Potential Easement Violations with changes.

Motion: Bernard Jones Second: Patricia Langenfelder
Status: Approved

As follow-up to the conversation about scwqp updates being required, staff asked if the new model easement, to be used for FY 2015 easement acquisitions, should contain language that will require the update of scwqp and forest stewardship plans. That language was added to the new easement in response to the auditors' comments and our lack of policy.

Mr. Filbert has some concern that the Soil Conservation Program may not require or monitor for updates, other than for Cost-Share projects. They are voluntary on the part of the farmer. The Foundation may require the plans be kept updated because we recognize the value of a plan and our easements are perpetual.

Ms. Landis-Smith encouraged the County Program Administrators to develop a relationship with their soil conservation district employees. They are responsible for updating the plans and should be willing to do so for all easement properties.

The policy questions are: Should MALPF be responsible for monitoring and enforcing the upkeep of scwqp? Does the Foundation think that a plan is important to the upkeep of the easement in the long term? Since the language is not in the existing easements, how do we treat cases where the plans don't exist or are not up to date?

The Board discussed that the new model easement contains language that requires scwqp plans to be updated and since that model will be in use soon, the Board needs to decide if they want to have that requirement.

The Board would like someone from Resource Conservation to attend the June meeting to provide further clarification on the issue. In the meantime, Mr. Hayes will research whether there exists any statutory obligation for landowners to maintain updated SCWQPs and FSPs.

B. Kent County Recertification Request

Mr. Rosen and Ms. Turner presented the item.

The Department of Planning and MALPF recommend approval of Kent County's request for recertification from July 1, 2015 through June 30, 2018.

Motion #12: To approve the request to recertify Kent County from July 1, 2015 through June 30, 2018.

Motion: Bernard Jones Second: James Wallace
Status: Approved

C. Participation in FY 2015/2016 Matching Funds Program

Ms. West presented the item.

There are 15 counties requesting approval to participate in the 2015/2016 Matching Funds Program. Any additional requests will be brought before the Board prior to extending offers at the June, 2015 Board meeting.

Motion #13: To approve the requests of Anne Arundel, Baltimore, Caroline, Carroll, Cecil, Charles, Frederick, Garrett, Harford, Kent, Queen Anne's, Somerset, Talbot, Washington, and Worcester Counties to participate in the FY 2015/2016 Matching Funds Program.

Motion: Bernard Jones Second: James Wallace
Status: Approved

VII Information and Discussion

A. News Articles

VIII Closed Session

None

The Open Board Meeting was adjourned at approximately 10:28 a.m.

Motion #14: To adjourn the Open Session Board meeting.

Motion: Bernard Jones Second: James Wallace
Status: Approved

Respectfully Submitted:

Carol West, Executive Director