MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION OPEN MEETING MINUTES April 28, 2020

This meeting was held via internet and telephone conference call.

Trustees Participating:

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

Catherine Cosgrove

Cricket Goodall

Elizabeth Hill

Robin Kable

James Weddle

Joseph Wood

J. Bruce Yerkes

Trustees Absent:

William Allen, Vice-Chair

Others Participating:

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

Patrick Martyn, Assistant Attorney General, Department of General Services

Renee Dyson, Assistant Attorney General, Department of General Services

Michael Steadman, Assistant Attorney General, Maryland Department of Agriculture

Siera Wigfield, Allegany County Program Administrator

Billy Gorski, Anne Arundel County Planner

Megan Benjamin, Baltimore County Program Staff

Wally Lippincott, Jr, Baltimore County Program Administrator

Beth Beales, Caroline County Program Administrator

Deborah Bowers, Carroll County Program Administrator

Beth Groth, Charles County Program Staff

Devyn King, Cecil County Program Administrator

Adam Gibson, Somerset County Program Administrator

Charles Rice, Charles County Program Administrator

Steve Ball, Dorchester County Program Administrator

Anne Bradley, Frederick County Program Administrator

Shannon O'Neil, Frederick County Program Staff

Gary Aronhalt, Garrett County Program Administrator

William Amoss, Harford County Program Administrator

Jenn Wilson, Harford County Program Staff

Rob Tracev. Kent County Program Administrator

Mike Scheffel, Montgomery County Program Administrator

Jeanine Nutter, Prince George's County Program Administrator

Donna K. Landis-Smith, Queen Anne's County Program Administrator

Donna Sasscer, St. Mary's County Program Administrator

Martin Sokolich, Talbot County Program Administrator
Chris Boggs, Washington County Program Administrator
Bill Beach, Chief Appraiser, Department of General Services
Ann Jones, Howard County Advisory Board Member / Partners for Open Space

Mr. Calkins, Chair, called the meeting to order at 9:07 a.m. via internet and telephone conference call. Ms. Cable stated the names of the participants on the conference call, for the record, and asked anyone that was not named to identify themselves.

I. APPROVAL OF MINUTES

A. Approval of Open Minutes from March 24, 2020.

Motion #1:

To approve minutes from March 24, 2020.

Motion:

Klasmeier

Second:

Weddle

Status:

Approved

II. ADDITION / DELETION OF AGENDA ITEMS

Deletion of item IV.B.2. File# 10-93-01B

Frey Family, LLC

~140.8 acres

Request for a Stream Restoration Overlay Easement, totaling 7.931 acres.

II. ANNOUNCEMENTS

Ms. Cable thanked all the attendees for participating in the MALPF teleconference Board meeting. Ms. Cable asked all participants to keep themselves muted, and when unmuted, to clearly state their names before asking a question, or making a motion. Ms. Cable reminded Board members that when motions are made, Board members only need to state their name if they object, they do not need to verbally say "aye" for each motion.

Ms. Cable informed the Board that MDA is currently not allowed any site inspections, with the exception for emergency or health purposes. This impacts the ability for the remaining FY19 easement transactions to be completed, as baseline inspection reports are not able to be performed. MALPF staff and attorneys are discussing alternative methods of baseline reviews to continue to move the remaining FY19 easement contracts to settlement.

Ms. Cable also reminded the Board that their compliance forms are due at the end April.

IV. EASEMENT AMENDMENTS

A. CECIL COUNTY

1. File #07-06-08

McCreary Farm, LLC

~119 acres

Request - Cecil County:

To approve the relocation of a pre-existing dwelling.

Recommendation:

Staff recommends approval. The owners have agreed to make the relocated pre-existing dwelling non-subdivideable. Approval is subject to the completion of an Amendment that will make the house non-subdivideable. The approval is also conditioned upon the removal of the existing dwelling, and restoration of the existing dwelling site to agricultural use, within 60 days after the use and occupancy permit is issued for the new dwelling, or sooner, if required under county law.

The Amendment will also describe the terms and conditions of the Foundation's approval for the dwelling relocation per COMAR 15.15.04.05.

Ms. Cousins introduced the item. Ms. King was available to address any questions.

Mr. Bruce Yerkes asked if the MALPF Board approval is conditioned upon Natural Resources Conservation Service (NRCS) Farm and Ranchlands Protection Program (FRPP) now called the Agricultural Conservation Easement Program (ACEP) approval and MALPF's Executive Director Ms. Cable answered yes, that Board approval is conditioned upon NRCS approval. Ms. Cable explained that MALPF staff has already reached out to NRCS to discuss.

Motion #2:

To approve the relocation of a pre-existing dwelling, as

presented, with staff recommendations.

Motion:

Yerkes

Second:

Wood

Status:

Approved

B. FREDERICK COUNTY

1. File #10-13-02

Toms, Matthew

~137.957 acres

Request – Frederick County:

Request approval for an unrestricted lot of up to two (2) acres.

Recommendation:

Staff recommends approval.

Ms. Chasse introduced the item. Ms. Bradley and O'Neil were available to address any questions.

Motion #3:

To approve an unrestricted lot of up to two (2) acres.

Motion: Status: Herr-Cornwell

NEW AGRICULTURAL PRESERVATION EASEMENT PETITIONS:

Second:

Woods

Status: Approved

N/A

V.

VI. PROGRAM POLICY

A. FY 2021 Easement Submission Determination

Options of how to proceed with the FY21 easement cycle presented for consideration:

Option 1:

No new applications for a stand-alone FY2021 cycle and wait until July 1, 2021, to do a two-year cycle of FY21 and FY22 together. This would (presumably) result in a combined cycle, with funding at a higher than normal level:

- The final FY21 budget approved includes a maximum of general allotted funds of \$730K per county;
- Adding whatever the funding may be for FY22, the two combined years would potentially
 enable MALPF to purchase some of the larger/more expensive easements that we have not
 been able to previously, due to insufficient funds.

Option 2:

Under a recent Executive Order, MALPF could request a postponement of the July 1st application submission deadline, after satisfying certain requirements in that Order, to a date "no later than the 30th day after the date by which the state of emergency is terminated" by the Governor. This approach has a couple of problems/challenges. At this time, we don't know what a reasonable

time to push the submission deadline back would be (one month? six months?), and that extension would in any event be tied to the date the state of emergency is terminated. Additionally, if we did delay the submission date, without any adjustments for next year, that would cause other problems/challenges with the FY2022 applications, which would still be due July 1, 2021.

Option 3:

Keep the July 1st deadline for FY21, and just accept whatever the counties have been able to complete at that time. It may mean we do not have enough applications to spend all our funds for the FY21 cycle. It also means there may be counties that are not able to submit any applications, if they weren't able to fulfill all the required approval processes of our application cycle (including local ag board review and approval as well as obtaining governing body approval for the county).

Decisions Needed From Board:

- 1. Which option to proceed with in terms of the FY21 easement cycle.
- 2. If select Option 3, need to determine application limitation numbers.
- 3. If select Option 1, the Board can wait till spring 2021 to determine application limitation numbers.

If the Board decides to proceed with Option 3, here is what was approved in terms of application limits for FY20, which MALPF staff recommends again for FY21 if the Board decides to proceed with Option 3:

- A. Maximum number applications to be submitted to DGS for appraising: 12.
- B. Counties with a high volume of applicants allowed to submit up to 17 applications by the July 1st deadline, provided that at least 5 of the 17 applications are still eligible to potentially receive a Round 2 offer in the FY 2020 cycle.
- C. Counties submitting more than 12 applications must submit a preliminary ranking of all the applicants, up to the full 17, by July 1st, and provide a final ranking of the top 12 applicants by July 31st. This gives the Counties through the July Board meeting to learn if any additional FY 2020 applicants receive easement offers. There will be no further substitutions of applications once the top 12 applications have been identified to be submitted to DGS.

Ms. Cable presented the item and summarized the current available information regarding the FY21 budget. Ms. Cable proceeded to ask each county's staff participating on the conference call to state their county's preference between the three options presented. Ms. Cable then called on each Board member to share any thoughts they had regarding the options available to proceed.

While the majority of the county staff preferred Option #3, there were numerous county representatives that described the challenge of deciding between Option #1 and Option #3. Many counties were torn on which method would be best for the county staff and landowners at this time. Ultimately, the majority of counties favored proceeding with accepting applications this July 1st, and moving forward with the FY21 application cycle. When the Board members shared their thoughts. the Board was also in favor of continuing forward with accepting applications this year, even with the uncertainty surrounding the State revenue shortfall and possible budget reductions.

> To approve Option #3, accepting easement applications July 1, Motion #4 2020.

Motion: Wood Second: Klasmeier

Status: Approved

Motion #5 The maximum number of application numbers will follow same structure as FY20, with ultimately no more than 12 being

submitted to be appraised.

Motion: Herr-Cornwell Second: Wood

Status:

Approved

B. Water Resource Overlay Policy

Request:

MALPF Staff requests review and approval from the Board of an amendment to the Water Resources Easement Overlay Policy.

Ms. Cable presented the item, explaining the requested changes to <u>Section 03.B.10</u>, and the requested elimination of <u>Section 03.B.14</u> of the policy.

Motion #6

To approve the revisions to the Water Resource Overlay Policy, as recommended by MALPF staff.

Motion:

Wood

Second:

Klasmeier

Status:

Approved

C. Talbot County Re-Certification

Request:

Talbot County Re-Certification

Recommendation:

Talbot County's land preservation program complies with the requirements under COMAR 34.03.03; therefore, MDP and MALPF staff recommend, and MDP has approved, recertification for Fiscal Years 2021, 2022, and 2023 (July 1, 2020 – June 30, 2023), with a possible extension for Fiscal Years 2024 and 2025 (July 1, 2023 – June 30, 2025), once new regulations are in place to implement HB620 (2018 legislative session).

Ms. Chasse presented the item. Ms. Herr-Cornwell provided the Department of Planning's agreement with the recommended approval. Mr. Sokolich was available to address the Board.

Motion #7

To approve the recertification of Talbot County's land preservation program under COMAR 34.03.03.

Motion:

INFORMATION AND DISCUSSION

Klasmeier Approved Second:

Wood

Status:

N/A

VII.

VIII. CLOSED SESSION

Mr. Calkins 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 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 #8:

To adjourn the regular session at 10:28 a.m. 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:

Wood

Second: Herr-Cornwell

Status:

Approved

The Closed Meeting of the Board was held from 10:45 a.m. to 11:09 a.m. on April 28, 2020 via internet and telephone conference call, 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 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, Cathy Cosgrove, Cricket Goodall, Elizabeth Hill, Robin Kable, Jim Weddle, Joe Wood, and J. Bruce Yerkes.

The following Board member was absent: William Allen

The following MALPF staff and legal representatives were also present during the closed session meeting: Michelle Cable, Diane Chasse, Chana Turner, Sarel Cousins, Kim Hoxter, Amanda Wilson, Robert Day, Justin Hayes, Assistant Attorney General, Maryland Department of Agriculture, Michael Steadman, Assistant Attorney General, Maryland Department of General Services and Renee Dyson, Assistant Attorney General, Maryland Department of General Services.

TOPICS DISCUSSED:

- A. Approval of March 24, 2020, Closed Session Minutes
- B. Status Report of Pending Legal Issues
- C. FY 2020 Offers (To be distributed at meeting)

Respectfully Submitted:

Michelle Cable, MALPF Executive Director

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