# MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION OPEN MEETING MINUTES FEBRUARY 27, 2018

#### **Trustees Present:**

Michael Calkins, Chair

Jerome Klasmeier, representing Comptroller Peter Franchot

Deborah Herr Cornwell, representing Acting Secretary Robert McCord, Maryland Department of Planning

Julie Oberg, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture

Catherine Cosgrove

Tom Mason

Taylor Huffman

Joe Wood

J. Bruce Yerkes

#### **Trustees Absent:**

Susanne Brogan, representing Treasurer Nancy Kopp

William Allen

Bernard L. Jones, Sr.

Ralph Robertson

# Others Present:

Michelle Cable, MALPF Lead Administrator

Diane Chasse, MALPF Administrator

Chana Turner, MALPF Administrator

Amanda Wilson, MALPF Fiscal Specialist

Kim Hoxter, MALPF Monitoring, Enforcement and Database Coordinator

Tamekia Dent, MALPF Office Secretary

Carol S. West, MALPF Executive Director

Justin Hayes, Assistant Attorney General, Department of Agriculture

Nancy Forrester, Assistant Attorney General, Department of General Services

Wally Lippincott, Baltimore County Program Administrator

Bobby Prigel, Baltimore County Landowner

Hans Wilhelmsen, Baltimore County Landowner

Billy Gorski, Anne Arundel County Planner

Bill Amoss, Harford County Program Administrator

Brian Baker, Harford County Landowner

Bob Wilson, Harford County Consultant for Mr. Baker

Stewart Getz, Harford County Attorney for Mr. Baker

David Button, Harford County Landowner

# Others Present By Phone Conferencing:

Charles Rice, Charles County Program Administrator

Deborah Bowers, Carroll County Program Administrator

Donna Smith, Queen Anne's County Program Administrator

Martin Sokolich, Talbot County Program Administrator

Rich Bernstein, Baltimore County Landowner

Mr. Calkins, 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 January 23, 2018.

Motion #1: To approve minutes from January 23, 2018.

Motion: Cosgrove Second: Wood

Status: Approved

# II. ADDITION / DELETION OF AGENDA ITEMS

N/A

## III. ANNOUNCEMENTS

Ms. West had a few reminders for the Board members.

- 1) Please notify Ms. West if you are planning to attend each meeting. It would be very difficult to cancel a meeting at the last minute if we do not have a quorum.
- 2) Please remember to submit any receipts for lunch the date of the meeting (must be an itemized receipt) and for any road/bridge tolls that you incur for travel on official MALPF Board business (includes meetings and site visits).
- 3) Ethics Forms are due by April 1. Please send a copy of your confirmations to Ms. West. Please notify Ms. West if you are having trouble completing or submitting your forms.
- 4) The Board is now operating at full capacity and we are in need of a Vice-Chair. The following current Board members are eligible: Cosgrove and Huffman (first terms end June 30, 2019), Robertson, Allen and Mason (first terms end June 30, 2020), Yerkes (first term ends June 30, 2020, and Wood (second term ends June 30, 2021). The Board will be asked to vote for one of these members to become Vice-Chair at the March 27, 2018 Board meeting. NOTE: Mr. Calkins' second term will end June 30, 2020.

# IV. EASEMENT AMENDMENTS

#### A. HARFORD COUNTY

1. 12-84-05 Baker, Brian ~127 acres

# Request:

Request approval for a land exchange that will add 3.4 acres into the easement area in exchange for creating a 3.4 acre Non-Subdivideable, Non-Conforming Use Envelope to remain encumbered with the MALPF easement.

## Recommendation:

Per the terms of COMAR 15.15.11.03., Staff recommends approval of the request, with the following conditions:

- Completion of a Corrective Easement, which includes language to waive the right to request termination\* and exhibits showing the surveyed perimeter of the new easement area and the surveyed Non-Conforming Use Envelope;
- 2) That the easement area be consolidated into a single tax account, which includes the 3.4 acres that will be added to the easement as part of the land exchange;
- 3) The non-conforming use envelope (including the pre-existing dwelling) is non-subdivideable from the easement property;
- 4) The value of the easement will not be diminished by the proposed exchange, as determined by the lead appraiser in the Office of Real Estate at the Department of General Services; *This has been completed.*
- 5) All trailers and other non-ag equipment shall be removed from the property to clear the violation;
- 6) The owner shall pay for all expenses associated with the corrective easement transaction, including all title work, title insurance premiums, and surveys; and
- 7) Any liens on the newly-configured easement property should match the new

configuration in its entirety;

- 8) Verification from the County that stormwater management requirements will be waived; and
- Board determination if a second pre-existing dwelling shall be made nonsubdividable from the farm.

Ms. Chasse introduced the item. Mr. Amoss, Mr. Baker, Mr. Wilson and Mr. Getz were available to address the Board.

Motion #2: Approve the request for a land exchange that will add 3.4 acres

into the easement area in exchange for creating a 3.4 acre Non-Subdivideable, Non-Conforming Use Envelope to remain

encumbered with the MALPF easement.

Approval includes Staff recommendations #1 through #8 – except that Mr. Baker will NOT be required to waive the right to request termination of the easement (as is included in Staff

recommendation #1).

Motion: Cosgrove Second: Yerkes

Favor: Cosgrove, Yerkes, Klasmeier, Huffman

Opposed: Mason, Wood, Oberg

Abstain: Cornwell

Status: Failed: A majority of the members in attendance did not vote in

favor the motion.

Motion #3: Approve the request for a land exchange that will add 3.4 acres

into the easement area in exchange for creating a 3.4 acre Non-Subdivideable, Non-Conforming Use Envelope to remain

encumbered with the MALPF easement.

Approval includes Staff recommendations #1 through #8 only.

Motion: Oberg Second: Wood

Favor: n/a

Opposed: Oberg, Wood, Cosgrove, Yerkes, Klasmeier, Huffman, Mason,

Cornwell

Status: Failed: Mr. Hayes informed the Board that they cannot make a

second motion that contains the same information as a

previously defeated motion.

Motion #4: Approve the request for a land exchange that will add 3.4 acres

into the easement area in exchange for creating a 3.4 acre Non-Subdivideable, Non-Conforming Use Envelope to remain

encumbered with the MALPF easement.

Approval includes Staff recommendations #1 through #8. For Item #1, Staff will replace the requirement for Mr. Baker to waive the right to request termination of the easement in exchange for including language that the 3.4 acre Non-Subdivideable, Non-Conforming Use Envelope, which will be used for an allowed commercial use, cannot ever be used as justification in any

easement termination request.

Motion: Cosgrove Second: Yerkes

Favor: Cosgrove, Yerkes, Oberg, Wood, Klasmeier, Huffman, Mason,

Cornwell

Opposed: n/a Status: Approved

2. 12-13-02 Button, David ~139.9 acres

#### Request:

Request to exclude up to 2.0 acres from the easement for an owner's lot.

# Recommendation:

Staff recommends approval.

Ms. Chasse introduced the item. Mr. Amoss and Mr. Button were available to address the Board.

Motion #5: To approve the request to exclude up to 2.0 acres from the

easement for an owner's lot.

Motion: Wood Second: Mason

Status: Approved

# B. MOONTGOMERY COUNTY

1. 15-83-01 Allnutt, Ben ~227.88 acres

## Request:

Request for a 5-year extension to the validity of the preliminary release for the approved child's lot for Benoni Allnutt, Jr.

# Recommendation:

Under COMAR 15.15.06.05.B.2, Staff recommends approval for the extension.

Ms. Cable introduced the item.

Motion #6: To approve the request for a 5-year extension to the validity of

the preliminary release for the approved child's lot for Benoni

Allnutt, Jr.

Motion: Wood Second: Oberg

Status: Approved

# C. BALTIMORE COUNTY

1. 03-06-09 Wilhelmsen, Hans & Kristin ~58 acres

# Request:

Request approval for a 1-acre non-subdivideable, unrestricted lot.

# Recommendation:

Staff recommends approval, with the non-subdivideable condition to be memorialized by an amendment to the Deed of Easement to permit the unrestricted lot as a building envelope as well as confirm the non-subdivideable status of the other dwellings on the property.

Ms. Cable introduced the item. Mr. Lippincott and Mr. Wilhelmsen were available to address the Board and answer questions.

Motion #7: To approve the request for approval for a 1-acre non-

subdivideable, unrestricted lot. To include Staff

recommendations.

Motion: Wood Second: Cosgrove

Status: Approved

2. 03-83-14C Bellevale Farm (Prigel Family Creamery) ~139.9 acres

# Request:

Request approval for on-site sales of prepared foods at their creamery retail location (Uses Policy #12).

#### Recommendation:

Staff finds the proposal meets the criteria and intent of the Guidelines for Uses and recommends approval of the request.

Ms. Cable introduced the item. Mr. Lippincott and Mr. Prigel were available to address the Board. Mr. Prigel informed the Board of the challenges of the dairy industry and the need to be able to grow the business to remain profitable.

Motion #8: To approve the request for approval for on-site sales of prepared

foods at their creamery retail location (Uses Policy #12).

Motion: Wood Second: Cosgrove

Status: Approved

3. 03-13-01 Greenland Farms II, LLC (Tracey) ~82.597 acres

Iceland Farm, LLC (Bernstein)

# Request -Baltimore County:

Request approval to agriculturally subdivide the property into a ~60 acre parcel and a ~22.597 acre parcel.

# Recommendation:

In accordance with the Foundation's Agricultural Subdivision regulations, Staff recommends approval, subject to the following conditions:

1. The regulatory conditions; and

2. That the corrective easement documents the unrestricted lot right will be associated with the ~22.597 acre parcel and be non-subdivideable from that parcel.

Ms. Cable introduced the item. Mr. Lippincott was available to address the Board and Mr. Bernstein was available via conference call for questions from the Board.

The Board discussed the history of the purchase of the easement, specifically the configuration and size of the portions across the road. There was discussion and concern over the size of the smaller parcel requested to be subdivided. Mr. Lippincott and Mr. Bernstein provided the Board with supporting information both about the operation being conducted on the smaller portion, as well as information about other types of successful agricultural operations on similarly sized properties in Baltimore County.

Motion #9: To approve the request to agriculturally subdivide the property

into a ~60 acre parcel and a ~22.597 acre parcel. Approval

includes Staff recommendations.

Motion: Wood Second: Cosgrove

Status: Approved

# V. NEW AGRICULTURAL PRESERVATION EASEMENT PETITIONS:

N/A

## VI. PROGRAM POLICY

# A. Legislative Update

Ms. Turner provided the Board with a handout of relevant legislation for the 2018 General Assembly. She also gave a verbal introduction and update.

#### VII. INFORMATION AND DISCUSSION

N/A

# 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 #11: To adjourn the regular session at 11:27 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: Oberg Second: Cosgrove

Status: Approved

The Closed Meeting of the Board was held from 11:33 a.m. to 11:43 a.m. on February 27, 2018 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 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, Julie Oberg, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture, Jerome Klasmeier, representing Comptroller Peter Franchot, Deborah Herr Cornwell, representing Acting Secretary Robert McCord, Maryland Department of Planning, Tom Mason, J. Bruce Yerkes, Joe Wood, Taylor Huffman, and Cathy Cosgrove.

The following Board members were absent: Susanne Brogan, representing Treasurer Nancy Kopp, William Allen, Bernard Jones, and Ralph Robertson.

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

# TOPICS DISCUSSED:

- A. Approval of January 23, 2018 Closed Session Minutes
- B. Status Report of Pending Legal Issues
- C. Round Two Easement Offers

Respectfully Submitted:
Carol S. West, MALPF Executive Director