

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
OPEN MEETING MINUTES
April 25, 2017**

Trustees Present:

Bernard L. Jones, Sr., Chair
Michael Calkins, Vice Chair
William Allen
Susanne Brogan, representing Treasurer Nancy Kopp
Catherine Cosgrove
Ralph Robertson
Jerome Klasmeier, representing Comptroller Peter Franchot (via web conferencing)
Donald Moore
Deborah Herr Cornwell, representing Secretary Wendi Peters, Maryland Department of
Planning
Joe Wood
Tom Mason
Milly Welsh

Trustees Absent:

James Eichhorst, representing Secretary Joseph Bartenfelder, Maryland Department
Of Agriculture

Others Present:

Deborah Bowers, Carroll County Program Administrator
Michelle Cable, MALPF Administrator
Diane Chasse, MALPF Administrator
Tamekia Dent, MALPF Office Secretary
Fatimah Hasan, Prince George's Planner Coordinator
Justin Hayes, Assistant Attorney General, Department of Agriculture
Nancy Forrester, Assistant Attorney General, Department of General Services
Kim Hoxter, MALPF Monitoring, Enforcement and Database Coordinator
Bernard Kohl, Kent County landowner
David Tracey, Baltimore & Carroll County landowner
Robert Tracey, Carroll County landowner
Rick Troutman, Carroll County resident
Katrina Tucker, Kent County Program Administrator
Chana Kikoen Turner, MALPF Administrator
Carol West, MALPF Executive Director
Amanda Wilson, MALPF Fiscal Specialist

Others Present By Web Conferencing:

Jason Lambertson, Worcester County landowner
Katherine Munson, Worcester County Program Administrator
Charles Rice, Charles County Program Administrator
Martin Sokolich, Talbot County Program Administrator

Bernard L. Jones, Sr., 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

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A. Approval of Open Minutes from March 28, 2017.

Motion #1: To approve minutes from March 28, 2017 with minor changes.

Motion: Michael Calkins Second: Cathy Cosgrove
Abstain: Susanne Brogan, Debbie Herr Cornwell, William Allen
Status: Approved

II. ADDITION / DELETION OF AGENDA ITEMS

No additions or deletions of agenda items

III. ANNOUNCEMENTS

The Board will begin approving offers for the FY 2017 easement offer cycle at the June meeting. The Secretary of the Maryland Department of Planning has replaced the long time designee, Daniel Rosen, with a new employee, Deborah Herr Cornwell. Ms. Cornwell was previously the Program Administrator for Caroline County. Ms. West reminded the at-large Board members to complete their 2016 Ethics Forms. They are due by the end of April. The Program will be having a 300,000 acre celebration. Look for invitations to go out in the next couple of months.

IV. EASEMENT AMENDMENTS

A. KENT COUNTY:

1. 14-15-03 Angelica Nurseries, Inc. ~295 acres

Request – Kent County:

Request approval of gravel pit as a non-conforming use, and the right to use gravel on all nursery properties owned by Grantor.

Recommendation:

Staff recommends approval conditioned upon the limitations listed below.

Ms. Chana Turner introduced the item. Mr. Bernard Kohl, Jr., President of Angelica Nurseries, Inc., and Ms. Katrina Tucker, Kent County Program Administrator, were present to answer questions.

A gravel pit of approximately 2-3 acres currently exists on the property. The gravel produced from the pit is used for road repair throughout the Angelica Nurseries operation consisting of approximately 1,500 acres of eased, optioned and non-eased property. Adjacent to the pit is approximately 5 acres of land designated as an expansion area of the existing pit.

The following are Staff's recommended limitations on use of the pit and its expansion area, as agreed to by the Landowner:

1. The right to mine the gravel will be a personal right to Messrs. Bernie Kohl, Jr., and James Kohl, and will not run with the land or be a right to the corporate landowner.
2. The right to mine will expire 30 years from the date of the Deed of Easement, death of both Messrs. Kohl, or conveyance of the land from Angelica Nurseries, Inc., whichever shall first occur. Landowners have requested 30 years; Staff recommends 30 years.
3. The location and actual dimensions of the pit and the expansion area will be located on the survey.
4. The pit and the expansion area will be a non-conforming use which will be contained within a non-subdividable mining envelope. The easement will encumber the pit and the expansion area, however, the Foundation will not pay for that portion of the property.

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Motion #2: To approve the request for the continued use of the gravel pit and its expansion area as a non-conforming use, to be contained within a non-subdividable mining envelope, and the right to use the gravel on all nursery properties owned by Grantor. The Board accepted all staff recommendations, including a sunset of the approval after 30 years.

Motion: Cathy Cosgrove Second: Don Moore
Status: Approved

B. QUEEN ANNE'S COUNTY

1. 17-00-08 Story, L. Sudler, Mary, Dale & Jody ~102.2 acres

Request – Queen Anne's County:

Request retroactive approval of a 2.214 acre Forest Conservation Easement overlay and a Delmarva Power and Light Company overlay easement to service an approved tenant house.

Recommendation:

Staff recommends approval, subject the requirements of COMAR 15.15.13. - Guidelines for Forest Easement Overlays.

In addition, Staff recommends amending the Deed of Easement to correct an error regarding a pre-existing dwelling as well as acknowledging the fact that the MALPF easement was in place prior to the Forest Conservation Easement and therefore is superior in title. The original easement states that there was one pre-existing dwelling on the easement property; however, the dwelling was actually located on the withheld area. No dwelling existed on the easement property at the time it was established.

Ms. Cable introduced the item and was available for questions. She informed the Board that while the original MALPF easement was already perpetual and therefore would not need to be amended in accordance with the Forest Easement Overlay Regulation, staff will take this opportunity to amend the easement to correct the original error regarding the pre-existing dwelling.

Motion #3: To approve the request retroactive approval of a 2.214 acre Forest Conservation Easement overlay and a Delmarva Power and Light Company overlay easement to service an approved tenant house. The Board accepted all staff recommendations.

Motion: Michael Calkins Second: Cathy Cosgrove
Status: Approved

C. WORCESTER COUNTY

1. 23-01-12Ac Amen Corner, LLC ~33.39 acres
(Jason Lambertson)

Request –Worcester County:

Request approval of a solar energy system that will serve four separate farms, including the subject easement property. One farm to be served is 48.58-acre MALPF-eased property (File #23-01-11Ace) owned by Millennium Farm Partnership and another is 29-acre MALPF-eased property (File #23-01-10A) owned by Diane B. Lambertson Revocable Trust (1 dwelling). There is a third farm that is not a MALPF-eased property and is owned by Wayne Lambertson. The solar panels appear to be designed to serve only agricultural and residential operations on these four properties, with little allowance to sell unused power on the commercial market.

Jason Lambertson owns Amen Corner, LLC as well as Millennium Partnership.

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consult with counsel to obtain legal advice; and (8) to consult with staff, consultants, or other individuals about pending or potential litigation.

Motion # 6: To adjourn the regular session to move into a closed session to consult with counsel to obtain legal advice; and to consult with staff, consultants, or other individuals about pending or potential litigation.

Motion: Milly Welsh Second: Cathy Cosgrove
Status: Approved

The Closed Meeting of the Board was held from 10:30 a.m. to 11:25 a.m. on April 25, 2017 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):

(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, Jr., Chair, Michael Calkins, Vice-Chair, Cathy Cosgrove, William Allen, Milly Welsh, Tom Mason, Jerome Klasmeier, representing Comptroller Peter Franchot, Susanne Brogan, representing Treasurer Nancy Kopp, Donald Moore, Ralph Robertson, Deborah Herr Cornwell, representing Secretary Wendi Peters, Maryland Department of Planning, and Joe Wood.

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 March 28, 2017 Closed Session Minutes
- B. Status Report of Pending Legal Issues.
- C. Legal advice regarding permitted uses on MALPF easements.

Respectfully Submitted:

Carol S. West, MALPF Executive Director