

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION  
OPEN MEETING MINUTES  
June 23, 2015**

**Trustees Present:**

John Draper, Jr., Chair  
Michael Calkins  
Craig Highfield  
Patricia A. Langenfelder  
Donald T. Moore  
Eugene B. Roberts, Jr.  
Dan Rosen, representing Secretary David Craig, Maryland Department of Planning  
Mary Ellen Setting, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture

**Trustees Absent:**

Bernard L. Jones, Sr., Vice Chair  
Susanne Brogan, representing Treasurer Nancy Kopp  
Jerome W. Klasmeier, representing Comptroller Peter Franchot  
James (Bubby) Norris, Jr.  
Jonathan Quinn

**Others Present:**

Michelle Cable, MALPF Administrator  
Diane Chasse, MALPF Administrator  
Veronica Cristo, Calvert County Program Administrator  
Tamekia Dent, MALPF Office Secretary  
Rama Dilip, MALPF Administrative Specialist  
Billy Gorski, Anne Arundel County, Assistant Program Administrator  
Bill Kaser, Office of the Attorney General, Department of General Services  
Donna Landis-Smith, Queen Anne's County Program Administrator  
Justin Hayes, Assistant Attorney General, MDA  
Kim Hoxter, MALPF Monitoring, Enforcement, and Database Coordinator  
Wally Lippincott, Baltimore County Program Administrator  
Stephanie Manuzak, MALPF Temporary Secretary  
Jeanine Nutter, Prince George's County Program Administrator  
Stephen O'Connor, Cecil County Program Administrator  
Byron Petrauskas, Program Manager, MDA  
Donna Sasscer, St. Mary's County Administrator  
Chana Turner, MALPF Administrator  
James Wallace, Assistant Secretary, Administration, MDA  
Carol West, MALPF Executive Director

**Others Present By Web Conferencing:**

Bill Amoss, Harford County Program Administrator  
Chris Boggs, Washington County Land Preservation Planner  
Deborah Bowers, Carroll County Program Administrator  
Debbie Herr-Cornwell, Caroline County Program Administrator  
Amos Rowland, Washington County Landowner  
Eric Seifarth, Washington County Program Administrator  
Martin Sokolich – Talbot County Program Administrator  
Katrina Tucker, Kent County Program Administrator  
John Zawitoski, Montgomery County Program Administrator

## MALPF Board Open Meeting Minutes 6-23-2015

John W. Draper, Jr., Chair, called the meeting to order at 9:03 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 May 26, 2015, and correction to February 24, 2015 minutes

#### **Discussion:**

Minutes from May 26 were presented for approval.

Motion #1: Approve minutes from May 26, 2015.

Motion: Patricia Langenfelder      Second: Mary Ellen Setting  
Status: Approved

Ms. West also presented minutes from February 24, 2015. These minutes were previously reviewed and approved; however, subsequent errors were found, such as mistakes in attendance reporting, incorrect attribution of motions, and erroneous numbering.

Motion #2: Rescind approval, issued on March 24, 2015, for February 24, 2015 minutes.

Motion: Donald Moore                      Second: Patricia Langenfelder  
Status: Approved

Motion #3: Approve corrections to February 24, 2015 minutes.

Motion: Patricia Langenfelder      Second: Michael Calkins  
Status: Approved

### **II. ADDITION / DELETION OF AGENDA ITEMS**

- A. Item IV.D.3 is shown as “withdrawn” on the agenda; however, this item is ready to be presented. Copies were distributed to the Board.  
B. Item VI.J, Carroll County recertification, is withdrawn.  
C. Item VI.B, Mr. Petrauskas’ soil conservation plan presentation, will take place early in the meeting.  
D. Item VI.I, Queen Anne’s County Recertification, will be discussed first.

### **III. ANNOUNCEMENTS**

- A. Stephanie Manuzak is the new temporary secretary.. Bill Kaser, an attorney with the Department of General Services, is now assisting Nancy Forrester.  
B. The Governor has just announced that he has cancer; please keep him in your thoughts/prayers.  
C. Rama Dilip will be leaving MALPF for a new career opportunity with the Maryland Environmental Trust. Her last day will be July 21.  
D. The Board will not be discussing easement offers today.  
E. Agenda Item VI.J. is withdrawn.

### **IV. EASEMENT AMENDMENTS**

- A. BALTIMORE COUNTY

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1. 03-87-24c Wisner Farms, Inc. ~180 acres

**Request – Baltimore County:**

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

**Recommendation:**

Under COMAR 15.15.06.05.B.2, Staff recommends approval for a 5 year extension, including the requirement that the payback required for the increase in lot size approved in April 2014 is provided prior to recording the release extension.

**Discussion:**

Ms. Cable introduced the item. Mr. Lippincott was present for comments and questions.

Motion #4: To approve the request for a 5-year extension of the preliminary release for the child's lot in accordance with Staff recommendation.

Motion: Donald T. Moore Second: Eugene B. Roberts, Jr.  
Status: Approved

2. 03-94-09A Ensor, Peter & Alice ~92 acres

**Request – Baltimore County:**

Request to void preliminary release of Peter William Ensor's child's lot and reimburse the payback amount he paid for the approved child's lot that will not be finalized.

**Recommendation:**

Staff recommends approval per the criteria specified in Article – Agriculture Section 2-505 (c)(5).

**Discussion:**

Ms. Cable introduced the item. Mr. Lippincott was available for comments and questions.

Payback amount would be slightly under \$6,000. Ms. Cable mentioned that MALPF has been working with the landowner to resolve some fairly significant issues with debris (old cars) on the property. Mr. Roberts asked if it would be possible to link the payback to resolution of violations. In response, Mr. Hayes stated that, although it may be tempting to do so, we could not make payback conditional on violation resolution. This would be an option, however, if the landowner was asking for a subdivision, because granting a subdivision is discretionary. Board members discussed language that we could incorporate into the letter to the landowner regarding the violations.

Motion #5: To approve the voiding of the preliminary release and reimbursement of the payback amount in accordance with Staff recommendation.

Motion: Craig Highfield Second: Mary Ellen Setting  
Status: Approved

B. WASHINGTON COUNTY

1. 21-89-01 Rowland, Amos J. ~596.82 acres

**Request –Washington County:**

Request to relocate a pre-existing dwelling, resulting in a non-subdividable building envelope and the original dwelling being re-designated as an agriculturally-related

structure.

**Recommendation:**

Staff recommends approval in accordance with COMAR 15.15.04, subject to the following conditions agreed upon by the owner: 1) the new dwelling must be non-subdividable from the easement property, 2) the original dwelling must be converted and re-designated as an agriculturally related structure, and also be made non-subdividable, and 3) execution of a written agreement memorializing the relocation approval and conditions and the re-designation of the original dwelling structure, which agreement will permit the Foundation to inspect the interior of the original dwelling structure.

**Discussion:**

Ms. Cable introduced the item. Mr. Seifarth, Mr. Boggs, and Mr. Rowland, were available by phone for comments and questions.

Motion #6: To approve the request for dwelling relocation and re-designation of original dwelling in accordance with Staff recommendation and conditions.

Motion: Eugene B. Roberts, Jr. Second: Donald T. Moore  
Status: Approved

C. CARROLL COUNTY

1. 06-82-13As4e Lippy Brothers, Inc. ~211.486 acres

**Request – Carroll County:**

Request is for a 5-year extension to the validity of the preliminary release for the approved child lot for Kandi Jo Lippy Matthews.

**Recommendation:**

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

**Discussion:**

Ms. Turner introduced the item. Ms. Bowers was available by phone for comments and questions.

Motion #7: To approve the request for a 5-year extension to the validity of the preliminary release in accordance with Staff recommendation.

Motion: Michael Calkins Second: Mary Ellen Setting  
Status: Approved

2. 06-89-31s1 Snader, Philip and Victoria ~81 acres

**Request –Carroll County:**

Request to relocate a pre-existing dwelling, resulting in a non-subdividable, one-acre building envelope.

**Recommendation:**

Staff recommends approval in accordance with COMAR 15.15.04, subject to the following conditions agreed upon by the owner: 1) the new dwelling must be non-subdividable from the easement property; 2) execution of a written agreement memorializing the relocation approval.

**Discussion:**

Ms. Turner introduced the item. Ms. Bowers was available by phone for comments and questions.

Ms. Bowers stated that the landowner has expressed willingness to make the new dwelling site non-subdividable. To document that the new dwelling site will be non-subdividable, Staff has the landowner sign off on documentation of both the new dwelling location and the landowner's understanding that it is non-subdividable. In an ordinary case, this documentation would also state the landowner's understanding that the unused dwelling needs to be demolished. In this case, however, the original dwelling has already been destroyed in a controlled burn and the land restored to agricultural use.

Motion #8: To approve the request for relocation of a pre-existing dwelling, resulting in a one-acre, non-subdividable building envelope, in accordance with Staff recommendations and conditions.

Motion: Eugene Roberts                      Second: Michael Calkins  
Status: Approved

D. HARFORD COUNTY

1.            12-83-03C                                      Sinsz, Jennifer (daughter of James Hoopes)            ~14.64 acres

**Request – Harford County:**

Request to reimburse James Hoopes for a portion of a child lot (1 acre). The reimbursement amount is \$1,500. The remainder of the child lot will be 1 acre.

**Recommendation:**

Staff recommends approval of the reimbursement, subject to completion of items b, c, and d outlined below.

**Discussion:**

Ms. Chasse introduced the item.

The landowner was granted a non-subdividable child lot in 2008; however, the landowner later subdivided and built a house on the lot. For this reason, Ms. Chasse recommends approval subject to several conditions, which will be documented in an amendment to the Easement. The Reimbursement Statute (Article – Agriculture Section 2-505 (c)(5)) does not apply because the house is already built. However, the Foundation can still require the items below from that statute.

a. *The lot is conveyed to the owner free and clear of liens;*

This condition is satisfied.

b. *Any recorded plat creating the lot is voided;*

The landowners must void the existing subdivision plat as a precondition for reimbursement of \$1,500.

c. *The lot is added to the tax account assigned to the land encumbered by the easement; and*

The landowners must merge the released lot to the parent easement tax account as a precondition for reimbursement of \$1,500.

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- d. *The preliminary release is voided by an agreement recorded in the Land Records;*

The landowners must void the preliminary release as a precondition for reimbursement of \$1,500. This is being done in the Amendment discussed above.

Mr. Calkins asked for clarification about the release issued to the landowners. A preliminary release was issued, but a final release was never issued. The amendment to establish the building envelope would be in lieu of a final release. Mr. Hayes pointed out that the landowner would also need to take action to void the subdivision plat.

Motion #9: To reimburse James Hoopes for a portion of a child lot (1 acre). The reimbursement amount is \$1,500. The remainder of the building envelope will be 1 acre (to be established by corrective easement). Approval is subject to conditions b, c, and d described above, in accordance with Staff recommendation.

Motion: Michael Calkins Second: Patricia Langenfelder  
Status: Approved

2. 12-94-02A Harlan, William ~103.125 acres

**Request – Harford County:**

Request to reimburse William Harlan for the payback amount he paid for the approved child's lot, which the child no longer wants to pursue.

**Recommendation:**

Staff recommends conditional approval of the reimbursement request, subject to the requirements of 2-505 (c)(5) of the Agriculture Article.

**Discussion:**

Ms. Chasse introduced the item.

Motion #10: To approve the reimbursement request in accordance with Staff recommendation.

Motion: Michael Calkins Second: Donald T. Moore  
Status: Approved

3. 12-13-07 Milton, James and Karin ~53.26 acres

**Request – Harford County:**

Request approval to temporarily permit a sign that is larger than permitted under the easement document. The landowner has not yet gone to settlement on this bargain sale easement.

**Recommendation:**

Staff recommends approval to use the existing sign so long as: 1) James and Karin Milton own the easement property; 2) the sign remains functional; and 3) the content of the sign relates to agricultural activity on the land.

Once the sign is no longer functional, it may not be replaced except by a sign that meets the easement criteria. Also, while in use, the sign must remain moveable, that is, not cemented into the ground.

This item had previously been withdrawn from the agenda, but was reinstated just prior to the meeting. Copies of the memo and photograph of the sign were distributed to Board members.

**Discussion:**

Ms. Chasse introduced the item.

The language of the landowners' easement will not be changed. All future owners will have to abide by the requirements of the easement. The conditions outlined in the recommendation will be sent to the landowners in a letter.

Motion #11: To approve ongoing use of the existing sign, subject to the conditions outlined above.

Motion: Donald Moore                      Second: Patricia Langenfelder  
Status: Approved

**E. FREDERICK COUNTY**

1.      10-88-02e      Free, Joseph and Eleanor                                      ~148.87 acres

**Request – Frederick County:**

Request is for a 5-year extension to the validity of the preliminary release for the approved child lot for Nancy Free Beech.

**Recommendation:**

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

**Discussion:**

Ms. Chasse introduced the item.

Motion #12: To approve the request for an extension of preliminary release in accordance with Staff recommendation.

Motion: Patricia Langenfelder      Second: Mary Ellen Setting  
Status: Approved

**V. EASEMENT PETITIONS**

A.      none

**VI. PROGRAM POLICY**

A.      Participation in FY 2015/2016 Matching Funds Program

St. Mary's County has requested to participate in the Matching Funds Program for the 2015/2016 Easement Acquisition cycle. Staff recommends Board approval.

Ms. West presented the item.

Motion #13: To approve the request for St. Mary's County to participate in the Matching Funds Program for FY 2015/2016.

Motion: Michael Calkins                      Second: Patricia Langenfelder  
Status: Approved

B.      Presentation – Soil Conservation and Water Quality Plans

Mr. Petrauskas presented information about MDA's involvement in soil conservation and water quality planning. He gave a program overview along with handouts that included more detailed information about what these plans involve.

The objective of a conservation plan is to achieve sound use and management of the property and its natural resources. Conservation plans are usually initiated in one of three ways: through action from a proactive landowner; through Ag Compliance, who may visit the farm and identify an issue, recommending a plan to alleviate concerns; and WIP goals, as a result of dedicated staff actively looking for new sites and opportunities. MDA also looks at plans that are expired and makes contact with the landowner.

One key component of the program is the certification process: all planners are certified to either a Level 1 or Level 2 based on their experience and training.

Planning begins with an assessment of conservation-related problems as well as the farmers' production objectives. The plan takes special factors, such as wetlands or forest lands, into consideration. The goal is to offer and document ways that the landowner or operator can reach their objectives while also addressing these conservation issues.

Conservation plans are voluntary and site-specific. A plan is effective for 10 years, and it can be initiated/followed by the landowner, the operator, or both. It is important to remember that a plan is not valid unless it has the landowner's signature. Typically it is also signed by staff on the Board of Supervisors or from District Conservation.

A conservation plan is required to participate in certain state programs, particularly if the property contains wetlands or is highly erodible land. In the latest Farm Bill, conservation plans may be required for FSA loans, disaster assistance, and other FSA programs, as well as crop insurance and support programs.

Ms. West asked if MALPF might be added to a list of programs that require a conservation plan. Older easement contracts do not have this language to require the plans be kept updated, but they are required prior to sale of an easement to the Foundation. Mr. Petrauskas replied that his program operates under the assumption that a conservation plan was a MALPF requirement. Ms. West stated that the Board will be talking today about whether they will make it an official requirement, and will notify him if MALPF should be added to his list of programs that require a plan. Mr. Draper asked how the conservation plan requirement is policed vis-à-vis crop insurance; Mr. Lippincott replied that insurers need to check with FSA to make sure a landowner has a plan in place.

Mr. Hayes asked why insurance companies might require a plan. Mr. Draper replied that this is actually a federal government requirement for subsidies. Ms. Langenfelder added that this is to prevent crop damage overall. Mr. Hayes stated that the question for MALPF then is whether we should also require the plan to protect our investments. Mr. Petrauskas added that it is not a written requirement for participation in the Maryland Agricultural Cost Share (MACS) program, but the unspoken policy is that it is a practical requirement that farmers need a current conservation plan. A nutrient management plan, however, is required for MACS.

Two sets of documents are produced: Mr. Petrauskas showed a sample. All follow-up conversations and site visits are documented, including maps for proposed changes, soils, etc. Final documents show planned practices for each given field, along with planned and actual implementation dates.

Mr. Highfield asked about whether forestry plans were included or could be included; Mr. Petrauskas replied that yes, forestry management can be part of the plan.

Mr. Draper pointed out that the reason this comes up is because the Department of Legislative Services audit found that many easement properties had expired soil conservation and water quality plans. He wondered why it has been so challenging to get easement property plans updated. Mr. Petrauskas replied that this may result from a lack of communication back to the District. The staff usually acts in response to individual requests for updates. In response to Ms. West's question about whether MALPF may request an update to a conservation plan, he replied that only a landowner or operator may do so. Plans are not required to be kept updated if the property is not being actively farmed.

Mr. Hayes asked whether there were any barriers to prevent farmers from coming back to the District and requesting an updated plan as their initial plan is about to expire. Mr. Draper replied that often farmers may simply not want the interference and may be afraid of what other issues an inspector may find. Mr. Lippincott pointed out that there haven't been many innovations in soil treatment. Mr. Petrauskas said that other factors (i.e. storm damage) may make it worthwhile for a landowner/operator to renew their plan prior to its lapse. Some farmers initially obtain the plan because it's a requirement, but they may not be actively operating their farm, and the plan is simply shelved. Ms. West asked whether there is something that MALPF can file to say that the reason for a lack of updated plan is because the farm has not been in active use. Mr. Petrauskas stated that his department would prefer that even if the farm is not being used, someone should go out to inspect the property and at least document the property's condition.

Ms. West asked about cost to landowners. Mr. Petrauskas stated that there was no cost to create a plan, and many costs for implementation are covered by State programs (i.e. about 87.5% for MACS).

C. Calvert County Certification Request

Ms. Turner and Mr. Rosen presented the item. Ms. Cristo was available for comments and questions.

Per Mr. Rosen, the county was never decertified; they were certified from 2009-2012 but did not reapply. This is considered a new application. Planning approves certification from July 1, 2015 through June 30, 2018.

Motion #14: To approve the certification request for Calvert County

Motion: Michael Calkins                      Second: Donald T. Moore  
Status: Approved

Ms. Cristo announced that this will be her last Board meeting, as she is leaving the program to work with Chesapeake Bounty Farm Stand and Market.

D. Caroline County Certification Request

Ms. Turner and Mr. Rosen presented the item. Ms. Herr-Cornwell was available by phone for comments and questions.

This county's certification lapsed for several years while the county focused on a comprehensive plan rewrite. Planning approves certification from July 1, 2015 through June 30, 2018.

Motion #15: To approve the certification request for Caroline County

Motion: Patricia Langenfelder              Second: Eugene B. Roberts, Jr.  
Status: Approved

E. Worcester County Recertification Request

Ms. Chasse and Mr. Rosen presented the item. Planning approves certification from July 1, 2015 through June 30, 2018.

Motion #16: To approve the recertification request for Worcester County

Motion: Michael Calkins                      Second: Donald T. Moore  
Status: Approved

F. Baltimore County Recertification Request

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Ms. Cable and Mr. Rosen presented the item. Mr. Lippincott was available for comments and questions. Planning approves certification from July 1, 2015 through June 30, 2018.

Motion #17: To approve the recertification request for Baltimore County

Motion: Eugene B. Roberts, Jr. Second: Patricia Langenfelder  
Status: Approved

G. Cecil County Recertification Request

Ms. Cable and Mr. Rosen presented the item. Mr. O'Connor was available for comments and questions.

In different circumstances, this would be an easy decision to approve. However, the county is revisiting its Priority Preservation Area (PPA), and the proposed area may shrink by 35%. If the Board recertified now and the PPA shrank, the decision could not be revisited for three years.

For this reason, Mr. Rosen would like to extend current certification and revisit the recertification request after the PPA changes are made. This is permitted under COMAR 34.03.03.08.

Per Mr. Hayes, no action is required by the Board; the Department of Planning (MDP) can allow the certification to remain in effect. The Board can vote to defer to Planning and take a vote of support.

Motion #18: To defer to the MDP decision to allow Cecil County's current certification to remain in effect.

Motion: Patricia Langenfelder Second: Michael Calkins  
Status: Approved

Ms. Cable commended the work done by Mr. O'Connor, who stepped into his role as Program Administrator during unfortunate and challenging circumstances and has done an exceptional job.

H. Montgomery County Recertification Request

Ms. Cable and Mr. Rosen presented the item. Mr. Zawitoski was available by phone for comments and questions. Planning approves certification from July 1, 2015 through June 30, 2018.

Motion #19: To approve the recertification request for Montgomery County.

Motion: Eugene Roberts Second: Mary Ellen Setting  
Status: Approved

I. Queen Anne's County Recertification Request

Ms. Cable and Mr. Rosen presented the item for discussion. Ms. Landis-Smith was available for comments and questions. Planning approves certification from July 1, 2015 through June 30, 2018.

Motion #20: To approve the recertification request for Queen Anne's County.

Motion: Michael Calkins Second: Mary Ellen Setting  
Status: Approved

J. Carroll County Recertification Request

This item was withdrawn.

**VII. INFORMATION AND DISCUSSION**

A. Quarterly Inspection Report

Ms. Hoxter presented the quarterly inspection report. Seven counties have completed inspections, and many more are in progress. No county has indicated a need for assistance.

B. News Articles

**VIII. CLOSED SESSION**

John W. Draper, Jr. 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 # 21: To adjourn the regular session to move into a closed session to consider the acquisition of real property for a public purpose and matter directly related to the acquisition; to consult with counsel to obtain legal advice; and to consult with staff, consultants, or other individual about pending or potential litigation.

Motion: Michael Calkins                      Second: Patricia Langenfelder  
Favor: John Draper, Jr., Dan Rosen, Mary Ellen Setting, Craig Highfield,  
Patricia Langenfelder, Donald T. Moore, Eugene B. Roberts, Jr.,  
Michael Calkins

**The Open Board Meeting was adjourned at approximately 10:59 a.m.**

The Closed Meeting of the Board was held from 11:10 a.m. to 11:44 a.m. 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: John Draper, Jr., Chair; Michael Calkins; Craig Highfield; Patricia A. Langenfelder; Donald T. Moore; Eugene B. Roberts, Jr.; Dan Rosen, representing Secretary David Craig, Maryland Department of Planning; Mary Ellen Setting, representing Secretary Joseph Bartenfelder, Maryland Department of Agriculture

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

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**TOPICS DISCUSSED:**

- A Approval of March 24, 2015 Closed Session Minutes
- B Status Report of Pending Legal Issues
- C FY 2015 Deed of Easement Language – Soil Conservation and Water Quality Plan Requirement

Respectfully Submitted:

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Carol S. West, Executive Director