

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
OPEN MEETING MINUTES
SEPTEMBER 26, 2017**

Trustees Present:

Michael Calkins, Chair
Jerome Klasmeier, representing Comptroller Peter Franchot
Deborah Herr Cornwell, representing Acting Secretary Robert McCord, Maryland
Department of Planning
Catherine Cosgrove
Bernard L. Jones, Sr.
Tom Mason
Ralph Robertson
Milly Welsh
Joe Wood
J. Bruce Yerkes

Trustees Absent:

James Eichhorst, representing Secretary Joseph Bartenfelder, Maryland Department
of Agriculture
Susanne Brogan, representing Treasurer Nancy Kopp
William Allen

Others Present:

Michelle Cable, MALPF Administrator
Diane Chasse, MALPF Administrator
Chana Kikoen Turner, MALPF Administrator
Kim Hoxter, MALPF Monitoring, Enforcement and Database Coordinator
Amanda Wilson, MALPF Fiscal Specialist
Tamekia Dent, MALPF Office Secretary
Justin Hayes, Assistant Attorney General, Department of Agriculture
Nancy Forrester, Assistant Attorney General, Department of General Services
Patrick Martyn, Assistant Attorney General, Department of General Services
Billy Gorski, Anne Arundel County Planner
Jeanine Nutter, Prince George's County Program Administrator
Deborah Bowers, Carroll County Program Administrator
Bill Amoss, Harford County Porgarm Administrator
Rick Troutman, Carroll County
Patrick O'Neill, Harford County Landowner
Jeff Lynn, Harford County Landowner
Michael Birch, Harford County Attorney, representing Mr. Lynn

Others Present By Web Conferencing:

Kaylee Justice, Baltimore County staff
Donna Landis-Smith, Queen Anne's County Program Administrator
Steve O'Connor, Cecil County Program Administrator
Bonnie Bevard, Carroll County staff

Michael Calkins, Chair, called the meeting to order at 9:05 a.m. at the Maryland Department of Agriculture building, Annapolis, Maryland. The guests and then the Board and staff introduced themselves.

MALPF Board Open Meeting Minutes September 26, 2017

Request to exclude up to 2.0 acres from the easement for a child lot for son, Brett Haines.

Recommendation:

Staff recommends approval.

Ms. Turner introduced the item and Ms. Bowers was available for any questions. The Board, having no questions, made a motion as follows:.

Motion #3: To approve up to 2.0 acres for a child’s lot for Brett Haines.

Motion: Catherine Cosgrove Second: Bernard Jones
Status: Approved

3. 06-03-12 Green, Delbert Aaron and Leo David ~115 acres

Request:

Request acknowledgement of pre-existing right-of-way and consent to enter into Confirmatory Right- of-Way Agreement.

Recommendation:

Staff recommends approval contingent upon:

1. a provision being added to the Agreement that prohibits expansion of the use of the existing ROW and the ROW extension, both as defined below, beyond the current configuration of the Krebs property, such that the memorialized right-of-way would allow for subdivision of the Krebs property; and
2. final review of the Agreement by MALPF’s legal counsel. Further, MALPF shall have the right to final review and approval of any future proposed amendments, and/or revisions to the Agreement

Ms. Turner introduced the item and Ms. Bowers was available for any questions. The Board tabled the item pending receipt of more information, specifically to 1) ascertain whether the Greens are amenable to the conditions of approval recommended by Staff; 2) attain a better understanding of the status of the dispute over the right-of-way between the Greens and the Krebs; and 3) to be advised as to what effect, if any, the proposed conditions would impose upon any pending litigation or settlement activity between the two parties.

Motion #4: To table the item for future consideration.

Motion: Catherine Cosgrove Second: Joe Wood
Status: Approved

B. HARFORD COUNTY

1. 12-83-02 O’Neill, Patrick ~106.11 acres

Request

Request approval for up to six (6) auctions per year to sell farm-related items, vehicles, tools, supplies and other personal property.

Recommendation

Staff recommends denial of the request, as presented.

Ms. Chasse introduced the item and explained that Staff recommendation for denial is mostly based on the fact that few of the auction items are farm-related. Mr. Amoss and Mr. O’Neill were available for any questions. Mr. O’Neill discussed that his father had held auctions on the farm and that he was continuing in that tradition. Mr. Mason asked if

MALPF Board Open Meeting Minutes September 26, 2017

the items sold at his father's auctions were agricultural items and if the items Mr. Patrick O'Neill now sold were also agricultural items. Mr. O'Neill stated that the items that his father sold were primarily agricultural but now only 5% of the items he auctions are agricultural items.

Motion #5: To approve up to three auctions per year.

Motion: Catherine Cosgrove Second: Milly Welsh
In favor: Cosgrove, Welsh, Jones, Yerkes, Klasmeier
Against: Mason
Abstained: Cornwell, Robertson, Wood

At this time, by recommendation of counsel, the Board adjourned into closed session (10:12 a.m.). The purpose for closing the meeting was to consult with legal counsel to obtain legal advice pursuant to Md. Code Ann., Gen. Prov., 3-305(b).

At 10:30 the Board resumed the open session.

Based on the legal advice provided by counsel regarding statutory use restrictions on Foundation easement properties, the Board made the following motions:

Motion #6: To set aside previous motion and revote.

Motion: Tom Mason Second: Bernard Jones
Against: Jerry Klasmeier
Status: Approved

Motion #7: Deny request to hold auctions as presented based on the inadvertence of information prior to previous motion and new information provided by counsel during closed session. Direct MALPF staff to work with Mr. O'Neill to investigate alternative options within the governing statute and regulations that would meet the intent of the landowner.

Motion: Bernard Jones Second: Tom Mason
In favor: Jones, Mason, Robertson, Cornwell, Wood, Yerkes
Against: Cosgrove, Welsh, Klasmeier
Status: Approved

Motion #8: Allow counsel to disclose attorney-client privileged information that was discussed during closed session.

Motion: Bernard Jones Second: Ralph Robertson
Status: Approved (unanimously)

Counsel for the Board described the statutory use restrictions applicable to MALPF easements prohibiting commercial activity that is not farm or forest related. Given the landowner's description that only five percent of auctioned items are agriculturally related, approval of the proposed auction activity appeared to be beyond the statutory authority of the Board.

The Board advised Mr. O'Neill that he will have to do a separate request at a future meeting for events for fundraising, birthdays, and weddings because staff had assumed that those could be held in a one acre area around the home (and not in a proposed 5 acre area) and therefore had not prepared a memo to discuss them.

2. 12-80-01ces SUB#1 Lynn, Jeffery and Leslie ~101 acres

Request :

Request retroactive approval for a tenant house and an exchange of designations (tenant

MALPF Board Open Meeting Minutes September 26, 2017

house to pre-existing dwelling and vice versa).

Recommendation

Staff requests Board review as the nature of the farm operation does not seem to indicate need for a full-time tenant.

Ms. Chasse introduced the item. Mr. Amos, Mr. Lynn, and Mr. Birch were available for questions. Mr. Lynn stated that Mr. Cisneros duties were discussed as including building maintainance, mowing and care of horses.

Motion #9: To retroactively approve a tenant house and the exchange of designations between a pre-existing dwelling and tenant house, with both designated pre-existing dwellings to be non-subdivideable from the easement property.

Motion: Ralph Robertson Second: Bernard Jones
Status: Approved

C. CECIL COUNTY

- 1. 07-91-19 Great House Holdings, LLC ~118 acres
- 07-88-07 Helena DuPont Wright, Trustee ~184 acres

Request :

Request to memorialize an access easement by a formal right of way agreement and expand it to 25-feet wide for the benefit of MALPF easement properties and MALPF approved lots.

Recommendation

Staff recommends approval to record a 25' wide right of way agreement to memorialize a condition existing at the time the Foundation purchased its preservation easements, with the following conditions:

- 1. The ROW over Buckworth Road and Bison Lane (shown on Exhibit C of attachments) to benefit the owners of the adjacent 8-acre parcel (Virginia DuPont Suarez) may not be expanded or granted to permit any further residential development or subdivision of the Suarez parcel;
- 2. The ROW over Buckworth Road (shown on Exhibit B of attachments) will allow ingress/egress for the owner of the residential lot (shown as Site F on maps for Agenda Item IV.C.2.), if the Board approves the land exchange request in subsequent item;
- 3. Neither ROW will be used to facilitate any additional residential development on either Easement 07-91-19 or 07-87-08;
- 4. The ROWs may be maintained and improved using pervious or non-pervious materials, in accordance with county requirements; and
- 5. The landowners must submit the proposed ROW document for review by the Office of the Attorney General prior to recording.

Ms. Cable introduced the item. Mr. O'Connor was available via Go-To-Meeting for questions. Ms. Cable provided the Board with background information on the easement properties involved in this request and the adjacent easement properties, as they are owned by the same entity and are interconnected. The Board asked some clarifying questions regarding the location of the existing farm lane and the status of the lots shown on the map.

Motion #10: To approve right of way with recommended staff conditions.

Motion: Milly Welsh Second: Bruce Yerkes
Status: Approved

MALPF Board Open Meeting Minutes September 26, 2017

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

TOPICS DISCUSSED:

- A. Approval of August 22, 2017 Closed Session Minutes
- B. Status Report of Pending Legal Issues.
- C. Round One Offers

Respectfully Submitted:

Michelle Cable, Administrator