

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION  
MINUTES**

**July 24, 2007**

**TRUSTEES PRESENT:**

Daniel Colhoun, Chairman  
Vera Mae Schultz, Vice Chairman  
Howard S. Freedlander, representing Treasurer Nancy Kopp  
Jerry Klasmeier, representing Comptroller Peter Franchot  
Judith C. Lynch  
Dr. James Pelura  
Robert F. Stahl, Jr.,  
Joe Tassone, representing Secretary Richard E. Hall, Department of Planning  
Christopher H. Wilson  
Doug Wilson, representing Secretary Roger L. Richardson, Department of Agriculture

**OTHERS PRESENT:**

Howard Alderman, Attorney Rep. Arthur and Marie Wood, Landowners, Harford County  
Tammy Buckle, Caroline County, Program Administrator  
Diane Chasse, MALPF Administrator  
James Conrad, MALPF Executive Director  
Carol Council, MALPF Administrator  
Bill Crouch, Conservation Fund  
Rama Dilip, MALPF Secretary  
Will Doane, Harford County, Program Assistant  
Melissa Kramer, Howard County, Miles and Stockbridge  
Carla Martin, Kent County, Program Administrator  
Craig Nielsen, Assistant Attorney General, Maryland Department of Agriculture  
Tom McCarthy, Project Manager, Rural Legacy Program, Department of Natural Resources  
Graham Petto, Maryland Department of Planning  
Barbara Polito, Anne Arundel County, Program Administrator  
Daniel Rosen, Planner, Maryland Department of Planning  
Charles Rice, Charles County, Program Administrator  
Daniel Sager, MALPF Intern  
Ned Sayre, Harford County, Program Assistant  
Donna K. Landis-Smith, Queen Anne's County, Program Administrator  
Elizabeth Weaver, MALPF Administrator  
Arthur Wood, Landowner, Harford County



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required. Mr. Conrad is currently working to update the changes and hoped to complete them by fall 2007. The Office of the Assistant Attorney General will be reviewing the changes.

Mr. Nielsen stated that he would be requiring a letter from the Foundation that new regulations be put in the Maryland Register. Mr. Colhoun stated that such a letter will be forwarded as soon as possible.

Robert Stahl, Board member, stated that he believed that, as a Board member, he needs to be informed about the regulations enforced by the Foundation. The staff needs to inform the at-large Board members of any shortcomings in the regulations.

Mr. Nielsen clarified that the regulations used by the Foundation are available in the COMAR, but, there are certain policies, like the lot location policy, that are required to be put in the Maryland Register before being adopted in COMAR.

Mr. Colhoun shared Mr. Stahl's concerns and stated that the issue needs to be addressed as soon as possible.

Mr. Conrad updated the Board members about the Equine Committee. Mr. Conrad planned to forward the revised chart with a cover memo to the Horse Industry Board. The Horse Industry Board will have a month to respond and send its suggestions. The revised chart will then be reviewed by the Committee and brought to the MALPF Board for action.

Mr. Conrad informed the Board that the Foundation has advertised for the monitoring position.

**II. DISTRICT /EASEMENT AMENDMENTS**

**B. DORCHESTER COUNTY**

1. Malkus, Theodore E., et al 958.385 acres  
Request for approval of a 1-acre child's lot on an easement property

On February 23, 1999, the Foundation's Board of Trustees approved the concept of co-holding Rural Legacy conservation easements, but reserved the right to review and approve specific conditions on a case-by-case basis.

A summary of the characteristics of the property on which an easement is proposed to be co-held was attached with the staff memo for the Board's review and consideration. Also attached was the proposed deed of easement, which will be reviewed by Craig Nielsen, Assistant Attorney General, Department of Agriculture prior to the Board meeting.

The proposed easement follows the model deed of easement for co-held Rural Legacy easements, which has been approved by the MALPF Board. The easement is to be co-held with the Rural Legacy Program. Usually, MALPF co-holds Rural Legacy easements with the local sponsor. In this case, the local sponsors are Dorchester County, The Nature Conservancy, and The Conservation Fund. Dorchester County determined that it does not have adequate resources to co-hold Rural Legacy easements. The Malkus family did not want the easement to be held by The Nature Conservancy or the Conservation Fund. The family requested that the easement be co-held with MALPF because MALPF has a history of holding agricultural easements in the region. The easement will be co-held with the Department of Natural Resources (DNR) on behalf of the Rural Legacy Program. Because this is the first instance where Rural Legacy is a direct co-holder with MALPF, a memorandum of understanding may need to be developed to address administrative and stewardship issues, including monitoring responsibilities. Alternatively, the administrative and stewardship issues could be outlined in the easement document. Mr. Conrad stated that he has had discussions with Rural Legacy. Shaun Fenlon, Assistant Attorney General, Department of Natural Resources, believed that a memorandum of understanding may not be necessary unless the Board



advisory board and conforms to local zoning regulations.

Staff recommends approval based on the provisions of the deed of easement and in accordance with Agricultural Article, Section 2-513(b)(3), Annotated Code of Maryland, which grants an allowance of one tenant house per 100 acres for use of a tenant fully engaged in the operation of the farm.

Mr. Wood and his attorney, Howard Alderman, and Will Doane, Program Assistant, were present at the meeting.

Mr. Doane stated that Mr. Wood received an approval to move the primary dwelling. The map attached with the agenda material indicated the location of the new dwelling and the proposed tenant house location. Previously there was a structure, but that has now been demolished. Mr. Wood proposes to put a tenant house in that location. There will be no additional burden on the property because it will be clustered with other farm buildings. The local agricultural advisory board approved the request.

Mr. Wood stated that he and Mrs. Wood would like to travel and wanted someone to operate the farm when he is not available.

Mr. Stahl wondered why the Board denied the earlier request for a re-designation of the tenant house and asked the landowner to demolish the original dwelling. The landowner has since demolished the original dwelling and is seeking a tenant house in the same location.

Mr. Conrad stated that at the time of the earlier request, the Foundation did not have the ability to re-designate under law. However, about 18 months ago, a re-location bill was passed and currently the law allows re-designation. The re-location bill gave the MALPF Board discretion to turn the existing house into a farm structure.

Elizabeth Weaver, MALPF staff, added that the new law specifically excludes the ability to re-designate a house as a tenant house, and this was done at the request of the legislature. The legislature was concerned about creating additional development on farms, especially by subsequent owners. If the Foundation allows the landowner to relocate an existing dwelling and keep the original house, it will be giving the landowner an additional house or an ability to have an additional residence.

Mr. Conrad stated that there were cases when landowners wanted to move a residence for a better view, they wanted the house to move to the back of the property, or wanted to live somewhere else on the property. The General Assembly did not allow this because it would be creating additional residential rights.

Mr. Doug Wilson remarked that, reading the minutes of the earlier meeting, the request was for relocation of the existing dwelling and was allowable. Subsequently the owner moved the existing dwelling and demolished the other one based on the old policy. The current request is a trade off; the landowner wants to have a tenant house. The landowner just happens to locate the tenant house on the location of the original pre-existing dwelling.

Mr. Nielsen stated that the process that the Foundation has adopted is to prevent people from claiming additional development rights. There are two different issues: the request to move a dwelling and the request for a tenant house.

Mr. Colhoun remarked that, when Mr. Wood had made an earlier request for a tenant house, he wanted to use the farm for a horse farm. The current request for a tenant house is for a cattle farm. The operation currently planned is different from the earlier plan. Mr. Colhoun asked Mr. Wood about the change in his plan.

Mr. Wood agreed and stated that he was currently involved in beef operations.





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Tassone as a recommendation to the Board. The precedent was not for any political agreement with Howard County but simply how to resolve the issue. The issue has not been discussed with anyone in the County.

Tammy Buckle, Program Administrator, wanted to know about much money was involved in the transaction.

Mr. Conrad stated that when the calculation was made about two years back, it was an amount of approximately \$83-84,000 per year (moving to retaining 33% rather than 75% of the county's agricultural transfer tax revenues).

Mr. Nielsen commented that the issue does not involve individuals, but involves county government. The Foundation can treat one county differently than the way it treats other counties, and it does not violate the law. Mr. Nielsen did not believe the Foundation is setting a precedent.

Mrs. Schultz did not think that the counties will feel that they should be treated differently. The counties may feel if the Foundation is doing for Howard County, it should be doing for all the counties. Mrs. Schultz wanted to know if currently there are other counties that are not certified because of the issue raised by the auditors.

Mr. Doug Wilson stated that the Foundation's policy has always been that the counties are certified unless they are told they are not. The auditors read the law differently.

There being no further business, Mr. Colhoun asked for a motion for adjournment of the meeting.

Motion #5: To adjourn regular session and move into an Executive Session.

Motion: Howard Freedlander                      Second: Chris Wilson  
Status: **Approved**

The regular session of the Board meeting was adjourned at approximately 10:25 a.m.

Respectfully Submitted:

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Rama Dilip, MALPF Secretary

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James Conrad, Executive Director