

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION  
MINUTES**

**September 25, 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  
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

**TRUSTEES ABSENT:**

John W. Draper, Jr.  
Dr. James Pelura

**OTHERS PRESENT:**

Anne Bradley, Frederick County, Ag. Preservation Planner  
Tammy Buckle, Caroline County, Program Administrator  
Martha Anne Clark, Landowner, Howard County  
Diane Chasse, MALPF Administrator  
James Conrad, MALPF Executive Director  
Carol Council, MALPF Administrator  
Bill Crouch, The Conservation Fund, Maryland Representative  
Rama Dilip, MALPF Secretary  
S. Glenn Elseroad, Landowner, Baltimore County  
Jeff Everett, Carroll County, Preservation Specialist  
Nancy Forrester, Assistant Attorney General, Department of General Services  
Carmela Iacovelli, Baltimore County, Natural Resource Specialist  
Rick Lankford, Landowner, Kent County  
Dwight Little, Landowner Representative, Baltimore County  
Carla Martin, Kent County, Program Administrator  
Tom McCarthy, Project Administrator, Department of Natural Resources  
Lewis McDonald, Landowner, Kent County  
Ann Merryman, Landowner, Baltimore County  
Craig Nielsen, Assistant Attorney General, Maryland Department of Agriculture  
Barbara Polito, Anne Arundel County, Program Administrator  
Mr. & Mrs. Dwight Puckett, Landowners, Charles County  
Daniel Rosen, Planner, Maryland Department of Planning  
Charles Rice, Charles County, Program Administrator  
Donna Sasscer, St. Mary's County, Program Administrator  
Ned Sayre, Harford County, Program Assistant  
Steward B. Smith, Prince George's County, Planner III  
Martin Sokolich, Talbot County, Program Administrator  
Donna K. Landis-Smith, Queen Anne's County, Program Administrator  
Elizabeth Weaver, MALPF Administrator





**MALPF Board Meeting Minutes (09-25-07): Page 4**

Doug Wilson, representing Secretary Roger L. Richardson, Department of Agriculture, wanted to know what would have happened if MALPF was not one of the co-holders.

Mr. McCarthy stated that under normal circumstances, Dorchester County works with the Nature Conservancy. The Nature Conservancy is the lead sponsor and is required by the law to co-hold all their easements. Their applications have to be cosponsored by the Government Agency; in this case, it is Dorchester County. However, Dorchester County does not have the resources to monitor. Under normal circumstances, Rural Legacy would give 1.5% of the grant amount to the sponsor for a monitoring endowment. The Department of Natural Resources is not giving out the 1.5% in this case.

Mr. Doug Wilson commented that the MALPF has been criticized by the Office of the Legislative Audit for not adequately monitoring MALPF easements. Mr. Doug Wilson was concerned that when MALPF co-holds an easement it has certain responsibilities that add to the Foundation staff's work load and expenses.

Mr. McCarthy stated that the Memorandum of Understanding will address these concerns.

Joe Tassone, representing Secretary Richard E. Hall, Department of Planning, wanted to know if the easement itself provides for the conservation of the existing 50 foot buffer and the timber management.

Mr. McCarthy confirmed and stated that it was outlined in page 5, section I of the easement document. "The minimum width of the buffer strip shall be fifty (50) feet (or larger as required by applicable law) at all times along each side of Chicone Creek."

Mr. Tassone wanted to know if the locations of the three lots have been specified and wanted to know the approval process for the location of the lots.

Mr. McCarthy stated that the lots are not location restricted. Mr. McCarthy brought the attention of the Board members to page 3 of the deed of easement, under "Section Construction and Improvements", which stated that the "Grantor shall notify Grantees at least sixty (60) days prior to submitting any required permit applications for construction to local, State or federal agencies, or if no governmental permits are required, at least sixty (60) days in advance of any work whether for construction or preparatory to construction regarding the location of any new residential structure, the location of any replacement residential structure if different from the location of the replaced structure, the conversion of any previously non-residential structure to a residential structure, and the location of a new means of access to a residential structure and any such change shall be subject to the prior written approval of Grantees."

Mr. Tassone wanted to know if the Foundation would have an explicit responsibility as an easement co-holder.

Mr. McCarthy stated that the Foundation has the right to review all the application process. The Foundation has the same authority as the Rural Legacy program. Mr. Tassone remarked that in such a scenario, the Board would need to understand what considerations would be appropriate because they would undoubtedly be different from the set of considerations that the MALPF Board normally follows for lot exclusions.

Mr. McCarthy agreed and stated that it would have to be addressed because of the uniqueness of the easement being held by the two programs.

Mr. Colhoun wondered if the current landowner understands this.

Mr. Crouch stated that he can't specifically comment on the provision, but since the landowner understands the easement, he believed that the landowner understands what

is required.

Mr. McCarthy stated that he believed the landowner will contact the Nature Conservancy or the Conservation Fund, prior to putting in a request. At that time the administrative procedures could be clarified.

Mr. Crouch stated that he is with the Conservation Fund, and they have a partnership with the Nature Conservancy. In that respect he is the representative of the landowner.

Mr. Doug Wilson stated that the primary goal is always to ensure that the landowner fully understands the easement.

Howard S. Freedlander, representing Treasurer Nancy Kopp, asked if the applicant was related to Russ Brinsfield. Ms. Weaver stated that they are cousins.

Mr. Conrad stated that there might be many reasons for a landowner wanting MALPF to co-hold a Rural Legacy easement. Under the State statute the landowner can qualify for an income tax credit as opposed to an income tax deduction. Mr. Conrad wanted to know if this was the reason with the current request.

Mr. Crouch stated that the landowner had not voiced their strategy. The landowner has agreed to the purchase price based on a per acre basis and the price is supported by two appraisals.

Mr. Tassone stated that he raised the question of lot location because he wanted to raise awareness on two fronts. One was whether the Foundation would be expected to consider lot location as a part of its responsibilities. The second reason was to raise questions in the minds of the Board members as to what frame of reference would be used given that the easement is co-held by Rural Legacy and whether the Foundation's lot location guidelines will apply or not.

Mr. Conrad stated that usually Rural Legacy easement provides an envelope where development is restricted.

Mr. McCarthy stated that it is not a strict requirement. Additionally, Rural Legacy always has the right to refuse an application.

Mr. Conrad wanted to know the Rural Legacy review and approval process.

Mr. McCarthy stated that the initial application probably comes to the Conservation Fund and they would forward the application to Rural Legacy staff for review. The Conservation Fund is the sponsor and the initial point of contact for the landowner. Mr. Crouch clarified that the Conservation Fund has two in-house legal staff and provides legal support, including contract drafting for easement purposes, etc. Should there be a location issue, the Conservation Fund has resources to review the legal documents.

Mr. Colhoun asked if there is a Rural Legacy Sponsor Board that approves such requests.

Mr. McCarthy was not sure if there is a Rural Legacy Sponsor Board for the Nanticoke River Rural Legacy Area.

Robert Stahl, Board member, believed that it is a positive sign for the MALPF program that the landowner is requesting the easement to be co-held by the Foundation. Mr. Stahl is also a member of the Rural Legacy Advisory Board Committee and is aware that the Rural Legacy has some very interesting tools and allows buying some unique properties that may not be eligible under the MALPF program. The Rural Legacy program has the ability to buy properties fee simple and re-sell them as preserved properties. The Rural



The request was approved by the local advisory board and conforms to local zoning regulations.

Foundation staff recommends approval subject to meeting minimum size and soils criteria, and that both resulting parcels would have the ability to support viable agricultural operations.

2. Request for the exclusion of an owner's lot from easement property

The current request is for the exclusion of a 1-acre owner's lot from the easement for the purpose of constructing a dwelling for the personal use of Ann Merryman.

There is one pre-existing dwelling and one pre-existing tenant house (Baltimore County's ordinances allow dwellings to be designated as tenant houses) on the property. The 119-acre parcel has the one pre-existing dwelling. No other lots have been excluded from this property or the two additional easement properties owned by the Merryman family, with the exception of a child's lot by the members of Orebanks II, LLC on another easement property owned by the Merrymans. Previously, the members of Buffalo Run II, LLC received approval for, and completed, an acreage swap on this property. The Foundation received 82.3 acres of non-eased property for 16.1 acres of easement property. The reason for the swap was estate planning purposes.

According to Baltimore County, the proposed owner's lot is to be located in the center of the property in an area that, once the subdivision is complete, will place minimal impact on the agricultural use of the property. Access will be by right-of way. There is no intention to subdivide this lot in the future. The request was approved by the local agricultural advisory board and conforms to local zoning regulations.

If the request is approved, there will be a required payback amount of \$4,965.00. Members of the Merryman family will attend the meeting to answer any questions or concerns from the Board.

The factors that favor the landowner's proposed location are that it is along the boundary of the property (subject to completion of agricultural subdivision) and at the edge of tillable land. Access will be via an existing farm road.

In conforming to the Foundation's Lot Location Policy, the physical location of the lot should be (in priority order from most to least desirable):

1. Along public roadway and (if they exist) clustered with other dwellings;
2. Along boundary lines, natural boundaries, or the edge of tillable land, and clustered with other dwellings (if they exist);
3. Clustered with farmstead dwellings and buildings
4. Other

Foundation staff recommends approval based on the landowner's rights contained in the deed of easement's covenants, conditions, limitations and restrictions, Section A (1) (b) "...the Grantee, on written application from the Grantor, shall release free of restrictions only for the Grantor who originally sold this easement, 1.0 acre or less for the purpose of constructing a dwelling for the use only of that Grantor or the Grantor's child..."

Ann Merryman and Carmela Iacovelli, Program Administrator, were available at the meeting. Dwight Little, Engineer of the project, was also available at the meeting.

Ms. Iacovelli located the proposed locations of the subdivision and the owner's lot on the aerial map. Ms. Iacovelli stated that both the parcels will remain in farming and are horse

operations. The primary farming operation is hay and the local Advisory Board has approved both the requests. The soils analysis for both the parcels has met the Foundation's requirements. Once the requests are approved the owners' will have to go through the Baltimore County's review process.

Mr. Doug Wilson asked the Foundation staff to explain the lot issues because the farm was originally owned by a LLC.

Mr. Conrad mentioned that the lot retention rights policy states that if there is a change in the form of a co-operation or a change from a LLC to an individual or from an individual to a LLC but if the ownership of the individual remains constant the lot rights for that individual is retained, even though there might be a change in the former ownership. The current request is an example where the ownership has gone through from one form to another and the same person is still in the ownership structure.

Mr. Conrad commented that two years back the landowners had attended the Board meeting. The landowners had presented a long range of plan and had conveyed their intentions. The MALPF Board at that point in time consisted of a different set of Board members and had counseled the landowners on the Foundation's policy. The current request is a part of the larger plan.

Vera Mae Schultz, Vice Chairman, stated that when the land is subdivided and if the lot is where it is proposed, there is a small area that is isolated because of the property line and the tree line. Ms. Schultz wanted to know about the farming activity in that area and the access.

Ms. Merryman stated that there is nothing farmed in that triangular area and it consists of shrubs. The triangle was supposed to go into 119-acre parcel and currently it is much more natural and not farmed.

Mr. Conrad stated that the lot being requested will not be subdivided from the property and will remain part of the farming operations.

Diane Chasse, MALPF Administrator, mentioned that the area behind the lot looked like a slope.

Ms. Iacovelli confirmed and stated that it is very steep and is very wet.

Mr. Tassone wanted to know if Ms. McLane has an intention for the pre-existing dwelling on her 119-acre parcel. Ms. Merryman stated that Ms. McLane may eventually desire to live there.

Motion #4: To approve the requests of Ann Merryman and Elizabeth McLane et al for an agricultural subdivision and for the exclusion of an owner's lot from easement property for Ms. Ann Merryman.

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

E. CARROLL COUNTY

1. 06-80-05Ae Staley, Jo Paulette 87.943 acres  
Request to relocate a previously approved owner's and child's lot on easement property

Mrs. Staley is the original owner of the easement property. The current request is to relocate previously approved owner's and child's lots on easement property.





**MALPF Board Meeting Minutes (09-25-07): Page 11**

Mr. Elseroad believed that he can use the driveway that goes in and out of the Jewish Community property. So the access is just a sort of security if there comes a time when the lots are going to be utilized. The Baltimore County may require that Mr. Elseroad have a 12-foot wide easement for a right-of-way for each lot. Mr. Elseroad believed that is how the lots will have to stay because it looks as though it is dividing that corner off.

Mr. Elseroad circulated a number of pictures he had taken of his farm. The farm has a cemetery and the view across the cemetery is beautiful. A little bit of vegetation buffer is created between the right-of-way and the Jewish Community Center. It is one of the oldest cemeteries in the Baltimore County.

Ms. Chasse pointed out the location of the right-of-way preferred by Mr. Elseroad (marked x on the attached staff memo). This location is different from the one approved by the local Board.

Mr. Stahl asked if Mr. Elseroad wants to participate in the FY 2008 easement cycle to preserve the entire farm. Mr. Elseroad confirmed and stated that he is making a trade with the Jewish Community Center. Mr. Elseroad will be acquiring six and a half acres with two densities. The parcel is directly behind his house. The access to that property is the same right-of-way. Mr. Elseroad stated that he owns the right-of-way and believes he will be able to use the right-of-way. When he finishes building his house it becomes questionable whether he has the ability to use that right-of-way or not. Mr. Elseroad had his attorney look at that and believed that he will be able use that right-of-way. Mr. Elseroad was concerned that his right-of-way is going to be 16 foot wide and was not sure whether the Baltimore County would allow it.

Mr. Stahl asked whether the Baltimore County regulations require a right-of-way or a fee-simple. Ms. Iacovelli stated that it can be either way.

Mr. Stahl stated that if Mr. Elseroad plans to give some land to the cemetery it should be excluded. Mr. Elseroad pointed out the existing cemetery and clarified that on that parcel he has excluded six acres. Mr. Elseroad pointed out the driveway, the house occupied by Mr. Elseroad and the place he originally wanted to put the two lots. He located the 2-acre parcel that the Jewish Community Center would like to have for the organic garden. Mr. Elseroad will pick up parcel 88 with two densities and plans to give it to Maryland Environmental Trust.

Mr. Doug Wilson stated that it seemed the County has a position that is different than what is requested by the landowner. He wanted to know if the County is recommending something different than the landowner's request or the County has not had chance to discuss the landowner's alternative proposal.

Ms. Iacovelli stated that the landowner's proposal was discussed at the Board meeting. The local advisory Board recommended that the access road be along the existing right-of-way. If Mr. Elseroad could use the existing right-of-way it would be acceptable, and, if not, there should be one adjacent to the right-of-way to minimize the impact on the corner so that it will not be isolated. Mr. Elseroad wanted the MALPF Board to consider the alternative.

Mr. Elseroad added that the local advisory Board has been very helpful in working out the details, and the County knew the reason why Mr. Elseroad wanted access to the two proposed lots. Baltimore County felt that the State will not agree to approve the location along the edge of the woods. So the County believed it would be better along the drive.

Mr. Doug Wilson stated that it is very rare for the MALPF Board to go against the County's recommendations.

Mr. Colhoun stated that he would step down and asked Mrs. Schultz, Vice Chair, to chair this particular agenda item, as he knows Mr. Elseroad personally.

Mr. Elseroad stated that when his request was discussed at the County level he did not have the pictures and was not as prepared as he should have been.

Mr. Doug Wilson suggested taking a show of hands straw vote to give the landowner some indication of how the Board views the proposed right-of-way.

Mr. Tassone stated that his understanding was that the problem with the existing right-of-way related to the vegetative buffer that would block the view from the cemetery. Mr. Tassone suggested not creating the vegetative buffer to avoid the problem.

Mr. Elseroad stated that placing the access at this intersection is confusing. An adjacent camp and conference center has an entry nearby, and it is unbelievable the number of people who drive in to the barn believing they are coming to the conference center. It is not unusual for people to come in two buses at 11:00 pm into his driveway believing that they are coming to the camp. Mr. Elseroad believed that putting the right-of-way here will increase the confusion. It is not unusual for 2500 people to visit the conference center at a time.

Mrs. Schultz asked Board members to show their hands if they are in favor of a straw vote.

Favor : Chris Wilson, Doug Wilson, Judith Lynch, Joe Tassone, Robert Stahl, Jerry Klasmeier, Howard Freedlander

Oppose : None

Mr. Doug Wilson suggested a draft motion recommending the landowner's alternative proposal for a right-of-way access.

Mrs. Schultz asked Nancy Forrester, Assistant Attorney General, Department of General Services, if having a straw vote is in order. Ms. Forrester confirmed that having a straw vote is in order.

Mr. Doug Wilson stated if the Board members like the landowner's suggestion, Ms. Iacovelli and the landowner can approach the County and say that, if they put forth this recommendation, the Foundation will look at the request. If a straw vote is positive, Mr. Doug Wilson would recommend that the MALPF Board tables the request and the landowner, and the County can review the request.

Mr. Stahl stated that one could make a good case for either side. On one hand the Foundation can move to have Board's approval. But on the other side the proposal gives a shorter access across the farm and does not isolate the farm. Mr. Stahl agreed with Mr. Doug Wilson's proposal to send the request back to the local Board and get the local Board's opinion. Mr. Stahl said that he is clearly in favor of Mr. Elseroad's right-of-way. Mr. Stahl believed creating space between the driveways will be safer.

Judith Lynch, Board member, suggested a visit to the property may be appropriate to ascertain the situation.

Mrs. Schultz asked Board member's opinion in favor of the straw vote. Board members approved and the straw vote carried.

Motion #7: To table the request of Samuel Glenn Elseroad and allow the County and the landowner to get together to see if they can reach an agreement. The request can come back to the MALPF Board with their recommendations.

Motion: Doug Wilson Second: Howard Freedlander

Status: **Approved**

Mr. Doug Wilson also suggested that MALPF staff arrange a visit to the property.

Ms. Iacovelli wanted to know if the easement application would move forward or wait until a decision is made by the MALPF Board.

Mr. Doug Wilson stated that the application will move forward and the County needs to attempt to resolve the access issue.

G. WASHINGTON COUNTY

1. 21-99-07e Myers, LeRoy 144.0845 acres  
Request for a tenant house on easement property

Mr. Myers is the original owner of the easement property. The current request is for a tenant house.

There is one pre-existing dwelling on the property. Four lot exclusions have been approved and released from the property: Lot #1 - .9955 acre for son, Scott, Lot #2 - 2.0 acre for son, Ryan, Lot #3 - 2.0 acre owner's lot, and Lot #4 - 2.0 acre for daughter, Jennifer. As the easement was approved prior to October 2003, the landowner is entitled to up to 10 family lots at a density of 1 per 20 acres. Mr. Myers owns a separate MALPF district property with his wife. No lots have been requested on the district property.

According to Mr. Myers, although the tenant will work part time on this farm, he will also be responsible for the 142-acre district property and three other 50-acre farms that he owns (thereby making him a full-time tenant). The tenants' responsibilities will include management of a CREP buffer along the ¾ mile stream that dissects the property, farm building and fence maintenance, weekly mowing, snow plowing in the winter, and other general duties pertaining to the grain operation. The proposed tenant house will be located in an area that is unusable for crops because of a rock formation. A new access will be created between two of the approved lots in an area that is unusable for farming or dwellings.

The Washington County Advisory Board has approved the request, and it meets with all Planning and Zoning requirements. The request meets the Foundation's regulatory requirements for tenant houses. While the tenant house will not be located adjacent to the pre-existing dwelling and farm buildings, it is located in an area adjacent to approved family lot exclusions which is unusable for farming.

Foundation staff recommends approval of the request.

Mrs. Schultz stated that when previously Mr. Myers had requested for child's lots 2 and 4, the Foundation had noted the space existing between lot 3 and 2. At that time it was stated that location is going to be a daughter's future lot. Now the current staff memo indicates that the area is not suitable for buildings and not farmable. ("The proposed tenant house will be located in an area that is unusable for crops because of rock formation").

Carol Council, MALPF staff, stated that according to the landowner there is rock formation in that area. Mrs. Schultz is correct, that is what Mr. Myers had conveyed when the request had come in earlier. Currently Mr. Myers has conveyed that the area is rocky and he cannot farm on the area.

Mrs. Schultz stated that she has seen the property and believed buildable area existed.





**MALPF Board Meeting Minutes (09-25-07): Page 16**

criteria. While property does not meet size criteria, it is contiguous with MALPF easement property.

13. 12-08-15 Skillman, Robert L. 101.5 acres

RECOMMENDATION: Staff recommends approval based on meeting minimum size and soils criteria.

Ned Sayre, Program Assistant, Harford County, was available at the meeting.

Motion #10: To approve the items 1 to 13 for easement applications (excluding item 11 withdrawn).

Motion: Joe Tassone Second: Chris Wilson  
Status: **Approved**

C. FREDERICK COUNTY

1. 10-08-03 Cramer, Robert & Ruth 126.16 acres  
2. 10-08-04 Marra, Jr., Raymond & Michelle M. 125.50 acres  
3. 10-08-05 Marra, Jr., Raymond & Michelle M. 222.93 acres

RECOMMENDATION: Staff recommends approval based on meeting minimum size and soils criteria. Normally, land located in the planned water and sewer area is not eligible for the program. However, § 2-509 (d) (4) provides an exception if the land “is outstanding in productivity and is of significant size.” Staff recommends that the Foundation approve the exception because: 1) the properties are relatively large for the county; 2) the soils are excellent quality; and 3) the majority of the properties lay outside the water and sewer area. It would not serve the interests of the program to require the landowners to exclude the area of the properties from the easements.

Anne Bradley, Preservation Planner, was available at the meeting to answer questions from the Board.

Ms. Bradley stated that the north portion of the Cramer property is designated in planned water and sewer category. This category is in the range of 10-20 years in the Frederick County. Mr. Cramer is a dairy farmer and is now retired. Ms. Bradley pointed out a lot that was cut off on top of the property and stated that it was cut off by the landowner in 2005 to exercise some of the industrial zoning. The advisory board recommended keeping the acreage in the application.

Mr. Tassone wanted to know the likely fate of the land surrounding the property.

Ms. Bradley stated that the water and sewer area is designated with industrial zoning. The remaining area is designated as agricultural and so is Mr. Cramer’s property. It is agricultural zoning, no water and sewerage plan, and it is outside the priority funding area. The soils are Class II and III and are 100% of the property. They are some of the better productive soils on the land. To the right of the property (Russell Avenue) is an existing subdivision and is not designated as agricultural zoning.

Mr. Doug Wilson asked if Ms. Bradley is aware of any preservation plan for the adjoining properties. Mr. Doug Wilson was concerned that the pressure on the dairy farm may be enormous, if other properties end up getting developed.

Ms. Bradley stated that the property north-west to the Cramer property is preserved by the county’s Installment Purchase Program. Ms. Bradley stated that she had not spoken with Mr. Doody (adjoining landowner), but has spoken to the landowners in the south, and they



**MALPF Board Meeting Minutes (09-25-07): Page 18**

allow a landowner to form a district on a parcel that is separately described in a deed. The district agreement will list the liber/folio of the deed and status, for example, "Parcel One only." Carol Council, Administrator, also agreed.

Ms. Forrester was concerned that the appraisers need to know what they are appraising.

Ms. Weaver stated that it is clearly stated in the easement application. The application form will state what is included.

Ms. Forrester stated that the appraisers don't know where that is. The appraisers don't plot the description. They need a map to show them.

Ms. Weaver stated that the tax map, which is included in each application form, also indicates what's included. It is not uncommon for the MALPF staff to show the break up of a property into three or more districts. It is the MALPF staff's responsibility to make sure that the outline of the property to be appraised is clear. The staff is very careful about this.

Ms. Bradley stated that the landowners want to put 51 acres in preservation. Ms. Weaver remembered looking at the deed and stated that at one time it was a separate property that was acquired by the landowner to form a larger farm.

Mr. Conrad was concerned about the verification of acres with the property description to make sure that the property meets the Foundation's requirement of a minimum size and qualifies for the program.

Ms. Bradley stated that she has a boundary survey where the land surveyor drew up each parcel, and it can be seen that two parcels are included with the acreage.

Mr. Tassone wanted to know about the lot eligibility on the 38-acre withheld acreage. Mr. Tassone believed it appears to be more than three acres and believed the easement application needs to be treated as having withheld acreage.

Ms. Weaver stated that it is a grey area that the Foundation has not adequately addressed. When there is not a clear policy, the staff follows past practice. If it is a separately described parcel, it is not treated as withheld acreage. If the Board wants the staff to change the practice, then it has to deal with it as a policy issue, and perhaps consider it as an enhancement to the withheld acreage policy.

Mr. Doug Wilson stated that the Foundation has tried to tell people that it does not like the concept of breaking up a parcel. The Foundation's withheld acreage policy is about how the landowner would like to withhold 20 acres within that parcel. But when farms are acquired over time there can be a variety of reasons. It can be later described in the deed and that is why the Foundation staff is having trouble reconciling with the Foundation's withheld acreage policy.

Mr. Tassone stated that he believed that farms can exist as one parcel or as several parcels. The issue is whether they are contiguous and are managed as a single entity. If they are, they are farms, and the excluded acreage applies to farms.

Ms. Lynch stated that she agrees with Mr. Tassone and did not believe that is the way the Foundation has implemented this situation in the past.

Motion #12: To approve the items 4 to 18 for easement applications.

Motion: Doug Wilson Second: Robert Stahl  
Abstained: Joe Tassone (for item 12)  
Opposed: Vera Mae Schultz (for item 12)

Status: **Approved**

Ms. Buckle wanted to know if the landowners will be able to build dwellings on the Stine property. Ms. Council stated that the Foundation is not treating it as a withheld acreage. Mr. Tassone stated that the MALPF Board has not yet ascertained that. He believed that some of the Board members are not looking at the 20 acres as withheld acreage because it exists as a separate parcel.

Ms. Buckle stated that the approach is very different from the way the Board had handled the issue during the June meeting.

Mr. Colhoun agreed that it is a very important issue and the MALPF Board will need to put a committee together to look at the issue.

D. CHARLES COUNTY (DISTRICT)

1. 08-08-04 Evelyn R. Holt Limited Partnership 107.608 acres

E. CHARLES COUNTY (EASEMENT)

1. 08-08-02 Wolfe, Nancy D. and Lawrence T. 251.99 acres

Charles Rice, Program Administrator, was available at the meeting.

Motion #13: To approve the district and the easement applications.

Motion: Doug Wilson Second: Chris Wilson

Status: **Approved**

Mr. Rice had a question regarding the Wolfe easement application (08-08-02). Because of the size of the property, it was broken into two easement applications. The landowners chose an unrestricted lot on both the easement applications. In the last Board meeting, Board members had discussed a situation where, even though there is a separate application, a landowner is allowed only one unrestricted lot because it is one farming operation. Based on these discussions, Mr. Rice spoke to the landowners. The landowners have now chosen unrestricted lot on 08-08-01. He wanted to know how to handle this change in the easement application.

Ms. Council stated that she will change the application.

Ms. Forrester stated that there is nothing that precludes the landowners from opting for an unrestricted lot with each easement application.

Mr. Tassone commented that it is a legal interpretation of what it says in the law. Mr. Tassone stated that he cannot challenge the correctness of this interpretation, but he believed that it is not consistent with the task force recommendations that led to the change in the law.

Mr. Conrad stated that a policy item on unrestricted lot will be discussed at the end of the regular session and hoped it will directly address the issue.

F. ALLEGANY COUNTY

1. 01-08-01 Shipley, Ronald & Sylvia 179.4 acres  
2. 01-08-02 Miller, Judith Lee 77.0 acres,  
Withholding 18.6 acres  
3. 01-08-03 Crossland Farms LLC 98.63 acres  
4. 01-08-04 Twigg, Charles E. & Beverly A. 139.64 acres

**MALPF Board Meeting Minutes (09-25-07): Page 20**

5. 01-08-05 Miller, John & Juanita 91.5 acres,  
Withholding 1.0 acres

Ms. Forrester pointed out that looking at the tax map it seemed that there might be an access issue on the Twigg property (01-08-04). She wanted to make sure that the appraisers are aware of that possibility. Mr. Doug Wilson asked MALPF staff to ensure the appraisers are aware of this issue.

RECOMMENDATION: Staff recommends approval based on meeting minimum size and soils criteria.

Motion #14: To approve the items 1 to 5 for easement applications.

Motion: Doug Wilson Second: Chris Wilson  
Status: **Approved**

G. MONTGOMERY COUNTY

1. 15-08-01 Haines, Lewis E. & Janet E. 99.5 acres

RECOMMENDATION: Staff recommends approval based on meeting minimum size and soils criteria.

Motion #15: To approve the item 1 for easement application.

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

H. CECIL COUNTY

1. 07-08-01 Davis, Carroll E. 188.616 acres

RECOMMENDATION: Staff recommends approval based on meeting minimum size and soils criteria.

Motion #16: To approve the item 1 for easement application.

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

I. WORCESTER COUNTY

|     |          |                               |               |
|-----|----------|-------------------------------|---------------|
| 1.  | 23-08-01 | Outten, Willard & Louise      | 143.57 acres  |
| 2.  | 23-08-02 | Sterling, Larry               | 217.2 acres   |
| 3.  | 23-08-03 | Combs, Dorothy Widgeon        | 334.95 acres  |
| 4.  | 23-08-04 | Greenbriar Swamp Farm LLC     | 70.41 acres   |
| 5.  | 23-08-05 | Tucker Industries             | 77.933 acres  |
| 6.  | 23-08-06 | Shockley, John & Barbara      | 168.00 acres  |
| 7.  | 23-08-07 | Hammond, Harry J. & Paula I.  | 117.40 acres  |
| 8.  | 23-08-09 | Widgeon, Walter B. & Laura J. | 81.5813 acres |
| 9.  | 23-08-10 | Malone, Howard G.             | 166.235 acres |
| 10. | 23-08-11 | East, Doris Virginia          | 129.99 acres  |

RECOMMENDATION: Staff recommends approval based on meeting minimum size and soils criteria.







RECOMMENDATION: Staff recommends approval based on meeting minimum size and soils criteria.

Donna Sasscer, Program Administrator, was available at the meeting to answer questions from the Board.

Motion #23: To approve the items 1 to 6 for easement applications.

|            |              |         |              |
|------------|--------------|---------|--------------|
| Motion:    | Doug Wilson  | Second: | Chris Wilson |
| Abstained: | Robert Stahl |         |              |
| Status:    | Approved     |         |              |

#### **IV. PROGRAM POLICY**

##### **A. TALBOT COUNTY**

20-07-07 to 10 and 20-08-05 & 06 Knauer and Shortall easement applications.

At last month's Board meeting, four Knauer and two Shortall easement applications were tabled due to concerns about the unrestricted lots being requested.

Elizabeth Weaver, Carol Council, and Jim Conrad participated in a conference call with Nancy Forrester to discuss the issue. Ms. Forrester advised that, under statute, it is possible to give landowners one unrestricted lot per application. Staff also considered that it has been the practice, since the change in the law, to allow more than one unrestricted lot per preserved farm. In addition, the Department of General Services has the applications for appraisal, and these properties are of significant size.

The sizes are as follows:

Knauer applications : 98.6 acres, 89.2 acres, 230.2 acres, and 165.5 acres

Shortall applications: 146 acres and 180.5 acres

Another consideration, which will need further discussion, as in the case of Knauer, it is unknown which district or districts will receive offers and therefore it is not known which one of the four districts should have the "unrestricted lot" option.

The recommendations of the staff and legal counsel are as follows:

To approve the Knauer and Shortall applications, as submitted at the prior meeting, noting that the intent is not to set precedent, and that a discussion needs to be started on the policy so that program administrators can clearly advise next year's applicants and a long-term policy is agreed upon.

Martin Sokolich, Program Administrator, was available at the meeting to answer any questions about these applications.

Mr. Colhoun stated that the agenda item was earlier planned to be reviewed by a telephone poll. However, Mr. Colhoun felt that there is a difference of opinion and different thoughts on the issue among the Board members. Mr. Colhoun believed a telephone poll would not be appropriate and preferred to review the issue at the Board meeting.

Mr. Conrad stated that two Board members responded to the telephone poll. Mr. Conrad shared his concerns with the Board members. The concerns are having a single owner with multiple properties asking for multiple unrestricted lots. The second case is having a single property divided into two districts. Both the districts are entering the program as easement applications.

Since the change in the legislation, the practice has been that a landowner can get an unrestricted lot on each independent easement application. However, before the legislative change, the Foundation had a policy that multiple owners with multiple properties retain certain assignable lot rights. To some extent the change in the legislation has changed what was earlier possible.

Foundation Staff is also concerned about the family lots; the issue of eligibility, flipping, monitoring etc. The discussions pertain to the way the Foundation currently handles the issues, and the way it would like to handle them in the future. In the short term, the Foundation cannot change what the law says. The landowner gets an unrestricted lot if he has asked for that. If the landowner asked for a family lot, it extends over the different properties owned by the landowner. The landowner can have different properties if he qualifies under the requirements of the MALPF program. The landowner ends up being penalized for unrestricted lots during the appraisal process. If the landowner chooses not to waive his unrestricted lot the landowner ends up paying for it and gets less money for the easement property.

The Foundation is bringing up the issue to explore the possibility of doing something between now and the next easement cycle.

The Knauer and Shortall properties are large parcels and average out a little higher (151.7 acres) than the average size of the farm (131 acres). Mr. Conrad is thinking of developing a proposal from a system of unrestricted lots and family lots to a system of unrestricted lots getting rid of the whole family lot concept. The other issues that can be addressed are lot eligibilities. The current system creates all kinds of problems of who is and who is not eligible that an unrestricted lot system avoids. It can also be argued that the Foundation can have a little more control over the high cost of easements.

Mr. Conrad stated that the issue will be a subject of a policy discussion by the MALPF Board between now and the next easement cycle (when the applications close the next July). Mr. Conrad hoped that, if the Board is able to decide before the next legislative session, the Foundation can take it to the Legislature.

Mr. Conrad proposed moving forward with the request and then re-engaging it as a policy discussion between now and January 2008. If the MALPF Board is able to arrive at a consensus with the Foundation and the County Program Administrators, it can attempt to resolve the issues since the statutory changes have been made. The MALPF Board can readdress the issues concerning multiple lots, multiple owners, etc., in a more systematic manner.

Mr. Chris Wilson, Board member, wanted to know if the multiples pieces are separately deeded parcels under the same deed. Mr. Conrad stated that some are and some are not.

Mr. Sokolich stated that the Knauer parcel is a large parcel. The landowner has bisected it across roads and turned them to five smaller districts to receive an offer.

Mr. Doug Wilson stated that he believed that there is no doubt that the Foundation would have to continue the practice of allowing large properties (which have a variety of descriptions; whether they are in one deed, one parcel, multiple parcels, assembled farms, etc.) to be divided and still enter the program. The practice of entering the program with a part of their farm, year by year, has to continue. The funding flexibility almost mandates that. Lot eligibility issues arise when the landowners have a large farm. With the Foundation's new policy, the landowners get an unrestricted lot or 3 family lots. When an application comes in where the property is divided the landowner has to clearly convey his decision whether they are bringing in one application or more than one application in a



