

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
MINUTES
December 14, 2007**

TRUSTEES PRESENT:

Daniel Colhoun, Chairman
Vera Mae Schultz, Vice Chairman
Martha A. Clark
John W. Draper, Jr.,
Howard S. Freedlander, representing Treasurer Nancy Kopp
Robert F. Stahl, Jr.,
Jerry Klasmeier, representing Comptroller Peter Franchot
Dr. James Pelura
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:

Bill Amoss, Harford County, Program Administrator
Anne Bradley, Frederick County, Ag. Preservation Planner
Rob Burk, Maryland Horse Industry Board, Maryland Department of Agriculture
Pam Bush, Department of Natural Resources, Senior Policy Analyst
Tammy Buckle, Caroline County, Program Administrator
Diane Chasse, MALPF Administrator
Yates Clagett, Prince George's County, Program Administrator
James Conrad, MALPF Executive Director
Carol Council, MALPF Administrator
Rama Dilip, MALPF Secretary
Jeff Everett, Carroll County, Preservation Specialist
Kimberly Hoxter, MALPF Monitoring, Enforcement, and Database Coordinator
Amanda Maresh Kleback, Landowner, Harford County
Brian Kleback, Landowner, Harford County
Wally Lippincott, Baltimore County, Program Administrator
Brenda and Tim Maresh, Landowners, Harford County
Carla Martin, Kent County, Program Administrator
Joy Levy, Howard County, Program Administrator
Graham Petto, Planner, Maryland Department of Planning
Barbara Polito, Anne Arundel County, Program Administrator
Bill Powel, Carroll County, Preservation Specialist
Ralph Robertson, Carroll County, Program Administrator
Daniel Rosen, Planner, Maryland Department of Planning
Charles Rice, Charles County, Program Administrator
Ned Sayre, Harford County, Program Assistant
Donna K. Landis-Smith, Queen Anne's County, Program Administrator
Stewart B. Smith, Planner, Prince George's County

Daniel Colhoun, Chairman, called the meeting to order at 9:05 a.m., at the Maryland Department of Agriculture building, Annapolis, Maryland.

Mr. Colhoun introduced Martha A. Clark as the new Board member and asked the guests to introduce themselves.

I. APPROVAL OF MINUTES/ADDITION OR DELETION OF AGENDA ITEMS:

A. APPROVAL OF MINUTES OF THE REGULAR MEETINGS

Motion #1: To approve the minutes of November 25, 2007 with amendments.

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

B. ADDITIONS OR DELETIONS OF AGENDA ITEMS:

IV.B. Equine Committee – an update Added

V.B. Information and Discussion
Smart Growth Discussion Postponed

James Conrad, Executive Director of the Foundation, informed the Board that the Board will be having a discussion on the Equine Use Policy based on additional information made available but will not make a decision until January 2008.

Mr. Conrad passed out a letter he received from Secretary Richardson and Mr. Luke Howard, Chairman, Maryland Agricultural Commission, on behalf of the Implementation Committee of the Statewide Plan for Agricultural Policy and Resource Management.

The recommendations specifically wanted MALPF to consider the following issues:

- Monitor the issue of transferring water rights on MALPF protected farmland. This issue will have an impact on growth constraints of towns located close to protected farmland and on future operations of the protected farm.
- Explore and adopt new funding sources for agricultural land preservation.
- Seek a legislative change for MALPF to receive additional Program Open Space funding.
- Increase MALPF funding for more easement acquisitions by an additional \$20 million with general funds, bond funds or other designated funding sources, such as revenues from slots.
- Fully fund and implement a state-level Critical Farms program.
- Improve MALPF's flexibility on what agricultural uses are allowed on preserved farms.

Doug Wilson, representing Secretary Roger L. Richardson, Department of Agriculture, stated that the MALPF program does not get funds from Program Open Space. The MALPF program gets its funds from the State's transfer tax. It is a very common misperception and injures the program. The net effect might be that the share of transfer tax going to Program Open Space might decline and MALPF's might increase, but there are other methodologies. Mr. Doug Wilson stated that he will be talking to Secretary Richardson and Mr. Howard.

II. DISTRICT /EASEMENT AMENDMENTS

A. KENT COUNTY

1. 14-00-09 Lovett, David and Dawn 105.685 acres
Request for a child's lot of up to 2 acres on easement property

Mr. and Mrs. Lovett are the grantors of the easement. The current request is for a child's lot of up to two acres for their son, Jake Lovett.

There is one pre-existing dwelling on the property. No other lots have been approved for

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The location approved in 2006 for the relocation of the pre-existing dwelling was in cropland and was located to the rear of the property. The Foundation's approval was conditional on making the lot non-subdividable from the farm and returning the lot to agricultural use. The site of the original dwelling has been returned to use as a pasture area.

According to Harford County, the current proposed pre-existing dwelling site is located adjacent to a wooded area of the farm that is currently overgrown by noxious weeds (map attached with the staff memo). The original location contains class II and class III soils. The proposed location contains class II soils, which is similar to the location approved by the Foundation in 2006.

The proposed relocation site, which is located approximately 1/3 mile from the road, would be accessed by right-of-way through an existing farm lane.

The Harford County Advisory Board recommended approval of the request and the request is consistent with local zoning regulations.

Foundation staff is concerned that the proposed relocation site is located even further from the road than the location of the site approved in 2006, and the access would cut through the farm. However, the Board has indicated in similar situations that it would approve a location that is not optimal from a farming perspective, if the landowners are willing to make the dwelling non-subdividable from the farm. If the Board approves the request, the approval should be conditional on making the replacement dwelling lot non-subdividable from the easement property, a condition to which the landowners have agreed.

2) Relocation of an approved tenant house

In March, 2001, the Foundation approved a tenant house on the property (minutes attached with staff memo). When the tenant house was originally requested, it was for a mobile home to be occupied by Tim and Brenda Maresh, who were engaged in the operation of the farm. The mobile home was not placed on the dwelling because Mr. and Mrs. Maresh instead lived on a portion of the farm that lies in Pennsylvania.* The current request is to relocate the tenant house to the location site approved by the Board in 2006 for the pre-existing dwelling (see map attached with staff memo). The current proposed tenant house will be occupied by Amanda Maresh Kleback, daughter of Tim and Brenda, who is the primary animal caretaker. The Maresh family runs a goat operation on the farm. They plan to add a cattle operation in the future.

According to Harford County, the Maresh family chose the site because "the location is about 75 yards from the barns and provides good access to the pastures and barn while still giving reasonable separation for comfort. The site is the best location based on the topography of the farm, which is the main reason why they didn't just rebuild on the old house site."

The Harford County Advisory Board recommended approval of the request and the request is consistent with local zoning regulations.

The Foundation's regulations provide some guidance to the Foundation in considering approval of the location of a tenant house. However, they are not very specific: "Unless the Foundation approves otherwise, a tenant house: (1) Shall be located in the vicinity of other farm buildings; and (2) May not be located on a farm field." (COMAR 15.15.03.03) One could conclude that 75 yards could be considered "in the vicinity." Also, the tenant house is located along the edge of a field, not "on a farm field." Staff's concern is that the proposed location of the tenant house combined with the proposed relocation of the pre-existing dwelling appears to unnecessarily fragment the farm.

*The PA portion of the farm, which is not under easement, has been sold as part of the settlement of the estate.

Brenda and Tim Maresh, Ned Sayre, Program Assistant, were present at the meeting. Amanda Maresh Kleback, daughter of Brenda and Tim Maresh, was also present.

Mr. Sayre distributed two color aerials to the Board. One color aerial map showed the actual site location and the second aerial map indicated the site location in the context of the whole farm. The Pennsylvania portion of the tract is the triangle on the map and that is where the main barn is set up. Mr. Sayre stated that the landowners understand that the MALPF Board does not allow the deeded landowners to live in a tenant house. Since the Maryland portion of the Maresh's inherited farm was the best farmland, the landowners chose it and sold the portion in Pennsylvania. The portion of the farm in Pennsylvania had more structures on it. The landowners intended to use the existing farm road. For years the road had been used as a field access road and it will not be cutting into the new tract where the landowners would like to build their personal houses (back in the corner of wood) so it is not taking out excessive amounts of the cropland. All the cropland on the farm is Class II and Class III and it is a nice piece of property. Because of topography the Mareshs chose not to re-build at the exact site. The landowners are committed to operating the farm and have already constructed new barns specifically for the farm operations done on the farm. A considerable amount of fencing has been done on the farm. In the long run, the request will enable the farm to become a very viable property.

Brenda Maresh stated that she and her husband had inherited the farm, and was not aware of the stipulations on the MALPF preserved properties. Their request for a tenant house had been approved in the past but they had never built a tenant house. Mr. Harrison became disabled and the Mareshs moved in with him to take care of him. Their daughter, Amanda, moved back home after her marriage. Eventually Amanda, her husband and their son would be the primary caretakers. Both Brenda Maresh and her husband have an outside job. Ms. Maresh stated that she desired that her grandson grow up on the farm.

Ms. Brenda Maresh stated that the original tenant house location was in pasture. The proposed tenant house location is closer to both sites and is not as far as it is depicted in the aerial map.

Mr. Colhoun stated that he had visited the farm and he agreed with Ms. Brenda Maresh that the aerial map might be a little deceptive. The Mareshs have fenced around the proposed tenant house and a stone road has been constructed. The location is closer to the barn and the pasture than it appears. Mr. Colhoun stated that he believed that the location was appropriate for overlooking the whole barn area. Ms. Brenda Maresh added that one can see everything that goes on in both pastures.

Mr. Tassone asked if both dwellings would be non-subdividable. Ms. Brenda Maresh confirmed that they were.

Mr. Colhoun stated that he was concerned about the right-of-way mentioned in the staff report and had discussed the issue with Mr. Sayre when he visited the farm. Mr. Sayre stated that it is actually an access road and not a right-of-way. There is no creation of subdividable lots.

Motion #3: To approve the request of Tim and Brenda Maresh for a second relocation of a pre-existing dwelling and the relocation of an approved tenant house on easement property subject to both being non-subdividable.

Motion: Robert Stahl Second: John Draper

Status: **Approved**

Mr. Doug Wilson stated that the Board minutes of March 27, 2001 mentions about a child's lot that has been approved but not released from the easement. He wanted to know if this lot has been extinguished. Carol Council, MALPF staff, responded that the lot has been extinguished.

Mr. Tassone wondered about the statement that the mobile home was not placed on the lot. Mr. Conrad clarified that it was never put on the land.

Mr. Sayre commented that the tenant house was approved and then Mr. Harrison took ill and the option was never exercised.

Mr. Sayre stated that Mareshs wanted to know about the size of the tenant house. The square foot of the tenant house (Amanda Maresh) will be larger than 2500 sq feet but it is a three story home with a basement. It is not a big sprawling ranch. The footprints of the house might be smaller than what could be a one-story structure.

Mr. Conrad stated that the size may depend on the County regulations. The Foundation also would have to look at the legal language in the easement document.

Mr. Sayre stated that the Harford County Planning and Zoning office does not have specific square foot regulations. The house is restricted to three storys (two storys above ground). Amanda Maresh Kleback, daughter of Tim and Brenda Maresh, stated that after the MALPF Board's approval in 2006 all the processes involved have been completed. The perc test has been done and the building permit has been obtained.

Mr. Conrad stated that the Foundation would have to look at the easement documents before responding to their question. Elizabeth Weaver, MALPF staff, will respond to the question after she looks at the documentation.

Mr. Tassone commented that the house planned was for an owner's lot. The same rule for the structure does not apply to a tenant house. Ms. Council clarified that the earlier request was not for an owner's lot, but it was for a pre-existing dwelling relocation and the differences in regulations still do apply.

Mr. Tim Maresh wanted to know what will happen after he and his wife pass away.

Mr. Conrad stated that a tenant who lives in a tenant house cannot simultaneously have ownership interest in the property. If the Klebacks (Amanda and her husband) inherit the property they can no longer live in the tenant house and would have to move into the existing dwelling.

Mr. Conrad wanted to know the size of the existing dwelling. Ms. Brenda Maresh stated that it is less than 2200 sq ft.

Mr. Colhoun stated that the MALPF Board will look at it later depending upon the situations prevailing at that time. He encouraged the Mareshs to be in touch with the MALPF staff on such questions.

III. AGRICULTURAL PRESERVATION DISTRICT PETITIONS

A. Caroline County

1.	05-08-01	Stoll, Ernest and Rona	14.8 acres
2.	05-08-02	Mangum, Danny, Jr. and Jennifer	21.723 acres
3.	05-08-03	Frase, Leo F. and Charles Earl	80.7 acres

Motion: Doug Wilson
Status: **Approved**

Second: John Draper

Mr. Doug Wilson suggested including a standard language while sending the response letter to Virginia C. Jones Trust. The letter should convey that if the landowners want to move forward to sell a potential easement they need to discuss the ownership of the Trust and their lot eligibility with the MALPF staff.

IV. PROGRAM POLICY

A. Settlement Issues – an update by Nancy Forrester, Assistant Attorney General, Department of General Services

Ms. Forrester stated that she has received complaints about the speed with which the settlements are occurring. The reality is something very different. The Foundation had sent out option contracts much sooner than previous years. Last year around this time, Ms. Forrester had closed 16 and this year she had settled 60. Out of 122 option contracts, approximately 30 to 35 have survey or title issues. Another 20 to 25 are still under review.

Ms. Forrester wanted the Program Administrators to let the landowners know that somebody has to settle last. Under the option contract, MALPF has one year to elect to purchase. Currently we are well within that one year requirement. There is no backlog and the landowners who have not received letters are in the pipe line. The Foundation has set settlement priorities. The properties without legal issues or title issues were processed first. If the landowner has mentioned financial hardship at the time the Option Contract is returned, Ms. Forrester has noted them and prioritized them.

There are some cases where there is a financial hardship, but Ms. Forrester is not able to process them because they also have title issues. The remaining properties will be processed in the order they were taken to the Board of Public Works.

Mr. Conrad added that landowners who have accepted federal funding should expect delays in their settlement. The offers with federal funding involve third appraisals. Mr. Conrad encouraged the concerned Program Administrators to let the landowners know about the expected delays. Mr. Conrad stated that during the time of Ms. Forrester's predecessor there was a significant backlog but that is not the current situation.

Responding to a question, Mr. Conrad stated that the easement language has been finalized and has been sent to the landowners. Some landowners want to settle before December 31, 2007 for tax reasons and so have a misconception that there is a backlog.

Mr. Doug Wilson stated that four years back the Foundation would never settle the prior year's easement before December 31 because it was closing settlements from the two years' previous. The Foundation never looked at the previous year's easement offers until at least mid year. There were always 80 – 90 settlements on hold. Ms. Forrester undid the backlog and currently the Foundation does not have any backlog. Now, some landowners getting the offer in July go through the reviews, get scheduled for settlements, and get a check in the same year. This has created an expectation in the minds of the landowners.

Mr. Doug Wilson stated that he believed the Foundation and the Program Administrators must let the landowners know that the Foundation is going to do their best to settle, but not everyone would be able to settle before December 31. Sometimes landowners want to settle faster because of tax issues. This year there were also certain federal issues.

Robert Stahl, Board member, stated that he believed people were also concerned about whether the State would still be funding the easement sale because of the other reports in the

press about the State's financial problems. Also the appraisals were done in 2006 and so the appraisals were much higher than what the current market is and people were concerned that the State may reconsider their offer because of the fact that they can probably buy cheaper today than what they could do earlier.

Mr. Colhoun urged the Program Administrators to educate the landowners about the process and the need for proper documentation.

B. Forest Mitigation Policy – Additional language to require a Forest Stewardship Plan

The Forest Mitigation Policy was conceptually approved last month. Before a final approval of the Policy the Board wished to have input from Maryland Environmental Trust and the Department of Natural Resources.

The Forest Mitigation Policy Committee realized that it had not considered whether the proposed Forest Conservation Easement language required a Forest Stewardship Plan. The Committee is suggesting that a Forest Stewardship Plan be required as follows:

“If the forest mitigation/mitigation banking easement overlay includes at least ten acres, or the forested land in the easement/district totals twenty-five contiguous acres (whether those forested acres are included in mitigation or not), the landowner shall be required to obtain and implement a Forest Stewardship Plan, prepared by a professional forester licensed in Maryland.”

The rationale for "Ten acres" is that this size forest (and even smaller) responds to management. This also is the minimum size for anyone who wants to qualify for the "Tree Farm" program. The rationale for "Twenty-five contiguous acres" is that this is the requirement for any forested land in current MALPF easements, in an effort to manage the forested natural resource. Even though all of those twenty-five acres are not included in the mitigation (and, the committee believed, acreage receiving mitigation typically is not that large), having the requirement helps put more MALPF land into sound management.

The Committee also suggests the following change:

“If the forest mitigation/forest mitigation bank request is for a property that was approved for MALPF easement purchase by the Board of Public Works prior to October 1, 2004, and is therefore eligible to apply for termination of the easement after twenty-five years, then the owner shall be required to amend the Deed of Easement to waive the right to **REQUEST** termination **OF** the easement after twenty-five years, and clarify the perpetual nature of the easement.”

Mrs. Schultz commented that she understands that Pam Bush, Department of Natural Resources, Senior Policy Analyst, is convening a meeting in January, 2008 involving several people to discuss the policy. Mrs. Schultz wanted to wait until January to hear from Ms. Bush. The Forest Mitigation Committee received a response from Mr. Nick Williams, Maryland Environmental Trust (MET). Mr. Williams has conveyed that the current MET model easement does not allow the property to be used to provide required open space for development or subdivision of another property and shall not be used in determining any other permissible residential, commercial, or agricultural use for another property. MET believes that when developers have various options under the Forest Conservation Act they will simply find another alternative if a land trust does not allow easement property to be used for forest mitigation. So if easement land is not available for mitigation, developers can find the land somewhere else. MET has conveyed that since its mission is different than MALPFs, it does not have the same concerns about the forest conservation easement preventing conversion of woodland to cropland.

Mrs. Schultz stated that the Committee has received several comments from the Program

Administrators. One major issue was about the Class I, II, or III soils. The Forest Mitigation Committee has noted that Class I, II, or III cannot be mitigated at all unless mitigation on that land will serve a resource conservation purpose, e.g., buffering a stream, as part of a Soil and Water Quality Plan prepared by the Soil Conservation District. The reason is once a land has forest mitigation it is forested in perpetuity. MALPF does not say traditional cropland must be cropland in perpetuity. MALPF allows flexibility for the current and future landowners. The reason the Committee was very protective of Class I, II, and III is allowing the flexibility for the current and the future landowners. If the land has been put in forest conservation easement it could not be converted to other uses.

Wally Lippincott, Program Administrator, Baltimore County, complimented the Committee for an excellent job. Mr. Lippincott stated that he believed the language in the policy did not clarify the distinction as well as it was articulated by Mrs. Schultz. He suggested revising the "resource conservation purpose" to "some extraordinary resource conservation purpose."

Mr. Tassone stated that the Committee's thinking was that, in soil conservation and water quality planning, typically the whole concept of legitimate resource conservation purposes includes ideas like permanently vegetating steep slopes and allowing natural cover and hydrology to take over in hydric soils in areas that are not already artificially drained. These types of purposes are normally part of the purview of the soil conservation and water quality planning process. If that is the purpose and it is a legitimate purpose, then it is okay to include the land in it and even if it includes some Class I, II, and III soils in order to achieve that purpose. Mr. Tassone asked Mr. Lippincott that if that thinking was elaborated, will it serve the end. Mr. Lippincott was not sure if it would. Mr. Lippincott illustrated the example of Baltimore County. Baltimore County has a lot of Class III soil, which is highly erodable and, therefore, Soil Conservation would consider it a resource conservation purpose to forest those soils. Baltimore County could lose 60% of its cropland if this were done.

Mr. Colhoun stated that the mission of MALPF is to protect agricultural land for perpetuity. Mr. Colhoun stated that MALPF does not want to restrict Class I, II, and III soils to forest mitigation. However, if someone wants to plant trees on their easement they can plant trees on Class I if they want to. Mr. Colhoun suggested revising the language to reiterate this.

Mr. Tassone suggested the language, "For land under a MALPF easement to be eligible for consideration for forest mitigation, it must be other than Class I, II, or III unless mitigation on that land will serve a resource conservation purpose, subject to the approval of the Board." In this way, the purpose would have to be explained and justified.

Mr. Colhoun stated that he believed the language of the policy needs to be clear to avoid any misunderstanding.

Mr. Ralph Robertson, Program Administrator, Carroll County, was concerned about the following statement:

DEVELOPMENT ACTIVITY AND ITS IMPLICATIONS FOR THE FOUNDATION'S GOALS

- The Maryland Department of Planning (MDP) must provide a written opinion stating that the development project is in a Priority Funding Area recognized by the State, is consistent with the local comprehensive plan and State Planning Policy, and is not likely to encourage or support substantial further development in areas the Foundation is attempting to preserve.

Mr. Robertson wanted to know who requests that the development project is in a Priority

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Funding Area; is it the landowner or the County Program Administrator. Mr. Robertson perceived a bureaucratic nightmare and expressed his concern.

Mr. Colhoun stated that the policy mirrors what the MALPF Board had approved for Wetland Mitigation.

Mr. Tassone stated that the policy has been followed in a couple of wetland mitigation projects. MDP will be notified of the need to provide their opinion by the Foundation when it receives the application. MDP did not find it very hard to give its opinion.

Pam Bush, Department of Natural Resources, Senior Policy Analyst, stated that it would be helpful if the person interested in mitigation supplies the information whether the development project is in a Priority Funding Area (PFA) to the county administrator at the initial stages of the process. Otherwise a lot of time is spent by all the people involved.

Mr. Robertson brought the attention of the Board members to the policy language, "When it has received a recommendation from the Foundation staff, based on information from the county, the Natural Resources Conservation Service, the Maryland Department of Planning, and MDA's Resource Conservation Operations, the Board will determine if the mitigation is appropriate for the easement land and if the development project facilitated by the proposed mitigation is compatible with the Foundation's goals and objectives." Mr. Robertson wondered if the Foundation staff is going to reach each agency to get approval. He wanted to know the procedure.

Mr. Tassone stated that the information from the County would be the input to the decision making process. Mr. Tassone also believed the word "NRCS" is being changed to Soil Conservation Districts. The Districts provides the information that the request is part of the legitimate farm plan. MDP just provides an opinion. When an application comes in, it is certainly desirable to be able to locate the site where the development is going to take place. The MALPF Board needs a standard input from the County, the Soil conservation District, and MDP. It is part of the preparatory information that the Board would get and base its approval upon. MDA's Resource Conservation Operations are given the prerogative to look at the information from the Soil Conservation District and provide a check if the MALPF Board so desires. This is done recognizing the potential for variation among the perspectives in different Soil Conservation Districts, among the District Planners and their view of what's reasonable or legitimate in the Soil Conservation and Water Quality Plan. So the policy involves three standard inputs and one check which is optional.

Mr. Conrad remarked that the process may involve some obligation on other agencies and they may or may not be aware that this is coming. Before the policy is finalized the Foundation cannot obligate other agencies to comment on something without having them accept the obligation.

Mrs. Schultz stated that the Committee may have to spell out the parties responsible in the process and the order of the steps in the application process.

Bill Powel, Carroll County, Preservation Specialist, stated that in Carroll County the forest mitigation process is not easy to understand. Their office refers the interested parties to approach the Forest Mitigation Planners because the process is very complicated. When a landowner wants to have forest mitigation on his property, he needs to get approval from the forest mitigation officials. They have to recognize that there are three components. They can plant trees in advance of dealing with developers and have them available so that when the developers come to them and convey that they need x number of acres, they can say that they can provide this much of their total area. Mr. Powel believed it seemed that now he would have to tell people to have the trees planted and it might happen that there might not be an eligible project for them to use. People have to be informed that every developer may not be approved by the Foundation to put an easement on that area. Mr. Powell wanted to

know if his understanding was correct.

Mr. Tassone stated that his assumption is that a county that operates a forest conservation program and has an established operating mechanism in place, like Carroll County, might want to develop an arrangement with the Foundation whereby they have an understanding that says, "When we do this, what you (Mr. Powel) had described, we are willing to see to it that MALPF landowners only deal with developers who have land in priority funding areas. We will inform them about it and facilitate their doing that in an efficient way and let the Foundation know about it. Maybe the County can request the landowners come to the Foundation each time or it can be handled by the County at the local level." Mr. Tassone was not sure if that would be acceptable to the Foundation, but if he was representing the County he would convey that the County understands the Foundation's criteria and is capable of handling it and would like to do so. The County can discuss the issue with the Foundation.

Mr. Powel stated that he believed the regulations are in effect to protect the Foundation's interest in the use of the land and also the State's interest in proper development. Mr. Powel was concerned that at the end of the process the Foundation informs the landowner that they also would have to amend their easement to waive the 25-year buy back provision. While Mr. Powel supported the elimination of the clause several years ago it would be a good thing if it was not in any of the easements. Mr. Powel stated that he believed it seemed as if the Foundation was telling the landowner that he needs to go through a lot of loops as compared to his neighbor who is not under easement. It seemed that the landowners are being penalized.

Mr. Conrad stated that the general argument is that by allowing forest conservation easements we are limiting to some extent the flexibility of changing and responding to changes in the agricultural economy. Allowing forest conservation is attempting to fix a certain part of the property permanently in place. When we limit the flexibility we may also be making a possibility of maximizing income from that property more difficult. We limit the land to forestry whether forestry is a profitable industry or not. The Foundation does not want to create a situation where existing or future owners can argue that they cannot make a profit anymore.

Mr. Conrad added that in the past, the MALPF Board approved waiving and agreed to cover the expenses of the landowner waiving the 25-year request for termination. The waiver itself is not going to cost the landowner anything.

Mrs. Schultz stated that a couple of requests on forest mitigation had come to the MALPF Board and the Foundation did not have a policy and recognized the need to develop a policy. The intention of the Committee is not to provide land for forest mitigation banks but to develop a policy to help the MALPF Board when such requests come in.

Mr. Colhoun asked the Program Administrators to send in their comments and questions to Mrs. Schultz before the next Board meeting.

C. Equine Committee – an informational item

Howard Freedlander, Chair, Equine Committee, presented the recommendations of the Equine Committee. The Committee has received a letter from Mr. Rob Burk, Executive Director, Maryland Horse Industry Board. Mr. Burk was present at the meeting.

Mr. Freedlander stated that the Committee had received a response from the Maryland Horse Industry Board on September 13, 2007 and the Committee accommodated many of the points suggested.

Generally some of the issues raised by the Horse Industry Board are related to 'scale' of the horse farming. Mr. Freedlander gave an example. The Equine Committee had determined that

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for Horse Racing/Steeplechase/Cross-County Riding Rodeos/Eventing that it will allow no more than 2 events per calendar year (the Committee had focused on scale and frequency). The Committee had in mind the Shawan Downs property. Mr. Burk had inquired if there had been a scientific basis for determining 2 events a year. Mr. Freedlander responded by saying 'No' but the Committee did not want 6 or 8 events.

Mr. Burk stated that the specific question came from their Horse Council representative, Ms. Jane Seigler. Ms. Seigler had displayed a system that has been developed in Montgomery County to characterize small versus large scale events. Mr. Burk offered to pass on the information to the Equine Committee.

Mr. Freedlander commented that the Committee was interested in retaining the farm aspect and not becoming too commercial. Mr. Freedlander stated that he understands that farming is a commercial enterprise. The Horse Industry Board should understand that the MALPF Board is not anti-business and actually is looking at the process and trying to be flexible in recognizing the legitimate horse industry.

Mr. Freedlander added the Committee has spent 18 months on the issue and would like to arrive at an amicable resolution. Mr. Burk agreed and understood that the Foundation would like to wrap up the issue. Mr. Freedlander, Mr. Conrad, and Mr. Burk would get together to move forward.

Mr. Doug Wilson stated that the Equine Committee is an important issue and will have a wider impact. Both the equine issues and the winery issues are closely aligned with agricultural pursuits but clearly involve aspects of full commercial endeavor. Other ancillary agricultural activities will look at these two policies as a basis for what they can do on their parcels of lands. The Equine Committee has taken a very narrow view to protect the agricultural side and at the same time horse operations can continue. There has to be a line.

Mr. Burk stated that the Horse Industry Board also recognized that there has to be a line somewhere. The differences between some of the operations listed in the table are very minimal. The Horse Industry Board wanted to make sure that consistency is maintained.

Mr. Freedlander commented that the Equine Committee report also is drafted in the context of Uses Committee report developed by the Committee chaired by Mrs. Schultz.

Mr. Burk remarked that the Horse Industry Board sincerely appreciates the work of the Equine Committee and understands that not every suggestion will be accepted.

Mr. Colhoun suggested that Mr. Freedlander and Mr. Burk get together before the next Board meeting and Mr. Freedlander can report back to the MALPF Board. Mr. Burk wanted to involve a couple of Horse Industry Board members for this meeting.

Wally Lippincott, Baltimore County, Program Administrator, had some concerns about the operational issues. Parking is indicated as "4% of the easement/district or 2 acres". He was concerned that this was not enough to allow an event. He suggested that additional parking be allowed as long as it is temporary and pervious.

Mr. Conrad stated that the way the guidelines are written looks as if the conditions are absolute but it is not so. To some extent these are considered guidelines. If a request comes for approval for two events a year but it may require some additional temporary parking on the pasture etc., the Board will have the ability to look at the impact on the property and the seasonal considerations appropriate to the event. The table is a guideline and a request can be made for something that is appropriate to the event. It is up to the MALPF Board to approve or not to approve.

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Mr. Lippincott stated that he understands Mr. Conrad's views but believed it makes it very difficult for the landowner or a program administrator to evaluate and discuss the options. Mr. Lippincott suggested including a larger parking area just for the two events.

Mr. Conrad commented that the language can be included and it is for the MALPF Board to decide whether to approve it or not.

Mr. Lippincott commented that horse riding lessons are more commercially oriented than others and do have an impact on the neighborhood. Condition (2) indicates the primary use of land must be for farming operations (including horse breeding, boarding, and training), and not commercial recreational riding. Mr. Lippincott was not sure how to differentiate the word primary.

Mr. Conrad commented that the Committee is looking at those properties where the primary purpose is commercial riding. The horses are brought in from 'off the property.' Riders ride the horses and then take the horses back 'off the property.' If this is the primary use of the property as opposed to farming including stabling, training, and breeding the horses, then there are traffic and parking issues, etc. Mr. Lippincott stated that he believed that the farms with on-site horses are in the most demand for lessons and boarding.

Ned Sayre, Program Assistant, Harford County, wanted to know if the landowner has to approach the MALPF Board after going through the county administrators when they need specific permission for an event. He wanted more clarity on the guidelines about the "4% of the easement/district or 2 acres" mentioned in the table.

Mr. Freedlander commented that concerns expressed by the administrators are good and the Committee will take up the issue in its future discussions.

Mr. Colhoun asked the Program Administrators to send in their comments and recommendations to Mr. Freedlander.

Mr. Colhoun asked the county program administrators if they would like to participate in another Administrators' Seminar in February 2008 or March 2008. Mr. Colhoun hoped that by that time, some of the guidelines might be adopted, and there can be discussions on a couple of other issues too. All the county program administrators present at the meeting conveyed that it would be helpful to have the seminar.

V. INFORMATION AND DISCUSSION

A. An update on Helmore Farms – Diane Chasse, MALPF Administrator

Ms. Chasse stated that last year the Board had discussed Helmore Farm. The Lucas family had a violation. There were two overlay easements on the easement. The family is working to correct the situation and has submitted an amended cable easement for one. Before the Foundation asks them to create the second easement it wanted to make sure that the language in the first amended easement document is legally sufficient.

Mr. Colhoun asked if there has been a resolution on the view shed overlay easement on that property. Ms. Chasse said that she will look into it.

Doug Wilson informed the Board members about the sad demise of Cy Lesser, Chief, Mosquito Control Program, Maryland Department of Agriculture.

Doug Wilson stated that he is working on his committee titled "Committee on Charitable Contributions" and will keep the MALPF Board updated. Mr. Doug Wilson brought the attention of the Board members to an article in the Baltimore Sun published last week. The article pertained to Choptank Road and several issues related to

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agricultural practices were mentioned. Some of the issues were clearly in violation of the Critical Area Law, administered by individual counties. There is a current move within the Administration to look at what are legitimate buffers that need to be around borders, streams or rivers. The Governor has asked for information about what needs to be done to deal with issues as perceived in the news article. A large study group is working through the practice. Clearly that might have an impact on MALPF easements and DNR easements. Mr. Doug Wilson was not sure if the decision will affect the prospective easements or if it will be effective retroactively.

Mr. Doug Wilson also stated that in the next Board meeting he would be able to share what the Governor has for MALPF and other easement programs in his State Budget.

Mr. Freedlander suggested a copy of the letter written by Secretary Richardson and Mr. Luke Howard, Chairman, Maryland Agricultural Commission, be sent to the Board of Public Works Board members.

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

Motion #6: To adjourn regular session.

Motion: Chris Wilson

Second: John Draper

Status: **Approved**

The regular session of the Board meeting was adjourned at approximately 11:20 am.

Respectfully Submitted:

Rama Dilip, MALPF Secretary

James Conrad, Executive Director