

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
MINUTES
April 22, 2008**

TRUSTEES PRESENT:

Vera Mae Schultz, Vice Chairman
Martha A. Clark
John W. Draper, Jr.,
Howard S. Freedlander, representing Treasurer Nancy Kopp
Jerry Klasmeier, representing Comptroller Peter Franchot
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:

Daniel Colhoun, Chairman
Dr. James Pelura

OTHERS PRESENT:

Tammy Buckle, Caroline County, Program Administrator
Diane Chasse, MALPF Administrator
James Conrad, MALPF Executive Director
Carol Council, MALPF Administrator
Mary Diefenderfer, Landowner, Talbot County
David Diefenderfer, Landowner, Talbot County
Rama Dilip, MALPF Secretary
Mark Frase, Landowner, Caroline County
Kate Frase, Landowner, Caroline County
Carla Gerber, Kent County, Program Administrator
Billy Gorski, Anne Arundel County, Ag. Planner
Kimberly Hoxter, MALPF Monitoring, Enforcement, and Database Coordinator
Joy Levy, Howard County, Program Administrator
Mr. and Mrs. Paul Meyer, Landowners, Carroll County
Linda Neal, Landowner, Carroll County
Craig Nielsen, Assistant Attorney General, Maryland Department of Agriculture
Barbara Polito, Anne Arundel County, Program Administrator
Ralph Robertson, Carroll County, Program Administrator
Dan Rosen, Planner, Maryland Department of Planning
Lorie Roeser, Landowner, Kent County
Charles Rice, Charles County, Program Administrator
Martin Sokolich, Talbot County, Program Administrator
Donna K. Landis-Smith, Queen Anne's County, Agricultural Specialist
Jonathan Quinn, Landowner, Cecil County
Elizabeth Weaver, MALPF Administrator

commitment of federal matching funds to offers. So while the Foundation is trying to maximize the amount it is committing to individual offers, it is possible that the maximum amount for an individual offer is less than 50% of the actual offer. Currently the Foundation has not received third appraisals for offers made last year.

- Mr. Conrad informed the Board that the Foundation is scheduling a meeting at the Maryland Department of Agriculture on May 19, 2008 to discuss Installment Purchase Agreement Options (IPA). The meeting would be open to people who have received an offer and are interested in the IPA payment option. Pat O'Connell, President, Evergreen Capital Advisors, Inc would be available to answer questions. All program administrators were also encouraged to attend this meeting.
- Mr. Conrad passed out the "Report on the Aging of Rural Agricultural and Open Space Landowners and the Potential Impact of Aging Landowners on Land Conservation Goals" that was produced for the Joint Sub-Committee for Program Open Space and Agricultural Preservation. A presentation to the Joint Sub-Committee was done by the Maryland Department of Planning, the Maryland Department of Natural Resources and the Maryland Department of Agriculture. The report was related to a piece of legislation (SB 915) attempted by Senator Middleton. The legislation did not pass but a task force might be looking at the funding issue based on the report generated.
- Mr. Conrad mentioned that with the appointment of Mr. Quinn, MALPF Board has three recently appointed Board members; Jonathan Quinn, Martha Clark and John Draper. The Foundation would arrange an orientation for the newly appointed Board members. Mr. Conrad also mentioned that the MALPF Board would have its 13th Board member, representing young farmers, in summer of 2008.
- Mr. Conrad briefed the Board members about an issue in Baltimore County. A few months ago, the MALPF Board approved a value-added farm structure on a dairy farm in Baltimore County. It is in the Long Green area and is owned by Mr. Robert Prigel. Mr. Prigel is establishing a creamery in a structure approximately 10,000 sq ft in size. Mr. Prigel is processing dairy products (ice cream, cheese, etc) from his herd of 160 cows. Mr. Prigel also intends to sell directly to the public what is produced. The MALPF Board had approved the request because it was consistent with the Deed of Easement and was consistent with the Foundation's Use Policy. The structure is located on the main road at the intersection of a farm road, across the highway from the farmstead. This could become an issue in the Long Green Valley area of Baltimore County.

Mr. Conrad stated that there was nothing in the request that was contrary to the language in the Deed of Easement. There might be some zoning issue with the county. Mr. Prigel had apparently broken ground and started constructing the building. There has been opposition and people wanted to attend the Foundation's meetings to oppose the MALPF Board's approval. The Foundation's meetings are public. The property is in the Long Green Rural Legacy Area, and the opposition seems mainly based upon the interference with the scenic landscape.

Mr. Conrad remarked that some people believe that MALPF is also in the business of enforcing local land use ordinances and regulations but MALPF is not. It is easy for people to confuse what the county does and what MALPF does, but there are differences.

Jerry Klasmeier, representing Comptroller Peter Franchot, wanted to know if the Foundation had responded to the inquiries it had received.

Mr. Conrad stated that he and Secretary Richardson are meeting one of the people opposing the issue and would be responding to another by letter. Craig Nielsen, Assistant Attorney General, Maryland Department of Agriculture, would also be responding to the e-mails he has received on this issue.

- Mr. Conrad stated that Governor O'Malley recently made a decision about wind power on public grounds, specifically State Forest lands in Western Maryland. Mr. Conrad passed out related news articles. The result of that decision is that they are not going to allow wind power structures to be built on state forest lands. Mr. Conrad stated that he believes the issue needs to be addressed not only by the Foundation but also by other state agencies. Mr. Conrad was meeting representatives from the Department of Natural Resources and the Department of Environment and any other agencies that might have an interest. This will help in developing a common policy on location of wind turbines on lands that have state interest.

Doug Wilson, representing Secretary Roger L. Richardson, Department of Agriculture, stated that one of the news articles circulated with the agenda material states that the Governor does support wind energy turbines on private lands. The Foundation's preserved properties and Rural Legacy properties fall in the middle because the lands are owned privately and the properties have an easement. It would get more complicated because it involves the agricultural community; 50% of farmers think the farmers should have a right to do that under an agricultural easement if it does not significantly interfere with the farms. There are other people who think that they do not interfere. The news articles passed out with the agenda material contained an article on how a family is divided on having a wind turbine on their farm. Mr. Doug Wilson believed that different State agencies will have similar views, and developing a common policy might be difficult. The policy change can be in the form of regulations, legal authority, regulatory authority or a change in the statute.

Mr. Conrad stated that he attended a conference of North East State Program Administrators and this issue was discussed. Mr. Conrad briefed the Board members about zero meters. In such a scenario one is servicing one's own electrical needs on the property with wind power. It is permitted in other States on easement properties. It becomes an issue when one is producing surplus electricity regularly and selling it to electrical companies.

- Mr. Conrad stated that one of the news articles deals with a recent discovery that there is a large rush from New York and Pennsylvania to Western Maryland and Northern West Virginia to tap into a very deep source of underground natural gas. People are soliciting leases from landowners in Western Maryland and trying to put together blocks of land to sell those gas leases to gas companies. The gas companies would come in to do the exploration.

Mr. Conrad circulated a letter received from Senator Edwards from Garrett County. The letter mentions about gas leases to private companies in Western Maryland. In the recent years, the Foundation has been given a legislative authority to accept easements entering the program when gas rights on the property have not been subordinated. This is common, not because of tapping into new gas but because gas companies use this area because of the natural geological formations to store gas. The gas is coming from Texas and is being distributed across the east coast. The gas is stored in the season when it is not used much and then released during periods of peak demand. The Foundation has already accepted some easements that are not subordinated. However, this does not give the Foundation the authority to let people lease gas rights once they have entered the program. Senator Edwards believes that accepting non-subordination also allows the Foundation to let people lease their land. This is not correct. It is becoming an issue for people who want to lease the land and also for people who cannot lease their gas rights. The leasing companies have been talking to people about 'no access' leases. If there is a large area that has a large basin with

the geological formation underneath, there may be some properties located within this area that cannot allow access because they have agricultural easements or environmental easements prohibiting commercial activities on their land. If they are allowed to participate, they can have people extract the gas underneath their land, not even necessarily by directional drilling, and be compensated for the extracted resources.

One of the cardinal rules of the MALPF program is that the Foundation does not control subsurface rights. Technically, someone could lease coal rights or oil rights, and as long as you are accessing it off the property, a company could extract the minerals from underneath either by directional drilling or by having a mine that has an opening off site. There are also issues of accidents occurring on the property. There is no guarantee that the Foundation's rights will always be protected. This issue has raised number of issues that cannot be easily and readily addressed.

Mr. Conrad stated that he is planning to discuss this issue with the Department of Natural Resources as it is also expected to have a major impact on other state agencies. Mr. Conrad wanted the Board members to be aware that the issue has become much more important because of the changes in energy prices.

Howard Freedlander, representing Treasurer Nancy Kopp, commented that he would like to have a copy of the summary if Mr. Conrad is preparing one. Mr. Conrad stated that at this point in time he is having an informal meeting with Pam Bush, Department of Natural Resources, Senior Policy Analyst. Once the formal meetings are scheduled, he will be passing on that information.

B. ADDITIONS OR DELETIONS OF AGENDA ITEMS:

II.B.2 06-82-19	Carroll County Meyer, Paul O., Jr. & Betty, Re-review of request for approval to sell A released 1.0 acre child's lot	Added 175.8702 acres
II.A.1. 08-07-06	Charles County Liverpool Pointe LLC Request to amend the District Agreement to add 56.17 acres	Withdrawn 205.45 acres

II. DISTRICT /EASEMENT AMENDMENTS

A. CARROLL COUNTY

- | | | | |
|----|-------------------------|---------------------|----------------|
| 1. | 06-89-01s/
06-89-12A | Neal, Roger & Linda | 109.1808 acres |
|----|-------------------------|---------------------|----------------|
- Request for up to 2.0 acres for a child's lot on easement property

Roger and Linda Neal are the original owners of the easement property. There is one pre-existing dwelling and no lot exclusions have been requested. The current request is for up to 2.0 acres for the construction of a dwelling for their son, Peter Berengar Waller Neal's personal use.

NOTE: On March 25, 2008 this request was presented as an owner's lot but was withdrawn by the landowner in order to avoid a conflict with an approved child's lot (for Roger Neal) on an adjacent MALPF easement property.

According to Carroll County, on November 2, 2007 the Neals received Advisory Board

Carol Council, MALPF Administrator, shared the background information with the Board members. A child's lot was approved and was released from the easement in Mr. Meyer's name. Mr. Meyer got a building permit and started construction of the home on the lot. Mrs. Meyer injured herself and her doctor had conveyed that she will be better served to live in a home that does not have a second floor, where a master bed room and bathroom are located. The Meyers are requesting to be able to sell the home they have built that has second floor master bedroom and bathroom because Mrs. Meyer cannot live comfortably in this home. Currently the Meyers are living in their pre-existing dwelling, Cape Cod, which has first floor master bedroom and bathroom. The Meyers were going to sell their farm and move to Tennessee but this plan did not materialize. The Meyers now are not planning to move to Tennessee and plan to continue to live in the pre-existing dwelling.

Mr. Freedlander was concerned that there is no staff recommendation.

Ms. Council stated that all the recommendations of MALPF staff are based on the law, the regulations or the standing policy for the Foundation. There is no law, regulations or policy that MALPF staff can point to in regards to the current request. This is the first request of its kind. No landowner has come to the Foundation to request to be able to sell an approved children's or owner's lot on the open market. When the lot was approved it was without the benefit of the Foundation's five-year clause.

Mr. Robertson stated that the Carroll County Advisory Board did not make a recommendation because it is a 1983 easement that required only a single stage release. The Meyers' lot was approved a few years ago before the two-stage release became effective. Between 1980 and 1983, the criterion was for the purpose of constructing a dwelling for the owner or the child's personal use. That's all the law said. The law was later amended and required a two-stage release. When the request came to the Board, that the house could not be lived in because of medical reasons, Mr. Robertson informed the Carroll County Advisory Board that this is really a grey area. The lot had been released for years for the purpose of the child's lot. The house had finally been built and the Meyers approached Mr. Robertson. The Meyers wanted their request to be put on the agenda because they could not live in the house for certain reasons.

Mr. Meyer stated that Ms. Council had sent him a letter inquiring about ten things. Mr. Meyer had the engineer doing the plat and perc test write a letter. The engineer's letter was passed out at the meeting. The letter from the engineer states that the lot is set up only for a three bedroom house. There is a question if the Board would approve the request, if the Meyers added an acre of additional ground to the house lot, but doing so would leave an additional acre of the field with no access to the road because of the topography of the field. Second, the elevation between the septic system of the house and the field next to it is about 10 – 12 feet. The difference from the elevation would constitute an ejector pump system to pump the liquids from the house up to the other field. Mr. Meyer had checked with the person installing the septic system in the house and was told that doing so would approximately cost \$25,000 to install the system, including the expenses to repair the road. You cannot add the bedroom to the first floor unless the Health Department had the septic system enlarged to accommodate adding bedrooms to the house. The Foundation had asked a question about building an addition to the house for a first floor bedroom and a bathroom. It could not be done because it needed to have the septic system enlarged. The existing powder room is small and not large enough to accommodate a handicapped accessible shower.

Mr. Meyer continued that several weeks ago he had Mr. Robertson visit his house. Mr. Robertson inspected the living conditions of the current home of the Meyers. Mr. Meyer stated that he believed Mr. Robertson probably would have to agree that the house was very

Board. Mr. Meyer might need time to think about it. The Foundation is setting a precedent with the current approval. The Foundation is administering a statewide program covering 2000 easements across the State and has to be consistent. The approval is not unreasonable but it does create a precedent.

Mr. Nielsen stated that the approval would entail an amendment to the Deed of Easement. It would be a restriction on the land, a covenant that would run with the land for future owners.

Ms. Schultz asked the Meyers if they are comfortable with the Board's decision. Mr. Meyer confirmed that he is comfortable with the arrangement.

C. CAROLINE COUNTY

1. 05-87-38A Frase, Mark and Carol 85.436 acres
Request to exclude a child's lot up to 2.0 acres from easement property

Mark and Carol Frase are the original owners of the easement property. There is one pre-existing dwelling. No lot exclusions have been requested. The current request is for approval of a child's lot up to 2.0 acres for their daughter, Kate Frase's personal use.

According to Caroline County, the proposed lot will use an existing dirt lane for access. The County recommends allowing up to 2 acres due to the placement of the well and sewerage reserve area on the lot and the ditch at the rear of the property.

Under the terms of HB 460, the Foundation's Board of Trustees may approve a lot size of up to two acres if the additional acreage is recommended by the local advisory board and the local planning and zoning authority. The legislation states that the Foundation must determine that a lot size of greater than one acre will not interfere significantly with the agricultural use of the property. The legislation was intended to avoid situations where the one-acre size restriction results in lots with irregular shapes or where the lot creates small adjacent areas of land which remain under easement but are not farmable.

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 a boundary line, natural boundary, or the edge of tillable land, and clustered with other dwellings (if they exist);
3. Clustered with farmstead dwellings and buildings
4. Other

This lot location conforms to #2 of the Policy as it is on the boundary of the property. The request has been approved by the local advisory board and meets Planning & Zoning regulations. If approved, payback of \$563.78 per acre will be required.

Staff recommends approval of the release of up to 2 acres based on the provisions of the Deed of Easement and in accordance with Agricultural Article, Section 2-513(b)(8), Annotated Code of Maryland, which grants an allowance of a maximum lot size of up to 2.0 acres if recommended by the local agricultural advisory board and the planning and zoning department and if the Foundation determines that the additional acreage will not significantly interfere with the agricultural use of the property.

Mark Frase, Kate Frase and Tammy Buckle, Program Administrator, were available at the meeting.

According to Talbot County, the proposed lots are on Class 3 soils and the majority of the farm is composed of Class 2 soils. The proposed locations will not require new roads. The County believes that 2 acres will be required by the Health Department.

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 a boundary line, natural boundary, or the edge of tillable land, and clustered with other dwellings (if they exist);
3. Clustered with farmstead dwellings and buildings
4. Other

These lot locations conform to #1 and #2 of the Policy. The request has been approved by the local advisory board and meets Planning & Zoning regulations. If approved, payback of \$1,060.89 per acre will be required.

Staff recommends approval of the release of one acre plus such minimum additional acreage as required by the County Health Department or other county regulation, not to exceed 2.0 acres total, 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 a maximum lot size of up to 2.0 acres if required by regulations adopted by the Department of the Environment or the county.

Mary Diefenderfer, David Diefenderfer, Martin Sokolich, Program Administrator, were present at the meeting. Mr. Sokolich distributed a map showing two locations which were different from those mailed to the Board.

Mr. Sokolich stated that the proposed lots are in the large location of the tilled land. They are two sided parcels divided from the other roads. The landowners have indicated similar kind of locations.

Ms. Diefenderfer stated that they are just beginning to process their request and are trying to put child's lots for their two children David and Benjamin. David's lot might require a lane put in as there is no way to access the back section. They still have not decided where the lots should be positioned in the woods. Ms. Diefenderfer's son David is a surveyor and is exploring the location.

Ms. Diefenderfer stated that her other son Benjamin is a paramedic and is also a Chief at a fire company. Benjamin needs access to get quickly on the road. Ms. Diefenderfer stated that she wanted permission to proceed further to block two lots for her two children.

Ms. Schultz asked if the current request is for a specific area for the two lots. Ms. Diefenderfer stated that they have not decided and do not know where the lots will perc.

Mr. Sokolich stated that they are seeking permission to create two 2.0 acres child's lots on the chosen locations.

Doug Wilson stated that the MALPF Board generally would be approving lot locations as indicated. There might be little variations. If the landowners want to adjoin the lots in the middle of the wooden lot, there might be issues. If they went ahead and had a successful perc test they can probably move ahead and approve the lot. Though, because of perc tests, if the location of the lots changes significantly, they would have to return to the Board for a review. The current request is likely to be approved because they meet the current lot

conveyance of the parcels was a violation to his deed of easement, and consequently the subdivision would jeopardize his request for a tenant house, based on the 100 acre parcel size requirement. Mr. Newsome was instructed to first present his issues to the Howard County Agricultural Land Preservation Advisory Board, then he could come to the MALPF Board. At that point MALPF would have recommendations from the Howard County Board and would have Mr. Newsome available in case there would be any questions. Mr. Newsome never contacted Howard County and never responded to the Foundation's letter.

Mr. Newsome and the agent for the LLC's were then sent letters on April 7, 2008 by certified mail with return receipt requested. As of this date, Mr. Newsome's return receipt was received. This letter included a copy of Mr. Newsome's deed of easement and referenced sections of the deed and the statute that reiterated MALPF's stand on the subdivision of parcels under one easement and size requirement of parcels for approval of a tenant dwelling. The letter then invited Mr. Newsome and his legal council to attend the April 22, 2008 meeting to discuss these issues. *In his response to this letter, Mr. Newsome had declined to come. Mr. Conrad requested the MALPF Board to rescind the tenant house approval.*

In a recent ruling in the State of Maryland vs. Paul F. Stitzel, et al., case no. 21-C-06-25292 DJ, the judge ruled in favor of MALPF in that one easement made up of multiple parcels is legally viewed as one easement and therefore the parcels cannot be separated by conveyance. Citing pg. 22 of the memorandum opinion of Judge Donald E. Beachley of the Circuit Court for Washington County, *"In light of the statutes and regulations governing the Maryland Agricultural Land Preservation Foundation and the language used in the instruments effecting the establishment of the agricultural district and Easement over the Stitzels' land, the sale of Lot 14, being a portion of the 264.13 acres owned by the Stitzels and encumbered by the Easement, constitutes a subdivision and is prohibited"*.

Staff recommends rescinding the tenant house approval since the conveyance of the parcels no longer provides at least 100 acres to support a tenant house.

Mr. Conrad stated that Mr. Nielsen had done some research and wants to bring the issue back to the MALPF Board at some point in the future. Mr. Nielsen wants to spend some time studying the subdivision before proceeding legally. Mr. Nielsen added that the Foundation staff and the County Program Administrator would work together to try to resolve the issue.

Motion #8: To approve the Foundation staff's request to rescind the tenant house approval.

Motion: Joe Tassone Second: Howard Freedlander

Status: **Approved**

Mr. Conrad stated that it important to note that Mr. Newsome could request for a tenant house on a property less than 100 acres if has a compelling need for a tenant and the Board using its discretion can approve this request. This does not resolve the agricultural subdivision issue but Mr. Newsome does have the right to request for a tenant house.

Ms. Schultz asked Joy Levy, Program Administrator, if she had any comments.

Ms. Levy stated that she had been reporting all the recent correspondence with Mr. Newsome and the recent ruling in the Stitzel case to Ms. Marsha McLaughlin, Director, Howard County Department of Planning & Zoning. The person heading the County Zoning Division has been briefed and alerted to look out for a probable building permit request that might come in for this property. Ms. McLaughlin had indicated that there would be no approval for a tenant house.

the new priority preservation element as part of the comprehensive plan. The current request when approved will be retroactive. It (The certification issue) still remains an audit item.

Mr. Tassone commented that the Foundation staff and the staff from MDP are meeting to discuss the transition from the existing statutory requirement to the new statutory requirement. After this meeting the Board will be updated on how the two agencies propose to handle the transition period.

B. Proposed Cap for Appraisals for FY 2009

The Foundation received an appropriation of approximately \$45.7 million for the purchase of easements for the FY 2009 easement acquisition cycle. Of the appropriated funds, \$14 million are projected from local government, and \$10 million are federal funds. The federal funds associated with the appropriation is for use in FY 2008 through FY 2010, therefore only a portion of the federal funding will be available for the FY 2009 cycle. While the Foundation has projected \$14 million from local government, it is possible that this amount may be significantly lower due to the decrease in receipts of agricultural transfer taxes and other revenue sources. The State portion, approximately \$22 million, represents a significant decrease from funding during recent years. By comparison, the State portion available for FY 2008 was approximately \$44.9 million.

Traditionally, when available funds are relatively low, to reduce the cost of appraisals, the Board places a cap on the number of easement applications that will be accepted. In such instances, Foundation staff has recommended, and the Board has approved, a cap of up to five applications per county, or, if more than five applications are submitted, the top 80% of the total number of applications received from each county. However, if counties are willing to pay the costs of all appraisals beyond the cap, they may do so.

Recently, appraisal costs are running at approximately \$1,000.00 per property (a minimum of two appraisals are conducted per property at approximately \$500.00 each). The Foundation paid for appraisals for approximately 450 applications for FY 2008. It is anticipated that the Foundation will receive a similar number of applications for FY 2009. Reducing appraisal costs by limiting the number of appraisals will help maximize the use of State funds available for actual easement purchases.

Foundation staff recommends placing a cap on the number of appraisals to up to five or 80% of the total number of applications. Should counties wish to, they may have all properties appraised, provided they agree to pay for the costs of appraisals beyond the cap.

Elizabeth Weaver, MALPF Administrator, presented the agenda item. Mr. Conrad commented that about \$90,000 will be saved. It may not be enough for an easement but when combined with FRPP funds or county matching funds, the money would be enough to probably make one additional easement offer. It gives an option to the counties if they want to use the Foundation's appraisals.

Charles Rice, Program Administrator, Charles County, wondered if 80% is still too high. Last year Charles County had 14 applications and only five were funded. Mr. Rice stated that he personally believed a cap of 80% to be high.

Donna Landis-Smith, Program Administrator, Queen Anne's County, stated that Queen Anne's County is expecting between 60 – 70 applications for the 2009 cycle. One particular applicant in Queen Anne's County is 700 acres. Last year Queen Anne's County had five properties all over 300 acres.

Tammy Buckle, Program Administrator, Caroline County, stated that she would not be opposed to 50% or 10.

Ms. Landis-Smith wondered if the county administrators can volunteer up to 10. Ms. Landis-Smith stated that she would prefer to use the money for properties that are close to receiving a full offer, e.g. cases where the landowner is getting 90% of the offer, why not put the money in easement offers rather than getting the additional appraisals? The landowners could be informed that because of the low budget amount available, the State has limited offers.

Ms. Weaver stated that she had discussed the issue earlier with Vera Mae Schultz, who had also raised the issue. Ms. Schultz asked why the staff was not recommending a cap of 50%. Ms. Weaver stated that the Foundation saves a substantial amount of money through the discounting system associated with the Second Rounds offer. If we eliminated more than the proposed 20%, then the Foundation stands to lose fairly good properties that could be offering to sell at a discount.

Mr. Tassone wondered if the counties are aware that they could be cutting their landowners off from the possibility of Second Round offers. Mr. Tassone wanted to know how much discretion the Foundation has and how the numbers of appraisals are capped.

Mr. Doug Wilson stated that the Foundation has done caps of various percentages over the years. There is no formal rule. Having a cap is an administrative methodology to control costs. Time is another issue. In earlier days it took a long time to get appraisals, hiring people, etc. It was also about cutting the work load as to how many appraisals have to be done. Mr. Doug Wilson agreed with the Foundation staff; you only need to miss out on one Round Two landowner and the Foundation can lose \$90,000 very quickly if somebody was discounting 40 to 50% and did not get appraised. The difference between the earlier year caps and today is the local government ranking system. In the old days when the Foundation administered a cap it severely hit the counties. In today's world because of the ranking systems all the counties can forward their top ones to the Foundation.

The downside of having a cap is that it affects the momentum that is built. There is money for Round One and Round Two. People are applying and are getting appraised and the data on farms in the State of Maryland gets updated. When you cut off 20, 30, 40 or 50%, important information is lost. Over the last couple of years, processing 400 or 450 applications, the Foundation has seen enormous variations in various jurisdictions. Currently the appraisal costs are significantly higher. Trying to choose the cap is the county's decision; whether to accept 80% of what is being submitted or send everything to the Foundation. The Foundation will assess everything it receives from the counties. The staff at the Department of General Services (DGS) is heavily overloaded. If a cap is administered, it would mean fewer reviews and fewer appraisals for the staff at the DGS.

Mr. Tassone wondered if it would be worthwhile for the counties that their money goes towards easement acquisitions rather than spending it on the appraisals.

Mr. Sokolich stated that this year Talbot County may have around 35 easement applications. So there would be some properties eligible for the Round Two cycle. Year after year these properties have been appraised several times. Generally speaking the appraisals have been two or three times more than the landowners' asking prices.

Mr. Sokolich wondered that if these properties are not appraised in the coming years how it would affect the program in deciding that they had a good deal or a good discounted piece of property.

Mr. Doug Wilson agreed that the Foundation gets varied appraisals. Any number of things can change between one year and another year that might affect the value of a particular

property. The DGS staff will not be willing to accept going to the Board of Public Works with an appraisal from two years ago even if the value was exactly the same. Mr. Doug Wilson stated that he understands Mr. Sokolich's concerns, but currently the Foundation does not have a structure to accommodate it. If there was a methodology, it would save the time spent on the appraisals, the properties would be in line, and the process would be completed much quicker for the landowners who apply for an easement every year.

Mr. Doug Wilson commented that he is trying to come up with a methodology where the Foundation starts the new year (July 01) and if the County wants to include these properties in their top five properties there should not be a need to appraise them immediately. It is only a difference of one day in the clock.

Ms. Buckle stated that the Board has never given specific instructions on how a county is to choose the top 80%. She suggested that 40% be the top 40% from the ranking system and the other 40% be by lowest asking price per acre for those applications left over.

Mr. Doug Wilson stated that he personally believed that it is up to the counties to decide what they submit to the Foundation. For some jurisdictions one way to ensure that their top ranked properties get in is by limiting the number of easement applications. The only issue is that the County will find it difficult to be a target and answer questions from the landowners. The legislature clearly conveyed to the Foundation that the counties are the ones that make the first determination of what comes to the Foundation by whatever methodology they use. The Foundation does not care about the methodology used by the counties. Some counties put higher values on contiguous properties, size, and soil quality. Some counties put values on how much the landowners are discounting. Some counties put very low points for discounting.

Ms. Landis-Smith wondered about the relevance of Round Two offers especially when there is such a minimal amount on the front end of the Round One offers.

Mr. Doug Wilson stated that the Foundation would end up with \$3millions this year and that is substantial in comparison to some earlier years.

Ms. Buckle stated that she is aware that because of the budget crunch Caroline County would not be able to come up with extra matching funds.

Mr. Doug Wilson asked if the County Program Administrators expect around 450 easement applications this year. The County Program Administrators believed that this year also there would be that many applications.

Mr. Doug Wilson stated that the real estate market has been fluctuating. One of the values in doing appraisals for all the 450 easement offers is that the Foundations gets some valuable data on the impact of the real estate changes of the market.

Mr. Conrad stated that part of the Foundation's concerns is about the staff available at the DGS and the turnaround time on the appraisals from the DGS. The staffing issues at DGS have not yet been resolved. The Office of Real Estate is short staffed and its chief, Mr. Bill Beach, is working 12 to 14 hours a day. The Foundation still has not received all the appraisals. If the staffing issue is resolved Mr. Conrad would feel a lot more comfortable.

Robert Stahl, Board member, commented that because of the way the economy is working, people are likely to focus more on Round Two. Mr. Stahl stated that he believed when the landowners start seeing themselves as # 50 on a list they would realize that they would not be able to get their offer unless they discount heavily. This is going to consistently push more and more people to discounting. Mr. Stahl stated that he would like to be careful.

