

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
OPEN MEETING MINUTES
July 28, 2009**

TRUSTEES PRESENT:

Vera Mae Schultz, Acting Chairman
Martha A. Clark
John W. Draper, Jr.,
Howard S. Freedlander, representing Treasurer Nancy Kopp
Jerome W. Klasmeier, representing Comptroller Peter Franchot
Robert F. Stahl, Jr.,
Joe Tassone, representing Secretary Richard E. Hall, Maryland Department of Planning
Christopher H. Wilson
Douglas H. Wilson, representing Secretary Earl F. Hance, Maryland Department of Agriculture

TRUSTEES ABSENT:

William K. (Billy) Boniface
Daniel W. Colhoun
Dr. James Pelura III
Jonathan C. Quinn

OTHERS PRESENT:

Lisa Barge, Anne Arundel County, Agricultural Market & Development Manager
Tammy Buckle, Caroline County, Program Administrator
Diane Chasse, MALPF Administrator
James Conrad, MALPF Executive Director
Pat O'Connell, President, Evergreen Capital Advisors, Inc
Carol Council, MALPF Administrator
Rama Dilip, MALPF Secretary
Nancy Forrester, Assistant Attorney General, Department of General Services
Carla Gerber, Kent County, Program Administrator
Heather Harrington, Landowner, Dorchester County
Todd Harrington, Landowner, Dorchester County
Kimberly Hoxter, MALPF Monitoring, Enforcement, and Database Coordinator
Judith Marie Tennyson, Landowner, St. Mary's County
Lynn Miller, Anne Arundel County, Long Range Planning Administrator
Carlton Nabb, Landowner, Dorchester County
Mary Nabb, Landowner, Dorchester County
Craig Nielsen, Assistant Attorney General, Maryland Department of Agriculture
Donna K. Landis-Smith, Queen Anne's County, Agricultural Specialist
Joy Levy, Howard County, Program Administrator
Wally Lippincott, Baltimore County, Program Administrator
Barbara Polito, Anne Arundel County, Program Administrator
Bill Powel, Carroll County
Ralph Robertson, Carroll County, Program Administrator
Donna Sasscer, St. Mary's County, Program Administrator

Vera Mae Schultz, Acting Chairman called the meeting to order at 9:05 a.m., at the Maryland Department of Agriculture building, Annapolis, Maryland.

Ms. Schultz asked the guests to introduce themselves.

request.

Mr. Doug Wilson stated that he understands Mr. Stahl's position, but there have been instances when landowners have approached the Board and limited their entire farm to tree production with overlay easements. The Foundation has approved the request and limited the production on the farm to one product.

Mr. Conrad commented that the Foundation has purchased easements when there have been restrictions on poultry and livestock on them. The Foundation also purchases easements in certain counties where the counties have restrictions on livestock.

Mr. Stahl stated that the reason the MALPF Board is able to perform so many transactions is because the Foundation has a fairly fixed easement. If the Foundation starts allowing people to have additional restrictions, the program would be negotiating every easement as currently is the case with the Rural Legacy program.

Mr. Klasmeier stated that he is in agreement with Mr. Stahl's position except that the request is a donated easement. Mr. Conrad agreed with Mr. Klasmeier. He also added that the Foundation is not going to get into negotiating mode with easement sellers.

Motion #4: To approve the proposed changes to Ms. Irma Lee Henschall's Deed of Easement.

Motion: Joe Tassone

Second: Howard Freedlander

Opposed: Robert Stahl

Status: **Approved**

III. PROGRAM POLICY

D. Legislative Proposals

REQUEST

To approve the Annual Report and Condemnation proposals and to discuss a Funding proposal and a Lot Rights proposal.

RECOMMENDATION

The Committee recommends that the Foundation approve the Annual Report and Condemnation proposals.

BACKGROUND

The proposals were sent with the agenda packet. **These proposals are not to be distributed as they are conceptual in nature and require finalization from the Governor's office prior to distribution.**

I. Change of the due date for the MALPF Annual Report

Short description of the issue/problem

Currently the due date for the MALPF Annual Report is November 1. Among other issues, MALPF reports on the easement offers approved by the Board of Trustees, accepted by landowners, approved by the Board of Public Works, and eventually settled from funds appropriated in the budget from that fiscal year. Because of the volume of applications processed in recent years, including securing and reviewing appraisals, MALPF has not been able to begin making offers until relatively late in the fiscal year (May for FY 2009). The offer cycle extends well into the following fiscal year. Staff cannot get a meaningful end-of-fiscal-year accounting for easement offers to meet the November 1 reporting deadline. Further, the November 1 deadline has been difficult to meet given available resources, and will continue to be difficult to meet given the expectation that no additional resources will be forthcoming.

A Description of the solution

MALPF proposes to extend the reporting deadline from November 1 to January 15. This would allow MALPF to get a more accurate number to report for the use of the fiscal year's appropriated funds, work within MALPF's available resource necessary to produce the report, while still providing MALPF data at the website for users that need the data in a more timely manner. The January 15 deadline makes sense because MALPF can report end-of-calendar-year land preservation data and have it available before the legislative session begins.

Mr. Conrad sought approval of the concept for changing the due date for the MALPF Annual Report.

Motion #5: To approve the proposed concept to change the due date for the MALPF Annual Report.

Motion: Howard Freedlander Second: John Draper
Status: **Approved**

II. Payment by Condemning Authority of Land under Agricultural Preservation Easement

Short description of the issue/problem

This is follow-up to the eminent domain bill from the 2009 legislative session. The existing method of payment to the landowner whose land is taken by the exercise of eminent domain under Section 2-515 of the Agriculture Article is for the acquisition entity to pay the landowner the full amount, including the increase in value of the development rights acquired by MALPF, excluding the actual original payment to landowner by MALPF for the easement, while paying MALPF only the amount paid to the landowner at the time of acquisition of the easement. This payment method creates two problems: (1) it created an incentive structure for the landowner to advocate for condemnation of the easement; and (2) it provides for the possibility of a private windfall to a landowner at the expense of the public purse. MALPF spent public funds entrusted to it to acquire development rights in the public interest of preserving productive farmland. Therefore, if land should be legitimately condemned for an alternative and superior public purpose, MALPF and land preservation should reap any gains accruing to its original investment in development rights.

A description of the solution

The solution is to rewrite the method of payment to have MALPF paid the amount of the easement value and the landowner the amount of the agricultural value, which is what was retained by the landowner with the sale of the easement. The determination of the easement value should be based on the method by which it was calculated when the property came into the program in the same way that the 25-year termination language now provides.

Mr. Stahl stated that the reality is that the land has higher residual value after the Foundation purchases the easement. The Foundation's current formula is based on the agricultural value. One of the challenges is when the State approaches the easement holder to condemn the property and compensates him based on a formula used when he sold the easement. The agricultural value might be \$500 or \$600 an acre as the base value but the value of the preserved land might be considerably more than that. The easement holders are likely to get upset.

Donna Landis-Smith, Program Administrator, Queen Anne's County, stated that she is facing a similar issue with a Rural Legacy easement that the County is currently negotiating. The landowner's attorney asked who gets the extra three million dollars if the easement value of the farm is a million dollar and the State of Maryland condemns it for \$4 million dollars. The

Department of Natural Resources (DNR) has responded that it would be the “landowner.” There would be a huge problem if the Foundation’s position is different.

Joe Tassone, representing Secretary Richard E. Hall, Maryland Department of Planning, commented that DNR’s position would depend on how Rural Legacy pays for its easements, how it relates to their investment in the property, and what the landowners should get when the property gets condemned. Mr. Tassone stated that he agreed with Mr. Stahl that easement holders are not likely to be happy even if the proposal was perfectly rational.

Board members compared the situation to a “forced termination.” It is different when the easement holders choose to terminate and when they are forced to terminate.

Martha Clark, Board member, stated that the appraisal defines the easement value and the agricultural value. Both the values have increased over time. The easement holder gets the increased agricultural value and the State gets the increased easement value. Mr. Tassone commented that unless the agricultural formula change, the increase in agricultural relative to the fair market value of the land value is expected to be minimal.

Mr. Conrad commented that many landowners complain that when they entered the easement program in early eighties and late nineties, they received \$800 an acre. Their contention is that if they decided to turn around and sell their easement now, they would be getting a lot more. If the State of Maryland condemned that type of property under the current system, the State of Maryland would be getting only \$800 per acre and all the development value would go to the landowners. In that scenario, the State of Maryland is getting the agricultural value and the landowners would be getting the development value. Is that fair to the State?

Mr. Stahl stated that he understands Mr. Conrad’s concerns and the rationale behind the proposal. But the fact is that in many cases the landowners have worked hard to preserve the blocks of land.

Mr. Tassone wanted to know if the Committee would be willing to consider the issue and to do something to soften the blow. Condemnation proceedings and protecting people against condemnation proceedings is not the Foundation’s responsibility. He also wondered, if a MALPF easement property was condemned, what would be the basis for the payment; development value or the fair market value of the restrictive property?

Mr. Conrad stated that these issues have to be worked out because so far the Foundation has never had one.

Mr. Stahl suggested the land be appraised at the preserved value. If the land is appraised at the preserved value, the landowner should get the payment.

Ms. Schultz asked the Legislative Committee to look at the issues discussed.

III. Provide Authority to MALPF to Seek and Commit non-MALPF Funds for Farmland Preservation

A short description of the issue/problem

MALPF has been approached by outside private and public entities, such as Ducks Unlimited and others, with proposals to acquire preservation easements on farmland in partnership with the entities. Such entities typically have complementary, but supplemental goals to those pursued by MALPF, such as carbon offsets, habitat protection, or environmental management. Further, MALPF has identified certain funding possibilities (such as NOAA, private foundations) that could be used as funding matches to put together workable partnerships in acquiring easements that otherwise could not be done or that could be used

to create a revolving loan fund to support the Critical Farms Program.

A description of the solution

Provide MALPF authority to seek outside supplemental funding to acquire easements on farmland by putting together funding partnerships. MALPF may also be given the authority to hire (contractually?) a position to take the lead in identifying and pursuing funding partnerships that could be funded eventually by the funds raised. Also provide MALPF the authority to incorporate alternative or additional criteria in evaluating comparatively potential easement properties that reflect the interests of the funding partners that complement those of the Foundation. This bill could incorporate the last elements of the Critical Farms legislation that remain to be adopted, given that it would provide the authority to seek outside funds for the Critical Farms Program.

Mr. Freedlander stated that he believed that this is a very creative approach.

Mr. Tassone agreed that the idea was good and wanted to know the kinds of restrictions that would be applicable on the properties funded by outside entities such as Ducks Unlimited and others. Also, if the Foundation tried to use its own acquisition funds in conjunction with outside funds, it would require statutory changes. Mr. Conrad agreed and stated that it would be good to have a temporary match.

Ms. Clark and Mr. Conrad commented that the Committee is discussing all the possible issues. Mr. Conrad also stated that the Foundation does not wish to overburden the staff with additional work load.

John Draper, Board member, stated that the Legislative Committee also spoke about how the Foundation would deal with situations where the outside entity would target a certain property. What happens to the preceding or succeeding property? Mr. Draper was concerned about the public perception if the Foundation was accepting money from an outside entity and purchased properties out of sequence from its rule-based ranking system. Mr. Draper sought the MALPF Board's guidance on how to deal with such situations.

Mr. Stahl commented that there are lots of organizations interested in land preservation that do not necessarily share the goals of protecting and promoting productive agriculture. The Foundation has to be very cautious.

Ms. Schultz referred the issue back to the Legislative Committee.

Mr. Freedlander wanted to know if there would be a Memorandum of Understanding (MOU) with the outside entity. Mr. Conrad agreed and stated that the responsibilities of both the parties would be listed. The Foundation can also set up an independent program and require separate applications. There could be explicit criteria on why a particular property is ranked in one or the other program.

IV. Lot Rights Proposal

This proposal is not retroactive but is prescriptive. If passed, this lot right system would be in lieu of family lots, unrestricted lots, and tenant houses.

Properties that are at least 20 acres, but fewer than 100 acres, are allotted one non-subdividable right. An additional non-subdividable right is allotted for each 100-acre increment after the initial right starting at 100 acres. The landowner may not waive this right as the non-subdividable residences may be needed for the farming operation in the future.

A property can also qualify for up to two subdividable residences. One for the first full 50

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acres and one more for another full 100 acres. A landowner may waive this type of residence to maximize the amount of the offer. Pre-existing dwellings would stay as they are now—that is, if you want to subdivide them, then you need to use a lot right.

The Foundation may determine whether a non-subdividable residence may be located on a portion of a property proposed for an agricultural subdivision.

All rights convey with the property.

Acres	Non-subdividable	Subdividable
20-49	1	0
50-99	1	1
100-149	2	1
150-199	2	2
200-299	3	2
300-399	4	2

However, if a landowner proposes to put a portion of a farm under easement, then the Foundation may require more acreage to reserve subdividable lots. (“Portion” is an area of land which is not legally-described. It is part of a larger parcel, one that is legally-described in a deed or plat.) For example, the Foundation may require a minimum of 100 acres for the first subdividable lot.

Acres	Non-subdividable	Subdividable
20-49	1	0
50-99	1	0
100-149	2	1
150-199	2	1
200-299	3	2
300-399	4	2

Mr. Conrad informed the Board members that the proposal is attempting to address some of the problems associated with the family lots issue. The Committee is proposing not to look at who or what role they have in the family operations but strictly focus on the density on the property: whether or not a residence is subdividable or non-subdividable. The intent is maximizing flexibility and the use of residences on the farm. The proposal is trying to avoid a situation where we end up with properties that have no residences on them. This would help the Foundation in getting away from ascertaining who’s related to whom and whether someone is a tenant or not a tenant.

The biggest difference between this proposal and the family lots is that the family lots disappear when the original grantor dies or the property is transferred. The current proposal is based on densities. It is a cross between unrestricted lots and family lots, but is getting away from the family designation.

The issue initially came up during the Task Force discussions. The Foundation developed the proposal in writing over the last two months. The proposal does have an impact in some counties. For example, Baltimore County depends upon family lots to provide value.

Mr. Tassone wanted to know about the non-subdividable lot provision. How would the current proposal address people’s concerns in obtaining financing for construction of a house when the lots are non-subdividable?

Mr. Conrad agreed that there are concerns about obtaining financing, but it also means that these houses are more likely to be used for farming purposes than for non-farming purposes.

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Tammy Buckle, Program Administrator, Caroline County, stated that recently a landowner in Caroline County could not get his loan re-financed unless it was owned on a separate residential lot.

Mr. Conrad stated that part of the reason the Foundation is still having subdividable lot is because of what Ms. Buckle has just stated.

Mr. Conrad remarked that the family lot would not absolutely disappear. Mr. Conrad stated that he understands some of the Baltimore County's preservation depends on family lot reservations. There is a possibility that a family lot provision might work for an easement holder in Baltimore County, but it might not be attractive to people in another county. The proposed policy is being discussed to find what works well for the counties and to explore alternative provisions.

Responding to a question, Mr. Conrad stated that the intent is to provide maximum flexibility for farming purposes. The original purpose of providing family lots was to make the transition easier from one generation to another. But that is not what it has become over time.

Wally Lippincott, Program Administrator, Baltimore County, stated that he disagrees with Mr. Conrad. Baltimore County has very diverse farms. The option of having family lots or unrestricted lots was created by everyone working together. It works well for Baltimore County. This option available to easement holders under the MALPF program is different, than what is available under the Rural Legacy Program. It is not right to think that landowners' needs are different than what they were a few years back.

Mr. Lippincott stated that the County staff had called people at random. Sixty percent of the respondents who had chosen family lots conveyed that the choice of choosing family lots options is important to them.

Mr. Tassone asked Mr. Lippincott, whether it would matter if the title of the column titled "non-subdividable family lots" was changed. Mr. Lippincott stated that it would matter. The Baltimore County Board approved a non-subdividable family lot for one farmer. The farmer had to do the planning and get the financing.

Mr. Conrad stated that part of the reason for having the "subdividable" "non-subdividable" lots is because there is no longer a narrowly defined family. Part of the concern expressed in the past few years has been that tenant houses cannot be occupied by someone once he has ceased to be a tenant. If a member of the family is not a direct child of the landowner and the grantor wishes a family lot, he or she is not eligible for a family lot. The proposed policy is drafted specifically to address the criticism made with respect to limited flexibility of family lots and the inflexibility of a tenant house. The proposed policy provides more flexibility.

Ms. Schultz referred the issue back to the Legislative Committee.

Ms. Buckle stated that, based on the intent when the law was written and based on the way the easements have been written, the proposed policy might work for the Foundation. But it would be very difficult for the counties to fit in the proposed policy with the existing zoning regulations.

Mr. Tassone commented that the proposed policy could create a situation where there would be more subdivision.

Mr. Conrad strongly urged the Program Administrators to offer their suggestions.

F. Policy on Asking Price

REQUEST

A landowner has asked to reduce his asking price.

RECOMMENDATION

Staff recommends that the Foundation review current policy that prohibits any change in asking price and provide guidance on maintaining that policy.

BACKGROUND

Occasionally landowners inquire whether they may raise their asking prices. Foundation staff tells them that they may not. Typically landowners do not ask the Foundation to *reduce* their asking prices. In discussions with Doug Wilson, staff learned that this has not occurred in recent years, but it has occurred in the past. The position that the Foundation took in the past was not to allow any change. The rationale for this position is that both MALPF and county staff have “insider information” which, if released, could alter a landowners ranking or ability to get an offer from MALPF. And, even if there was no inside information, there could be that perception. If a landowner asks to reduce his price to get a higher rank, it could appear to be favoritism for that landowner. And worse, a staff person could be receiving, or have the perception of receiving, compensation from that landowner.

The new law which protects the confidentiality of ranking and asking prices is also intended to prevent information getting to landowners, which can lead to such requests after the application is submitted.

Mr. Doug Wilson stated that he remembered (instances about twenty years back) when people approached the Foundation to change their prices. At that time, the Foundation ranked applicants based on ratios of their asking prices. Mr. Doug Wilson explained a couple of reasons why the Foundation no longer allows landowners to change their asking prices.

The Foundation has Round One and Round Two cycles. A few years back, the Foundation adopted a policy in implementing the directions of the statute. This meant primarily utilizing Round One money (allocated to each jurisdiction) to the maximum extent possible before moving to Round Two cycle. Sometimes after exhausting a county's allocation in making offers, the Foundation makes insufficient funds offers. The Foundation tries to use the money that is allocated to each jurisdiction and tries to keep the money allocated to a county in the same county. After this is completed, the Foundation moves on to Round Two cycle. Round Two ranks applicants in order of their discount.

The Foundation goes down the list and the next ranking candidate is about to get 75% of the full offer in Round One. However, the Foundation staff is aware that the candidate has the lowest ranked ratio. So if the candidate declines the insufficient funds offer, he or she would get a full offer in Round Two because the Foundation staff is aware that there is that much money available in Round Two. Is it fair to offer the money in Round One cycle to the ranking candidate when the Foundation staff is aware that he or she is eligible to get his or her full offer in Round Two?

If the Foundation is aware of this possibility, before moving to Round Two, it brings in the request for the Board's review. The Foundation recommends the Board not to approve the insufficient funds offer in Round One because he is eligible to receive his full offer in Round Two.

The Foundation staff is very careful about how they talk to landowners receiving insufficient funds offer.

The Foundation faces another dilemma when a landowner approaches the Foundation after the rankings have been completed and the counties have approved the list in a particular order. The landowner's asking prices carry some weight in the participating county's ranking formula. At this point in time, when the Foundation is in the middle of making offers, a landowner informs the Foundation that he would like to lower his asking price by an x amount of money. No doubt, the State of Maryland gets a benefit. But the issue is what made the landowner reduce his asking price? Is it because the landowner is concerned about getting money in the light of economy crisis? By reducing the asking price, the landowner is amending his easement application and that possibly might change the way he was ranked in his county. The Foundation probably has already extended money in that jurisdiction to other landowners who probably might not have received their offers if the Foundation had the same information a day before because ranking would have put this person ahead of them.

The Foundation staff and the county staff have done some Round One work. A hypothetical landowner "Mr. Smith" is supposed to get an insufficient funds offer at 50% of his value and he approaches the Foundation with a reduced asking price. The reason he comes to the Foundation with this request is because one of the county staff advised him that "if you cut your asking price by \$500 an acre, you would improve your rank and get a full offer". This is the worst thing that can happen in the MALPF program. The perception might be: how much did the staff person get as a kick-back? Since the program involves lot of money, the Foundation's policy has been that once an easement application is submitted, the Foundation staff moves forward in the process. The principle of "not being allowed to change the application" at any point in the process is good.

Craig Nielsen, Assistant Attorney General, Maryland Department of Agriculture, commented that when the Foundation makes an offer and the landowner reduces the asking price, the situation is similar to the landowner making a counter-offer. This action throws the application out of the cycle. This is how the bids are handled. If once a bid is made and the prices are allowed to be changed, there would be chaos.

Mr. Doug Wilson commented that, by statute, the Foundation's process is based upon the landowner's asking prices and the ranking formula. Negotiating is not allowed. Mr. Doug Wilson recommended the MALPF Board to approve that the Foundation not accept the requests to lower asking prices after the application has been filed given the whole process is based upon the ranking process.

Mr. Draper made a motion to not to allow the landowner to change his asking prices.

Motion #6: To approve the Foundation not to make any adjustments in the asking price and the Foundation continues the policy of not allowing changes in the asking prices.

Motion: John Draper Second: Joe Tassone

Mr. Conrad commented that there are many people seeking adjustments in their asking prices after the application has been submitted. The Foundation allows this as long as the property has not yet been appraised. Once the property is appraised, asking prices are fixed and no changes can be made.

Mr. Stahl commented that most of the applicants don't get an appraisal done and then realize that they have over-asked or under-asked. Mr. Stahl suggested letting the landowners see their appraisals but the Foundation does not share the rankings with them. One of the challenges is that the landowners are asked to convey their asking prices way before their properties are appraised. Mr. Stahl stated that he agreed with Mr. Doug Wilson that the Foundation does not allow the landowners to change their asking prices, but should allow the landowners to have the information on their appraisals before they fill in the easement

application.

Motion #6: To approve that the Foundation continues the policy of not allowing changes in the asking prices.

Motion: John Draper Second: Joe Tassone
Opposed: Robert Stahl, Chris Wilson
Status: Approved

A. Recertification Request – Carroll County

Ralph Robertson, Program Administrator, and Bill Powel, were present at the meeting.

Carol Council, MALPF Administrator, presented the staff review and recommended conditional certification through June 30, 2010.

Joe Tassone, Maryland Department of Planning, informed the Board that the certification is conditional because the comprehensive plan with the PPA elements is still to be adopted by the County.

Ralph Robertson, Program Administrator, stated that, in 1978, the County decided to zone the bulk of the land as agricultural as a preferred use. However, within the total agricultural zones, historically there were many areas that had smaller parcels dating back to 1800s. So the maps display smaller amounts of land that cannot be preserved.

Motion #7: To approve the Conditional Certification to Carroll County through June 30, 2010.

Motion: Howard Freedlander Second: John Draper
Status: **Approved**

B. Recertification Request – Anne Arundel County

Lisa Barge, Anne Arundel County, Agricultural Market & Development Manager, Lynn Miller, Anne Arundel County, Long Range Planning Administrator, and Barbara Polito, Anne Arundel County, Program Administrator, were present at the meeting.

Ms. Council presented the staff review and recommended conditional certification through June 30, 2010.

Barbara Polito, Program Administrator, stated that the County's Priority Preservation Areas (PPAs) are smaller. The PPAs were strictly based on Class I, Class II, and Class III soils. The County has many preserved properties outside the proposed PPAs. The soils have not changed but the soils survey is now different. Because of this, the County loses a lot of properties that would not classify strictly based on the soils survey.

Mr. Tassone stated that a similar situation existed in Carroll County. The Soil Conservation Service and the Natural Resources Conservation Service (NRCS) corroborated the County's assertion that, from an agricultural perspective, Class IV soils were in many ways as good as higher class soils. Subsequently the soils were considered as qualified by the Foundation.

Ms. Council commented that, because the classifications of soils have changed, some properties do not qualify anymore.

Mr. Tassone wanted to know if the soils survey changes the soils to Class IV. In Carroll County the soils were Class IV and are still Class IV. But the soils were recognized as

qualified. Are the soils in Anne Arundel County Class IV soils similar or of lesser value? Have the soils been examined by NRCS?

Ms. Polito stated that Anne Arundel County needs to do this exercise. The County does not have the same classifications under the new soils survey. The County's Class IV, C3 don't exist anymore.

Mr. Conrad stated that usually a property that qualifies for the MALPF program also qualifies for federal funding. For the last few years, the Foundation has been seeing more instances where properties qualified by the MALPF program are not being qualified for federal funding. NRCS has been using the new soils survey for a while.

Mr. Tassone stated that the issues related to soils survey relate to the primary concerns of Maryland Department of Planning (MDP). He specifically quoted from the Checklist prepared by the Foundation staff and the MDP.

Recommendation:

Is the PPA of a size that is appropriate in relation to countywide preservation goals for both the number of acres of agricultural land?

MDP Staff Comments:

Doubtful. Preservation of the PPA can achieve the relatively low acreage goal of 20,000 acres, but it's not at all clear that it can achieve the County goal of creating a critical mass of preserved land around which farming can thrive. According to the draft PPA plan element, the 2008 Land Use Plan designates approximately 89,000 acres of land, including most of South County, for "Rural" land use. "In general, a Rural designation indicates that land use in the area should continue as rural or agricultural, that public utilities are not planned for the area, that agriculture and forestry should be primary uses in the area, that new residential uses are encouraged to develop in villages or clusters to preserve as much open space as possible, and that commercial uses be limited to neighborhood and community level services."

Most of the rural land lies in the Rural Agricultural zoning district. Located mostly in the South County, the RA zone contains 30% of the County's land. PPAs are often smaller than whole zoning districts, but the proposed PPA is smaller than the previous priority areas of Churchton, Harwood, and Greenock, and even smaller than the Rural Legacy area. In addition, many easements have already been purchased outside the proposed PPAs.

Mr. Tassone commented that the small PPAs do not seem to commensurate with the County's goals for agriculture. MDP had wanted the County to explain how preservation of such a small PPA can achieve its goals for agriculture. Mr. Tassone wondered if the issues about the soils can be addressed through a re-examination of the qualifying or lack of qualifying nature of soils.

Ms. Polito offered to contact the NRCS and explore if a soil scientist would be willing to do a re-examination.

Mr. Tassone stated that MDP's recommendation is conditional certification through June 30, 2010, because the PPA and the PPA elements need to be officially adopted by the County. The MDP would also like the soils issues to be addressed.

Mr. Chris Wilson stated that he believed in the changing agricultural situations, qualifying soils are not as important as they were in the past.

Mr. Tassone stated that it would not be necessarily inappropriate to define the priority

