

**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
OPEN MEETING MINUTES
November 28, 2023**

This meeting was held via internet and telephone conference call.

Trustees Participating:

William Allen, Chair
Cricket Goodall, Vice Chair
Steve Connelly, representing Secretary Kevin Atticks, Maryland Dept. of Agriculture
Ben Seigel, representing Comptroller Brooke E. Lierman
Deborah Herr-Cornwell, representing Secretary Rebecca Flora, Maryland
Department of Planning
Gary Dell
Joseph Wood
J. Bruce Yerkes
Elizabeth Hill
Catherine Cosgrove
Gilbert "Buddy" Bowling

Trustees Absent:

Joanna Kille, representing Treasurer Dereck E. Davis

Others Participating:

Michelle Cable, Executive Director
Chana Turner, MALPF Lead Administrator
Sarel Cousins, MALPF Administrator
Rama Dilip, MALPF Administrator
Amanda Massoni, MALPF Fiscal Specialist
Patrick Martyn, Assistant Attorney General, Department of General Services
Mike Steadman, Jr., Assistant Attorney General, Department of Agriculture
Cara Frye, Assistant Attorney General, Department of General Services
Renee Dyson, Assistant Attorney General, Department of General Services
Megan Benjamin, Baltimore County Program Administrator
J.P. Smith, Jr., Carroll County Program Administrator
Joe Pippin, Queen Anne's County Staff
Carla Gerber, Kent County Program Administrator
Summer Roen, Calvert County
Jennifer David, Calvert County Program Administrator
Beth Ahalt, Frederick County Staff
Anne Bradley, Frederick County Program Administrator
Billy Gorski, Anne Arundel County Staff
Chris Boggs, Washington County Program Administrator
Elisa Deflaux, Talbot County Program Administrator
Beth Beales, Caroline County Program Administrator
Jeanine Nutter, Prince George's County Program Administrator
Jen Wilson, Harford County Staff
Kaylee Justice, Wicomico County Program Administrator
Priscilla Leitch, St. Mary's County Program Administrator
Joe and Terry Armacost, Baltimore County Landowners
Louisa Zimmerman Roberts, Thanksgiving Farm, Frederick County landowner

Mr. Allen, Chair, called the meeting to order at 9:06 a.m. via internet and telephone conference call. Ms. Cable stated the names of the participants on the conference call, for the record, and asked anyone that was not named to identify themselves.

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I. APPROVAL OF MINUTES

A. Approval of Open Minutes from October 24, 2023.

Motion #1: To approve minutes from October 24, 2023.

Motion: Yerkes Second: Bowling
Status: Approved

II. ADDITION / DELETION OF AGENDA ITEMS

III. ANNOUNCEMENTS

This was the final Board meeting for 2023. Ms. Cable extended warm holiday wishes to all attending and confirmed that the MALPF Board plans to continue virtual meetings in 2024. Ms. Cable also shared the sad news that Kim Hoxter's mother passed away the previous week.

Ms. Cable highlighted that the meeting dates for 2024 were included in the agenda email, and asked that everyone mark their calendars accordingly. In addition, Ms. Cable reminded the counties that each year they are supposed to coordinate with their local ag advisory boards, and their local forest conservation district boards to meet annually "in order to work cooperatively to encourage the promotion and retention on farmland and woodland in their respective jurisdictions". This is an annual requirement that has frequently been overlooked in past years. Please plan this into your local ag board meetings for 2024.

Ms. Cable asked the county participants if there were any announcements or questions they wanted to discuss. J.P. Smith, Jr., Program Administrator, Carroll County, shared that the County has preserved over 79,000 acres and is waiting for a couple of MALPF easements to settle.

Ms. Cable asked all participants to keep themselves muted, and when unmuted, to clearly state their names before asking a question, or making a motion, etc. She reminded the Board members that when motions were made, Board members only needed to state their names if they were voting in opposition to the motion, rather than saying "aye" to vote in favor of a motion.

IV. EASEMENT AMENDMENTS

A. QUEEN ANNE'S COUNTY

1. 17-20-06 Blackdog Farms at Kingsdale, LLC ~148.00 acres

Request – Queen Anne's County:

Request to approve a Wetland Restoration Easement (WRE) overlay on ~6.1 acres of the MALPF easement property, and approval for MALPF to subordinate to the NRCS-WRE overlay easement.

Recommendation:

Staff recommends approval pursuant to COMAR 15.15.16. Guidelines for Granting Overlay Easements and Right-of-Ways and subject to the following exception and conditions:

- A. if approved, subject to the landowner signing and returning a copy of the approval letter within 30 days of the date of the approval letter, acknowledging and agreeing to the terms and conditions stated therein;
- B. Board exercises their discretion to waive conditions 15.15.03.A. and .04,C; and
- C. if approved, the request will go to the Board of Public Works for approval of MALPF subordinating the MALPF easement interest to the NRCS WRE interest.

Ms. Dilip introduced the item. Mr. Pippin was available to answer questions from the Board.

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Motion #2: To approve a WRE overlay on ~6.1 acres of the MALPF easement, and approve MALPF to subordinate to the NRCS-WRE overlay easement, incorporating staff recommendations, as presented.

Motion: Herr-Cornwell Second: Wood
Status: Approved

B. CARROLL COUNTY

1. 06-89-37A Dietz, Keith & Aubree ~47 acres

Request – Carroll County:

Request approval of a land exchange that will add 1 acre into the easement area, in exchange for creating a 1~acre non-subdividable residential building envelope, which will remain encumbered by MALPF easement.

Recommendation:

Staff recommends approval pursuant to COMAR 15.15.11.03.C (2), with the following conditions:

1. All regulatory requirements have been met.
2. Transactional and survey expenses shall be paid by the Dietz.
3. Corrective easement shall be completed to add the new acreage to the easement and document the non-subdividable building envelope.
4. The landowner signing a letter acknowledging the conditions of approval as provided herein, and of any other conditions of approval as determined by the Foundation's Board.

Ms. Cable introduced the item. Mr. Smith was available to answer questions from the Board.

Motion #3: To approve a land exchange that will add 1 acre into the easement area, in exchange for creating a 1~acre non-subdividable residential building envelope as presented, incorporating staff recommendations.

Motion: Goodall Second: Hill
Status: Approved

C. ST. MARY'S COUNTY

1. 18-02-18 Browne, Justin Daniel & Bonnie Jean (aka Williams) ~162.5 acres

Request – St. Mary's County:

Request approval for a land exchange that will add ~.1.05 acres into the easement area in exchange for (1) the release of ~0.65 acres from the easement to be added to the released owner's lot; and (2) for creating a ~0.392 acre permitted use envelope surrounding the existing metal shop for a commercial excavating business.

Recommendation:

Staff recommends approval subject to:

1. Satisfaction of all applicable requirements/conditions set forth in COMAR 15.15.11.03.A and COMAR 15.15.11.03.C, which includes among other things;
 - a. A determination by the Department of General Services that the value of the easement will not be diminished as a result of the land exchange;
 - b. The owners shall pay for all expenses associated with the corrective easement transaction, including all title work, title insurance premiums, and surveys;
2. Any County requirement to revise existing recorded subdivision plats of record;

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3. Approval by the Board of Public Works; and
4. The completion of the necessary documents to be recorded in the Land Records to memorialize the transaction:
 - a. a corrective easement to add the new acreage to the easement and document the permitted use envelope;
 - b. a partial release and agreement of the acres to be added to the Owner's Lot; and
 - c. an amended Final Release and Agreement of the Owner's Lot to add the additional acreage.

Ms. Cousins introduced the item. Ms. Leicht was available to answer questions from the Board.

Motion #4: To approve the land exchange that will add ~.1.05 acres into the easement area in exchange for (1) the release of ~0.65 acres from the easement to be added to the released owner's lot; and (2) for creating an ~0.392 acre permitted use envelope surrounding the existing metal shop for a commercial excavating business, incorporating staff recommendations, as presented above.

Motion: Seigel Second: Cosgrove
Status: Approved

2. 18-85-02 Belvidere Farm and Investment, Inc. & Betty M. Guyther ~274 acres

Request – St. Mary's County:

Request approval to exclude up to 2.0 acres each from the easement for two child lots for Allison Nicole Willenborg and Eliot Declan Willenborg.

Recommendation:

Staff recommend approval for up to 2 acres for each lot only if more than one acre is required per health department requirements.

Ms. Cousins introduced the item. Ms. Leicht was available to answer questions from the Board.

Motion #5: To approve child lots for Allison Nicole Willenborg and Eliot Declan Willenborg, up to 2-acres each, incorporating staff recommendations, as presented.

Motion: Wood Second: Cosgrove
Status: Approved

D. BALTIMORE COUNTY

1. 03-96-12c Austin, Inc. ~100 acres
 03-00-08Ac Armacost, Joseph ~60 acres

Request – Baltimore County:

Request approval for an agricultural subdivision of a 100-acre farm whereby 17.7 acres of MALPF Easement #03-96-12c (Austin easement property) will be excluded from that easement and combined with MALPF Easement #03-00-08Ac (Armacost easement property), resulting in Easement #03-96-12c consisting of ~82 acres, and Easement #03-00-08Ac consisting of ~78 acres.

Recommendation:

Staff recommends approval subject to the following:

1. waiver of the right to request termination after 25 years of establishment of the easement for easement #03-96-12c;
2. meeting all terms and conditions of COMAR 15.15.12.04 to the satisfaction of MALPF;

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3. Austin, Inc. entering into a corrective easement for easement #03-96-12c;
4. Joseph Armacost entering into a corrective easement for #03-00-08Ac;
5. landowners providing any other documentation required by the Office of the Attorney General and MALPF Staff, including title work and survey;
6. landowners paying costs and fees for title, survey and all other costs associated with the agricultural subdivision transaction;
7. Austin, Inc. and Joseph Armacost each making an existing dwelling on their respective properties non-subdividable.
8. if this request is approved, each landowner signing and returning a copy of a letter acknowledging and agreeing to the terms and conditions of the Board's approval.

Ms. Turner introduced the item. Ms. Benjamin and Messrs. Armacost were available to answer questions from the Board.

Motion #6: To approve the request for an agricultural subdivision of a 100-acre farm whereby 17.7 acres of MALPF Easement #03-96-12c (Austin easement property) will be excluded from that easement and combined with MALPF Easement #03-00-08Ac (Armacost easement property), resulting in Easement #03-96-12c consisting of ~82 acres, and Easement #03-00-08Ac consisting of ~78 acres, incorporating staff recommendations, as presented.

Motion: Dell Second: Wood
Status: Approved

E. FREDERICK COUNTY

1. 10-92-06 Estate of C. William Krantz and the Disclaimer Trust ~127 acres
 Created under the Last Will and Testament of Geraldine G. Krantz

Request – Frederick County:

Request approval that will ultimately release an owner's lot and amend the deed of easement to waive the ability to release the pre-existing dwelling from the farm:

1. Approve a new location for the previously approved owner's lot, up to 2-acres, that meets current lot location policy (the "New Owner Lot Location");
2. Acknowledge that the original grantors built and occupied the house they intended to be their owner's lot in the New Owner Lot Location and not the location originally approved for the owner's lot, and thereafter occupied the house for more than the 5-year occupancy requirement per family lot release law;
3. Approve the full release of the owner's lot in the New Owner Lot Location; and
4. In exchange for approving the full release of the owner's lot, amending the easement to document that the centrally located pre-existing dwelling shall never be subdivided from the farm.

Recommendation:

Staff recommends approval, subject to:

1. Meeting the family lot release requirements, including:
 - a. Providing a survey of the owner's lot to be subdivided, including any county road dedication,
 - b. Reimbursement at the per-acre rate of \$1,072.89 for the area to be released,
 - c. Provide any county permit documentation necessary to comply with the lot release process (such as building permit and use and occupancy permits), and
 - d. Enter into a Release Agreement that MALPF will prepare to release the owner's lot.
2. Satisfaction of all applicable requirements/conditions set forth in COMAR 15.15.11, Corrective Agricultural Land Preservation Easements Regulation, including, without

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- limitation, the requirements/conditions set forth in COMAR 15.15.11.03.A, D, and H;
- 3. Entering into a Corrective Easement that (a) documents that the centrally located pre-existing dwelling shall never be subdivided from the easement property and (b) documents the 2023 Land Exchange (as such term is defined on page 2 of this Staff Report); and
- 4. The landowner signing a letter acknowledging the conditions of approval as provided herein, and of any other conditions of approval as determined by the Foundation’s Board.

Ms. Turner introduced the item. Ms. Bradley and Ms. Ahalt were available to answer questions from the Board.

Motion #7: To approve the request as presented, including all requirements and conditions in the Recommendation submitted by MALPF Staff.

Motion: Dell Second: Connelly
Status: Approved

- 2. 10-96-08 Rosebush, Lee & Kristy ~129 acres

Request – Frederick County:

Construction of a new building, ~20,000 sq. ft. to be used for their distillery operation, which will include a ~1,500 sq. ft. tasting area, with 1,000 sq. ft. seating area, and the remaining ~17,500 sq. ft. would be for distillery production and storage of agricultural equipment.

Recommendation:

Staff recommends approval pursuant to –Maryland Code, Agriculture Article Section 2-513(b), COMAR 15.15.07, and more specifically under the following provisions of the Foundation’s Guidelines for Requested Use of Land (Uses Policy):

Sections A.10. - Processed (value added) farm and forest products defined in the Uses Policy.

Staff recommendation is also subject to

- A) compliance with COMAR 14.23.01.01 *et seq.*– Alcohol Beverages (assumes new alcohol beverage permits are required with construction of new production building);
- B) receiving confirmation from Frederick County staff that all required permits for the tasting room and production area have been obtained (again, assumes new permits will be required for new structure); and
- C) No change from the October 2022 MALPF Board approval regarding a maximum of 600 sq. ft. for accessory sales to be included in the tasting room area as well as the prior approval of three ag-related events per year.

Ms. Turner introduced the item. Ms. Bradley and Ms. Ahalt were available to answer questions from the Board.

Motion #8: To approve the construction of a new ~20,000 sq. ft building to be used for distillery operation as presented above, incorporating staff recommendations.

Motion: Goodall Second: Wood
Status: Approved

- 3. 10-83-02B Zimmerman, Timothea & Jurgen ~56.1 acres
(Thanksgiving Farms)

Request – Frederick County:

Request approval for a land exchange that will add ~1.5 acres of unencumbered land to the easement in exchange for establishing a ~1.5 acre permitted uses envelope around an existing garden center/farm market and parking area.

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Recommendation:

Staff recommends approval, subject to:

1. Satisfaction of all applicable requirements/conditions set forth in COMAR 15.15.11.etal, Corrective Agricultural Land Preservation Easements Regulation;
2. Entering into a Corrective Easement that documents acres being added to the easement and the establishment of the permitted uses envelope;
3. The landowner signing a letter acknowledging the conditions of approval as provided herein, and of any other conditions of approval as determined by the Foundation's Board;

Ms. Turner introduced the item. Ms. Bradley and Ms. Ahalt were available to answer questions from the Board. Ms. Zimmerman Roberts, daughter of the landowner, was also available to answer questions from the Board.

Motion #9: To approve the land exchange that will add ~1.5 acres of unencumbered land to the easement in exchange for establishing a ~1.5 acre permitted uses envelope around an existing garden center/farm market and parking area as presented above, incorporating staff recommendations.

Motion: Dell Second: Yerkes
Status: Approved

F. KENT COUNTY

1. 14-86-03 Dill, Franklin M. II ~194.626 acres

Request – Kent County:

Request approval to renew an existing Wastewater Spray Irrigation Agreement between the County, the Landowner, and the Foundation (Agreement) by signing and recording in land records a 5-year extension to the Agreement with an expiration date of January 1, 2029. The Extension Agreement reflects a 5% increase in the license fee paid to the Landowner, Mr. Dill.

Recommendation:

Staff recommends approval subject to receipt of the following documentation on or before December 28, 2023:

1. a letter from or on behalf of the Kent County Agricultural Land Preservation Advisory Board confirming support for renewing the Agreement for an additional 5-year period; and
2. the extension agreement in proper form signed by the Landowner and the County.

Staff further recommends that the Board consider delegating authority to MALPF's Executive Director to approve and sign future Extension Agreements as requested by the Landowner and the County, as long as the Extension Agreement does not contain substantive issues that should be considered by the Foundation's Board.

Ms. Cable introduced the item. Ms. Gerber was available to answer questions from the Board. Through discussion with Mr. Steadman, it was recommended that the Board make separate motions for the two different requests.

Motion #10: To approve the 5-year extension renewal of an existing Wastewater Spray Irrigation Agreement as presented above, incorporating staff recommendations.

Motion: Dell Second: Bowling
Status: Approved

Motion #11: To approve the delegation to MALPF's Executive Director to approve and sign future Extensions to the Wastewater Spray Irrigation Agreement as requested by the Landowner and the County, as long as the Extension Agreement does not contain substantive issues that should be considered by the Foundation's

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Board, as presented above.

Motion: Dell Second: Bowling
Status: Approved

G. WASHINGTON COUNTY

1. 21-22-11 Thomas, Tracy & Brenda ~246 acres

Request – Washington County:

Request approval to exclude up to 2.0 acres from the easement for a child's lot for Lonnie Thomas.

Recommendation:

Staff recommend approval for up to 2 acres for the lot only if more than one acre is required per county or health department requirements.

Ms. Cousins introduced the item. Mr. Boggs was available to answer questions from the Board.

Motion #12: To approve up to 2-acres for a child lot for Lonnie Thomas, as presented above.

Motion: Goodall Second: Dell
Status: Approved

V. NEW AGRICULTURAL PRESERVATION EASEMENT PETITIONS:

A. BALTIMORE COUNTY

1. 03-24-01 Clear Meadow, LLC Gregory Rose & Zachary Rose ~100.979 acres
(excludes withheld acres)

Request to approve the application withholding 1.0 acre to resolve a lot line adjustment with neighbor. The 1-acre will require a Declaration of Restrictions that documents no development rights with the acreage.

2. 03-24-06 Jack Merryman and Virginia Roil ~83.92 acres
(excludes withheld acres)

Request to approve the application withholding ~2.65 acres in two separate areas. Approximately 2.0 acres are associated with an existing house and will require a Declaration of Restrictions that documents one development right with the acreage. The additional ~0.65 acres are associated with acreage lying in the bed of a road and will not be included in the MALPF easement perimeter. No Declaration of Restrictions are required for the ~0.65 acre area.

3. 03-24-07 Morfoot Living Trust, Lee Morfoot, Trustee ~54.632 acres
(includes unpaid acres)

Request to approve the application designating ~0.807 acres as a permitted uses envelope surrounding an existing telecommunications tower, including access. If the area ceases to be used as telecommunications tower, the area could be used for other non-residential commercial operations that are consistent with the rural landscape and permitted by the county.

4. 03-24-08 Herbert J. Schafer, Jr. ~38.902 acres
(includes unpaid acres)

Request to approve the application with ~17.679 acres that are already encumbered with Forest Buffer Easements and will be included in the MALPF easement area but not included in the purchase price.

Motion #13: To approve the Baltimore County requests, as presented.

Motion: Dell Second: Herr-Cornwell
Status: Approved

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B. CAROLINE COUNTY

1. 05-24-16 Matthew Taylor and Jamie Taylor ~146.62 acres
(includes unpaid acres)

Request to approve the application designating ~10.0 acres as a permitted use envelope around an existing greenhouse for an event space that will not be included in the payment calculation for the MALPF easement.

Motion #14: To approve the Caroline County request, as presented.

Motion: Herr-Cornwell Second: Goodall
Status: Approved

C. GARRETT COUNTY

1. 11-24-05 Est. of Harry Robeson, Michael Robeson & Julie Tilton, sole P. Rep. ~155.17 acres
(excludes withheld acres)

Request to approve the application withholding ~2.41 acres to meet the minimum soil qualification criteria and retain the ability for a future dwelling. A Declaration of Restrictions that documents one development right with the acreage will be required.

2. 11-24-07 Kenneth Green and Deborah Green ~127.87 acres
(excludes withheld acres)

Request to approve the application withholding ~1.45 acres in two separate areas. The ~1.3 acre area is being withheld for a future dwelling, requiring a Declaration of Restrictions that documents one development right with the acreage. The ~0.15 acre is being withheld to convey to a neighboring lot; no Declaration of Restrictions will be required on the ~0.15 acre area.

3. 11-24-10 John Hayhurst III and Erica L. Hayhurst ~50.77 acres
(excludes withheld acres)

Request to approve the application withholding ~0.92 acres surrounding meat processing facility, retaining one development right for future use. A Declaration of Restrictions that documents one development right with the acreage will be required.

4. 11-24-11 Kenneth Knox, Jr. and Penny Knox ~165.67 acres
(includes unpaid acres)

Request to approve the application designating ~1.0 acre as an unpaid non-subdividable building envelope from the easement with 1 development right associated with it for a future dwelling as located on the map.

5. 11-24-13 Mark W. Schroyer, Trustee of ~75.388 acres
Mark W. Schroyer Revocable Trust (includes unpaid acres)

Request to approve the application designating ~1.0 acre as an unpaid non-subdividable building envelope from the easement with 1 development right associated with it for a future dwelling as located on the map.

Motion #15: To approve the Garrett County requests, as presented.

Motion: Herr-Cornwell Second: Goodall
Status: Approved

D. WICOMICO COUNTY

1. 22-24-07 Riverton Farms, LLC – Wilson Lee Evans ~59.14 acres
(excludes withheld acres)

Request to approve the application withholding ~6.44 acres associated with an existing house, dock, and boathouse, and will require a Declaration of Restrictions that documents one development right with the acreage.

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Motion #16: To approve the Wicomico County request, as presented.

Motion: Dell Second: Hill
Status: Approved

V. PROGRAM POLICY

VI. INFORMATION AND DISCUSSION

A. Washington County revised easement ranking system.

Request – Washington County:

Approve Washington County's revised easement ranking system.

Recommendation:

Staff recommends approval.

Ms. Cousins introduced the item. Mr. Boggs was available to answer questions from the Board.

Motion #17: To approve Washington County's revised easement ranking system, as presented.

Motion: Herr-Cornwell Second: Dell
Status: Approved

VIII. CLOSED SESSION

Mr. Allen asked for a motion for adjournment of the meeting to move into a closed session, pursuant to the applicable provisions of General Provisions Article Section 3-305 (b): (7) to consult with counsel to obtain legal advice; and (8) to consult with staff, consultants, or other individuals about pending or potential litigation.

Motion #18: To adjourn the regular session at 10:33 a.m. to move into a closed session to consult with counsel to obtain legal advice; and to consult with staff, consultants, or other individuals about pending or potential litigation.

Motion: Yerkes Second: Dell
Status: Approved

The Closed Meeting of the Board was held from 10:41 a.m. to 10:53 a.m. on November 28, 2023, via internet and telephone conference call, pursuant to the provisions of the General Provisions Article Section 3-305 (b): Annotated Code of Maryland:

General Provisions Article Section 3-305(b):

(7) to consult with counsel to obtain legal advice; and

(8) to consult with staff, consultants, or other individuals about pending or potential litigation.

During the Closed Meeting, the following Board members were present: William Allen, Chair, Cricket Goodall, Vice Chair, Steve Connelly, representing Secretary Kevin Atticks, MD Department of Agriculture, Deborah Herr-Cornwell, representing Secretary Rebecca Flora, Maryland Department of Planning, Ben Seigel, representing Comptroller Brooke E. Lierman, Gary Dell, Joe Wood, J. Bruce Yerkes, and Elizabeth Hill.

The following Board members were absent: Joanna Kille, representing Treasurer Dereck E. Davis, Gilbert "Buddy" Bowling, and Catherine Cosgrove

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The following MALPF staff and legal representatives were also present during the closed session meeting: Michelle Cable, Chana Turner, Rama Dilip, Sarel Cousins, Amanda Massoni, Patrick Martyn, Assistant Attorney General, Maryland Department of General Services, Renee Dyson, Assistant Attorney General, Maryland Department of General Services, Cara Frye, Assistant Attorney General Maryland Department of General Services, Michael Steadman, Assistant Attorney General Maryland Department of Agriculture.

TOPICS DISCUSSED:

- A. Approval of October 24, 2023, Closed Session Minutes
- B. Status Report of Pending Legal Issues

Respectfully Submitted:



Michelle Cable, Executive Director

