

Agricultural Preservation Advisory Board

Regular Meeting Minutes

January 14, 2020

6:00 p.m.

Attendance: Michael Jamison, John Fendrick, Bob Cissel, Chuck Gingrich
Staff: Mike Scheffel, Kristin Fisher, Jeremy Criss, John Zawitoski

Meeting called to order at 6:05 pm.

Fendrick made a motion to approve the December 10, 2019 meeting minutes as written; Cissel seconded.

1. AEP Easement Program

a. Sugarloaf Equestrian – Farm Tenant Structure response

The landowner responded to the letter OAG sent regarding the unauthorized tenant structure that was found during the October inspection. They indicated that the trailer would be removed and Fisher will send a notice to re-inspect the property in February.

b. Stuart Barr – update from client

Clear Skies Mead is no longer pursuing their project on the Thompson Butz property.

c. Discussion of “orphaned” child/owners lots and excess TDR analysis

Fisher has analyzed all AEP easements to determine how many TDRs are associated with preserved parcels that have “orphaned” TDRs associated with them. These are TDRs that were reserved for potential child or owner’s lots but were not exercised by the grantor. The status of the TDRs depends upon the date of settlement and the version of the Executive Regulations under which they were settled. Eight TDRs can be separated, serialized, and sold either by the grantor or future property owners; 42 TDRs can still be used for child lots unless the properties transfer from the original grantor, but these TDRs cannot be separated, serialized, and sold from the properties; and 120 TDRs can neither be used for child or owner’s lots nor separated, serialized, and sold from the property because the properties are no longer owned by the easement grantor. OAG described how these “orphaned” child lots present a cloud on the title and every time a property transfers, OAG gets questions from realtors or potential buyers or sellers about the value of these TDRs and how to use them. OAG and the Board discussed several scenarios for how to address “orphaned” TDRs and decided to bring this item back for the meeting in February for further discussion.

2. Maryland Agricultural Land Preservation Foundation

a. Potential applicant discussion

MALPF has not yet announced whether they will be accepting applicants for FY21 or how much General Allotted money (money that the County does not have to match) will be available. Nevertheless, Scheffel will analyze the properties submitted to him by potential applicants so that the Board can discuss potential applicants in February. That way, OAG will be ready to move forward if/when MALPF announces funding for FY21. An announcement about the MALPF application will be going out on OAG's social media sites to invite interested landowners to apply.

3. RLP Easement Program

Michael Jamison recused himself from the discussion items related to the Rural Legacy Program.

a. Update – Board of Public Works Meeting, 1/8/2020

Scheffel and Zawitoski attended the BPW meeting last week where the grant to Montgomery County for \$2.7 million in Rural Legacy funds was approved. The amount approved for each Rural Legacy area is enough to purchase easements on two properties on the east side of the county and part of one easement on the west side of the county. On the west, the priority property's easement is valued at approximately \$330,000 more than what Rural Legacy approved, so OAG anticipates making up this difference with County agricultural transfer tax collections. The Board approved the list of priority properties presented.

The FY21 application to RLP is due February 11th. This is being announced via OAG's social media sites. Scheffel is submitting the same application as last year, but of course removing the properties from the list that will be funded with the FY20 grant. On the east side, there has been an additional interested party, which will be added to the list of priority properties. If/when our FY21 application is funded, we will have to rank the properties and identify where funds will be applied.

The Board inquired about the status of the \$500,000 due to OAG from the Crown Farm. Scheffel will look into this and report back.

b. Meeting with Margaret Giblin – 1/17/2020

Scheffel will meet with Margaret Giblin from the Rural Legacy Program to discuss Montgomery County's FY21 application.

4. Legislative activities

a. Upcoming ZTA on Solar installations in the AR Zone

The Board discussed this upcoming ZTA and their concerns about citing commercial solar facilities on prime and productive farmland in the Agricultural Reserve. The ZTA sets a goal of 1800 acres devoted to solar power facilities in the Ag Reserve but does not include a prohibition on placing them on prime and productive soils. Fendrick suggested we compare ZTA 18-01 with the proposal from Hans Riemer; conditions for citing solar facilities in the AR zone are not included in the current proposal like they were in ZTA 18-01.

b. Bill 34-19 – Development Impact Taxes – Affordable Housing

This bill has been removed from the scheduled Government Operations and Fiscal Policy (GO) Committee meeting and may come up again in the future.

5. Other business

a. Supplemental Budget Appropriation update

The OAG submitted the supplemental appropriation documents to OMB for their review and is awaiting confirmation on the introduction, work session and public hearing dates.

b. Agritourism Study – presented to the Planning Board on 12/19/2019

The Agritourism Study was presented to the Planning Board by MNCPPC staff. Since the study was conducted by a public committee, the Planning Board did not take any position on it. They did however agree to transmit the study to the Council. After the Council has it, they have the ability to act upon recommendations from the study.

c. Butler MARBIDCO update

Ben Butler's application to MARBIDCO's Next Generation program was approved and they have a contract to purchase the farm. OAG's intention is to purchase an easement on the Butler property, and since OAG currently has Ag Transfer tax collections, we intend to move on this sooner rather than later. Fendrick asked about the need to do this immediately considering MARBIDCO's investment in the property and the time allowed for the County to purchase the easement. OAG agreed that we are afforded 4 years to purchase the easement, and if the County does not settle an easement in that time, MARBIDCO donates the easement and loses their investment. However, MARBIDCO only covers up to 51% of the easement value of the property, while AEP covers more like 80%, so settling an AEP easement would reduce the Butlers' exposure. The Butlers have demonstrated their commitment to preserving the farm, OAG works to maintain good relationships with participants in farmland preservation to keep the programs operating and popular with the agricultural community, and since we have money available now, the sentiment is to make good on the commitment to the Butlers and move forward with settling a

county easement. In addition, the success of a County-MARBIDCO partnership in preserving farmland could help to encourage more young farmers to consider this program and leverage county funds in the future.

The meeting adjourned at 7:07 pm.