

Agricultural Preservation Advisory Board

Regular Meeting Minutes

October 13, 2020

7:00 p.m.

Attendance: Mike Jamison, John Fendrick, Chuck Gingrich, Bob Cissel

Staff: Mike Scheffel, Kristin Fisher

Meeting called to order at 7:00 pm

Fendrick made a motion to approve the September 8, 2020 meeting minutes as written; Cissel seconded.

1. AEP Easement Program

a. Thomson Butz easement

Thomson Butz reached out to OAG to clarify his options for building a house on his easement property, which is for sale. His easement provides a right for him to build one house, but that right is not transferrable and does not run with the land if the property is sold before a house is built. He would have to build the house and then the house cannot be transferred for five years unless he can prove to the Board that there is a hardship (e.g., illness, death, divorce, or foreclosure). Mr. Butz may come before the Board to discuss his situation.

2. Maryland Agricultural Land Preservation Foundation

a. Fisher attended the MALPF Supercommittee meeting on 9/30. MALPF is seeking input on proposed revisions to their corrective easement and overlay easement regulations. Fisher described the changes, which will streamline review processes and do not appear to infringe upon the rights of easement holders. The Board had no suggested edits.

Fisher also described MALPF's alternative energy guidelines. Currently solar and other renewable energy projects are allowed on MALPF easements as long as they generate electricity for no more than 125% of the farm's energy needs. MALPF has situations in which these projects have been installed without prior approval, and they are having difficulty obtaining the documentation necessary to prove that the energy being produced is below this threshold. They are considering revising their guidelines to allow up to some area of the farm (e.g., 1 acre) to be used for these projects and assume that anything within that footprint will be too small to be commercial in nature. They are considering a tiered system in which projects are approved up to 1 acre in size, and anything in excess of that footprint would be required to provide documentation to justify the need for additional space. This item will be discussed again at the next Supercommittee meeting after MALPF has obtained input from experts.

MALPF's water resources overlay easement policy was also discussed. In cases where these overlay easements are already in place on a farm for stream mitigation work prior to a MALPF easement being applied, MALPF does not pay for the acreage under the water resources overlay easement. However, if an existing MALPF easement applies a water resources overlay easement, MALPF does not ask for reimbursement. MALPF is wondering how to address this disparity in how landowners are compensated for land under these overlay easements. Some see it as the landowner being paid twice for the same acreage and therefore reimbursement to MALPF should be required, while others feel that these projects enhance the quality of the land already protected by MALPF, enhances MALPF's investment, and therefore no reimbursement should be required. People don't want to discourage these projects on MALPF properties. This item will come back for further discussion in the next Supercommittee meeting.

- b. Update on FY21 application - Ida Dayhoff's application was accepted and she received a form MALPF easement to review. They should receive a formal offer from MALPF soon.

3. RLP Easement Program

- a. Updates on FY20/21

Scheffel is in the process of getting the project agreement package assembled and sent to DNR. Once DNR approves the project agreement, they will schedule it for a Board of Public Works hearing. Once it's approved by the BPW, it will take 6-8 weeks to get to settlement. The grant agreements are valid for 12 months, which will expire in February 2021. We expect settlement to take place before then.

Scheffel has no new updates on FY21 funding from RLP. His last action on this was to send Montgomery County's top three priority properties from each Rural Legacy easement area to DNR.

4. Legislative activities

- a. ZTA 20-01 Solar Collection Systems in the AR Zone

Council President Katz and the co-sponsors, Councilmembers Hucker and Reimer, will talk about having an information group of stakeholders to meet two or three times before the end of the calendar year to hear opposing viewpoints and come up with compromises from both sides. Recommendations from this informal stakeholder group would be sent to the full council in January and voted upon by the full council then. The APAB will need to decide what changes to request to the ZTA and what compromises we would be willing to accept.

President Katz did acknowledge that this seems to be an opportunity for the solar industry to get land cheaply in the Ag Reserve instead of down-county, where it would be more expensive. The Board discussed this issue, including asking why the county, farmers, and the Ag Reserve should allow solar companies access to inexpensive land when those companies aren't doing any projects down-county? Cissel suggested that since solar projects in the Ag Reserve are expected to account for 20% of the county's energy needs, that projects down-county will have to make up the rest. Perhaps projects in these two areas should be tied together. For example, for every 12 MW in projects located down-county, allow 2 MW to be built in the Ag Reserve. Require solar companies to first build outside the Ag Reserve and then earn the right to compete for projects built inside the Ag Reserve. If meeting renewable energy goals is a problem across the county, the solution needs to be shared across the county.

b. Composting Bill – Evan Glass

Councilmember Glass met with Farm Bureau earlier this month to discuss his ideas for revising composting in the county. Currently, a maximum of 20% of materials used in on-farm composting can be generated off-site. Councilmember Glass is proposing to increase the amount of allowed off-site materials to 50%. OAG thinks this is a good way for the county to meet its food waste reduction goals. It is also a way for farmers to generate revenue since the finished compost made from food scraps has a higher nutrient content than leafy materials and will sell for a higher price.

5. Other business

a. Farm Alcohol Production Facilities – Biennial report to the Council

Fisher is writing this report, which will be due to the Council this month. The report provides historical context to Farm Alcohol Production in Montgomery County (FAP), information on the success of FAP in neighboring Frederick County, MD and Loudon County, VA, provides survey results from a marketing survey and an economic survey of FAP businesses in the county, and recommendations from OAG for ways to further support the growth of the industry. A final version will be shared when it is completed.

The meeting adjourned at 8:20 pm.