

# Agricultural Preservation Advisory Board

Regular Meeting Minutes

June 8, 2021

7:00 p.m.

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

Staff: Mike Scheffel, Kristin Fisher

The meeting was called to order at 7:04 pm.

## 1. Approval May meeting minutes

Fendrick made a motion to approve the May meeting minutes as written; Jamison seconded.

## 2. AEP Easement Program

### a. Butler Land Partners – update

Butler Land Partners is working with their attorney to prepare for settling an AEP easement. Their attorney was concerned about language from MARBIDCO that says no development rights associated with the property can be transferred to a third party. This will not be a problem: when the Butlers settle the easement, before they record documents with Montgomery County, they will sign a release from MARBIDCO, which nullifies the language in the MARBIDCO purchase contract. Everything recorded after that is what will be legally binding, so we can separate TDRs after releasing the MARBIDCO contract and before settling the AEP easement. The Butlers' attorney will get the necessary documents together.

### b. Beverly/Broad Creek Run Farm, LLC - P&P inquiry

Park & Planning wants to purchase the Beverly Farm and turn the wooded areas on the north and south side of Club Hollow Road into a park. Jeremy Criss and Mike Scheffel had a conversation with Vickie Gaul about Park & Planning's proposal because they do have a signed contract with the landowner. There is a process for OAG to follow when a government entity or condemning authority is seeking to terminate an easement on property that they own. They can buy the property and the county must create a document that terminates the easement., and OAG must be reimbursed at the present day value of the easement. The County paid \$1.9 million in 2001; Park & Planning got an appraisal done that estimated the property's current easement value at \$600,000. OAG wrote a memo to Rich Madaleno and proposed two options for a fair evaluation of the easement: 1) perform an appraisal-based evaluation using an appraiser from a list approved by DGS who have experience doing easement valuations, like is done for MALPF properties; or

2) they can use the AEP formula, which estimates the farm easement value at over \$4 million.

Scheffel clarified that the discussion last month about how to terminate the easement (e.g., the requirement to meet the test that agriculture is no longer viable) would apply if the current landowner were petitioning to terminate the easement prior to selling the property to Park & Planning. There is this different procedure if the property is already owned by a government entity.

Jamison voiced concern about this setting a bad precedent. Park & Planning might have unlimited funds to buy easements and terminate them in order to create parks. Unfortunately, it is a legal avenue they can take.

OAG needs to hear from Park & Planning. OAG met with Park & Planning on May 14 and followed up with them two weeks later, but have had no further contact from them.

c. Fistere – agricultural building request

Steven and Dan Fistere have two properties along Partnership Road. They want to build an agricultural building for an on-site farm market to expand their existing blueberry farm business. A map and drawings were sent out to the Board. The proposed site is along the road, so not much area will be taken out of production. However, we need to know about the size of the impact, including parking areas, bathrooms, etc. Mr. Fistere will attend a future meeting to discuss these items with the Board.

3. Maryland Agricultural Land Preservation Foundation

a. FY20 – Stanley update

The baseline inspection report for the Stanley property was sent to MALPF. Scheffel believes this was the last thing MALPF needed before settlement of the easement.

b. FY21 – Dayhoff update

Fisher sent the baseline inspection report for the Dayhoff farm down to MALPF today. This easement should also be ready to settle soon.

c. FY22 applicant

Driscoll is the only MALPF applicant for this year. Scheffel received their completed application today. Three lots are allowed on the farm, they have one house, and want to reserve a family lot for a son. Therefore, one development right will be extinguished on 92 acres. Cissel made a motion to approve the application and send it to MALPF; Fendrick seconded. Mike will get the necessary signatures and then send the application

to MALPF by the June 30<sup>th</sup> deadline. Jamison asked if there was any information available about the MALPF FY23 funding cycle, but Scheffel has not heard anything yet.

4. RLP Easement Program

a. FY22 update

DNR asked for Montgomery County's top three projects in each area. That is all OAG put on the application, so we have no more information to share at this time.

5. Legislative activities

a. Bill 10-21 Economic Development

As part of the strategic plan, economic development has to show creation of jobs, increasing wages, etc. Jeremy wants to emphasize how OAG's outcomes will include racial equity and environmental justice components, including a reduction in climate change. So moving forward, OAG will be striving to demonstrate how our programs are addressing racial equity, environmental justice, and combatting climate change.

b. Other legislative activities

Jeremy Criss and Mike Scheffel have been upset with DEP about the language in the septic pump-out proposal stating that if DEP or DPS finds that the condition of the sewage system is unsafe or poses an immediate danger, DEP can enter the property, fix the issue, and pass the costs off to the landowner by increasing personal property taxes. DEP has agreed to remove that language.

There has been no more information about the internal combustion bill dealing with lawn equipment and requiring electric machinery in the county. The economic impact of that kind of requirement would be too high to realistically implement.

6. Other business

a. River Road – DOT core sampling 5/28

According to the County DOT, results from core sampling gravel on River Road and determining the presence of asbestos should be back within the next week or two.

b. APAB non-farmer position – update

The selection committee recommended Margaret Giblin to the County Executive as the new non-farmer member of the APAB. The CE affirmed the recommendation and sent it to the Council. Margaret's confirmation is tentatively scheduled for June 22<sup>nd</sup>. If everything goes as planned, this month could be Bob Cissel's last official Board meeting. The Board members and staff to the APAB thanked him for his tenure on the Board.

c. OAG budget – update

OAG's budget was funded without increases or decreases. The new position OAG was seeking was not funded. OAG did ask for \$25,000 for the MARBIDCO matching grant program and it was approved, which is a good outcome.

d. Montgomery County Agricultural Fair

The fair will happen this year. It opens August 13<sup>th</sup>.

The meeting adjourned at 8:00pm.