

Agricultural Preservation Advisory Board

Regular Meeting Minutes

January 12, 2021

7:00 p.m.

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

Staff: Mike Scheffel, Jeremy Criss, Kristin Fisher

Meeting called to order at 7:02 p.m.

1. Approval December meeting minutes

Fendrick made a motion to approve the December minutes as written; DeLuca seconded.

2. AEP Easement Program

a. Butler Application and request for alcohol license

Hallie, Tyler, and Ben Butler have submitted an AEP application for the 60-acre property they purchased with assistance from MARBIDCO's Next Generation Farmland Acquisition Program. Scheffel and Fisher have reviewed it and it looks complete, but we will be requesting a title report to verify the status of the property. OAG is also going to continue the approach of taking one easement at a time to the County Executive for approval since there isn't enough Agricultural Transfer Tax funding to warrant an open sign-up period.

Susan Butler and Washington White own Doc Waters Cidery and are interested in collaborating with Hallie, Tyler, and Ben Butler to have a second tasting room on the new 60-acre property that the Butler children have purchased together. The Butlers wouldn't have the state comptrollers' license; Doc Waters would have that. Criss and Scheffel are working to determine what licenses or permits the Butlers would have to obtain in order to sell Doc Waters cider from their own property. A Class D license may give Doc Waters the ability to have a second venue for selling the cider at a location other than the farm where it is produced.

Montgomery County's farm alcohol production ZTA allows farmers to obtain the license to produce wine or beer on-site and to sell on-site. If the owners of those establishments want to sell their products at other venues they can go to Comptroller and get permit to do so at no more than 9 events per year. Criss is not familiar with the details of a Class D license, so he connected Ben Butler with Kevin Atticks, the Executive Director of the Maryland Wineries Association, Brewers Association of Maryland, and Maryland Distiller's Guild.

b. O'Connell (Sugarloaf Equestrian) request for farm building

Jim O'Connell removed the house trailer that was on the farm in violation of the easement and would like to put a 40' x 24' barn for hay storage in the same place. He will need to update his conservation plan to include the agricultural building and to make sure he addresses erosion and sediment control with MSCD.

Fendrick made a motion to approve the farm building with assistance from MSCD; Cissel seconded.

c. Jamison (Ostrow) request for farm building

Mike Jamison recused himself from the discussion and motions related to this request, except to provide details of the project. The Jamisons are considering installing an approximately 60' x 120' equipment building near the border of the Good and Ostrow farms. They will work with MSCD to address erosion and sediment control requirements.

Fendrick made a motion to approve the request for the farm building; Cissel seconded.

3. Maryland Agricultural Land Preservation Foundation

a. Eric Spates/Kent Slaysman land swap - proposal

Scheffel received an email from MALPF staff indicating that this request could most likely receive staff approval without it having to go before the full MALPF Board. Scheffel is now waiting on a letter from MALPF outlining next steps for the project.

b. FY21 Easement Application update

Ida Dayhoff will receive an offer from MALPF, but the general allotted funds will not be enough to provide her with a full offer. Scheffel was approached by MALPF to request that the county contribute matching funds toward the easement so she will receive a full offer. Scheffel has contacted Finance to get approval to spend up to \$50,000 in County funds toward the MALPF easement.

The Stanleys applied to the FY20 program for the Suddath farm. They have gotten it resurveyed, but ran into a snag when DGS attorneys working with MALPF wanted areas under the Forest Conservation easement to subordinate to the MALPF easement. They have no standing to require that, and Park & Planning would never agree, so Scheffel spoke to MALPF and got it straightened out.

4. RLP Easement Program

a. Updates on FY20 awards

On January 6, the Board of Public Works approved Montgomery County's funds outlined in the RLP Request for Payment. Scheffel and Jackie Arnold are tracking

the money coming into the County so OAG can move forward with easement settlements as soon as possible. It could take 6-8 weeks for the money to be sent over to the County from the Comptroller.

b. FY22 Application due February 9th

Tom McCarthy at DNR said that Montgomery County's FY21 RLP application asked for too much money, and considering Montgomery County had received a sizeable FY20 award, they decided to spread money around to other counties. In response to this feedback, Scheffel proposed submitting a FY22 application that requests funding only for the top 3 properties we outlined in the FY21 application, and the Board agreed. The ranking was based upon farm quality as well as projects that would be immediately ready to move forward if monies were approved.

Jamison recused himself from discussion because his properties would be included in the FY22 application.

5. Legislative activities

a. ZTA 20-01 Solar Collection Systems in the AR Zone – Update and Discussion

The Farm Solar Stakeholder Workgroup passed 6 amendments to the solar ZTA, but did not achieve any significant progress for agricultural stakeholders. Randy Stabler and Doug Lechliden were farmer representatives. Stabler had the idea to link solar in the AR to the BLT program by one of two means: 1) if the ZTA passes and 2 MW solar installations are allowed in the Ag Reserve, any property with a 10-15 ac 2 MW solar installation must purchase a private BLT if the property is eligible; 2) if the land is not eligible for a private BLT transaction, the solar company must pay OAG the equivalent amount (~\$250,000) so that OAG can purchase one publicly. The Board discussed this idea. Another idea discussed was the idea of mitigation for impacting farmland; if 10 acres are impacted by a solar installation, require a payment equivalent to the cost of preserving 10 acres somewhere else in the county. This kind of payment in lieu of taxes would probably require amendments to Chapter 52 rather than zoning, so it wasn't discussed for the ZTA because it is outside of zoning. Queen Anne's County has solar projects going in and is charging this kind of payment in lieu of taxes.

Criss advocated that the APAB submit a letter to the full council that requests the following two items be included in the final ZTA:

- 1) Require that Class I and II soils be excluded from siting solar projects;
- 2) Require that commercial solar installations be approved under conditional use of approval

Farm Bureau is sending letter asking that Class I, II, and III soils be exempted. The Board discussed Criss's recommendations and decided to request that Class I, II, and III soils be excluded from siting solar facilities in addition to the requirement for conditional use of approval. Cissel made a motion to approve the development of this letter, DeLuca seconded. Scheffel and Fisher will draft the letter and provide it to the Board later this week.

b. Development Impact Tax Update

Bill 38-21 was approved by the Council, vetoed by the CE, and then the veto was overruled. Due to some timeline constraints it must be reintroduced. There are no changes and if approved will provide tax relief for buildings used for agricultural processing.

c. Subdivision Regulation Amendment

Criss and Scheffel are working with CE staff. Dale Tibbits will be submitting an amendment to the council either this week or next week. This would be beneficial for any farm market, tasting room, or ag tourism building moving forward, as it would remove a cost barrier to start-up for these businesses in Montgomery County. If the amendment includes an effective date, APAB and other agricultural groups will want to consider submitting a letter explaining why this would not be beneficial to agricultural businesses. In short, an effective date would mean that properties that were unplatted either before or after the effective date would not be eligible for the exemption from subdivision, so not everyone would be eligible to take advantage of the new money-saving process.

Meeting adjourned at 8:36pm.