

Agricultural Preservation Advisory Board

Regular Meeting Minutes

August 9, 2022

7:00 p.m.

Attendance: John Fendrick, Margaret Giblin, Michael Jamison

Staff: Mike Scheffel

Guests: John Zawitoski (Montgomery SCD), Jerry Murray (IWLA), Kelly Petrey (Wetland Study Solutions), Blaine Elkins (IWLA), Tony Gorski (Attorney for IWLA), Phil Taylor (IWLA)

The meeting was called to order at 7:02 pm.

Introduction of guests.

1. Approval of June meeting minutes

Fendrick made a motion to approve the June meeting minutes as edited by Giblin, Giblin seconded, motion passed.

2. AEP Easement Program

a. Kirsch

Scheffel informed the Board he will be inspecting this farm as part of the normal easement monitoring process. He told the Board the farm had been listed for sale and based on previous action taken by the Board if the milking operation stops operating, the two tenant houses must be vacated.

3. Maryland Agricultural Land Preservation Foundation

a. FY23 Applications

The FY23 application were submitted to MALPF prior to the deadline. The State noted receiving the application as complete. Scheffel is working with the Burdette/Savage family to finalize some of the details regarding tenant structures. Once these details are agreed upon, the state will get begin the process of the easement.

b. Recertification – Due October 1

Scheffel told the Board the County's recertification was due to the state by October 1. This is the 5-year recertification, the last recertification report was submitted to the state was for FY15-FY18.

4. RLP Easement Program

a. IWLA – Lead Reclamation Project

Scheffel gave the guests and staff the history of the easement for the IWLA property. He noted the shooting ranges were documented as existing prior to the easement and were permitted to continue under the easement, further the RLP easement has language that allows for management of the property which protects the natural resources protected by the easement.

Tony Gorski, attorney for IWLA, described the current conditions of the property and the shooting ranges. The IWLA operates an outdoor shooting range and must maintain it to certain standards to keep it open. One of the maintenance items is lead remediation. Tony then described the method of lead remediation that would take place on-site and the meetings the IWLA have attended to determine the best way to achieve this project. After meeting with DPS, MNCPPC, OAG, and SCD, it was determined the best way to do this was for the IWLA to work with the SCD to return the site to agricultural use. By doing this the IWLA would be exempt from the forest conservation law and would be adhering to the terms and conditions of the Rural Legacy Easement.

Kelly Petrey of Wetland Study Solutions shared a map showing the area of concern for the shot fall and a potential limit of disturbance needing remediation. The upper limit of the LOD would be approximately 12 acres in total and 6-8 acres of trees cleared.

The IWLA said after this project, they will be reconfiguring the range and installing nets/screens to ensure the shot fall does not go past the where the trees would be removed.

John Zawitoski of the Montgomery SCD described the erosion and sediment control law in Maryland and how the SCD could be able to assist the IWLA. Since this is a natural resource concern and the site would be placed into agricultural use, he believes the SCD would be able to help. He talked about the general procedure the SCD uses for land disturbance projects and how keeping

the disturbed area under 1-acre in size allows the project to proceed without filing an NOI with MDE. However, since this is a time sensitive project, it might be worth the IWLA filing an NOI, allowing a greater area of disturbance at a time, and making the project life shorter.

The IWLA agreed to investigate this and reach out to MDE.

Board members shared their concern with the project and wanted to make sure a precedent is not being set for large land disturbance projects used to clear forest. Scheffel stated since this project is specific to items explicitly described in the easement, it would not be a precedent.

After discussion, Jamison made a motion in support of the project:

Move to approve the IWLA to submit a lead reclamation project to the SCD, after the SCD accepts the plan, the IWLA and its contractor will work with oversight from the SCD to move forward with the plan. The IWLA and/or the SCD will give updates to the APAB on the status of the project. If at any time the project is found to be out of compliance, the work must be suspended until such a time that the project is deemed by APAB/OAG/SCD to be following applicable local/State Law. The remediation activities will, to the greatest extent possible, not encroach in the 65-foot buffer area described in the easement. The result of the project will convert the land back to agricultural use. The Board's approval of this project is further subject to the understanding that, as required by Article V.B. of the Conservation Easement, this project will be completed using the methods most protective of the conservation values of the Property listed in Exhibit B to the easement, including but not limited to the Property's Woodlands. The result of the project will improve the condition of the soil.

Giblin seconded the motion, and it passed.

c. FY 22 Grant Update

Scheffel is waiting to hear from the landowners about when they can move forward.

d. Inspections

Scheffel completed inspections on all the easement in the MMM RLA and found no items of concern.

5. Legislative activities

a. OLO Report on TDRs/BLTs

Scheffel updated the Board on the status of the report. He expects to receive a draft copy of the report in the coming months and will share it with the Board. We will have an opportunity to provide comment on the draft.

e. [Bill 13-22](#) – Comprehensive Building Decarbonization update

Staff from Councilmember Riemer’s office emailed the OAG and stated it is not his wish to have this bill negatively impact ag and is asking council staff to draft language exempting ag buildings and uses from the bill.

6. Other business

a. Update on Board Members

Scheffel shared that Deluca’s term ended in April. He contacted County staff and was told this was Deluca’s second term and was finished with the Board. Other Board members thought this was not the case and asked Scheffel to verify.

b. SCD Cooperator of the Year Dinner – Windridge Winery

Scheffel told the Board the dinner is scheduled for September 19th at the Winery, the dinners normally begin around 5pm.

c. Live Edge Winery (Lynwood BLT Easement)

Scheffel updated the Board on the status of the proposed winery for the property. Ed Boyce knows he must come before the Board prior to beginning work on the project.

Meeting adjourned at 8:30 pm.