

Agricultural Preservation Advisory Board

Regular Meeting Minutes

August 12, 2019

10:30 a.m.

Attendance: Michael Jamison, John Fendrick, Bob Cissel

Staff: Mike Scheffel, Kristin Fisher

Guests: Ben Butler, Wade Butler

Meeting called to order at 10:33 am

Fendrick made a motion to approve the June 11, 2019 meeting minutes, as written; seconded by Cissel.

AEP Easement Program:

Meeting at Mr. Jonathan Warner's Farm, 7/23

Mr. Warner owns a 33-acre easement property off Martinsburg Road, west of the ash landfill, up against the C&O canal and is interested in donating the property to Montgomery County for continued agricultural and natural resource use. The county code allows the County to purchase real property and accept donations. Mr. Warner would want a life estate, which has previously been granted by the county in another property donation agreement. OAG drafted a proposal, which was approved by the Office of the County Attorney, and now needs to go before the CE to get his support to move forward with a more formal agreement with Mr. Warner. The property could be used as a showcase farm, for the new and beginning farmer program, to host legislative tours, the Envirothon program, etc. MSCD could manage the property through a management contract and could install BMPs, facilitate programs, and rental fees from farmers could go toward property maintenance costs. The County as both grantor and grantee of the easement is called a "merging of interests", which is legally allowable.

Jamison made a motion for the Board to write a letter in support of the Warner farm proposal; seconded by Cissel. The Board did voice concerns about the ongoing maintenance costs and who will pay for it; these details are to be addressed if the project continues to move forward.

Easement Inspections: Langstaff, PGH Comus LLC, Richard Thoms, Edwin Johnson, David Johnson/Elvira Sweeny, Frank Jamison, Bob Kapsch, William Willard, Jonathan Warner

No problems on these properties; several need an updated soil conservation plan.

Maryland Agricultural Land Preservation Foundation:

Certification Report Update

The County's agricultural land preservation program has been recertified. It won't have to be renewed for at least 3 years. Depending on when Executive Regulations are written implementing HB620 from the 2018 session, we may not have to renew it for 5 years.

Question from Kent County Program Administrator

The Kent County Program Administrator emailed other County administrators to ask what ranking system is used for MALPF applications and what counties do if a county agricultural preservation board member is applying to the MALPF program. Montgomery County doesn't have a MALPF ranking system; we use our point system tally based on property attributes (size, soils, etc.). If a Board member here is applying to the program, they recuse themselves from discussions and decisions about MALPF applications.

Question from John Fendrick

The farm is under a MALPF easement and is adjacent to a 1-acre lot that is landlocked and would need driveway easement through the farm. MALPF indicated they would be unlikely to approve a driveway easement through the farm for a residential lot.

RLP Easement Program:

Update on 2019 RLP grant application

Scheffel called Margaret Giblin at RLP to inquire about the status of the applications submitted. She had no further information but suggested the Board inquire with the Secretaries of DNR, MDA, and Planning to ask when the awards will be announced.

Information on SHA stream restoration work

The State Highway Administration has their own WIP to meet and they want to do stream restoration work on farms to meet their goals. They are inquiring with landowners to find places to do this work, which can be in conflict with the easement. OAG will draft a letter to all easement holders (RLP and all others) saying if they are approached about stream restoration work to contact OAG to discuss plans so that all project work can be done in accordance with terms of easements.

Legislative activities:

Proposals for 2020 legislative session- 50 / 200 Club

The OAG is proposing two pieces of legislation regarding agritourism. For many counties, building permits are not required if building occupancy is less than 50. Other counties have the cap at 200 people. In Montgomery County, DPS has a policy not to require a building permit for fewer than 50 occupants, but this is actually not allowed because Montgomery County is not listed by the State regulations. So in the coming legislative session, we are pursuing 1) getting Montgomery County added to the 50 or under list, and 2) getting Montgomery County listed as exempt from the need for a building permit for 200 or fewer occupants.

Meeting with CE on 7/17 about amending Chapter 52

The CE was not able to be not present at this meeting. Andrew Kline, CAO, did not support dedicating a source of revenue (County Ag Transfer Tax) to a single project (farmland preservation program). They did recognize that we have operating costs coming out of the CIP and that this needs to be fixed.

Other business:

Ben Butler- MARBIDCO Next Gen Farmland Acquisition Program

Small and beginning farmers can apply to this program. If they are accepted, they are eligible for funding to help purchase a piece of property. Up to 51% of the appraised price with a cap of \$500,000. There are two options in the application for reimbursing MARBIDCO: 1) the county as the default easement holder, with an easement purchased within 4 years, or 2) MARBIDCO chooses the easement holder (e.g., a nonprofit land trust) within 7 years. The Board must decide if they are in favor of this and write a letter of support to the CE to get his signature on the MARBIDCO application. As part of application process, the property must meet standards of MALPF and AEP programs. Mike already confirmed that this is the case. There are 2 buildable lots on it. Ben has chosen an unrestricted lot right, if preserved, and would therefore remove one development right with an easement. Ben, Tyler, and sister are partners to buy this property. We cannot obligate the county for anything; all we can say is that the property meets the state and county eligibility requirements and that we are going to try to get it preserved, but we can make no guarantee to the landowner.

Fendrick made a motion to approve drafting a letter as described; second by Cissel.

FCE/Forest Harvest Plan / Ag Preservation Agreement Document and MNCPPC

This document was finalized by OAG, Park & Planning, and the County Attorney and the landowner agreed to it. The next steps for the landowner are not clear; OAG has not had success communicating further with Park & Planning about this.