

# **Agricultural Preservation Advisory Board**

Regular Meeting Minutes

May 13, 2020

7:00 p.m.

Attendance: John Fendrick, Bob Cissel, Nick Deluca

Staff: Mike Scheffel, Kristin Fisher, Jeremy Criss

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

Scheffel reviewed online meeting etiquette.

Fendrick made a motion to approve the March 10, 2020 meeting minutes with the removal of the highlighted text under the Shumaker Property discussion as it was a note that is not relevant; Cissel seconded.

## **1. AEP Easement Program**

### **a. Burnt Hill Farm agritourism discussion**

Criss and Scheffel have discussed with Councilmembers the need to be welcoming to a spectrum of agritourism ideas in Montgomery County. They discussed specific ideas with Councilmembers, including Drew Baker's idea to allow farm stays on his farm. In general, the Councilmembers have been supportive. Tommy Heyboer and Hans Riemer have drafted an agritourism ZTA based in part on the agritourism study that was recently completed, as well as items that Criss and Cissel have been discussing with Councilmembers. This draft ZTA does include allowances for overnight farm stays. The definition of agriculture would also be modified to match the language in the agritourism ZTA so that there is consistency in the code.

### **b. Waredaca Child Lot Update**

This is continuing to move forward. The plat has been recorded and the attorney is working on the deed. Keith Kohr asked about next step and has a check in the mail to reimburse the county for the child lot release.

## **2. Maryland Agricultural Land Preservation Foundation**

### **a. Update from the Foundation on FY21 and discussion of applicants**

The budget for MALPF for fiscal year 2021 is likely to be affected by COVID-19, but it is not known at this time to what extent it will affect easement acquisitions for this cycle. The MALPF Board discussed three options at their recent meeting: 1) do not accept applications for FY21; 2) combine FY21 and FY22 for a two-year cycle, or 3) continue with this year's applications as planned before COVID-

19. Because of unprecedented economic hardships from COVID-19, there is no indication of what the status of funding would be even though the funding was approved in the budget. However, the feeling is that the food security concerns amidst the pandemic make it unlikely that the governor would eliminate funding to this program. Only one person has formally submitted an application and it is a good prospect for preservation. Four others have shown interest but have not followed up with OAG. Fendrick suggested calling those potential applicants to reiterate the timeline and the need to apply now if they are interested. Scheffel agreed to follow up. The Board will approve the applicant(s) at next month's meeting.

### **3. RLP Easement Program**

- a. Update on FY20 easement award and progress on properties

OAG is moving forward with RLP easement acquisition steps assuming that FY20 money will still be available. This includes activities that need to be reimbursed by RLP funds such as surveys and title work. Scheffel spoke with Vicki Gaul last week about the RLP easement language. OAG and the County Attorney's office did a lot of work dissecting the easement and suggesting or replacing language, but DNR didn't accept those changes. So now we are editing the easement for the most important points, getting the applicant's signature, and will send it to DNR that way and see what they say. Once Scheffel gets the surveys back and the title report completed, OAG will start working toward completing the Project Agreement.

### **4. Legislative activities**

- a. Schaeffer Road Bridge Replacement

The bridge on Schaeffer Road is slated to be replaced and the APAB submitted a letter to DOT in support of the one-lane bridge being replaced with a two-lane bridge. Schaeffer Road is a rustic road and therefore they may be some push-back with this kind of improvement, but it is necessary to accommodate modern passenger and agricultural vehicles. The bridge goes over Little Seneca Creek and is just beyond Seneca Creek State Park in Boyds. There were similar issues with the Zion Road bridge replacement several years ago. Criss expects it to take 5 years for a new bridge to be built.

- b. Bills before the Governor – HB805, HB848, HB 1448

Despite an abbreviated session due to COVID-19 closures, some bills were passed:  
HB805 – Buildings used for agritourism. This passed. The Governor didn't sign it, but he didn't veto it either, so it was approved. This bill establishes a third tier of a 100-person capacity for exempting agritourism buildings from needing a

building permit. This has to come back to the county for local adoption and amendment to Chapter 8, the Building Code. Then a procedure/policy will be developed with DPS. Exempting these sized buildings used for agritourism from the need for a building permit means subdivision, forest conservation, and other expensive processes won't be triggered. Other permits remain necessary (electrical, plumbing, etc.).

HB848 – Montgomery County's agricultural transfer tax. Collections of the County agricultural transfer tax would be directed to agricultural preservation and other agricultural programs. This is very positive, but Criss confirmed that OAG will not push for this right now because of the fiscal hardship in the county budget related to COVID-19.

HB1448 – related to establishing Maryland agricultural vendors for sourcing of local foods. This was vetoed by the governor.

SB300 – Prohibition on the application of chlorpyrifos in the state after certain dates each year. Governor Hogan vetoed this bill.

- c. Agritourism ZTA Update - see Burnt Hill farm discussion

## **5. Other business**

- a. Conservation Easement Value from SDAT

If you have a conservation easement, you will get an assessment that is as close to the agricultural use assessment as possible. This is a positive thing that sets a middle ground between agricultural use and residential use assessments. This is shared for the Board's information in case there is discussion or questions in the community.

- b. Information on COVID-19 resources on the OAG Website

OAG has been organizing information as it is released and making it available on the website. OAG is working on developing an agricultural assistance fund established for farmers with eligible COVID-19-related expenditures (e.g., gloves, signs, tape or plexiglass to separate people) up to \$1000 per farmer. In the longer-term, OAG is working on a way for the Agricultural Reserve and table food producers to have more incentives to produce food and support local food insecurity. For example, under the farm to food bank program, farmers can donate food or sell it at a steep discount to food banks. One way to encourage this is to have food banks report their payments to OAG and the farmer would receive funding from OAG to cover the cost of production. Farmers would only be eligible if the food was donated or sold for less than production costs. The County Council is very interested in finding ways to help the Farm Community.

c. Rustic Road tree trimming discussion - 5/14

Criss was asked to provide a list of roads that farmers have trouble traveling on with farm equipment due to overhanging branches. Criss will listen in to the Rustic Roads meeting tomorrow to learn more about their potential response to this concern.

d. Private BLTs Created

Scheffel reported that he has been in contact with Megan Wilhelm from DPS so that when someone creates a private BLT, DPS lets Scheffel know. He recently learned that East Oaks Farm on Whites Ferry Road near Edwards Ferry and Wasche Roads created 5 private BLTs. There isn't much of a market right now but encouraged to potentially have some preservation on that farm. Criss reported that the market for TDRs and BLTs is a big item with OAG for Thrive 2050; OAG plans to use it as a vehicle to discuss the issue with the ambiguity clause and problems selling TDRs and BLTs.

e. Ag Preservation FY21-26 CIP, Council Session – 4/23

Scheffel and Criss attended. The CIP passed, but the non-Ag Pres costs that should be migrated to the General Fund are still in there. The Council acknowledged that they need to be transferred out of the Ag Pres CIP, but now is not the time to do that because of budgetary issues resulting from COVID-19.

f. Updates on guidance on PYO, Agritourism, Breweries/Wineries

All updated guidance is on the OAG website. Not sure how the Governor's announcements today on the state entering Phase I of reopening will affect this since Elrich is maintaining a stay-at-home order for Montgomery County.

Fendrick shared that there will be an H2A/B worker announcement tomorrow and he is concerned about how potential restrictions on people entering the country will affect agriculture.

The meeting adjourned at 8:15pm.