

# **Agricultural Preservation Advisory Board**

Regular Meeting Minutes

December 8, 2020

7:00 p.m.

Attendance: Michael Jamison, John Fendrick, Chuck Gingrich, Nick DeLuca

Staff: Mike Scheffel, Kristin Fisher

Guests: Eric Spates

The meeting was called to order at 7:05 p.m.

## **1. Approval November meeting minutes**

Fendrick made a motion to approve the November meeting minutes as written; Gingrich seconded.

## **2. AEP Easement Program**

- a. Follow up on Drew Baker's proposal for ag building

Scheffel received the letter from MSCD approving the placement of the proposed agricultural building and confirming that its expected area of disturbance will be less than 5,000 square feet. Fendrick made a motion to approve the proposed building following the description of the project during last month's meeting and the MSCD letter of approval. Jamison seconded.

- b. Ben, Hallie, and Tyler Butler have filled out an application to the AEP program. When the application is complete, Scheffel and Fisher will share it with the Board for discussion. Scheffel estimates that it will be about a \$350,000 easement, and OAG does have enough money in Agricultural Transfer tax collections to pay for it. The Butlers were accepted to MARBIDCO's Next Generation Farmland Acquisition Program, which helped them purchase the farm. They are now seeking to reimburse MARBIDCO with the proceeds of enrolling the farm in a county easement.

- c. Ladd easement inspection

Fisher inspected the Ladd property, now owned by Ben Allnutt. The tenant house that was approved in the existing accessory structure on the farm during the April 2019 APAB meeting is in the process of being finished for occupancy. No problems were found with the easement property.

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

- a. Eric Spates/Kent Slaysman land swap – proposal

Eric Spates called into the meeting to provide details on this request. The APAB approved of this back in 2010/11, Zawitoski sent everything to MALPF, and it was approved by the MALPF Board. Shortly thereafter, Spates's office burned down and he was not able to finalize the project. The Slaysmans are now considering selling their farm, so there is some urgency to revisiting and completing the land swap now. It is an equal 10-acre land swap, both parcels have 75% Class I, II, and III soils, and it will simplify property line layouts..

Fendrick made a motion to approve the request for the land swap; seconded by Jamison.

Fisher and Scheffel will assemble the necessary materials for MALPF and are hopeful that it can be handled at the staff level for quick action.

b. Kephart – Child lot(s)

Fisher inspected the Kephart easement last week. George Kephart passed away last summer and his sisters, Ann Frazer Brown and Perry Kapsch, are in the process of settling the estate. They will be the sole operators of the farm. Perry indicated her intention to follow up on getting three child lots approved and subdivided from the farm. Fisher advised her to contact Scheffel as soon as they are ready to move forward so that we can advise them on next steps.

c. Friends Ahoy, Friends Advice, Friendly Acres, and Allnutt easement inspections

Fisher inspected these other MALPF easements and found no issues. The manure pile that was along a treeline near a stream on the Friendly Acres property has been moved uphill and is surrounded by grass, per the recommendation of MSCD. Wyndham Oaks, who operates that part of the property, has purchased additional land across the street, so will have more room to spread manure and hopefully the pile will be reduced or removed in the near future.

#### **4. RLP Easement Program**

a. Updates on FY20

DNR has approved the grant agreements submitted by OAG and all of them are on the schedule for the Board of Public Works meeting on January 6. After BPW approves the grant agreements, it will take six to eight weeks for settlement to take place.

#### **5. Legislative activities**

a. ZTA 20-01 Solar Collection Systems in the AR Zone – Stakeholder Working Group

Scheffel reported that these meetings have been challenging. The solar companies want to install projects in the Ag Reserve because it is cheaper and easier to do work in open space as opposed to down-county. Mike Jamison is planning to speak during tomorrow night's meeting to describe the benefits of the Ag Reserve and its purpose for agriculture allowing his multi-generational family agribusiness to continue.

b. ZTA 20-04 Composting Bill – Evan Glass

This bill, which increases the amount of allowed off-farm material used for composting to 50%, has received complete support from the Council, the public, and the farming community. It should pass and hopefully will help farmers with options for diversification.

c. Development Impact Tax Update

OAG worked with Council staff to propose a new Development Impact Tax rate for agricultural processing buildings of zero dollars. The CE vetoed that Council action because of other things that were included. Then the Council overrode the veto. Apparently, the next step legally requires that the proposal be reintroduced as a subset of the Development Impact Tax discussion. OAG is working with Tommy Heyboer on a stand-alone piece of legislation that will introduce the ag processing building Development Impact Tax again and hopefully it will pass.

d. Subdivision Regulation Amendment

OAG is working with Council staff to exempt unplatted parcels from going through the subdivision process when they apply for a commercial building permit for agriculture. This is important to reduce the cost barriers to more farm alcohol production businesses starting up in Montgomery County instead of going to neighboring jurisdictions.

e. December 3<sup>rd</sup> 9 – 10:30 am, Legislative webinar follow up – winery tax assessment, forest mitigation bank,

This year the usual in-person legislative breakfast was replaced by a webinar. OAG has had a couple of follow-up meetings with legislative staff on topics brought up during the webinar. One was to discuss SDAT's assessment of FAP facilities – especially wineries. There are a couple of examples of wineries in Montgomery County being reassessed to a use that is in conflict with the zoning code. For example, Windridge Winery was assessed commercial/residential, no one knows why, but FAP standards requires that it be assessed agricultural.

The second issue relates to the Attorney General's opinion on forest mitigation banks. Existing forests no longer qualify for forest mitigation banking credits, so any of these banks that were set up on farms in existing forest can no longer

accept credits. This is a problem for farmers and will probably require legislation to overturn the opinion.

## **6. Other business**

### **a. East Oaks Farm**

This farm, on the corner of Whites Ferry Road and Edwards Ferry Road, has been for sale for a couple of years. Scheffel has received some calls from prospective buyers. There are 5 approved perc sites, so theoretically, the County could buy 5 BLTs. However, the County does not have the money to do that. A potential buyer inquired about the possibility of donating the BLT easements to the County and then writing off the donation as a tax deduction. The County is legally allowed to accept donated easements. We don't know if this will go anywhere, but theoretically we could accept a donated BLT easement and would have to figure out the legal mechanism with Vickie. The donation would be an appraisal-based value and the donors could write off the donation on their taxes over 5 years. East Oaks would be a good farm to preserve; it's a big farm, visible, and historic.

With no further items to discuss, Fendrick made a motion to adjourn the meeting at 7:45 p.m.; Jamison seconded.