

# **Agricultural Preservation Advisory Board**

Regular Meeting Minutes

February 11, 2020

7:00 p.m.

Attendance: Michael Jamison, John Fendrick, Bob Cissel, Chuck Gingrich, Nicholas Deluca

Staff: Mike Scheffel

Guests: Kathy and Lisa Stanley

Meeting called to order at 6:57 pm.

Fendrick made a motion to approve the January 14, 2019 meeting minutes as written; Cissel seconded.

## **1. AEP Easement Program**

- a. Discussion of “orphaned” child/owners’ lots and excess TDR analysis

Scheffel brought up the memorandum presented at the January meeting concerning the policy for AEP easements with retained TDRs. Scheffel described the questions we receive about these properties and the title issues involved. The OAG is not sure of what could be done to address these TDRs. The Board agreed for Scheffel to send the document to Vickie Gaul, Associate County Attorney, for her input.

- b. Chen (Coleman), Knop, Pyles (Bowron), Roach, Eeg, Hilltop Farms, Shumaker inspections

Kristin Fisher continues to inspect the older AEP properties. Two items of discussion were encountered on this last batch of inspections.

On the Roach property, the main house is no longer occupied by Ms. Roach. She informed Fisher that the main dwelling was non-habitable due to mold. Ms. Roach brought in a trailer on the property to live in. The acreage of the farm would support a farm labor housing unit (accessory dwelling unit), Ms. Roach did not ask the Board’s permission to bring in and place an accessory dwelling unit. We also need to verify with DPS if the well and septic permits were permitted. Scheffel will reach out to the Well and Septic Division of DPS for clarification. The OAG will contact Ms. Roach and ask for a letter and/or her appearance before the Board to describe the situation of the trailer and ask for retroactive approval.

The Shumaker property at time of settlement indicated 3 houses on site, when Fisher inspected, Mr. Shumaker indicated there were 4 houses. Scheffel and Fisher will re-inspect the property to verify the 4 houses. Mr. Shumaker will then be asked to write a letter and/or appear before the Board to describe the need for

the houses and ask the Board for permission to have them based on the 2019-1 policy, Farm Tenant Structures.

c. Agreement concerning conservation easements (Beverly Farm)

Scheffel received communication from the attorney representing the owners of the Beverly farm indicating the need to get the document fully executed. Scheffel worked with the County Attorney's Office to get the necessary signatures from the County and return the document to the attorney. The document allows a Category I Forest Conservation Easement for a Mitigation Bank to be placed on a farm with an AEP easement.

## 2. Maryland Agricultural Land Preservation Foundation

a. Eligibility of Stanley farm for preservation

Kathy and Lisa Stanley attended the meeting to discuss with the Board the potential eligibility of proposed properties for preservation.

The preservation concept we discussed involved the following properties:

<u>Account ID</u>	<u>Acreage</u>	<u>Development Density</u>	<u>Other Details</u>
02796582	41.8	none	7.7 acres of Cat I FCE, owned by the Stanley's
03484176	2.0	none	2.0 acres of Cat I FCE, owned by the Stanley's
02796571	34.83	none	2.56 acres of Cat I FCE, owned by the Stanley's
03520561	4.64	1 lot	residentially assessed, restrictive covenant, part of approved subdivision, owned by the Stanley's
02022155	42.25	1 lot	under contract to purchase, unencumbered by any easement, owned by Church of Latter-Day Saints
	125.52	2 lots	12.26 acres of Cat I FCE, 1 approved lot part of a subdivision, 1 restrictive covenant

The other factors we considered: the three parcels currently owned by Kathy and Roy (41.8 and 34.83, and 2.0 acres) have no development rights and are by default preserved.

The one remaining development right currently owned by the Stanley's is associated with a residential lot and it is part of an approved plat of subdivision.

You are considering extinguishing the development right with the 4.64 acre residentially assessed parcel and maintaining the development right with the LDS property.

While the total acreage of this proposal is 125.52, a preservation easement would only be on 113.26 acres due to the Forest Conservation Easements.

We also discussed the current state of our limited preservation resources and the ranking process the Board would take part in.

Based on the limited resources, the Board would only be submitting one application for the MALPF program.

After Kathy and Lisa discussed the above items, the Board thanked them for their time and Scheffel said the Board would deliberate and he would provide to them the decision.

Due to the above factors, the Board decided not to make this concept the priority for this year's cycle of MALPF. Motion made by Bob Cissel, seconded Nicholas Deluca, approved by Board.

This does not preclude these properties from being considered in the future for MALPF or other programs if funding comes available.

b. Potential applicants – discussion of analyzed properties

Fisher provided language to the OAG social media manager to let the public know of opportunities for preservation – RLP and MALPF. Due to the social media posts, many interested parties have contacted Scheffel.

Montgomery County will only be participating in the general funded monies for MALPF as we don't have the funds to provide for matching funds. This limits the size of farm that would be able to utilize what we assume will be the County's share of the 1<sup>st</sup> round of funding. Scheffel will work with interested landowners on applications. If multiple applications are received, the Board will have to rank the properties and select which application will be sent to MALPF for the FY21 funding cycle.

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

a. Scott easement inspection

Fisher inspected the Scott easement and found nothing out of the ordinary. The Betz portion of the eased properties has some erosion and needs an updated SWQCP.

b. FY20 grant agreements submitted

As part of the FY20 RLP process, we have to submit a grant agreement for each RLA that received funding. I mailed two copies of each RLA's grant agreement to RLP staff. Once all the Rural Legacy staff signs and the Secretary of DNR signs, the agreements are considered fully executed. From the date of the final signature the 12-month timeline to spend the funds begins.

c. FY21 application submitted

Scheffel submitted the FY21 application on 2/11. The application includes properties in both RLAs. Scheffel will keep the Board updated on the progress of this application.

### **4. Legislative activities**

- a. Discuss APAB position on upcoming ZTA 20-01 on solar installations in the AR Zone

Scheffel discussed the ZTA with the Board and some of the specifics: 1,800 acres of community solar in the AR, must be pollinator friendly and grazing animal friendly. Then the Board discussed the position of other Ag Committees in the County. All that have formal position are opposed to the ZTA and have offered no amendments.

After the discussion there was a motion from Fendrick to oppose the ZTA, Deluca seconded. The Board voted unanimously to oppose the ZTA.

- b. Discuss APAB position on ZTA 20-02 regarding accessory structures

Scheffel informed the Board this ZTA has been withdrawn but will continue to monitor if it pops up again.

## 5. Other business

- a. Crown Farm update

Scheffel updated the Board on the 4<sup>th</sup> and final payment from the Crown Farm Annexation Agreement. After emailing and asking development staff from the city of Gaithersburg about the status of recorded plats, it was determined the threshold for the final payment had been crossed. Scheffel contacted the developer and the developer made arrangements to make the final payment.

*The final payment was received by the Office of Agriculture on February 18<sup>th</sup>.*

- b. Bob Cissel - term expiration and search for new non-farmer member

Cissel's term expires on April 30, 2020. The County will announce the upcoming vacancy and need for a non-farmer member of the Board. The Board will have the opportunity to interview interested candidates.

- c. Discussion of Board policy on acquiring easements on residential parcels

Scheffel introduced a proposed policy that would guide interested parties who want to encumber their property with an ag easement. The policy would state that at time of settling a County preservation easement all properties must have an agricultural use assessment with the Maryland Department of Assessment and Taxation.

There was consensus from the Board for Scheffel to draft a policy and bring it to the next meeting.

- d. Supplemental Appropriation – Introduced on 2/4, work session on 2/24 and Public Hearing scheduled for 2/25

Scheffel updated the Board on the upcoming budget meetings involving the supplemental appropriation to the FY19-24 CIP budget and the FY21-26 CIP.

Hearing no other items to discuss, Jamison moved for the meeting to adjourn, Cissel seconded, the meeting adjourned at 8:45 pm.