

Agricultural Preservation Advisory Board

Regular Meeting Minutes

August 12, 2020

7:00 p.m.

Attendance: John Fendrick, Chuck Gingrich, Bob Cissel, Nick DeLuca
Staff: Mike Scheffel, Kristin Fisher, Jeremy Criss

Meeting called to order at 7:07pm.

Fendrick made a motion to approve the June 9, 2020 meeting minutes, as written; DeLuca seconded.

1. AEP Easement Program

a. Clark Poole – owner’s lot request

The AEP easement language allows for the ability to subdivide 1 acre for construction of a dwelling for the owner or his/her children, regardless of whether there is an existing dwelling at the time of settlement. Over time, OAG has modified these lot privileges and now allows up to a maximum of three such lots. Clark and Marguerite Poole did not live on the farm when the easement was settled. They lived across the street on 14 acres that they decided not to put under easement. A couple of years after settlement, they requested a lot for their daughter and the lot was built upon and one acre was paid back to the County. Marguerite Poole is now requesting an owner’s lot to be released. This right disappears if the property transfers ownership, and the question now is whether the transfer of ownership to a Trust constitutes a change in ownership. Mrs. Poole is one of the beneficiaries of the Trust.

If Mrs. Poole can still request an owner’s lot, it would be held in trust in Marguerite’s name; if she passes, it would go to her grandson, Ryan. There is previous Board policy to allow this; in 1989 on Edwin Johnson’s farm, child lots were requested and held in trust for eventual transfer to grandchildren of the original grantor.

The Board discussed whether trusts constitute a change in ownership and decided that a recommendation from the County Attorney, Vickie Gaul, would be necessary. Fendrick made a motion to have Scheffel seek a legal opinion from Vickie Gaul on this matter; Cissel seconded.

2. Maryland Agricultural Land Preservation Foundation

a. Rebecca Roach

Ms. Roach is pursuing a septic approval for the tiny house she installed on the farm after mold forced her to move out of the main farmhouse. Peter Fosselman, an Ombudsman in the County Executive’s Office, contacted Criss and Scheffel to better

understand Ms. Roach’s situation. Criss and Scheffel believed that Ms. Roach and her contractor were going to agree on testing the site, and the test results would help them move forward to get the septic approved. However, it seems that there was a lapse in communication, and that never happened. Mr. Fosselman is working with Ms. Roach to resolve the situation. The current septic system is tied into that of the horse area, but there is apparently no septic record for the barn with DPS. This would require Ms. Roach to test the system to make sure it’s working adequately and bring it up to code.

b. 5-year Recertification Timeframe

The MALPF regulations were effective in May, 2020. The law allows for a 5-year (instead of 3-year) recertification period. Montgomery County is allowed to do this because programs were “consistently effective”. The last recertification report was submitted in 2018, so the next report will be due in 2023.

c. FY 20 and FY21 Update

The Stanleys applied to MALPF for FY20 for the Suddath Farm at the intersection of routes 108 and 94. MALPF made them offer, which the Stanleys accepted, but further progress has been temporarily delayed by COVID-19 restrictions.

The Board approved submission of the FY21 application for Ida Dayhoff’s farm. This was approved by MALPF. Scheffel has spoken to two appraisers, and those appraisers have gone to the farm. However, there is not word yet on whether FY21 MALPF money will still be available amid pandemic-related budget cuts.

3. RLP Easement Program

a. Update on FY20 grant agreements

Draft easements, draft contracts for purchase, and draft exhibits have been completed. Vickie Gaul is on vacation this week; when Scheffel has her comments back on the applications, he hopes to send the draft documents to DNR. If they are approved by DNR, Scheffel can get the Project Agreements put together, signed, and sent to DNR for approval. Tom McCarthy at DNR said if they received an approved agreement today, it would take 3 weeks to get on the Board of Public Works agenda and once approved, would take an additional 6-8 weeks before settlement would happen.

b. Update on FY21 Application

Currently we don’t know what the funding situation is going to be for FY21. The State approved \$400 million in budget cuts so far and still have about \$200 million more to cut. Regardless, OAG is moving forward with the FY21 process. For FY21, we have 10 properties on the east side of the county and 10 properties on the west side. Tom McCarthy at DNR asked for OAG’s top three priorities for each area that

are ready to go to Rural Legacy and Scheffel hopes this bodes well for the availability of funding.

4. Legislative activities

a. ZTA 20-01: Solar Collection Systems – AR Zone Standards

During the joint PHED/T&E meeting, nothing ag-friendly was agreed upon except for one amendment to protect Class I soils from solar installations in the Ag Reserve. The committees voted to take the ZTA to the full council in September. Scheffel drafted a letter that could be sent to Council President Katz to ask him to withdraw the ZTA until such a time when the public can be fully engaged in the discussion. The pandemic has restricted the ability of some stakeholders to engage in the discussion because of lack of internet access. The letter is provided as an option for residents and the agricultural community to send as private citizens. Fendrick noted some grammatical corrections: “about” in first sentence, and “its/it’s” in a later sentence.

b. Updates to Chapter 50 and 52

Criss, Scheffel, and Bob Cissel are working with Executive Staff to address tax and regulatory business start-up fees that are restricting the diversification and expansion of agricultural businesses in the county. Windridge Winery decided to pursue a commercial building for their tasting room, which triggered a series of these expenses, including the development impact tax in excess of \$100,000. OAG is hoping to develop an Agricultural Rate for agribusinesses and change requirements of subdivision so any commercial building that is ag-related is exempt from platting requirements because usually property lines are not changed.

c. Summer Study Deer Management Workgroup, MC 6-20, online survey

Scheffel has emailed out a link to an online survey and asked for everyone to fill it out. Discussion ensued on the crop damage inflicted by deer and frustration with the lack of action by agencies responsible for deer management.

5. Other business

a. Thrive 2050 Agricultural Document

OAG has been working with Meredith Wellington from the CE’s office as well as Jessica McVary from Park & Planning to discuss the concerns of the agricultural community in the update being drafted.

b. Montgomery County Agricultural Fair

The fair has been cancelled due to COVID-19. The fairgrounds are facing \$950,000 in lost revenue and have pursued federal grant money to help cover it. They have chosen not to pursue some local funding due to the excessively detailed information required to participate in these programs.

c. Call with Congressman David Trone – 7/28

Congressman Trone is trying to find ways to dedicate funding toward 4-H, youth development grant funds, and funding for Ag Centers that are experiencing severe hardship.

d. Call with Senator Ben Cardin - 7/31

Senator Cardin wanted an update on how COVID-19 has affected agriculture in Montgomery County. Farmers and ag community representatives discussed unemployment, challenges with meat processing, lack of funding for WIP goals, lack of rural high speed internet, and HEROES/HEALS Act funding. OAG and MSCD have already had a follow-up meeting with Senator Cardin's staff regarding the WIP goals.

e. MCEDC Commerce Cabinet Meeting – 7/31

Ben Wu, the President and CEO of the Economic Development Corporation, put together a cabinet to talk about the effects of COVID-19 on county businesses. OAG was at the table; they will meet every other month.

f. DHHS Inspecting On-farm Businesses

DHHS is visiting businesses to make sure there is compliance with COVID-19 rules and restrictions. Lone Oak Farm Brewery has received several visits and had to change some things including no longer offering live music. If you are considered to be a food service establishment by DHHS, you can have 50% seating capacity indoors if 6-foot social distancing can be maintained and as many as one person per 200 square feet outside. Lone Oak is not currently considered to be a food service establishment, so they had to eliminate indoor seating. They are currently pursuing this license.

g. Expanding Farm to Food Bank Program

Eight farmers have signed MOUs to produce more food for the Manna Food Center under the expanded program. The farmers will receive payment that will help over costs to grow extra food. Criss has connected Manna with interested farmers and visa versa, so farmers are stepping up to take care of the pandemic-related food insecurity in the county.

In other news, we found out today that CAO Andrew Kline has resigned. Rich Mandaleno will be acting CAO.

The County Council introduced and voted on a charter amendment to increase the number of districts in the county from 5 to 7, with 4 members still at-large. There will be a ballot vote on this proposed addition of two council members. If this goes through, the outcome will probably be a dilution of the voice of agriculture since the new districts will not represent agriculture, but rather will be situated in down-county population centers.

The meeting adjourned at 8:40 pm.