

Agricultural Preservation Advisory Board

Regular Meeting Minutes

May 11, 2021

7:00 p.m.

Attendance: Michael Jamison, John Fendrick, Nick DeLuca, Bob Cissel

Staff: Mike Scheffel, Kristin Fisher

The meeting was called to order at 7:05 pm.

1. Approval April meeting minutes (attached)

Fendrick made a motion to approve the April 2021 meeting minutes, as written. DeLuca seconded.

2. AEP Easement Program

a. Butler Land Partners – update

Butler Land Partners worked with MARBIDCO's Next Generation Farmland Acquisition Program to help them purchase their farm. The contract with MARBIDCO gave them a period of seven years in which to sell a permanent easement to the County. The Butlers want to serialize and separate the excess TDRs on the property before settling the County AEP easement, but they need to obtain clarification from MARBIDCO on wording in the contract that appears to prohibit any action on development rights. Hopefully MARBIDCO will release the Butlers from this language at or before settlement of the easement with Montgomery County, since it is common practice in Montgomery County to separate excess TDRs from a farm before settling an AEP easement on it.

b. Beverly/Broad Creek Run Farm, LLC - P&P inquiry

Park & Planning contacted OAG to discuss the process of terminating an AEP easement on the old Beverly farm. The current landowners are planning to legally harvest a large area of trees on the property and Park & Planning doesn't want to see that happen. They are exploring the feasibility of purchasing the farm, terminating the easement, and using the property as a park. OAG explained how an easement could hypothetically be terminated. The request would have to come before Board with a clear case for why the easement would have to be terminated. Chapter 2B has clear language specifying the conditions that must be met in order for a property to be eligible for easement termination. The main requirement is that property is no longer agriculturally viable. This would be hard to prove for the Beverly farm because it is a large farm in the Agricultural Reserve. If that case were made, Park & Planning would then have to determine the appraised value and refund the county for the easement at the current day value of the easement. Next, Park & Planning would have to negotiate fee title interest in the property

with the current landowners. So, they'd effectively have to purchase the property twice. Jeremy Criss and Mike Scheffel have a meeting with Park & Planning on Friday to further discuss these details.

c. Peter Huyser – agritourism request

Mr. Huyser was originally going to come before the Board tonight to discuss his agritourism ideas for the farm, but he and Scheffel had a miscommunication. His hemp enterprise was not profitable, so he is now considering a pivot to agritourism. Jeremy Criss and Mike Scheffel will be meeting with him onsite to learn more about his ideas. Scheffel sent his business proposal to the Board. At some point, the Board will have to consider his plan and evaluate whether it is in compliance with the terms and intent of the easement.

Scheffel also heard that WSSC will be dredging Little Seneca. They approached Peter Huyser about his interest in being paid to apply the dredged material on his farm. Tests of the dredge material show questionable amounts of nutrients and heavy metals. WSSC and an engineering firm they are working with are coordinating with MDA and MDE to get a reliable test of the material performed and to register the material as a soil amendment. If that is done, then farmers can take it and apply it to their land. WSSC anticipates it will be 3-4 years before land application begins, but they are trying to get organized now so that the operations can run smoothly when they are ready to start. The Board may have to decide if that kind of land application of material meets the intent of the easement, in that it will not harm future food and fiber production. Jamison asked about the volume of material to be dredged and Scheffel reported that it is expected to be between 125,000-140,000 cubic yards.

3. Maryland Agricultural Land Preservation Foundation

a. FY20 – Stanley update

Scheffel electronically submitted the baseline inspection report forms for the Stanley property to MALPF, documenting the existing conditions on the property such as driveways and buildings. The next step is settlement.

b. FY22 applicant

After reviewing his contacts with interested farmers, Scheffel only had one person who was interested in the MALPF program with a property that could be purchased with the anticipated funding from MALPF. Scheffel contacted that person and they are in the process of working with their attorney to determine the status of development rights on the property. Then they will work with Scheffel to complete the MALPF application. When Scheffel has the completed application, he will bring it before the Board. With

Board approval, they will be the FY22 applicant for the MALPF program. The application is due to MALPF by June 30th.

4. RLP Easement Program

- a. Unspent FY 20 Funds - request for extension submitted

Scheffel and Fisher submitted the formal request to the Rural Legacy Program for an extension to the grant agreement that has about \$100,000 in unspent RLP funds remaining. Scheffel learned that the funds must be used in conjunction with a RLP easement. So OAG can use the leftover funds along with any funds we may be awarded for FY22, or we can add the leftover RLP funds to local funds to settle a RLP easement.

5. Legislative activities

- a. Farmside Chats with Montgomery County and Maryland Farm Bureaus

The Montgomery County and Maryland Farm Bureaus are planning “Farmside Chats” between farmers and elected officials this summer and fall. Once each month in June through October, a farm and farm issue will be featured for a small-scale in-person discussion with local and state legislators. Fendrick will be hosting the Farmside Chat in October to discuss solar on farms since he has a solar system powering his creamery. Everyone is hopeful that it will be a good opportunity to get back to having facetime with elected officials.

- b. Farm Corps – Del. Fraser-Hidalgo

Delegate Fraser-Hidalgo has expanded his discussions on agricultural issues from deer to other items that have been highlighted by the pandemic, including food insecurity and food resiliency. He supports developing a meat processing and/or food aggregation facility in Montgomery County, and wants state-certified USDA meat inspectors back in the state of MD. MDA used to have meat inspectors that were USDA certified, and if we could get them again, it would help to clear up some of the local processing hurdles and delays.

Jeremy Criss and Mike Scheffel met with Keith Miller from the Montgomery County Revenue Authority, who is interested in the idea for the meat processing and/or food aggregation facility, and has a potential site in Poolesville. He wants OAG to provide a business plan for it, so OAG is in the process of laying the groundwork to see if it could happen. The Revenue Authority is fiscally independent of the County, so can finance projects that may not be possible through the County. The Board discussed the importance of catering to the desires of county residents and linking a meat processing facility with a food aggregation facility that washes and packs fruits and vegetables.

6. Other business

a. River Road site visit – May 6 at 11 am

Jeremy Criss attended a meeting along River Road that included representatives of the Rustic Roads Advisory Committee, DOT, and local residents. Criss was disappointed with the outcome: the Rustic Roads Committee said that the gravel character of River Road was integral to its status as an Exceptional Rustic Road and there were no plans to change the surface of the road. The County said the quarry where they get the gravel tests it and the tests say there is no asbestos. However, Linda Lewis has taken two samples of the gravel directly from the road and tested it for asbestos, and those tests both show the presence of asbestos. Frustrated with the inaction, Ms. Lewis asked how one would go about changing the status of an Exceptional Rustic Road to a Rustic Road, which would require action by the County Council. It seems that she may pursue that avenue in order to address the problem with the dust on the road and find a way to get the road sealed.

b. SCA and truck access to LeafGro

Some new Sugarloaf Citizens Association board members are interested in making it more viable for small trucks to access LeafGro, but they are meeting with the same resistance to this that was experienced by OAG. One SCA board member introduced a proposal to allow 20 yard dump trucks access to the Dickerson facility as long as they are certified by OAG. Jamison brought up the irony of living in a county where there is a “bag tax” on plastic grocery bags, but natural compost made locally is bagged in plastic and sold to customers and county farmers who want to obtain the material in bulk quantities are not able to do so. This idea of reduce-reuse-recycle is not universal.

c. APAB non-farmer position – interviews

Scheffel reported that he, Jeremy Criss, and John Fendrick have been holding interviews for the non-farmer APAB board member position that will be vacated by Bob Cissel. The last interview is on Thursday, and then they will make a recommendation to the County Executive on who to appoint. There are several good candidates to choose from.

d. OAG budget discussions with Council

OAG has been having budget discussions with the County Council and is pleased that the Council wants to help fix the budget issues associated with the ACRE program and that they support adding a position to OAG. The Office of Management and Budget is developing projections for the cost of a new full time position. OAG is hopeful that this will be approved. Melissa Steed’s position was a ½-time Administrative Aide, and this would be changed to a full-time Senior Business Development Specialist, which is a professional position with upward mobility that should attract good candidates.

e. Septic pump-out bill

The bill language was finally sent to Jeremy Criss. It has language that concerns OAG: if DEP or DPS finds that the condition of the sewage system is unsafe or poses an

immediate danger, DEP can enter the property, fix the issue, and pass the costs off to the landowner by increasing personal property taxes. Since the upgraded system will be considered an improvement to the property, the value of improvements on property will increase, and costs will be recovered that way. Landowners would have the option of paying back the dept in any other legal manner, as well. This was not part of what DPS pitched to the various agricultural groups a couple of months ago. The bill has not gone to the Council yet. OAG contacted Adam Ortiz, the Director of DEP, to indicate that staff presentations did not tell the whole story, and made suggestions for how to make the bill more palatable to the agricultural community. If the legislation is introduced as-written, DEP will get a lot of input and resistance from the agricultural community and anyone else who has septic because the bill is unreasonable.

Scheffel and Criss met with the County Executive (CE) and discussed the need for funding for agricultural land preservation. They made the case that BMPs help farmers meet Chesapeake Bay goals, but also have greenhouse gas (GHG) reductions tied to them. Preserved farms are farmland forever, and they are legally required to have conservation plans with recommended BMPs implemented. These farms will help the Bay and help reduce GHG emissions. The CE wants details on what this means; e.g., how many acres equals how much in GHG reductions?

The meeting adjourned at 8:02 pm