



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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HOWARD COUNTY AGRICULTURAL LAND PRESERVATION BOARD AND STATE AGRICULTURAL PRESERVATION ADVISORY BOARD

February 27, 2017

Attendance:

Board Members:

Lynn Moore, Chair
Rickey Bauer, Vice Chair
Mickey Day
Jamie Brown
Howie Feaga
Ann Jones
Denny Patrick

Public:

Denise Dixon, Triple Creek Farm
Bob Haney, Country Springs Wholesale Nursery
Savannah Kaiss
Ted Mariani, Oakdale Manor
Keith Ohlinger, Howard Soil Conservation District Board
Alice Settle-Raskin, Alice's AgriMaryland
Alan Schneider, Howard County Citizens Association
George Streaker, Clearview Farm
George Streaker Jr., Clearview Farm
F. Reed Wills, SunEast Development LLC
James Zoller, Howard County Agricultural Sub-Cabinet

Staff:

Joy Levy, Administrator, Agricultural Land Preservation Program
Lisa O'Brien, Senior County Solicitor, Office of Law
Mitch Ford, Planning Technician, Agricultural Land Preservation Program

Ms. Moore called the meeting to order at 7:10 p.m. and conducted introductions.

Action Items

1) Minutes from the meeting of January 23, 2017

Ms. Moore called for the approval of the January 23, 2017 meeting minutes. Mr. Day moved to approve. Mr. Feaga seconded the motion, which passed unanimously.

2) Request for Approval, Commercial Solar Facilities policy

Before discussing the Commercial Solar Facilities policy, Ms. Levy notified the Board that Mr. Bauer contacted her earlier in the day to discuss the withdrawal of *HB 863 State Agricultural and Conservation Property Interests – Solar Facilities (Right to Solar Farm)*. HB 863 would have changed the acreage

limitation of a commercial solar facility on MALPF easements from 5% to 25% of the easement property's size. Mr. Bauer told Ms. Levy that he didn't know the nature of the conflict but he was concerned that county easement properties might be affected and he wanted to give Ms. Levy a chance to research the issue before the meeting.

Ms. Levy contacted Carol West, Executive Director of MALPF, who informed her that on February 27, 2017, the Environment and Transportation Committee of the Maryland House of Delegates withdrew the legislation due to potential conflicts with the Internal Revenue Service (IRS) Tax Code, which apparently will penalize commercial utility leases on preservation easements. Ms. West explained that since many MALPF easements are partially funded with federal money, there might be consequences for those property owners. In addition, a lot of MALPF applicants are willing to discount their easement offer in order to be competitive. If an easement on a discounted offer property is acquired, the farmer may possibly qualify for a charitable deduction claim on their federal taxes, which, again, might have consequences. Ms. West indicated that this issue with the IRS was discovered late in the process and there are still a lot of unknowns, so the legislation was pulled. She noted that it may go to summer study.

Ms. Levy indicated that based on her conversation with Ms. West, she is unsure whether county easements would be affected since there is no federal funding used to acquire ALPP easements, and that the scoring system utilized to determine easement price doesn't allow for discounting. Ms. Jones noted that the older ALPP easements could possibly be affected since appraisals were used in the early days of the program, and discounting did occur. The Board then discussed the potential conflicts that could arise between the IRS and farmers entering into the ALPP. Ms. Moore recommended that landowners should speak with their tax advisors before considering commercial solar on their easement. Mr. Feaga stated that we should include an advisory statement on the Commercial Solar Facilities Application Submittal Checklist. Ms. O'Brien disagreed with the Board, stating that the County should not be offering tax advice to its citizens. She noted that easement property owners should already be in contact with their tax advisors or accountants, and that they should be aware of potential income tax consequences of entering into a lease agreement on easement land.

Mr. Feaga introduced a motion to include a footnote statement, describing the potential IRS consequences of entering into a lease agreement with a solar facility, on page two of the Commercial Solar Facilities Application Submittal Procedure & Checklist document. Ms. Jones seconded the motion, which passed unanimously.

Commercial Solar Facilities policy

Ms. Moore read the Commercial Solar Facilities policy. After discussion about several items, Ms. Moore called for the approval of the Commercial Solar Facilities policy as written and reviewed. Mr. Day moved to approve the policy and Mr. Brown seconded the motion. Mr. Bauer recused himself from voting on the policy because he recently signed a lease with a solar company. The Commercial Solar Facilities policy was passed with six members voting to approve and one member abstaining.

Commercial Solar Facilities Application Submittal Procedure & Checklist

Ms. Moore read the Commercial Solar Facilities Application Submittal Procedure & Checklist document. After reading the document, the Board discussed the addition of the IRS footnote at the end of the second page. Ms. Jones mentioned that the disclosure footnote should warn individuals of the potential consequences from the IRS. Ms. O'Brien stated that she would research an appropriate statement to address the Board's concerns.

Discussion Items

1a) Program Updates

Ms. Levy announced that the County settled on the Iglehart easement on February 16th, and that the Cattail Meadows easement is scheduled for settlement on March 9th. Additionally, Ms. Levy is waiting on one item before being able to settle on the Pickett-Frey property. Lastly, the Sachs property will be going to the County Council in March.

1b) Nomination of Savannah Kaiss to Chairwoman of the Agricultural Land Preservation Board

Chairwoman Moore's term ends in April 2017, leaving an open seat on the Board. Ms. Levy introduced potential nominee Savannah Kaiss. Ms. Levy noted that there were several people who expressed interest and that staff is seeking to diversify the makeup of the Board in regards to age, gender, and farming operation. Ms. Kaiss addressed the Board, stating that she and her husband operate a malting facility for local breweries throughout Maryland. Ms. Levy stated that Ms. Kaiss's nomination should go before Council in April.

Ms. Levy noted that individuals interested in being appointed to the two upcoming vacancies should contact Mr. David Lee of the County Executive's office.

2a) Discussion with James Zoller, Howard County Agricultural Coordinator, regarding ALPB advisory role to Agricultural Sub-Cabinet

Mr. Zoller discussed the new Agricultural Sub-Cabinet formed under County Executive Kittleman. At last month's Agricultural Roundtable, Mr. Feaga brought up farmer representation on the Sub-Cabinet. Mr. Zoller asked the Board if they would be interested in serving in an advisory capacity to the Sub-Cabinet. As an advisory board to the Sub-Cabinet, Mr. Zoller would brief the Board each quarter and consult with them about the County Executive's priorities.

Ms. Moore applauded the idea of being advisory to the Sub-Cabinet, stating that this would strengthen communication between the government and the farming community. She added that the more contact there is the better, in order to ensure efficiency in resolving conflict.

2b) Commercial vehicles and transporting of agricultural goods

Mr. Bauer asked Mr. Zoller about the status of commercial vehicles being used for transporting agricultural goods. Mr. Zoller said that the Agricultural Sub-Cabinet has been working with Zoning in order to determine what the current zoning is for commercial vehicles, stating that there was some confusion as to whether a farm-tagged vehicle would be considered a commercial vehicle. Mr. Zoller explained the current proposal which would not classify farm-tagged vehicles as commercial. Farm-tagged tractors that pull a trailer would follow agricultural classification as well. Commercial-tagged trucks would remain assessed as commercial vehicles.

Ms. Moore questioned whether or not weight was a factor for this issue. Mr. Zoller stated that most agricultural trailers can hold up to 60,000 pounds, as long as they are tagged with farm tags and are hauling agricultural products. Mr. Day stressed the importance of stipulating the transportation regulations in order to prevent confusion on both sides. There was additional discussion about various aspects of state and federal law that govern the licensing of farm vehicles, with everyone noting that there is a lot of uncertainty and some conflicting information on this issue.

2c) CB 22-2017: Exemption for farms in the RC Zoning District and farms 20 acres or larger in the RR Zoning District, from animal shelter and riding academy/stable setback requirements from new dwellings

Mr. Ohlinger called the Board's attention to CB 22-2017, which would exempt farms in the RC Zoning District and farms 20 acres or larger in the RR Zoning District, from animal shelter and riding academy/stable setback requirements from new dwellings. Mr. Ohlinger noted that he has been discussing several related issues with Deputy Director Amy Gowan, including an additional exemption for three-side animal structures. He added that Zoning interprets this exemption cumulatively for all animal structures equaling less than or equal to 500 square feet. Mr. Ohlinger explained that the original intent of the legislation was for each animal structure to have a maximum footprint of 500 square feet.

Ms. Moore suggested that if members of the agricultural community are experiencing issues related to this topic, then the Board can reconvene on the matter. Mr. Bauer added that the Planning Board voted to grandfather the setbacks for properties in the ALPP to the date the easement was acquired. Mr. Bauer stated his belief that the testimony of several farmers made the difference in how the Planning Board voted.

Ms. Jones moved to adjourn the meeting, which was seconded by Mr. Day and carried unanimously. The meeting adjourned at 8:35 p.m.



Joy Levy, Executive Secretary
Agricultural Land Preservation Board