

Agricultural Preservation Advisory Board Meeting Minutes

January 8, 2015

Members Present: Miller, Bob (Chair); Ewing, Willie; Hastings, Shelley

Others Present: O'Connor, Steve - Cecil County Office of Planning & Zoning; Rothwell, Jeremy - Cecil Land Trust

Call to Order

Chairman Miller called to meeting to order at 7:04 PM.

Meeting Minutes

A motion was made by Hastings and seconded by Ewing to approve the meeting minutes from December 4, 2014. The meeting minutes were unanimously approved.

2014 Report

Mr. O'Connor presented to the board the agricultural preservation and APAB board portions of the County's annual report for their review and perusal. He reported that over 740 acres of land were afforded some sort of agricultural protection in 2014. He presented the narrative and maps that will appear in the final report. In addition, Mr. O'Connor also stated that the technical revisions to the recertification report were completed and expects follow-up comments soon.

Agricultural Value

Mr. O'Connor presented to the Board some initial research as requested by the Board. Information included was a 2012 memorandum summarizing the issue of the Agricultural Value in the PDR program. He also presented information from National Agriculture Statistic Service (NASS) that had land rent calculation broken out by County. He also explained that the reasoning and mathematics behind the ag-value formula developed by MALPF. Further edification of the board that the intent of the PDR program was to reflect MALPF with it maturing as the program move forward.

Discussion ensued regarding various methods regarding ag-value including tying it to commodity prices (corn), soil quality, yield potential. Mr. Ewing stated that the land rents from NASS can be deceiving, as participation in that program is voluntary. He stated there maybe years where participant may not complete the paperwork. The Board asked Mr. O'Connor to contact the land appraisal specialist at Mid Atlantic Farm Credit to provide some clarification. Mr. O'Connor stated that he would try to arrange for a guest speaker at their February meeting.

CLT Proposal

Chairman Miller recognized Mr. Rothwell from the Cecil Land Trust for a brief presentation. Mr. Rothwell stated that they have received a grant for public outreach, and that they are hoping to complete a mailing in the fall with the various programs. Mr. Rothwell explained some of the intricacies of the Federal land preservation program. Discussion ensued.

Closed Session

A motion was made by Hastings, seconded by Ewing to enter into closed session pursuant to the Annotated Code of MD, State Government, Title 10, Governmental Procedures, subtitle 5.Meetings, Section 10-508 (a) (14) to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process of the FY 2015 Purchase of Development Rights applications. The motion passed with a unanimous vote.

The board went into closed session approximately at 7:50 PM

The board exited closed session at 9:20 PM.

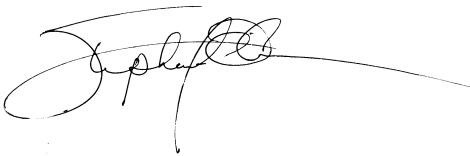
A motion was made by Hastings, Seconded by Ewing to recommend to County Administration that a percentage cap be used in place of the Agricultural Value formula for the FY 2015 PDR application. The motion passed with a unanimous vote.

A motion was made by Ewing, seconded by Hastings to go with staff's recommendation on the PDR application(s) to receive appraisals. The motion passed with a unanimous vote.

Adjournment

A motion was made by ~~Robinson~~ Ewing & seconded by ~~Anderson~~ Hastings for adjournment. The meeting was adjourned at 9:36 PM by unanimous vote.

Respectfully Submitted,



Stephen J. O'Connor, AICP

underline = amended by addition

~~strikethrough~~ = amended by deletion

Agricultural Preservation Advisory Board Meeting Minutes

February 12, 2015

Members Present: Miller, Bob (Chair); Anderson, Norm; Ewing, Willie; Hastings, Shelley

Others Present: O'Connor, Steve - Cecil County Office of Planning & Zoning; Brumbley, Molly - Appraiser, MAFC.

Call to Order

Chairman Miller called to meeting to order at 7:10 PM.

Special Presentation

Mr. O'Connor introduced Molly Brumbley, an appraisal expert, with a specialty in agricultural appraisals. He gave some background in regards to where the PDR program started, and explained that the Board is looking to evolve the program from a mirror of MALPF into a program that is distinct from MALPF. Ms. Brumbley's expertise was sought for specifically on methods on how to determine easement value that is prudent with the taxpayers money, but can still attract high quality farms. The session format is a question and answer discussion, and Mr. Miller started with asking Ms. Brumbley's opinion on how to determine a fair ag-value.

Ms. Brumbley asked why is the Board is keyed in on a Ag-Value. She explained that Ag-Value is not used for the IRS when determining a donation value, or bargain sale value on a conservation easement. She stated that the Board should clarify what the goal of how the Cecil County ag-preservation program is viewing payment first which would direction on how to proceed. Specifically is the program looking to pay fair market value, pay a percentage, pay a premium as an incentive to enroll into the program. She stated once that is clarified determining easement value is relatively simple.

Easement value is calculated by taking the difference of fair market value of the property before the easement, and calculating the fair market value after the easement. Using a formula to determine ag-value, while it isn't inherently wrong, causes payments for easement to have nothing to do with the property value once an easement in placed on the property. Therefore using a formula is an artificial number. She explained that Harford County's program uses a formula only without appraisals. Their program uses a base value that is modified using factors such as acreage, tillable land, soil classes, number of development rights extinguished, etc. The outcome of the formula could be a bargain, market value, or a premium to easement value which the land owner must decide to accept or reject. She also explained that their program is funded by selling bonds, and that the land owner receives a down payment with the remainder paid out over a number of years with the interest being determined as a function of the bond.

Ms. Brumbley then provided a mirroring of how the IRS considers a bargain sale, which the Non-Government Organizations (NGOs) are using. This method is simply completing the before & after

appraisal which then a offer a percentage of the easement value is offered. The landowner then can write off the difference in their income tax returns in the following year. The figure below provides clarification.

$$\begin{array}{r} \text{Before Easement Value} \\ - \text{After Easement Value} \\ \hline \text{Easement Value} \\ \hline \text{Easement Value} \\ - \text{Percentage of Easement Value Paid} \\ \hline \text{Charitable Donation (Tax Write Off)} \end{array}$$

It was further explained that this method is also popular with NGOs as it is required for federally funded matching programs (FRPP, ACEP, NRCS, etc). The IRS will not consider an easement that has an "escape clause" ¹ as a charitable donation.

Chairman Miller reiterated that the program doesn't want to overpay for easements, and stated that the Before & After method makes the most sense. He asked Mr. O'Connor why the program hasn't used this method in previous years. Mr. O'Connor suspects that because the program was initially set up to Mirror MALPF, it wasn't considered at the time. He also reminded the Board that the most recent PDR cycle has been the first application cycle in five years. ² Chairman Miller then asked if there was an additional cost to doing a before and after easement. She stated that there is some additional costs, but not as high as paying for two appraisals. She stated that the cost range could be between \$2,500 to \$4,000 to complete a before and after appraisal. Mr. Anderson asked how much time is between the before and after appraisals. Ms. Brumbley stated that they are done at the same time with the same effective date.

Ms. Brumbley advised the Board that appraisals are done considering the highest and best use before and after. She stated in today's market the highest and best use in rural areas for before is agriculture with potential development rights, and the highest and best use after is agriculture subject to an easement. She further explained that one of the gradients in the after value is based on how restrictive the easement is written. Currently in Cecil County, and in particular the northern end of the County, there isn't a huge difference in the before and after value. These current conditions don't provide an incentive for a landowner to enroll, unless there was bonus.

Ms. Hastings asked about how the after value would be effected if the farm is within or near a development zone. Ms. Brumbley stated that scenario wouldn't change the after value because the after value would be determined by the easement regardless of the location. For appraisal purposes the easement supersedes base zoning and other development potential factors. She further explained if an

¹ The County's PDR program does allow for the landowner to remove the easement after 25 years under stringent conditions.

² PDR fund have been used for matching funds programs in interim years.

easement has personal covenants (i.e. owners lot, child's lot, etc.) that remain with only the Grantor and not the land, they're not considered in the after value. The market value is what the property is worth to the next person that buys it. In the scenario Ms. Hastings presented the before value could change with the consideration of the property's location relative to development areas. Therefore, properties near development zones may have a higher easement value.

Chairman Miller then asked what qualifications should the County consider for an appraiser. Ms. Brumbley explained that appraisers are required to be licensed. She also explained that there are varying degrees of an appraisers expertise. She recommended that the a Certified General is the optimal choice for these kinds of appraisals. These type of appraisers are qualified in every facet, whether it be residential, commercial, agricultural, etc., of property appraisals. She also advised that an appraiser that is a member of the American Society of Farm Managers and Rural Appraisers would be ideal. She advised that asking a potential appraiser about their volume of work and experience with working on conservation appraisals, properties with acreage, and agricultural properties would be astute. Mr. Anderson inquired if it would be pertinent to ask an appraiser about the success rate regarding IRS implications. Discussion ensued regarding the appraiser's role in IRS filings, but that should not be considered a criteria for qualification.

Further discussion ensued regarding the process of a property owner claiming a preservation easement as charitable deduction. Should a property owner attempt to claim a charitable deduction IRS rules require them must have an appraisal done as the client (a second appraisal), and the holder of the easement (the County) must be provided a copy of this second appraisal. IRS rules require the holder of the easement (the County) also sign IRS documentation agreeing with the owners calculations. The easement holder has no further obligation for financial or tax implication issues for the property owner. A property owner should meet with their financial professional prior to agreeing to any contract to discuss these issues specifically. Several examples were given and discussed.

Chairman Miller asked Ms. Brumbley what effect do commodity prices have on agricultural land. She replied that the definition of an appraisal is the value at a specific point in time. An appraiser doesn't attempt to forecast future value nor guarantee that the value will remain constant for a specific period of time. Ms. Brumbley that many factors could change the value of property such as changes in commodity prices, down zonings or other government regulations.

Mr. O'Connor interjected with a question if Ms. Brumbley has seen any effect's because of the tier maps, or is it still too early. Ms. Brumbley replied that from appraisal standpoint that a county's tier map is reviewed to look at the property restrictions, but it's difficult to tell what effect, if any, the tier maps have had on property values. This is because there isn't the development pressure, and not the investment capital for the developers to buy the rural properties anyway. Therefore, the desirable, and most logical use of rural properties are the ones with minor subdivision potential. This allows for a farmer to create a couple of lots and farm the balance. Chairman Miller inquired on how appraisals are being done when the County & State have differing opinions on the tier maps. Ms. Brumbley reiterated the point that an appraised value is for a specific point in time. If she were to appraise a property in the aforementioned scenario, the ambiguousness would be in the appraisal. Then she would attempt to find

other properties in the scenario as part of the criteria for comparable sales. Ms. Brumbley surmised her discussion on the tier maps stating that right now there hasn't been any evidence shown that the tier maps have effected value in the rural areas.

Chairman Miller stated that he believes that ag-values are inflated right now, but that the values will be coming down based on what the commodity futures show. He asked if that occurs would there be a difference in value between Tier III and Tier IV. Ms. Brumbley stated that it's possible, but no one can really know until the market values show the effects. In addition, in our area, lot supply and demand are the driving force in the purchasing large parcels of land. Items like commodity prices play a larger role in other areas, such as the lower eastern shore. Ms. Hastings asked about the role the Amish community is playing in driving agricultural prices. Ms. Brumbley replied that if the current trend of the agricultural community buying land continues then the rise in agricultural prices will reach a limit. Conversely, this causes an issue with the before and after appraisal methodology because the prices of non-protected farms and protected farms are the same. Therefore if the before and after difference in value is low, there is no incentive to give up the development rights. With this phenomena other incentives, such as a bonus, may have to be considered.

Chairman Miller stated that as custodians of the taxpayer's money, he believes paying so close to fair market value is too much, even if there is such a low number for easement value. Ms. Brumbley stated although easement & non-easement property values are the same, like a down zoning, that won't remain. She stated that the income potential from farming alone does not keep up with the rate of income potential from development. As a follow up Chairman Miller asked if it is possible to see what the before and after value differences were in the last 5 or 10 years to be used as a basis for a potential bonus incentive. Ms. Brumbley stated it's possible, but felt that using prices from ten years ago may not be an accurate indicator for prices today. Chairman Miller stated the reason for asking was to have data behind any decision made by the Board. Ms. Brumbley advised that's part of the reason of her opening comments about having a mission statement and goals as to what the intent of the program in publish documents will provide that basis for decisions made.

Discussion ensued regarding the amount of interest and funding currently in the program. Ms. Brumbley stated whether the County desires to get as much acreage as possible, or get a specific parcel will help with these decision making steps. Chairman Miller stated that it would probably be getting the best value for the taxpayer. Ms. Brumbley replied that it's not necessarily the best value to the taxpayer, but showing the taxpayer that **the decision was made fairly, logically, & reasonably.** Ms. Brumbley then advised that when examining the program to consider that if the County's program is a true PDR than the properties with the most development pressure and potential should be purchase. Federal partnering programs are more interested in the conservation values rather than development rights.

Mr. O'Connor inquired if there were any other items that Ms. Brumbley thought to be noted from our program. She stated that the more restrictive an easement the after value will be lower, thus creating a higher easement value. She suggested that landowners shouldn't have to many withholding areas, or lot exceptions.

Chairman Miller followed up with a question about how an appraisal would be valued on a farm with multiple parcels. Ms. Brumbley stated that the before value would likely be higher because each parcel would be valued on its own even though the after value would be only for one farm.³

With no further questions, Ms. Brumbley did clarify that the discussion were her observations and expertise as an appraiser, and do not necessarily reflect the official policy or position of any agency of the Mid-Atlantic Farm Credit. The Board thanked her for her time and expertise, and she left the meeting at 8:40 PM

Meeting Minutes

Mr. Anderson noted that he did not make a motion to adjourn the previous meeting as he was absent. That was corrected to Ewing. In addition, an error was made that Mr. Robinson seconded the motion, as he was absent too. This was corrected to Hastings. A motion was made by Ewing and seconded by Hastings to approve the meeting minutes as amended from January 8, 2015. The meeting minutes were unanimously approved.

Land Swap Request - William, David & Tracey 07-91-07Ae

Mr. O'Connor presented the request of Mr. & Mrs. Williams to complete a land swap with their neighbors Walter & Frances McCabe. Mr. O'Connor explained that the application was through the process before in the late 1990's and approved by the local board, MALPF board, and by the Maryland Board of Public Works. The land swap was never complete because one of the property owners was unable to get sign-off from their mortgage holder to complete the administrative items (i.e. new land description, title work, survey, etc.) . The request was needed so that the McCabe's would have sufficient area to construct a new dwelling on their property. Furthermore, a building permit and a certificate of occupancy permit were issued to the McCabe's with MALPF consent.⁴ Mr. O'Connor explained since all of these items occurred over fifteen years ago the land swap request had to go through the process again.

Mr. Anderson stated that he had no objections to the request as that applicant request was very realistic, detailed, and thorough regarding the land swap. Chairman Miller stated that he remembers the request from when he was on the MALPF Board and that he went out to inspect the site at that time. He had some questions about the some of the auxiliary buildings on Aerial relative to their proximity on the areas to be exchanged. He thought that the application from the nineteen nineties was different from the current application. Mr. Anderson reiterated that the application provides equal soils, equal property exchanged and that the land request to be released is already being used by the McCabe's as

³ Most agricultural easements over multiple tax parcels require the farm be held in common ownership, thus effectively combing the parcels together.

⁴ A letter dated June 30, 1998 from the former Executive Director of MALPF to the County stated that "...the Foundation does not feel that the McCabe's occupancy permit should be withheld.", as the release of the easement area with "imminent"

part of their yard. Chairman Miller asked if there was a way to see the conditions of the property from the original request. Mr. O'Connor stated that there are some historic aerial maps from 1996 and 2003 that are the closest to the request date, and that he can acquire the soils data, and other documentation relatively easy. Mr. O'Connor did remind the board that an item could be tabled by the board with a reason. Ms. Hastings inquired about the applicant's statement about the purpose of the plan was to meet County setbacks. Specifically, if the dwelling that was constructed violated setback and/or encroached on the Williams property. Mr. Anderson also inquired if some of the encroaching had been removed or moved since the aerial photo used in the exhibit was taken. Chairman Miller stated that he did remember from the request in the nineties that there was an issue with the septic on the McCabe's property. Discussion ensued regarding the placement of buildings relative to the proposal and currently existing locations. A motion was made by Anderson, seconded by Hastings to table the request in order to review the meeting minutes & aerials from the original request and to have staff complete and inspection of the property. Motion passed unanimously.

Continuing Project Updates

Mr. O'Connor informed the Board that they may be receiving ethics forms soon and stated that they that are required to be completed. Mr. O'Connor provided the board with an update of the PDR applications. He updated the board that the County's revised draft of its recertification will be reviewed once MDP has finished review all other counties first draft. The Eastern Shore Land Conservancy (ESLC) has notified the County that they are looking to preserve three properties totaling over 500 acres this year. The board was notified that district applications of Dudkewitz and Powell will be formalized on February 20. Finally, Mr. O'Connor provide a summary of previous studies done on Cecil County agricultural preservation for the board's review.

Adjournment

A motion was made by Hastings & seconded by Ewing for adjournment. The meeting was adjourned at 9:16 PM by unanimous vote.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Stephen J. O'Connor". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stephen J. O'Connor, AICP

underline = amended by addition

~~strikethrough~~ = amended by deletion

Agricultural Preservation Advisory Board Meeting Minutes

March 12, 2015

Members Present: Miller, Bob (Chair); Anderson, Norm; Ewing, Willie; Robinson, Charlie

Others Present: O'Connor, Steve - Cecil County Office of Planning & Zoning

Call to Order

Chairman Miller called to meeting to order at 7:03 PM.

Meeting Minutes

The board commented on how impressive the presentation from Ms. Brumbley at the previous meeting. Mr. Anderson commented about the federal tax write off possibilities, and that it should be looked at in depth by the board. A motion was made by Anderson to approve the minutes as presented, seconded by Ewing. The motion passed unanimously.

Old Business - Land Swap - File 07-91-07Ae Williams, David & Tracey

This item was tabled at the February 2015 meeting so that more information about the site could be collected. Mr. O'Connor presented to the board documentation and information requested at the previous meeting. Specifically, Mr. O'Connor presented copies of the Building Permit, Zoning Certificate, Occupancy permit for the McCabe property which they are swapping land with the Williams. In addition, Mr. O'Connor provided copies of the MALPF Board Meeting minutes from November 1997, January 1998 & March 1998 where this item was previously presented. The Board had also requested a site visit to be done on the property which Mr. O'Connor presented the his findings and pictures. Finally, a large scale map that included the 1996 aerial, 2013 aerial, soils map & land swap plan was presented to the board.

The Board inquired about the location of a shed relative to the land swap. Mr. O'Connor stated that if the land swap was approved the shed would then be encroaching on the Williams, thus the easement property. He also stated that staff is recommending that approval be conditioned on have the shed moved off the area to be conveyed to Williams prior to settlement of the land swap. Mr. Ewing asked what the setback was for the shed. Mr. O'Connor replied that it's 10 feet for accessory structures, but the McCabe's are only required to move the shed on to the property, not necessarily meet the setback. Chairman Miller stated that it could cause some future issues if the shed is too close to the property line. He spoke of his own experience with an adjoining property owner that attempted to claim some of his property, and the time, effort, and money spent to defend his property from adverse possession. Further discussion ensued adverse possession possibilities and setting precedents from the Board.

Mr. O'Connor stated that the board may put conditions on an approval to be met. If the applicant doesn't want to meet this conditions, then the project cannot move forward. Discussion ensued

regarding what conditions does the board have the authority to place on a request. The discussion went on regarding the role, and authority of the board in order to protect farmers land rights. The Board asked if Mr. O'Connor could follow up with the County attorney on some of these questions.

The Board was in agreement that the shed encroaching on the property would need to be moved because of the land swap. A motion was made by Anderson that the encroach structures be either moved or removed from the land to be acquired by Williams prior to APAB's vote on the matter, and that staff check with the County Attorney for legal sufficiency of the Board's authority. The motion was seconded by Robinson. The motion passed unanimously.

Review of Summary of Reports & Next Step

Mr. O'Connor explained to the board that one of the major points that he took from Ms. Brumbley's presentation is the fact that the local program doesn't have a concise statement of what it hopes to accomplish. He also explained with the summary of reports the board reviewed that 1) The structure for the local preservation program is in place, and 2) agricultural preservation in Cecil County has been studied over and over. Mr. O'Connor then asked the board for their thoughts about the program.

Chairman Miller stated that he thought that the local program was a replication of the MALPF program. Mr. O'Connor stated that was true with the intention to have the County grow into its own program as time passed. The program had some early successes, but with the economic downturn of 2008 there hadn't been much progress. He explained that this is an opportunity to reboot the County Agricultural Preservation Program.

Chairman Miller was curious whether having possibly the County Council or the County Executive's office involved in this process. Mr. O'Connor stated that it would be better to come up with a working plan first before going before the County Council. He stated it would be much harder to ask for funds to be dedicated to the program without any plan on how those funds are to be used. He also stated that there will be times where the stakeholders and public will give their input, but the board should work to narrow the focus of County program to facilitate discussion. He asked the members to provide feedback on what they would like to see in the program, or state what doesn't work in the program.

Mr. Anderson stated that getting the best farmland should be a focus of the program but noted that those farms would likely come at a premium price. He would like to see an additional focus on preserving land, particularly, where large acreage amounts can be acquired for a valued price. In response chairman Miller stated "...usually the best farm land is also the best land for development. If they're going to grow good alfalfa and corn, it'll probably grow a good house." Mr. Robinson concurred with the notable exception of areas that have public utilities. Mr. O'Connor added that some of the Counties have incorporated a bidding process into their rankings, and some of the strengths and weaknesses of their program. Chairman Miller stated that provide the ranking system is developed properly then the complete bidding would work, provided that the discounting criteria is based on the largest percentage of discount rather than actual dollars. Mr. Anderson requested that staff look at other counties mission statements. Mr. Anderson suggested looking at some of the mechanisms in place for land preservation. He suggested that zoning may be a way to help preserve land which Mr. O'Connor

responded that it can be effective, but it would require County Council approval. Mr. O'Connor also stated that using zoning for land preservation would be perceived as a backdoor land taking by the agricultural community, and that any change of that sort must be thoroughly examined and vetted prior to a change.

The Board went around the room to discuss what is important, what has worked, what is a failure, & what needs to change. Mr. Anderson reiterated that the complete bidding should be part of the program, to have both a tactical and strategic plan, and to use creative disincentives to the development community from converting farmland. He further clarified stating that identifying properties are most desirable for development and work on protecting those first.

Chairman Miller stated that acquiring funding for the program will be extremely difficult and that there needs to be a direction on what the program's priorities are for the taxpayers' benefit. He stated that support of the taxpayer understanding why preservation through a voluntary program rather than legislation is important. Mr. O'Connor stated that in 2000 the Board of County Commissioners adopted a goal of preserving 55,000 acres by 2025. He also stated that there are approximately 26,000 acres preserved. Mr. Anderson stated that looking at acreage may have to be a consideration in order to meet the goal by 2025.

Continuing Projects & FY2016 meeting calendar

Mr. O'Connor asked the board if they wished to change their meeting times for FY2016, and the consensus was to leave it at 7 PM on the second Thursday of the month. Mr. O'Connor provided updates to the board members regarding the submittal of their ethics forms, PDR applications, program recertification.

Adjournment

A motion was made by Robinson & seconded by Ewing for adjournment. The meeting was adjourned at 9:00 PM by unanimous vote.

Respectfully Submitted,



Stephen J. O'Connor, AICP

underline = amended by addition

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Agricultural Preservation Advisory Board Meeting Minutes

April 9, 2015

Members Present: Miller, Bob (Chair); Anderson, Norm; Ewing, Willie; Hastings, Shelley

Others Present: O'Connor, Steve - Cecil County Office of Planning & Zoning

Call to Order

Chairman Miller called to meeting to order at 7:05 PM.

Meeting Minutes

A motion was made by Ewing and seconded by Anderson to approve the meeting minutes from March 12, 2015. The meeting minutes were unanimously approved.

Old Business - Land Swap - File 07-91-07Ae Williams, David & Tracey

Mr. O'Connor informed the board that he followed up on their inquires about attaching conditions to requests. In summary, since the decision making authority is with the MALPF board, the County Board cannot require conditions. The County Board may recommend conditions to the MALPF board that they may or may not incorporate to their decision.

Mr. O'Connor also informed the board that the motion that they passed at the March 12th meeting which states "the encroaching structures be either moved or removed from the land to be acquired by Williams prior to APAB's vote on the matter" for this request meeting was not within their authority, and thus a countermand motion is required. A motion was made by Anderson and seconded by Ewing that the motion carried at the March 12, 2015 meeting requiring the structures on the land proposed to go to the easement property be move or removed prior to a vote on the land swap request, be rescinded. The motion passed by a unanimous vote.

Finally, the applicants informed the Office of Planning & Zoning that not much progress has been made on satisfying the conditions of the applicant's lender approval. Mr. Ewing asked why all of these conditions were required for this request. Mr. O'Connor explained that all parties that have an interest in the title, including the lender, must give consent to the for the easement, or in this case, amendment to the easement. The conditions the applicants referenced were by the applicants lender to be satisfied prior to the consent being granted. Mr. O'Connor further explained that some of these items the applicant could use what is already on file or completed for the County or the Program, but the remainder the applicant must complete. Mr. O'Connor advised that this item remain tabled until progress is made by the applicant. Chairman Miller inquired what would occur if the applicant cannot satisfy their lender's requirements. Mr. O'Connor stated that the add-on plat would have to be voided. Mr. O'Connor also stated that the applicants would keep providing status updates once every 30 days.

Preservation District CE-15-04 - Flying Plow Farm

An application to establish a Land Preservation District was received in the Office of Planning & Zoning for the property located at 96 Charles Johnson Farm Lane (Tax Map 10, Parcel 256). Mr. O'Connor reported that the property met the necessary qualifications required by chapter A385-3 of the Code of Cecil County to establish a district. The property is 56 acres and adjoins MD RTE 273. Mr. O'Connor reported that staff inspected the farm on March 31, 2015, and recommends approval of the application. Chairman Miller asked staff to follow up with the applicant about the importance of their soil conservation plan and the proposed subdivision on the property. ¹A motion was made by Hastings, seconded by Ewing to recommend establishment of a preservation district. The motion passed with a unanimous vote.

Program Recertification Application

Mr. O'Connor reminded the board that they had received a copy of the certification report, which acts as the County's application for recertification, at the March meeting for their review. He pointed the minor changes requested by Maryland Department of Planning's review of the draft document. Several member requested that the vote be delayed for 2 weeks to ensure they have properly reviewed the document.

Continuing Projects

All members present stated that they had submitted their ethics forms. Mr. O'Connor notified the board that the Rural Legacy Prioritization letter was approved by the Council and Administration. He reported provided information regarding the proposed agricultural preservation budget, the upcoming program administrators workshop, the press release regarding federal funding for preservation, and distributed the meeting schedule for next fiscal year.

MALPF Inspections

Mr. Ewing requested that the board discuss what constitutes dumping for MALPF inspection purposes. Mr. Ewing stated he received a call from a property owner about being cited from staff about the tires on his property. The property owner told Mr. Ewing that the tires are there to be used as spares. In addition, the property owner was informed that Cecil County Solid Waste no longer does a tire amnesty day, and charges \$170 a ton. Mr. O'Connor stated that it was not his intent to cause a burden for the owner, and it did not occur to him that those tires were spares. Further discussion ensued regarding the need for extra tires, particularly for farm equipment. Mr. Ewing stated that property owner would move

¹ A staff review after the meeting found that the once proposed subdivision (Providence Reserve) for this the property had expired in May 2012 before the applicants even took ownership of property.

APAB Meeting Minutes

April 9, 2015

the spares into a building, and work on removing and scrap tires. Mr. O'Connor stated that he would contact the owner and re-inspect the property.

Pursuant to the Annotated Code of MD, State Government, Title 10, Governmental Procedures, subtitle 5.Meetings, Section 10-508 (a) (13) To comply with specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter; Annotated Code of Maryland - Agriculture Article 15, Subtitle 15, Chapter 10 - Confidential records to ensure the integrity of the offer and sale process for FY2015 MALPF participants. A motion was made by Hastings, seconded by Ewing to go in to closed session. The motion passed with a unanimous vote. The Board went in to closed session at 8:20 PM.

A motion was made by Hastings, seconded by Ewing to end closed session. The motion passed with a unanimous vote. The Board went ended closed session at 8:58 PM.

Adjournment

A motion was made by Hastings & seconded by Ewing for adjournment. The meeting was adjourned at 9:00 PM by unanimous vote.

Respectfully Submitted,



Stephen J. O'Connor, AICP

underline = amended by addition

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Agricultural Preservation Advisory Board Meeting Minutes

May 14, 2015

The May 2015 Agricultural Preservation Advisory Board Meeting was cancelled as quorum could not be obtained.

Agricultural Preservation Advisory Board Meeting Minutes

June 11, 2015

Members Present: Miller, Bob (Chair); Anderson, Norm; Ewing, Willie; Hastings, Shelley

Others Present: Boothe, Jason & O'Connor, Steve - Cecil County Office of Planning & Zoning

Call to Order

Chairman Miller called to meeting to order at 7:15 PM.

Approval of Agenda

Mr. O'Connor explained that an agenda item was added after the deadline by request of the owner due to timing constrains. He explained that it was up to the board whether to allow this item or not. A motion was made by Anderson, seconded by Hastings to accept the amended agenda. The vote was approved unanimously.

Meeting Minutes

Mr. Anderson noted that the April minutes referenced a previous motion, but the specific motion was not included. He asked that the motion wording be added to the April minutes for detail. A motion was made by Hastings and seconded by Ewing to approve the meeting minutes from April 9, 2015 as amended. The motion was unanimously approved.

Boundary Correction Request - 07-01-21A & 07-01-22A - Sandy Bottom Preserve Lot 3 & Lot4

Mr. O'Connor presented this application on behalf both land owners. He had explained that this was a land swap between two land owners. He noted that there is one letter of consent but signed by all of the land owners for both properties. He presented a series of maps showing that a driveway is shared by both properties, but the property boundary does not match the actual location of the driveway. The purpose of this application is complete an even swap of land so that the property boundaries match what is, and has been since easement establishment, occurring on the property.

He reminded the board that they had seen this property recently has the owner of Lot 3, the Zook family, had re-designated the location of their dwelling in order to construct a new dwelling. Mr. O'Connor further explained that this issues arose as they were having difficulties meeting Department of Public Works requirement because of the property line location on their grading plans. Mr. O'Connor also presented a 2003 aerial showing that the driveway location is unchanged from easement establishment and is, in realty, a correction of a mistake.

Chairman Miller inquired about Lot 3 if both "parcels" were owned by the same person. Mr. O'Connor clarified that it is, in fact, one parcel. He further explained that a parcel does not have to be contiguous

to be on property such as a property divided by a County or State road. Chairman Miller further inquired about the ownership back property, which Mr. O'Connor stated that it was owned by the Stoltzfus family. He also stated that the driveway is owned by Stoltzfus but Zook has the right to use the driveway for access to his lot.

Mr. Anderson inquired as to the reasons for this request since there wasn't any real change except on paper. Mr. O'Connor did explain that the change would require new property descriptions and easements to be re-recorded. Mr. Anderson further inquired about the Stoltzfus' family role in this request, which Mr. O'Connor further clarified that this is a land swap in which both families will lose and gain a portion of land. Chairman Miller stated that this request is going to be fairly costly for them, which Mr. O'Connor replied that is true but the Zook family already has costs for their pervious request so they may be able to save some money by combing the title work of both into one project.

Chairman Miller ask if there were any other questions. No further questions were presented, and a Motion was made by Hastings to approved the applicant request as presented. it was seconded by Ewing, and passed by a unanimous vote.

Relocation of a Pre-Existing Dwelling - 07-94-03e - Price Valley Farm, LLC

Request for a Tenant House 07-94-03e - Price Valley Farm, LLC

Mr. O'Connor explained due to the interrelatedness of these requests the he would present them together, but a vote on each item would have to be done separately.

Mr. O'Connor explained that during the decennial inspection of this farm he discovered three dwellings on the property whereas the easement stated there was only one on the 464+ acre property. He further explained that there were in fact 2 pre-existing dwellings on the property at the time of easement establishment, after a review of historic aerials, and old survey plats. Mr. O'Connor further explained through his research that a series of permitting oversights caused the extra dwelling to end up on site, thus causing this property to be in violation. Currently there is a stick-built dwelling, a Double Wide Mobile Home (DWMH) and a Single Wide Mobile Home (SWMH) on the property.

He further explained that the first request is to relocate the Pre-existing dwelling right to the SWMH located on the property. The second request is to designate the DWMH, which is in the original location of the SWMH, as a tenant dwelling. Mr. O'Connor detailed the requirements for a tenant dwelling under the MALPF program policy, and explained that the Price's are going to extinguish their option for easement termination and subdivision around pre-existing dwellings should this request be approved.

Chairman Miller inquired whether the tenant would own the tenant dwelling, and Mr. O'Connor replied that he would only live in the dwelling. Should the tenant gain any ownership interest in the property they must move out of that dwelling.

Mrs. Hastings inquired about well and septic issues. Mr. O'Connor stated that some preliminary work has been done with the Health Department. The Health Department has informed staff that they felt confident that an adequate area could be located on the property.

Chairman Miller asked about the subdivision rights that they were going to extinguish. Mr. O'Connor explained what rights were reserved in their easement and what was going to be eliminated. He stated that subdivision elimination would be beneficial as there would always be proper housing with the farm.

Mr. Anderson asked about the permitting issues with these dwellings. Mr. O'Connor explained that the Permits & Inspections office is waiting for the outcome of this request prior to after the fact permits. He explained should this be turned down by the board, then extra dwelling would need to be removed. Should that occur then the permitting process would've been unnecessary.

A motion was made by Anderson to relocate the pre-existing dwelling as proposed. It was seconded by Ewing. Motion passed by unanimous vote.

A motion was made by Hastings to approved the Tenant Dwelling request. It was seconded by Anderson. Motion passed by unanimous vote.

Request for an Agricultural Subdivision - 07-91-04ex2 -Ewing, Albert & William

Mr. Ewing rescued himself from and discussion or vote as he and his brother are the applicants.

Mr. Ewing presented his application stating that he and his brother are looking to split the property in half down the driveway and through the middle of the property. He stated that nothing is going to change in the farming operations as he currently runs a crop operation and his brother runs a hay and straw operation.

Mr. O'Connor added that the Ewing's application shows that they have two pre-existing dwellings, and that they would like to have the ability to put the pre-existing dwelling on the proposed south parcel at some point in the future to ensure that a separate headquarters for the proposed farm could be set up. He also added that the Ewing's are giving up their option for easement termination and the ability to subdivide around the pre-existing dwellings for this request.

Chairman Miller asked the applicant about moving the dwelling, which Mr. Ewing replied that he hasn't any immediate plans to move it, but they would like to have the option if needed. Mr. Ewing stated that he thought it to be easier to make that as part of this request now rather than come back again in the future.

As part of the application, Mr. O'Connor opined that the proposed agricultural subdivision would have no detrimental effect on farming operations and recommended it's approval. Chairman Miller stated that he believes that the two proposed 80 acre farms would be still sustainable in 50 years.

A motion to approve the Agricultural Subdivision was made by Hastings. It was seconded by Anderson. Motion passed 3 Yea, 0 Nay, and 1 Abstention.

Installment Purchase Agreement Discussion

Mr. O'Connor presented a sample IPA to the Board for explanation of STRIP bonds. He went through the details of how the bond is purchased and paid out, and the County's commitment to the land owner on interest payments each year. Chairman Miller asked if that interest is dependent on the bond performance, which Mr. O'Connor stated that the interest payments are not from the bond, but from the County's funding. Mr. O'Connor explained that at current bond and interest rates any IPA offer is actually going to cost the county more than a lump sum payment.

Mrs. Hastings asked if the interest payments would go down after each yearly payment, which it wouldn't because the interest payments are not derived out of that remaining payment amount, thus the principle remains the same through the entire term.

Mr. O'Connor showed a second example with lower bond prices, that shows the County would save money using IPA. Chairman Miller inquired as to an interest rate that would be even. Mr. O'Connor showed that it is possible and demonstrated how to find the breakeven point. He explained that the cost of the easement is not going to be the determining factor whether an IPA is a good deal or not, but rather the costs of the bond and the interest rate of the payments.

Mr. O'Connor further explained that the benefit to the stripped bond is once the initial purchase is made the only responsibility of the County is the interest payments. He talked about how his counterpart in Frederick County was using stripped bonds, and that they in fact pay off their commitments from their dedicated revenue source prior to any new acquisitions each year. Chairman Miller stressed the importance of the dedicated revenue source for this program's success.

Mrs. Hastings pointed out some of the techniques the other counties have used in their programs for paying out interest. She pointed out that Anne Arundel County uses a 30 year bond, and that Howard County had some early success but are no longer doing the Installment agreements. Mr. O'Connor recalled in Howard County's situation that they has stopped because the price of the bond was too much. Chairman Miller also pointed out that no matter the pricing that a landowner needs to be willing to participate for this to be successful. Mr. Anderson stated that it may be worth selling to the land owner that they are going to make a higher percentage in this program than they would going out on their own.

Chairman Miller and Mr. Ewing pointed out that the scenario presented may not be useful to a lot of land owners because of the low down payment. They stated that it would be likely that a down payment needed would have to be enough to either make a reinvestment into the farm or buy another farm. Ms. Hastings asked if this would be something Amish community would be interested in, which Mr. O'Connor expressed his doubts because the affinity towards cash transactions.

Mr. O'Connor surveyed the board on if the PDR program should go in the same direction as Harford County which only does installment payments. Ms. Hasting pointed out going in that direction would cause inconsistency in funding through the years (i.e. some good years and some lean years), and Mr.

O'Connor concurred as that was conveyed by Harford County's Program Administrator. Ms. Hasting then asked about placing a cap on the price, which Mr. Miller opined that might be a tougher sell if someone was to take an installment payment. He thought doing both would not be enticing enough to the landowner. Mr. O'Connor then explained how Carroll County does different rates if the land owner does an IPA versus an Lump Sum.

Chairman Miller inquired could the down payment be changed , which Mr. O'Connor replied in the affirmative. He stated that may be more enticing to the landowner, and Mr. O'Connor showed that with the changed of down payment the bond price increases slightly, but the total payout from the County remains the same. Discussion ensued regarding the various changes in the scenario. Mr. Anderson noted that the amount of the payment from the county would be close to the same so would the County rather have the majority of the money go to the landowner or to the bond company. The board concurred and noted that the landowner payment could be re-invested into the County in some form, whereas the payment to the bond company is out of County investment. Discussion ensued regarding the importance of a dedicated revenue source in order for any of this to be successful.

Local Ag-Preservation Programs

Mr. O'Connor presented Mr. Jason Boothe from the Office of Planning & Zoning to make a presentation on his report. Mr. Boothe had gone through every County of Maryland, Delaware, Chester County & Lancaster County Pennsylvania, and reviewed all of the local programs. The report was presented to the Board in April for their review, and Mr. Boothe presented some highlights.

Mr. Boothe noted that a lot counties have programs are similar to Cecil's and some don't even have any programs on their own. He pointed the items that were important in his research were 1) the types of local programs administer 2) funding sources for these programs 3)the goals of the counties for agricultural preservation.

Mr. Boothe highlighted Frederick County has preserved over 17,000 acres using the Installment Purchase Program (IPP) since 2002. Mr. Boothe noted that they use zero-coupon bond, which Mr. Anderson added details on how those work. Mr. Anderson asked if that could be something to be done instead of stripped bonds. Mr. O'Connor noted that the state legislation that allows the County to conduct installment payments specifically states only strip bonds may be used. He noted that was done in the former government and he wasn't clear if that could changed locally under Charter.

Chairman Miller asked about the tax free interest payment in Frederick County that was noted in the report. He replied that his research didn't go into that detail. Discussion ensued about possible tax benefits of the installment payment and benefits of estate planning. Mr. O'Connor stated that the economic development office puts on a seminar regarding this, and it may be worth the board to attend the next seminar. The board also stated that estate planning could be another selling point to get into preservation.

Mr. Boothe returned to his discussion regarding the Frederick County program, which he noted how impressive 17,000 plus acres since 2002 is significant. He also noted that due to their location on the Appalachian foothills they have a lot of wooded parcels in the program. Chairman Miller asked what was their funding source. Mr. O'Connor stated that when he spoke with his counterpart from Frederick County that the program originally had received fifteen percent of the recordation tax, but that number has decreased due to the economic downturn. Mr. Boothe noted that the counties that had their own programs all had their own dedicated revenue source, except for one. Cecil. Discussion ensued regarding possible funding sources.

Mr. Boothe pointed out Harford County's District program. Specifically that their tax credits are either \$50 per acre up to 50% of the County's property tax. Mr. O'Connor noted that this may be an idea to strengthen Cecil's District program. Ms. Hastings stated that Harford County has preserved 30,000 acres using their program, and their revenue source is one half of a 1% real estate transfer tax, with school PTA getting the other half. She also noted that Harford County is an installment payment option only program, which they only pay 1% at closing. They have 30 to 40 farms on a waiting list. Further discussion regarding funding sources ensued.

Mr. Boothe brought the example of Montgomery County's Building Lot Termination (BLT) program. Mr. O'Connor explained that this program was to purchase perc approved lots in their agricultural areas which is based on the number of building lots rather than agricultural productivity. Mr. O'Connor further pointed out that staff believes using the County's TDR bank program could be a way to replicate something like this, but details would still have to be vetted. Discussion ensued on the possibilities of this program in Cecil County. Chairman Miller inquired how this would be helpful to the program, which Mr. O'Connor responded that it would help with obtaining the acreage goal in a more expeditious manner. This would be more of a elimination of development rights rather than agricultural preservation.

Program Goals Discussion

Mr. O'Connor presented a outline of a Mission, Vision, Goals, and Objectives based off of the discussions from the group. Chairman Miller suggested that the group discuss each goal in length over the next couple of meetings. Mr. Anderson was concerned about the amount of time that would take to group to go through, and Ms. Hastings suggested to take the most important ones first and the rest may fall into place. Mr. Anderson stated that looking at the costs of development across the County may be a good place to start to 1) show the effectiveness, and overall saving in investing in agricultural preservation and 2) a way to educate the tax payer about the program. Mr. Anderson suggested this may be a breakdown as chart developed versus preservation. Ms. Hastings suggested that could be a dangerous analysis doing this on a Countywide basis as it could open up to major criticism. Mr. Boothe suggested maybe scaling it back to a case scenario rather than a whole county. Chairman Miller suggested that since it's a case study that it could be more than economic, but can include environmental. Mr. O'Connor suggested that case study has the three major areas from the original mission/vision suggested. Economic, Environment, and Societal. Mr. Anderson stated that all the goals

are looking to do is to put the program together. The board agreed to have an outline to review for July then decide how to move forward.

Adjournment

A motion was made by Hastings & seconded by Ewing for adjournment. The meeting was adjourned at 9:58 PM by unanimous vote.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Stephen J. O'Connor". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stephen J. O'Connor, AICP

underline = amended by addition

~~striketrough~~ = amended by deletion

Agricultural Preservation Advisory Board Meeting Minutes

July 9, 2015

Members Present: Miller, Bob (Chair); Anderson, Norm; Ewing, Willie

Others Present: O'Connor, Steve - Cecil County Office of Planning & Zoning

Call to Order

Chairman Miller called to meeting to order at 7:02 PM.

Mr. O'Connor informed the board that the County's recertification was extended by MALPF.

Approval of Agenda

Mr. O'Connor explained that an agenda item was added because staff was notified by Wells Fargo regarding the previously tabled land swap item for David & Tracey Williams. He explained that since the new data was provided that the board could go ahead to bring it off table status for consideration at this meeting. The board voted unanimously to add it to the agenda.

Meeting Minutes

Mr. Anderson noted several typos and grammatical errors in the June minutes. Those items were amended for grammatical corrections. A motion was made by Ewing and seconded by Anderson to approve the meeting minutes as amended from June 2015. The motion was unanimously approved.

Horse Boarding & Training Request - 07-91-06Ae Elliott, Marie

Mr. O'Connor presented this application for Marie Elliott which her granddaughter is responsible for the day to day operations of the farm. The applicants are seeking approval to board no more than 10 horses on the property. In addition the applicants are seeking to provide horse riding lessons on the property. with the opportunity to have special trainers come to the property to provide group lessons occasionally. Mr. O'Connor explained that this request is part of the MALPF equine uses policy which its purpose is to track the various kinds of equines uses on MALPF properties and to provided an opportunity to address impervious surface issues, if necessary. Mr. O'Connor stated that the operation meets the requirements of the policy, and is well within the impervious surface limits.

Chairman Miller inquired as the reasons why this would have go before the board. Mr. O'Connor explained that these uses prior to 2008 are grandfathered from the policy. Discussion ensued regarding about horse shows, which Mr. O'Connor their application states any shows would be minimal in scale.

A motion was made by Anderson to approve, seconded by Ewing. The motion was unanimously approved.

Land Swap Request - 07-91-07Ae - Williams, David & Tracey

Mr. O'Connor presented this application stating that there aren't any new items from what the board has previously reviewed. He reminded the board the applicants were waiting to hear from the mortgage company, Wells Fargo, regarding this request. Mr. O'Connor received notification from Wells Fargo staff provided there aren't any surprises that they wouldn't have any issue with the land swap. He reminded the board that it was the mortgage company that caused this request in 1999 to falter, thus why staff was waiting for their response this time.

Discussion ensued regarding the McCabe's shed and other structures on located property on being proposed to be conveyed to Williams. Mr. O'Connor informed the board that the McCabe were willing to remove or move these structures, as appropriate, if the request is approved. He also advised the board that they can recommend a condition to the MALPF board on this application. Chairman Miller asked if any wells or septic would be impacted with the land swap, which Mr. O'Connor responded they would not. Discussion ensued regarding placement of wells and septic and their impact on farming operations.

A motion was made by Anderson, seconded by Ewing to recommend approval with the condition that the accessory buildings be moved within zoning setback approximately 30 days prior to settlement. Motion was unanimously approved.

Program Goals Discussion/Case Scenarios

The board and staff discussed the economic impacts of two properties that are currently in agricultural use and proposed for major subdivision. The economic impacts were determined based off of a document entitled Costs and Revenues of Residential Development: A workbook for Local Officials and Citizens created by Pennsylvania State University, College of Agricultural Sciences. The specific properties studied are "Reynolds Farm " and "Knights Court".

Mr. O'Connor then explained to the board that he completed the Cost and Revenue analysis using the Penn State workbook as a guide, but put in Cecil County specific data. He explained that he used census data for some of the base numbers such as number of bedrooms and number of residents, but thought these number were likely low. He explained that he had to used some tangible source rather than his own empirical knowledge for this study. He explained he received the number of students from the school board's Educational Facilities Master Plan (EFMP) of 2014. He explained that he used the 0.41 student per lot number on that plan to attain the number of student. Chairman Miller asked if there were any further details on student population, which Mr. O'Connor stated there are breakdowns by election districts. Chairman Miller requested that the study should use those numbers instead. Mr. O'Connor stated for local government spending on this study he used FY2014 actuals even though the FY2015 year just finished. He stated the final reports for the FY2015 actuals will not be ready till sometime in the fall. He stated that he did the same for the school board spending, but they're different than the County government because they receive money from Federal, State and Local governments.

He explained that the report breaks down the total spending, spending per student, and then Cecil County's contribution to their budget. He then explained the numbers on the study were from Cecil County spending only. The board advised to use total spending as spending of taxpayer dollars is the same regardless of the source. They advised to keep the County spending as footnote.

Mr. O'Connor then began to review the revenues that would be generated from this development. He explained that he used FY2014 actuals again for government revenues. For the average home price Mr. O'Connor got that information from Zillow.com. As for state aid on road, he explained that it was not applicable as funding from the state has been miniscule or even non-existent for Cecil County for quite a few years.

The board began with the Reynolds Farm proposed subdivision located at 3300 Telegraph Road, Tax Map 12 Parcel 34. The property is 170 acres and zoned Northern Agricultural Residential (NAR). The proposed subdivision is for 34 houses on a shared (community) septic.

Mr. O'Connor presented the Reynolds Farm proposed subdivision which he noted that it's density was approved under the old regulations of 1dwelling unit per 5 acre and it has remained valid since. He pointed out this proposal is unique as it proposes to have 32 of the 34 lots be serviced by a sewer system that would be treated in a "package plant" and then be sent out into a 320,000 (7.35 acres) square foot septic reserve area. He also pointed out that under the Tier Map law, a proposal such as this would be in line with what MDP would like to see in Tier III major subdivision developments.

Overall the conservative cost of this development would be an additional \$269,000, and the total new revenue on this development would be \$194,500. This study shows that this development would cost the county \$75,000 more than it generates every year. It would cost the County \$1.39 for services on this development for every dollar it generates. This is before the boards recommended changes.

Chairman Miller then inquired if there was a way to find out how many nutrients this development would produce versus an animal unit. Mr. Ewing asked if this project was going to happen which Mr. O'Connor replied that it's a the preliminary stage of development. Chairman Miller asked if they developer puts and information in the plan about the types of homes, number of bedrooms, or the proposed selling price. Mr. O'Connor stated that there is no requirement to do so per Planning & Zoning standards. He then asked for this project how would they estimate the sewage.¹ Mr. O'Connor stated that he would check with the health department. Mr. Anderson stated he was pleased with the analysis but he thought that the housing prices were too low, the income of the householder is too low, and he reiterated using the entire school budget.

¹ Subsequent to the meeting staff inquired about this with the Cecil County Health Department. In this particular development, due to the shared septic, the developer had to declare the number of bedrooms per house. This development is proposing four bedrooms per house.

The Knights Court proposed subdivision is located on the 200 block of Sandy Bottom Road, Tax Map 62, Parcels 57 & 59. The property is 298.86 acres and zone Southern Agricultural Residential (SAR). The proposed subdivision is for 45 houses each with onsite septic disposal. (OSDS)

Mr. O'Connor presented the Knights Court proposed subdivision which he noted that it's density was approved under the old regulations of 1dwelling unit per 8 acres and it has remained valid since. He pointed out this project is approved and will happen in near future. He explained that final plats do not expire, and that developer can hold it until the housing market rebounds. He further explained that a lot of projects around Cecil County are in the same situation.

Mr. O'Connor briefly went through the details of this economic analysis like the Reynolds farm and the cost of the development were over \$356,000 and the revenues are over \$258,500. This development would cost the county \$97,500 more than it generates each year. Which would be a cost to the County of \$1.38 spent on this development for every dollar generated.

Mr. O'Connor further explained that after completing analysis on both properties, he realized that both analysis didn't take specific location into effect. The analysis used numbers that were county wide rather than a smaller geographic level, such as election district, zip code or census tract, thus the ratio of spending would be the same across the county.² Mr. O'Connor further stated that since this analysis shows a county wide cost-revenue ,this could be a statement that residential costs on county services are out of balance. Discussion ensued regarding at what point of construction does the County take over services from a developer.

Several Board members had questions regarding, nutrients, residential versus agricultural fertilizers, water quality, effluent, stormwater, test well and other environmental impacts of these developments. Mr. O'Connor stated that he hasn't gone that far in to the research, but since that is in the forefront of the board's concerns that would be the next items he would work on, and he would check with the Health Department between now and the next meeting.

TDR Analysis

Mr. O'Connor presented to the board a brief write up of work completed looking at the Cecil County Transfer of Development Rights program. Mr. O'Connor surmised that there are four primary reasons for the TDR's:

1. There is an imbalance of sending areas to receiving areas.
2. There are too many approved building lots in the subdivision pipeline, especially in the rural areas.
3. There is no incentive for developers to use TDR's as base density is sufficient for their purposes.
4. There is insufficient utility infrastructure within the growth corridor.

Mr. O'Connor review each of these reasons in detail with the board. Discussion ensued regarding the TDR analysis. Chairman Miller point out that TDRs just shifting and concentrating the location of

² With the changes suggested by the board a revised analysis will show difference based on location

development and the associated costs, like those from the case scenarios, don't necessarily go away. He further stated that if the argument for land preservation is to save the taxpayer costs because it would be less development, the TDR program could be contradictory. Mr. O'Connor explained the reasoning for setting up the County TDR program, and explained how other County's programs have worked. he further explained that there are more counties like Cecil have programs but that they haven't worked.

General Discussion

Mr. Anderson did point out the board should spend a lot more time on finalizing on the goals discussed at the June meeting. Mr. O'Connor stated he would add it as a standing agenda item until completed.

Adjournment

A motion was made by Ewing & seconded by Anderson for adjournment. The meeting was adjourned at 9:20 PM by unanimous vote.

Respectfully Submitted,



Stephen J. O'Connor, AICP

underline = amended by addition

~~strikethrough~~ = amended by deletion

Agricultural Preservation Advisory Board Meeting Minutes

August 13, 2015

Members Present: Miller, Bob (Chair); Anderson, Norm; Ewing, Willie; Hastings, Shelley; Robinson, Charles.

Others Present: O'Connor, Steve - Cecil County Office of Planning & Zoning

Call to Order

Chairman Miller called to meeting to order at 7:06 PM.

Meeting Minutes

Mr. Anderson a couple minor typo errors in the July minutes. Those items were corrected. A motion was made by Anderson and seconded by Miller to approve the meeting minutes as amended from June 2015. The motion was unanimously approved.

Program Goals Discussion

Mrs. Hastings summarized a series of stories from the *Delaware News Journal* regarding the purchase of properties in New Castle County commonly known as Port Penn Properties. New Castle County created its own land preservation program due to the value assigned to New Castle County farms, and in particular these properties,, with a system that doesn't provided for the discrepancies in land values with the other Delaware properties by DALPF. She further explained that it's not clear if other property owners knew of the New Castle County program, and that there hasn't been any record of an application process. She added that the take away is that there was not a fair process for this program. Mr. O'Connor added that the setup of the program without the proper setup has caused this controversy. He stated that while setting up goals and objectives is not exciting, it's necessary for the program.

Mr. O'Connor then presented the board a draft of four goals with corresponding objectives. The purpose of discussion is to discuss, examine, and finalize these goals. The goals focused upon in this meeting began as:

Goal I - Provide a land base for agriculture with the advantageous location relative to the Delmarva Peninsula and Lancaster farming communities.

Objective A - Protect agricultural lands for the necessities of food and fiber.

Objective B - Make certain that agriculture remains a top industry in Cecil County.

Objective C - Acquire a dedicated revenue source for all programs.

Mr. Ewing arrived at the meeting at 7:20 PM.

Goal II - Safeguard the agricultural lands of the highest quality and maintain proper land conservation techniques.

Objective A - Preserve the lands with the highest quality soils..

Objective B - Preserve lands to create large blocks of agriculture.

Objective C - Protect lands to assist with water quality improvement efforts to aid in the Chesapeake Bay watershed restoration.

Vigorous discussion ensued about the County's location to farming communities, the reasons for land preservation, the economic impacts of agriculture, the quality of farms to be preserved and the role of the land owner on a preserved farm. At the conclusion of the discussion the proposed goals and objectives, and they were revised to:

- I. Preserve a land base for agriculture with the advantageous location relative to the Delmarva Peninsula and Lancaster farming communities.
 - A. Protect agrarian lands to maintain the agricultural presence for future generations.
 - B. Recognizing the strength of agriculture to the economic stability of Cecil County an investment in land preservation provides the opportunity for agriculture to continue as a top industry.
 - C. Maintain of rural character and equity value of land.

- II. Safeguard the agricultural lands of the highest quality.
 - A. Preserve lands with the highest quality soils.
 - B. Preserve contiguous acres of farm land.
 - C. Maintain proper nutrient management, soil conservation & water quality.

Case Scenario Discussion

Mr. O'Connor presented responses from the inquiries to the County Health Department and Department of Public Works from the Case Scenario discussion in July. In addition, Mr. O'Connor presented the cost and revenue worksheet with proposed changes. The board approved to meet on August 27, 2015 with the Health Department and Public Works staff member for a round table discussion on these responses.

Closed Session

A motion was made by Robinson, seconded by Ewing to enter closed session Pursuant to the Maryland Annotated Code article General Provisions, §3-305(b)(13) - To comply with specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter. The motion was approved by unanimous vote.

The board entered closed session at 8:40PM to discuss the offer and sale process of MALPF participants which must remain confidential per COMAR 15.15.10.03.

Not votes or actions were taken by the board.

The closed session adjourned at 8:58 PM.

Adjournment

A motion was made by Anderson & seconded by Hastings for adjournment. The meeting was adjourned at 9:00 PM by unanimous vote.

Respectfully Submitted,



Stephen J. O'Connor, AICP

underline = amended by addition

~~strikethrough~~ = amended by deletion

Agricultural Preservation Advisory Board Meeting Minutes

August 27, 2015

Members Present: Miller, Bob (Chair)
Anderson, Norm
Ewing, Willie
Hastings, Shelley
Robinson, Charles.

Others Present: O'Connor, Steve - Cecil County Office of Planning & Zoning;
West, Carol, Executive Director - Maryland Agricultural Land Preservation Foundation;
Cable, Michelle - Maryland Agricultural Land Preservation Foundation;
von Staden, Fred, Director - Environmental Health Department;
Wilén, Kordell, Chief - Development Services Division, Department of Public Works.

Call to Order

Chairman Miller called to meeting to order at 7:07 PM.

Meeting Minutes

Review of the meeting minutes from August 13, 2015 were deferred till the September meeting.

Round Table Discussion

After introductions, Mr. O'Connor explain the purpose of this meeting was to discuss the environmental impacts of residential development versus agricultural land use. He explained that the board has been using the proposed subdivisions of the Reynolds Farm and Knights Court as examples for discussion. Chairman Miller then asked the panel their thoughts on the cost to the County of residential development long term versus agriculture long term?

Mr. von Staden replied that the long term land use impact depend on balance. He added that responsible agriculture can be environmentally friendly, and responsible residential uses can be environmentally friendly. Regardless of the use, there will always be environmental impacts and there are efforts to address those impacts.

Mr. Wilén explained that his professional experience has allowed him the unique perspective of knowing the history of stormwater management since it was first instituted in the mid-1980s. He briefed the board on how stormwater has changed since then, and that the current regulations use Environmental Site Design (ESD) work to mitigate stormwater in smaller quantities on sites. He stated that in the proposal of Reynolds Farm the Stormwater Management has actually been updated to most recent ESD requirements, which would improve the environmental impact of the project.

Mr. Wilen stated that he agreed with Mr. von Staden's assessment that balance of the land uses is key. He further stated that if someone was attempting to make the argument that agricultural use with good conservation practices is better than residential use with good ESD would be extremely difficult because of the tremendous amount of contributing variables. Someone attempting to make that argument could get lost in the studies. Mr. Anderson asked if there have been studies completed, which Mr. Wilen replied affirmatively. Mr. Wilen also stated studies are on-going and they have been done in other places beyond the Chesapeake Bay.

Mr. Anderson then provided an antidotal situation regarding putting pesticides on residential properties versus the restrictions on agriculture. He then asked what kind of damage can a residential home owner do to the land with these chemicals? Mr. Wilen responded that he doesn't really get into those issues, but it certainly a known issue that some of the environmental groups may already have some researched. He stated that some of the antidotal items are so well known that the technical aspects may not be that important in the residential versus agriculture land use discussion. Mr. Wilen stated that the number one tool that they have against pollution is education.

Chairman Miller explained that the options of land preservation are done by either a regulatory change that gives landowners less development rights of landowners or purchasing development rights. He stated that the purchase of development rights is the best alternative to guarantee agricultural land in the future.

He then stated that he understands that difficulties of comparing agriculture versus residential in N, P, & K (Nitrogen, Phosphorus, & Potassium), but he wanted to know about other pollutants beyond those. Specifically if there are there studies about other pollutants in developed versus undeveloped areas. Mr. Wilen is not aware of any studies of that nature. He stated that most literature on those issues or mostly educational. He informed the board that it's safe to state that residential areas introduce pollutants that agriculture never would.

Mrs. Hastings asked if there is there any movement to reduce the size of lots being created. Mr. Wilen responded that there was a movement for clustering lots, and that the Reynolds Farm subdivision gets close to that with the shared facility, but clustering would have the same issue as that proposal to get the plant up and running.

Chairman Miller then inquired, If the County ever be responsible for the proposed plant on the Reynolds Farm. Mr. von Staden explained that the shared facility regulations state that for there must be a controlling authority for the shared facility. Those regulations also state that the controlling authority must be a governmental entity. He stated that the County envisioned that a third party would run the day to day operations on this project, but ultimately Cecil County is the controlling authority. Mrs. West added that she was involved in the legislation that created the shared facility regulations, and reinforced Mr. von Staden's interpretation of the regulations. Mr. von Staden also reminded the board the design of the septic system has not been approved by MDE, and that there isn't any guarantee of future approval. Chairman Miller asked if this could be converted into individual septic systems which Mr. von

Staden stated not the way it's current proposed. Mr. von Staden then went into detail on the requirements of a shared facility and that, by Cecil County regulations, a shared facility required a groundwater discharge permit. That means the shared facility would be essentially a sewer plant that discharges into the ground rather than a stream. He further stated that this facility requires an operator and is very costly to build and maintain. Chairman Miller surmised that this proposal could be very costly to the taxpayer as a wastewater treatment plant for which the County could be responsible.

Mr. O'Connor then inquired about the Knights Court proposal on how the soil would clean the water and how it effects the water table. Mr. von Staden responded that most people don't understand that soils are not just dirt, but a biologically and chemically active column. Studies have shown that 2 feet of unsaturated soil removes most of the containments and that the one it's not good at removing is nitrogen. Mr. von Staden then gave a brief history of septic systems , and the evolution into the current standards which require nitrogen removal. He then informed the board that all Critical Area new construction and repair on septics are using Best Available Technology (BAT) systems to remove nitrogen. He also informed that outside of the Critical Area all new construction is using BAT's and 75 to 80 percent of repairs use BAT's. He then discussed how pollution comes from all people, and that it's important to minimize it. Finally on the BAT's, Mr. von Staden stated that the operation and maintenance is done properly on these systems, they last 2 to 3 times longer than a conventional septic system. He stated that they have installed about 400 in 5 years.

Mr. Anderson asked how much a BAT system cost? Mr. von Staden replied that the grants for these systems is between 11 to 14 thousand dollars. He clarified that the grant covers more than the system, it also covers unit's installation, the electric connection, and 5 years of operation and maintenance. He pointed out that 5 year period also teaches the homeowner how to properly take care of the system.

Mr. Anderson then asked how a BAT system works? Mr. von Staden went into great detail on how the BAT system works, and how the treated nitrogen that is removed to become nitrogen gas. Mr. von Staden stated that education on the BAT system is getting through to people because of how financially advantageous they can be. Mr. von Staden then started discussing how the local homeowner can have a direct effect on their own local stream and water table.

Mr. Wilen then discussed about the recent impervious surface mapping project completed by the County. He discussed about the percentage of impervious surface on the County overall, and in the growth corridor. He further stated that stream degradation begins when impervious surface is around 10 percent in an area.

Mr. O'Connor asked if current efforts are working to higher standards as to counteract the developments of the past. Mr. von Staden clarified that decision in the past were done based on the best information at the time, and the laws of that time. He stated that it could be possible that 20 years from now that the same question could be asked of the current effort, but that we're working with the best information available right now. Mr. Wilen stated that in the urban stormwater areas that they

expect to have a 20 percent reduction requirement in the future for developments approved prior to stormwater management mitigation.

Chairman Miller inquired about whom is responsible for stormwater ponds. Mr. Wilen stated that homeowners are responsible for stormwater ~~farms~~ ponds, but ultimately the County is responsible for making sure those ponds are maintained. Mr. Wilen did state that every pond requires an inspection a year after it's built and every 3 years after that. He stated between research, field work and inspection documentation it takes an inspector approximately 4 hours per pond. He further stated that there are over 500 ponds in Cecil County.

Mr. O'Connor then asked Mrs. West and Ms. Cable about the County roles for preservation. Mrs. West stated that the County's are going to have a larger and larger role in land preservation. She stated that the County that received multiple offers on the most recent application cycle were the ones that participated in their matching funds program.

Chairman Miller asked Ms. West about the Tier Map impacts to the program. Ms. West responded that the Tier maps do not negate the need for land preservation. She stated that the legislature could take the Tiers away, whereas preservation is forever. Even with the tiers there are still projects, such as the example properties, grandfathered from prior tiers. She also stated that there is still a lot demand for the preservation program.

The discussion moved on to clustering, and past examples of it. Mr. von Staden stated that one of the largest issues with clustering in rural areas are the regulations regarding wells, septic and stormwater devices and how far these items need to be away from each other, thus by regulations the lots are getting are larger.

Ms. Cable asked about the grants on the BAT systems. Mr. von Staden stated that grant money is provided by the Bay Restoration Fund. He then described how they prioritize the grants which are 1) Repairs in the Critical Area 2) Repairs outside of the Critical Area, 3) Elective repairs in the Critical Area 4) Elective repairs outside of the Critical Area.

Mr. Wilen added that the urban sector treating water quality is very expensive, and that that rural area is cheaper to help meet their goals.

Chairman Miller asked why the nitrogen from the BAT septic are okay whereas his nutrient management plan is attempting not to put nitrogen in the air. Ms. Hastings responded that it's a different type of nitrogen. Mr. von Staden further explained that nitrogen is a cycle and the chemistry of it is that you have organic nitrogen, nitrate, ammonia, and nitrogen gas. He explained that the BAT unit are releasing nitrogen gas. Chairman Miller stated that for agriculture that a nutrient management plan is done so that the nutrients' are used, and that septic systems are pools of nutrients that don't get reused.

Chairman Miller asked Mrs. West and Ms. Cable for an advice on a County program. Ms. West stated to talk to the other County Program Administrators. Ms. Cable suggested to put money into the matching funds programs. Ms. West stated that the County programs can be used to be more flexible than MALPF's long process. Chairman Miller then asked if there have been any private industry partner with land preservation programs. Ms. Cable stated there are private trusts that get some money on a project basis but not a dedicated source from private industry. Mrs. West stated that the best thing for the program is Agricultural minded people as an elected leader. Discussion ensued about various options to seek new sources of revenue.

Chairman Miller then asked if there were any final questions with no reply. He thanked the guest speakers for their time and informative presentations.

Adjournment

The meeting was adjourned at 9:05 PM

Respectfully Submitted,



Stephen J. O'Connor, AICP

underline = amended by addition

~~strikethrough~~ = amended by deletion

Agricultural Preservation Advisory Board Meeting Minutes

September 10, 2015

Members Present: Miller, Bob (Chair); Anderson, Norm; Ewing, Willie; Hastings, Shelley; Robinson, Charles.

Others Present: O'Connor, Steve - Cecil County Office of Planning & Zoning

Call to Order

Chairman Miller called to meeting to order at 7:04 PM.

Meeting Minutes

A motion was made by Anderson and seconded by Hastings to approve the meeting minutes from August 13, 2015. The motion was unanimously approved.

Mrs. Hastings noted on the August 27 meeting minutes there was a typo where "...stormwater pond..." should've been in place of "... stormwater farm...". A motion was made by Anderson seconded by Ewing to approve the meeting minutes, as amended , for August 27, 2015.

Closed Session

A motion was made by Hastings, seconded by Ewing to enter closed session Pursuant to the Maryland Annotated Code article General Provisions, §3-305(b)(14) - To discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process. The motion was approved by unanimous vote.

The board entered closed session at 7:10 PM. The meeting minutes from the closed session of August 13, 2015 were approved. A matter directly related to the Purchase of Development Rights proposal(s) was discussed.

The closed session adjourned at 7:22 PM.

Preservation District CE-16-01 - Quiet Acres Farm, Inc.

Mr. O'Connor presented the application by Quiet Acres Farm, Inc. for a 240 acre property located at 1306 Middleneck Road. He stated that property meets all of the requirements for a preservation district, and that staff recommends approval.

A motion was made by Ewing, seconded by Hastings for approval. The motion was approved by unanimous vote.

Request for overlay easement for access purposes - 07-94-02Ae - Estate of Tucker Mackie

Mr. O'Connor presented an application by the heirs of Richard "Tucker" Mackie to create an access easement up to 30 feet wide. The reason for the request is to give themselves access over this property to access another farm that they own. The applicants intend on selling this farm, which without the access easement would make the portion of the other farm owned by the applicants east of the Little Elk Creek landlocked. Mr. O'Connor further stated that the request is not intended to create a 30 foot wide path, but extra width is need for pull offs on the lengthy easement. The applicants are working with the County's Department of Public Works on the technical specifications.

Mr. Ewing stated that the area where the easement is proposed is very wet and that the applicants may have issues acquiring approvals. Mrs. Hastings asked why couldn't they cross the creek, which Mr. Ewing replied that a bridge would have to be built due to the creeks width. Mr. Robinson asked if the easement would be along the property boundary. Mr. O'Connor replied that it had to be due to MALPF regulations. He further clarified that the proposal is to begin where a farm road already exists for the entrance and then go along the property boundary for the remainder of the easement.

Chairman Miller inquired about if the purpose of the access easement was for agricultural equipment only, or for dwellings. Mr. O'Connor replied that the applicant's request is for agriculture immediately, but there is the possibility of dwellings in the future. Discussion ensued regarding the potential of future dwellings on the property which the easement could access. Mr. Robinson inquired if there was a specific reason why the applicant's desired to sell this farm and not the other farm the applicants own at the same time. The applicants have indicated to staff that taxes are due from the estate, thus the need for immediate sale.

Discussion ensued about how close the easement would be getting to the creek. Mr. O'Connor clarified that the applicant is asking for up to thirty feet to ensure that they have adequate space, but it does not mean that a 30 foot wide path would be built. The applicants do not want make a request that isn't wide enough and then have to come back for a revised request at a later date. Mr. Ewing stated that he doubts the County would let any construction get that close to the creek. He also stated that where the proposal is nearest to the creek will flood, but that is acceptable for agricultural equipment. Mrs. Hastings asked if there could be a legal easement over the wet areas. Mr. O'Connor replied that the amount of disturbance would dictate if US Army Corps of Engineers (USACE) would require a permit, but he doesn't know if the USACE gets involved in farm paths. The creation of the easement on paper does not require USACE approval.

The board discussed concerns regarding the potential type of road. Specifically if it becomes an everyday access, such as a milk truck for dairy operation, then it would need to be paved. If the access is paved then, there are issues with grading and impervious surface limits for the farm which it crosses.

A motion was made by Ewing, and seconded by Hastings to recommend approval for the access easement with two conditions:

1. The access easement is for farm use only.

2. Construction of the access easement meets the technical specifications of the Department of Public Works.

The motion was approved unanimous vote.

General Discussion and Public Comment

Mr. O'Connor informed the board that there is a vacancy on the MALPF Board for a Farm Bureau representative.

Adjournment

A motion was made by Ewing & seconded by Robinson for adjournment. The meeting was adjourned at 9:07 PM by unanimous vote.

Respectfully Submitted,



Stephen J. O'Connor, AICP

underline = amended by addition

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Agricultural Preservation Advisory Board Meeting Minutes

October 8, 2015

Due to a lack of agenda items, the scheduled October 8, 2015 meeting for the Cecil County Agricultural Preservation Advisory Board is cancelled. The next meeting is scheduled for November 12, 2015.

Agricultural Preservation Advisory Board Meeting Minutes

November 12, 2015

Members Present: Miller, Bob (Chair); Anderson, Norm; Ewing, Willie; Hastings, Shelley; Robinson, Charles.

Others Present: O'Connor, Steve - Cecil County Office of Planning & Zoning; Rothwell, Jeremy - Cecil Land Trust

Call to Order

Chairman Miller called to meeting to order at 7:02 PM. Mr. O'Connor briefed the board about on-going projects include MDP's ad Hoc Committee on TDRs, Properties honored by the Chesapeake Bay String of Pearls, changes to the FY2017 MALPF application cycle. He also briefed the Board on the Mackie request from the previous meeting and that the requirements of Maryland Department of Environment may make it difficult for the application that was proposed to proceed. Discussion ensued about the Mackie Farm.

Meeting Minutes

A motion was made by Hastings and seconded by Anderson to approve the meeting minutes from September 10, 2015. The motion was unanimously approved.

The meeting minutes for the Closed Session from September 10, 2015 was approved by consensus.

Preservation District CE-16-02 - Firm Commitment, LLC

Mr. O'Connor presented the application by Firm Commitment, LLC. for a 202.326 acre property located at 415 N. St. Augustine Road, with a 5 acres withholding area. He stated the reason for the withholding area is the applicant hasn't decided if those acres are going to be added to his brothers adjoining property. The property adjoins over 1,100 acres of preserved land.

Mr. Anderson had some questions about the ownership of the property. The application was signed by one of the owners with consent letters from the other two included. He asked who actually owned the property. Mr. O'Connor pointed to the Articles of incorporation which listed the owners names and that between the application and letters of consent all the owners have approved of this application. Chairman Miller asked if the owner's name on the application should be John Belgrade or Firm Commitment, LLC. Mr. O'Connor stated that he would ask the County attorney to see if that is just semantics or an issue. ¹ Chairman Miller stated that he could see it being issue later in the process, and

¹ Per an email on 11/13/2015 a new application listing Firm Commitment, LLC as owner should be submitted. Minutes from a meeting of the members of the LLC showing that there was an approving vote to submit the application must also be submitted as part of their signatures.

he didn't want this property fail to become a district because of a paperwork issue. Mrs. Hastings asked if there was any issue with the applicant's residence being in Delaware. Mr. O'Connor stated it was not because the property was in Cecil County. Chairman Miller asked as an aside, how do children's lots work with LLC's. Mr. O'Connor responded that it depends on the situation, and discussion ensued regarding children's lots with property owners set up as corporate entities.

A motion was made by Anderson seconded by Ewing to table the request until the paperwork issues are clarified. The motion was approved by unanimous vote.

Program Goals Discussion

Mr. O'Connor presented the revised program goals and reminded the board that they gone through two goals and 3 objectives with each goal. This meeting the goals to go over had to deal with funding, and meeting acreage goals.

The draft goals and objectives regarding funding presented to the board was:

GOAL III - Safeguard the Cecil County taxpayers investment.

- A. Acquire a dedicated revenue source that provides for consistent funding so that use of taxpayer dollars can be planned and not affect other County services.
- B. Incentivize the landowner to sell development rights that is fair to the landowner and to the taxpayer.
- C. Cultivate resident's awareness that protecting agricultural properties keeps property taxes down for all citizens.

Mrs. Hastings asked for clarification on item B. Mr. O'Connor explained the intent here is to have the landowner choose asking prices that aren't the highest possible price in order to save taxpayer dollars, but no asking price so low that the landowner becomes disinterested in the program. Discussion ensued about the wording about item A, and making sure the funding source is consistent, and not necessarily the same amount of money. Mr. Anderson pointed out that technically if that a dedicated revenue source from County funds would still have an impact on other County services, unless the funding came from an outside source. Mr. O'Connor stated that the intent of the statement is to have the dedicated revenue source setup so that it could not be affected by the yearly budgetary cycle, for better or worse. Discussion ensued about revising the wording about affecting other County services. In addition, discussion ensued regarding getting matching funding from outside sources, and the importance of having the dedicated revenue source in acquiring matches from private corporations to use the taxpayers' dollars more efficiently.

Chairman Miller then asked about the proper techniques in soliciting matching funds behalf of the County. Mr. O'Connor stated that should not occur without the consent of County administration, and that he would check to see if there is a proper method. Chairman Miller followed up with a question if the donation can be specified for the program and not put into the general fund for Cecil County. Mr. O'Connor replied he didn't see a reason that couldn't occur. Mr. Anderson stated that it may be best to

start with the large corporations that have a local presence if looking for private funds to match. He stated that there would be a better chance due to the local impact that can be seen right away versus someone in a corporate office in another state that doesn't know anything about Cecil County. He stated that this is a better chance because of the local good will. Chairman Miller agreed in principle that some sort of plan to find outside funding if getting taxpayer funding.

Chairman Miller suggested that a committee to be established to come up with a plan of action on how to get outside sources of funding.

The draft goals and objectives regarding acreage goals presented to the board was:

GOAL IV - Meet the 55,000 acre agricultural preservation goal by 2025.

- A. Set interim acreage marks for continual assessment of the program's needs.
- B. Setup a program that purchases easement based on the number of development rights only.
- C. Encourage and support other active land preservation program to protect Cecil County agriculture.

Mr. O'Connor reminded the board that the 55,000 acre number was set by the Board of County Commissioners in 2000. He stated that a secondary program may be important due to the demand of people wanting and waiting to be in the preservation program, it will be years before they are in preservation. Chairman Miller asked why the wording of development rights is in item B, where the overall goal is acreage. Mr. O'Connor stated that does make sense and development rights was changed to acreage.

The Board did have a consensus that the Goals III & IV are acceptable. The revised goals and objectives for funding, and acreage goals are:

Goal III -Safeguard the Cecil County taxpayers' investment

- A. Acquire a dedicated revenue source that provides a consistent funding source so that use of taxpayer dollars can be planned, be more efficiently used, and leveraged to obtain other public and private funding sources.
- B. Incentivize the land owner to sell development rights that are fair to the landowner and to the taxpayer.
- C. Cultivate resident awareness that protecting agricultural properties keeps property taxes down for all citizens.

Goal IV Meet the 55,000 acre agricultural preservation goal by 2025.

- A. Set interim acreage marks for continual assessment of the program's needs.
- B. Setup or refine a secondary program that purchases easements to achieve the acreage goal by 2025.
- C. Encourage and support other active land preservation programs to protect Cecil County agriculture.

Mr. O'Connor asked if the board was prepared to adopt the program goals officially, which Chairman Miller stated a lot of time and effort went into them, and that he would entertain a motion. Mr. Anderson made a motion to adopt the document as the official Mission Goals, and Objectives of the Cecil County Land Preservation program. The motion was seconded by Hastings. Vote has carried unanimously.²

Chairman Miller asked Mr. Anderson, Mrs. Hastings, and Mr. Ewing to be on a committee to look at matching funds (public and private). He assigned Mr. Anderson to be chairman of said committee, and asked for a progress report by January meeting for guidance the whole board, and by completion to April. Finally, he asked each member to think of a list of matching sources to turn over to the committee to get the brainstorming going.

Chairman Miller invited Mr. Rothwell from the Cecil Land Trust for a short presentation. Mr. Rothwell stated first off that he would share some links to foundations for the committee. He also stated the reason for his presentation is that the Cecil Land Trust will be inviting Jay Young to give a presentation on how land preservation relates to estate planning. He stated will be 3 meetings in December with the dates and locations to finalized.

Closed Session

A motion was made by Hastings, seconded by Ewing to enter closed session Pursuant to the Maryland Annotated Code article General Provisions, §3-305(b)(13) & (14) - To comply with specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter, and To discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process. The motion was approved by unanimous vote.

The board entered closed session at 8:38 PM. The offer and sale process of MALPF participants which must remain confidential per COMAR 15.15.10.03 was discussed, and a matter directly related to the Purchase of Development Rights proposal(s) was discussed.

The closed session adjourned at 9:02 PM.

Adjournment

A motion was made by Ewing & seconded by Robinson for adjournment. The meeting was adjourned at 9:03 PM by unanimous vote.

² A copy of the Mission, Goals & Objectives are included at the end of this document for reference.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Stephen J. O'Connor". The signature is written in a cursive style with a long horizontal flourish at the end.

Stephen J. O'Connor, AICP

underline = amended by addition

~~striketrough~~ = amended by deletion

Agricultural Preservation Advisory Board Meeting Minutes

December 10, 2015

Members Present: Miller, Bob (Chair); Anderson, Norm; Hastings, Shelley; Robinson, Charlie (via teleconference)

Others Present: Mackie, Franklin - Landowner; Mackie, Leah - Landowner; Mackie, Osborne (via teleconference) - Landowner & Personal Representative of Mackie estate; Groot, Eric (via teleconference) - Personal Representative of Mackie estate; O'Connor, Steve - Cecil County Office of Planning and Zoning

Call to Order

Chairman Miller called to meeting to order at 7:06 PM. Chairman Miller began with introductions of everyone in attendance. Mr. O'Connor briefed the board about on the ownership question on Firm Commitment, LLC, but the owner has put their application on hold. He also brief the board about the Cecil Land Trust's outreach meetings on December 16 and January 7th. He informed the board on the outcome of MDP's TDR committee, and that MDP is willing to offer assistance per County. Finally, the state's report on Program Open Space is out.

Meeting Minutes

Some wording on the November meeting minutes were changed, and the board asked Mr. O'Connor review the audio about other funding source discussion. A motion was made by Hastings and seconded by Anderson to table the meeting minutes from November 12, 2015. The motion was unanimously approved.

A vote on the meeting minutes for the Closed Session from November 12, 2015 were also delayed till the next meeting.

Request for an Agricultural Subdivision 07-88-02sub2 - The Estate of Tucker Mackie

Mr. O'Connor presented the application from the Estate of Tucker Mackie in which they propose to subdivide a 289 +/- acre parcel and add a 3.35 +/- acres from an adjoining 18 acre parcel so that a dwelling right can be transferred. He noted that there was a previously approved agricultural subdivision from 2001, which Richard "Tucker" Mackie subdivided 83 +/- (SUB#1) acres, and that farm is now owned by Elam & Lizzie Stoltzfus. He stated that the proposal is to subdivided the 289 acre parcel into three smaller farms. The first farm is 51.9 acres (SUB#2) which includes the existing dwelling. The second farm is 90.7 acres (SUB#3) which includes the 3.35 acres with a dwelling right to be transferred from the adjoining parcel to this farm as a non-subdividable building envelope. The third and final farm is to create 149.3 acre (SUB #4) farm on the east side of the Little Elk Creek without a dwelling. Mr. O'Connor stated that each parcel meets the qualifying soils requirements. He specifically noted that SUB#4 had to

use the provisions from COMAR that allows floodplain¹ acreage to be deducted from the soils calculations. All proposed dwellings are to become non-subdividable.

Mr. O'Connor pointed out the application was signed by Clark Turner as Personal Representative on October 25, 2015 at which time he was in that role. The Personal Representative of this estate changed on December 8, 2015. Mr. O'Connor checked with the County Attorney and was advised that the signature is still valid unless the new Personal Representative revokes it. He also noted the application was signed by Elam and Lizzie Stoltzfus. He told the board the reason for their signature was when the first agricultural subdivision was completed new easement documents for the subdivided parcel nor the remainder parcel was not written². Thus all owners of parcels that encompass the original easement area must consent to any changes to the easement. If this application is approved, then corrective easements would be written for all of the subdivided farms including SUB#1.

Franklin Mackie explained that the agricultural purpose for SUB #2 is to conduct a beef cattle operation. He explained that he did that operation with his in the past on this property, and that he would like to get back into it. He stated that he would start with 12 to 15 cattle at first and if successful would grow conservatively. Mr. Groot explained that the agricultural purpose for SUB#3 is for a dairy operation for the son of Elam & Lizzie Stoltzfus. He explained that Elam is going to retire and turn over operations of his farm (SUB#1) to one of his sons, and that this proposed farm would be for his other son, as an additional dairy operation. The applicants also explained that SUB#4 would remain as crop and hay operation for their current renter. If they sold SUB#4, it would be ideal to sell it with adjoining farm to the north (MALPF Easement 07-94-02Ae), but the purpose will be to continue current operations for the foreseeable future.

Mr. O'Connor noted that there is a letter from the Department of Assessments and Taxation stating that if the agricultural subdivision is approved all the farms would continue to have an agricultural assessment. Mr. O'Connor then explained how he georeferenced the approved minor subdivision (MS #1385) to show that the 3.35 acres to be donated includes an approved dwelling site, well, & septic area. He further explained that the this dwelling site is being moved to the middle of the farm on SUB#3 as a non-subdividable building envelope.

Osborne Mackie explained that his uncle loved this farm, but it became too big to be handled as one farm. He stated he believes that creating this into three farms would sustain the farming operations better than one larger farm.

Mr. Anderson summarized that the applicants request would make the farm more viable economically, but he asked what would make that difference. Franklin Mackie replied that there is so much debt in the

¹ COMAR 15.15.01.03D(1)(b)(iii) states that the criteria for qualifying soils is, *"The majority of land are of any district less the acreage contacted within the 100-year floodplain as delineated on the Flood Hazard Boundary Maps produced by the Federal Emergency Management Administration and State or federal designated wetland shall consist of USDA Soil Capability Classes I, II, and III on Cropland and Pasture or Woodland Groups 1 and 2 on wooded areas only.*

² The requirement to execute and record corrective easements was not adopted into COMAR until 2011.

farm, that this transaction would clear that away and everyone be able to start fresh with their agricultural operations.

Chairman Miller asked if there was still subdivision potential. Mr. O'Connor explained that this easement is over three tax parcels, and they would be adjusting property lines under the County's Subdivision Regulations, and not creating new lots. Chairman Miller asked how SUB#4 would be accessed. Franklin Mackie explained that they would use an existing access from Blake Road, which is how that side of the farm is currently accessed. Mr. Anderson asked how long the current renter has been using that access, which Franklin Mackie stated since about 2000 or 2001. Further discussion ensued regarding that access and MDE's review of it.³

Chairman Miller expressed his concerns about creating a parcel without a dwelling, because the possibility of someone asking for a house in the future. He then asked why the applicants are not adding the entire 18 acres to the easement. Mr. Groot responded that the potential owner of SUB#3 stated that the remaining 15+/- acres is too steep for his horses to pull hay out. The boundary was set using that justification, which estimates to be 3.35+/- acres. Discussion ensued regarding the development potential of the remaining 15+ acres not being donated to the easement. Mr. Anderson asked why the 11.95 acre parcel is not included in the request. Mr. Groot responded that it hasn't been perced thus he doesn't know if there is an actual development right to transfer.

Chairman Miller stated that the plan makes sense, but his concerns about creating a parcel without a house. Mr. Anderson inquired about Chairman Miller's concerns about creating a parcel without a house. Chairman Miller responded that there have been issues in the past because of subsequent owners then making requests for a dwelling after these parcels are created. Franklin Mackie pointed out that it does adjoin another property that does have a potential house site.

Motion to approve was made by Anderson, seconded by Hastings for discussion purposes. Mrs. Hastings asked if the board members not in attendance have made any comments. Chairman Miller also stated that he would like to hear from the other board members too. Chairman Miller then asked Mr. O'Connor if he could check with the state MALPF office about the donation requirements. Mr. O'Connor responded that he already discussed it with MALPF staff, and the applicants have met the minimum requirements. He further stated that the owner could add the 3.35 acres to the tax parcel, not donate to the easement and build on the already approved location. Chairman Miller stated that his reservations are more about setting a precedent with unintended consequences. Chairman Miller asked if the vote can be delayed till the next morning since a board committee was already scheduled to meet.

Mr. Anderson rescinded his motion, and Mrs. Hastings rescinded her second to that motion. Charlie Robinson joined the meeting via telephone. Chairman Miller asked if Mr. Robinson could be available for

³ The MALPF Board required the applicants to seek MDE's review of the proposed access from a separate request. A site meeting occurred with MDE staff on November 6, 2015 which the stream was determined to be perennial and any intensification of the current crossing would require a permit from MDE. The current crossing for occasional use for agricultural purposes was deemed to be acceptable.

a teleconference at 9:30 AM, which he said he would be able to attend. The Board decided to continue the discussion in the morning and thanked the Mackie's for participating.

FY2017 MALPF Scoring

Mr. O'Connor presented the proposed scoring for the FY2017 MALPF application process. Mr. O'Connor reviewed with the board that the proposed scoring was discussed in the spring of 2015, and reminded the board that a vote didn't occur as the board wanted to wait to see the outcome of a successor Tier Map. Mr. O'Connor informed the board that it is unlikely that a successor Tier Map would be in place in time for the FY2017 MALPF applications because of the various public notice requirements, the timing of meeting dates for the required hearings. Mr. O'Connor then reviewed with the board the various categories and reasons for the scoring of each criteria.

Mr. O'Connor specifically went over how the limitation of minor subdivision potential puts large parcels at a disadvantage from smaller parcels. He also went over changing the scoring for soil conservation plan implementation from a percentage of implementation to an "on schedule", "ahead of schedule" or "behind schedule" methodology due to the time it may take for a landowner to fully implement a soil conservation plan correctly. He then went into reasons for changing the distance from Priority Funding Area (PFA) category to distance from a county Growth Areas due to rural villages and other historic PFA's.

Mr. O'Connor then went into discussion about point scoring for properties in a Preservation District, a Priority Preservation Area (PPA), and Rural Legacy Area (RLA). He asked the board if they wanted to cap the number of points for this category as it was done in the past. He stated that it's likely that a property could get two out of the three categories, and rare to get three out of three. Chairman Miller asked if a property is in a RLA wouldn't it be in a PPA also. Mr. O'Connor replied that when the PPA's were set up they didn't overlap the RLA's on purpose as they were already given a level of protection. Subsequent to the establishment of the PPA's the Fair Hill RLA expanded and there are some areas now that are in a PPA & RLA in the Rising Sun, Calvert, & Fair Hill areas. The board decided to combine the PPA & RLA into one category, and award points to properties in District in addition to the PPA/RLA criteria for their commitment to preservation.

The Development Pressure and Potential category was reviewed, with the changes to the scoring of the number of lots extinguished criteria by capping them at the maximum of 5+ lots due to minor subdivision limitations. The environmental limitations criteria was changed as it was rare to have properties above 25% limited by environmental constraints, and the development pressure criteria was changed to only look at recent subdivision activity rather than all historic subdivision activity. The Soil Calculations were reviewed by using an example which didn't change from the previous method.

Chairman Miller asked about the process to change the scoring, and how often it could be changed. Mr. O'Connor reply it requires a vote of the local board and the MALPF board approval. He then stated that he didn't know of any limitations of the amount of times it could be refined. Chairman Miller then asked

that if the Tier Maps were changed after FY2017 MALPF cycle, could the point scoring be changed again. Mr. O'Connor replied affirmatively.

Discussion ensued regarding the farm ownership and type criteria, and adding points to farm size. Mrs. Hastings added that the board needs to recognize that changing points on farm size is done in such a way that it doesn't penalize the small farms also. Discussion went about adding points soils quality. The board added ten points to the soil quality, and fifteen points to farm size criteria.

Adjournment

A motion was made by Anderson, seconded by Hastings to adjourn the meeting due to the building closing. Motion passed Unanimously.

December 11, 2015

Members Present: Miller, Bob (Chair); Anderson, Norm; Ewing, Willie; Hastings, Shelley; Robinson, Charlie

Others Present: Sennstrom, Eric - Director, Cecil County Office of Planning & Zoning; O'Connor, Steve - Cecil County Office of Planning and Zoning

Call to Order

Chairman Miller called the meeting to order at 9:32 AM.

Request for an Agricultural Subdivision 07-88-02sub2 - The Estate of Tucker Mackie

Mr. Sennstrom was introduced to the Board, and he thanked them for the continued service to get this agricultural preservation program off the ground. He stated that the Cecil County Office of Planning & Zoning's goal is to assist landowners to accomplish their goals within the regulatory framework, and not to be obtrusive to the landowners. He stated that this application is a prime example of how having citizen boards is important to OPZ as their knowledge of agricultural operations is invaluable to staff.

Chairman Miller reiterated that one of the concerns with this request isn't with the applicant, but to make certain that this board doesn't set a bad precedent for future requests. In addition, he stated that two concerns with this request is creating the 149.3+/- (SUB#4) acre parcel without a dwelling, and ascertaining if the program is gaining enough in the donation for the non-subdividable dwelling request for SUB#3. Mrs. Hastings asked about the fear of having a parcel without a dwelling. Chairman Miller stated when he was on the State board, that owners would buy these parcels cheap, and then come back to MALPF and ask for a dwelling. That would be a point of contention for the applicant and the State board, and he's looking for a solution that would prevent that happening on this request.

Mr. O'Connor reminded the board of the owner's previous request about establishing a Right of Way to access the area east of the Little Elk Creek (SUB#4). He stated that the State board tabled the applicants request as they didn't know if the Maryland Department of Environment (MDE) would approve the proposed location. The State board asked for the applicants to seek an opinion from MDE, which they stated that an intensification of use would require a permit from them. Mr. Sennstrom stated that and MDE permit takes a minimum of a year to complete, and Mr. O'Connor stated the applicants timing constraints is the reason a dwelling is not proposed for that parcel.

Mrs. Hastings asked why couldn't the applicants seek a right of way from the adjoining property owner to the north east. Mr. Ewing stated that there is a creek to cross on that property as well. He also stated it's likely a three-quarters of a mile or better to access a county road. Chairman Miller stated that proposal could present another set of issues allowing the conversion of productive land in easement for a driveway to access a dwelling.

Mr. Anderson added that once this is complete, the applicants won't be able to come back for another request to subdivide the land agriculturally, and that SUB#4 not having a dwelling will be written into the easement. He stated that the program is going to get a net gain of 2 acres of productive land. He added that it was the soils data in the floodplain area are high quality soils from staff's report, and that the area for which the proposed lot relocation is a percable lot and not just an area with development potential. Finally, he stated that this is the Mackie's land and they're making the easement more restrictive if this is approved, which would be a net gain for the program.

Chairman Miller stated that it should be clear in their letter to the State board that the area being donated does include an approved building area and not just three acres with potential. Discussion ensued regarding the development potential of the remaining 15 acres leftover from the donation. Mr. Sennstrom added that the remainder part would have to get a Variance for road frontage requirements from the County Board of Appeals since the panhandle to access that remainder is 60 feet wide. He then described several limitations he saw in order to have successful further subdivision on the parcel. Chairman Miller further reiterated his concerns about if the applicants are still able to get 2 or more lots from what is remaining 15 acres and asked if the applicants are really sacrificing anything with the donation.

Mr. Robinson asked about if there was any development potential on the 11.95 acres could be moved to SUB#4. He stated his concern if someone in the future could come back and moving the dwelling right. Chairman Miller reminded the board when the easement went into MALPF that the thought was that the farm would not be divided and now it's being considered, and that although the intentions for SUB#4 never to have a dwelling is part of this application, a subsequent owner could ask for a dwelling 15 to 20 years in the future. He stated that he would be more comfortable that the no dwelling option for SUB#4 has reviewed by this board and their concerns are in writing to the state board.

Mr. Sennstrom left the meeting at 10:15 AM.

Discussion ensued about the possibilities of adding a portion 11.95 acre to the farm so that dwelling right could be associated with SUB#4. The Board desired to show the applicant and the State Board a

proposal to add land from the 11.95 acres to SUB#4 with a dwelling right as a suggestion so that if the issue crossing the creek is resolved with MDE a house could be built in the future. The Board desires this suggestion to be included so that if the possibility of a subsequent owner requesting a dwelling on SUB#4 occurs in the future, it can be shown to that owner an option was suggested to the applicant, and the applicant made their choice for no future dwellings.

A motion was made by Anderson, seconded by Robinson for a recommendation of approval with the following conditions:

1. It is clearly stated to the applicants, State Board, and the corrective easement that the donation of the 3.35+/- acres **includes** an already approved building lot that will be transferred to SUB#3 as a non-subdividable building envelope.
2. The donation is to also include the three potential development rights, as allowed by County Zoning and Subdivision Regulations, so that all that remains on the 15 acre remainder is the already approved development right, and further subdivision be prohibited.
3. This board has provided to the applicants and the State Board a viable option for a dwelling right for SUB #4 if the option wants to be reserved if a subsequent owner desires a dwelling. If neither the applicant nor the State Board desire to exercise this option then SUB#4 is to not have a dwelling right then the applicants and the corrective easement clearly states that there shall never be a request for a dwelling on that farm in perpetuity.

Adjournment

A motion was made by Robinson, seconded by Ewing to adjournment the meeting. The meeting was adjourned at 10:29 AM by unanimous vote.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Stephen J. O'Connor". The signature is fluid and cursive, with a long horizontal stroke at the bottom.

Stephen J. O'Connor, AICP

underline = amended by addition

~~strikethrough~~ = amended by deletion