



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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

March 26, 2018

Attendance:

Board Members: Ricky Bauer, Chair
Jamie Brown
Mickey Day
Howie Feaga
Ann Jones
Savannah Kaiss
Denny Patrick

Staff: Beth Burgess, Chief, Resource Conservation Division, DPZ
Joy Levy, Program Administrator, Agricultural Land Preservation Program
Lisa O'Brien, Senior Assistant County Solicitor

Guests: James Zoller, Agriculture Coordinator, Office of Community Sustainability

Public: Erich Bonner

Mr. Bauer called the meeting to order at 7:06 p.m. and conducted introductions.

Action Items

1) Minutes from the meetings of January 22, 2018 and February 26, 2018

Ms. Levy reported that the minutes for January and February were not complete yet but would be ready for the next meeting.

Discussion Items

1) Update on Scoring System

Ms. Levy stated that the County Executive decided not to make any changes to the scoring system after reviewing Staff's suggested edits. She noted that there have been several interested property owners who have been waiting to apply, having been advised by Staff that until the decision was made, it couldn't be guaranteed what version of the scoring system would be used. She stated that she will be contacting the potential applicants to inform them that the scoring system is not changing, and to encourage them to move forward with application and scoring.

Mr. Day asked what would happen if someone applies and is scored with the current system and then changes are made during the approval process. Ms. Levy responded that she didn't think changes would be made in the foreseeable future.

Mr. Feaga asked what changes were being considered. Ms. Levy stated that Staff hasn't received feedback from the Executive. She explained the analysis she did on the various criteria, noting proposed revisions to the size and adjacency items to be more reflective of the status of the remaining uncommitted land.

Mr. Day had several questions about the proposed changes, including whether the Board's discretionary points were involved. Ms. Levy replied to all of Mr. Day's questions, noting that she recommended that the Board get its discretionary points back.

Ms. Levy noted that there is funding still available from the current spending authority. Mr. Day asked whether that funding is protected. Ms. Levy responded that the Council approved \$50 million in 2013 for this cycle. Ms. O'Brien explained the spending authority process, noting that just as it requires a legislative act to approve, any changes would also require a legislative act.

2) Review of proposed legislation for Code changes to Section 15.518

Ms. Levy noted that this item won't be discussed tonight at Council Chair Sigaty's request. Ms. Sigaty asked Staff to relay her intention to bring the revisions, as voted on at the February meeting, to the May meeting for the Board's final review. Ms. Levy noted that Ms. Sigaty has pre-filed the mulch legislation for April introduction and a May 7 vote.

3) Unrestricted lot rights exchange ratio

Ms. Levy stated that Mr. Feaga asked the Board to consider changing the lot exchange ratio from the current 1 unrestricted lot per 50 acres back to 1 per 50 acres or portion thereof, which was the law from 1993 to 2003. He opined that for those who still have the exchange right that there is a loss of equity that should be restored.

Mr. Brown and Mr. Day acknowledged that they are among the group who could still exchange. Ms. Levy stated that she tracks remaining lot rights and that there are 19 property owners who would be affected by a reversion. Mr. Brown stated that he has discussed this issue with his mother, who is the easement grantor on their farm, and even though she has not sought to exchange up to this point, she likes the flexibility of the unrestricted lots.

There was a long discussion about how the child lot rights are implemented. Mr. Brown noted that they could easily be abused because the County doesn't restrict ownership once the building permit for the house is issued.

Ms. Levy explained that the intent is for the child lots to be utilized only by the appropriate people even though the County program doesn't have a residency requirement. She noted that she has analyzed the transfer of child lots over the years and has found that for the most part, they have been used as intended.

Mr. Feaga moved to pursue reverting the unrestricted lot rights ratio back to 1 per 50 acres or portion thereof. Mr. Patrick seconded. The motion passed with Ms. Jones abstaining.

Mr. Bauer asked if this would automatically give the people who exchanged when the ratio was 1 per 50 the right to an additional lot. Ms. O'Brien stated that would occur only if the legislation included specific provisions to allow it. The consensus among the Board members was that this wasn't their intent.

Mr. Bauer volunteered to approach Council about drafting the required legislation.

4) Update from Erich Bonner, Oak Ridge LLC, on the status of his operation

Mr. Bonner spent about an hour with the Board explaining the history and current status of the various aspects of his operation, and the difficulties he has encountered in the community and with the County.

He started by distributing a packet of information for each Board member, and describing how the 83-acre Woodbine property is being used, explaining that there are about 60 acres of forest and the 16 non-wooded acres are for the ornamental nursery, which contains 5,700 trees. There are approximately 6 acres that are dedicated to the storage of forestry products and landscape supplies, and was used as a mulch manufacturing area until 2014.

Mr. Bonner detailed the history of his approvals from the APAB and MALPF to conduct the mulch manufacturing and firewood processing uses in 2013. He then discussed the changes that occurred in the Zoning Regulations that impacted his ability to conduct his business over the next several years. He discussed the issues with his neighbors and the other county residents who organized to oppose mulching. He provided the history of the County's attempts to understand the issue and find middle ground through the Task Force process. He expressed his frustration with the entire situation because it was never sufficiently resolved and it's destroyed his opportunities to make a living on his property doing any kind of wood processing operation.

It was clarified that Mr. Bonner is not in violation of his MALPF easement, that the problem is a zoning violation. Mr. Bonner stated that he is currently being sued by the County for bringing product to the farm or taking product from the farm that wasn't grown on the farm. He stated that the provisions for uses granted by his easement should protect him from changes in zoning.

Mr. Bonner told the Board that he would like to present his case in a similar matter to the MALPF Board, and was told by MALPF that he needed a recommendation from the local Board. There was discussion among the Board members about what Mr. Bonner might gain from approaching MALPF since he's not in violation of his easement.

Mr. Feaga made a motion that Mr. Bonner should present his case to the MALPF Board. Mr. Patrick seconded the motion. The motion passed, with Ms. Jones objecting.

5) Consideration of meetings in April and October

Mr. Brown stated that he wanted to discuss adding the April and October meetings back in anticipation of the proposed changes to Section 15.518 and the likely result of more people wishing to address the Board. His concern was that someone may have to wait two months to be heard, which is inappropriate for issues that are time sensitive.

Mr. Bauer stated that phone meetings have been conducted in the past when there was an emergency issue. Ms. Burgess stated that those instances were relatively rare and generally related to adjustments in easement acquisition prices. She stated that phone meetings wouldn't be well suited for the Board to hear grievances.

Mr. Day stated that the schedule should be kept as is and emergency meetings could be called for April or October if needed. He opined that many meetings have been cancelled for lack of agenda items, so it isn't necessary to add them back in.

Mr. Brown stated that he wanted to express his concerns, but if the rest of the Board doesn't share them he is fine leaving things the way they are.

6) Interim rules of procedures regarding Board member submissions

Ms. Levy stated that the submission deadline for the public is three weeks prior to the meeting and Staff wants to clarify what the appropriate deadline should be for Board requests.

Mr. Bauer stated that he had a conversation with Ms. Gowan and they concluded that up to a week ahead of time is sufficient notice for Staff. Ms. Burgess stated that the agenda needs to be posted with reasonable lead time, and items can't come in at the last minute.

Ms. Levy stated that packets go out a week ahead of the meeting, so it's not practical for the Board's deadline to be up to the day that packets are sent. She noted that all of the agenda items for this month were Board generated, some of which required no Staff preparation and others that did.

Ms. Burgess stated that Staff would prefer three weeks, acknowledging that emergency situations arise and would require an exception.

Mr. Day questioned why Staff needed so much advance notice for Board requests when the minutes for January and February are not complete. He stated how important it is to the Board's functioning to have timely minutes, comparing this situation to other boards he serves on.

Ms. Burgess agreed that getting the minutes in a timely fashion is important, but noted that Ms. Levy was on leave for a month and has no assistance.

Mr. Day stated that this is an ongoing problem, referring to the time prior to Mitch Ford being hired to assist Ms. Levy. Ms. Burgess pointed out that since Mr. Ford left, all program duties have fallen on Ms. Levy. She stated that given her heavy workload and the shifting priorities of the job, the minutes sometimes take on lesser importance. Ms. Burgess stated that Mr. Ford's position will not be filled, so Ms. Levy will do the best she can.

Mr. Brown made a motion that the Board's submission deadline will be three weeks, unless there is an emergency item. Ms. Jones seconded. The motion passed unanimously.

7) Email updates to community on ALPB activities

Mr. Bauer stated that Lynn Moore approached him about receiving Board materials as past Chair, noting that she is still interested in knowing what is going on. This initiated a long discussion about whether and how to keep past members informed. Staff confirmed that all agendas, staff reports and minutes are already made available on the ALPB web page.

There were differing opinions as to whether past Board members should be added to the current distribution list, whether there should be a subscription service established or whether those interested should access what's online.

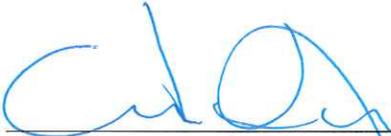
Mr. Bauer made a motion that any outgoing Board member will be copied on the agenda for at least six months after they go off the Board.

There was no second, so the motion failed.

8) Farewell for Mr. Bauer and Mr. Feaga

Ms. Levy asked whether the Board would like to have a dinner to thank the two departing members, and the consensus was yes. There was discussion about the logistics which concluded with a decision to firm up plans via email.

Ms. Jones moved to adjourn and Mr. Patrick seconded. The motion passed unanimously and the meeting adjourned at 9:30.



Joy Levy, Executive Secretary
Agricultural Land Preservation Board