



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

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

January 22, 2018

Attendance:

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

Staff: Beth Burgess, Resource Conservation Division Chief
Amy Gowan, Deputy Director, Department of Planning & Zoning
Joy Levy, Administrator, Agricultural Land Preservation Program
Lisa O'Brien, Senior Assistant County Solicitor

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

Public: Abby Gibbon, Fine Idea Farm
Bruce McCanna, Woodbine resident

Mr. Bauer called the meeting to order at 7:08 p.m. and conducted introductions.

Action Items

1) Minutes from the meeting of September 25, 2017

Mr. Bauer called for the approval of the September 25, 2017 meeting minutes. Mr. Feaga moved to approve. Ms. Jones seconded the motion, which passed unanimously.

2) Election of Chair and Vice-Chair

Mr. Bauer called for the nomination of Chair and Vice Chair. Mr. Feaga motioned to extend the current Chair and Vice-Chair until the Chair's term expires in April. Ms. Jones seconded. The motion passed unanimously.

Discussion Items

1) Program Updates

1a) Acquisition Status and Scoring System

Ms. Levy referenced the chart she distributed that summarizes the easement acquisitions that have occurred in the current cycle, which began in the spring of 2013, noting that the last of the 17 properties went to settlement in August. She stated that there are no additional applicants in the pipeline and that acquisitions are temporarily in a holding pattern while the County Executive reviews staff's proposed changes to the current scoring system.

Mr. Feaga asked for clarification as to how the application process works. Ms. Levy stated that in the past, applications were accepted in batches, the timing, duration and frequency of which were all determined by the County Executive. Typically, batches would run one to two years apart and would last about two months. She noted that in the wake of the Tiers issue in early 2013, the previous Administration amended the process to eliminate batching and allow for applications to be processed on a rolling basis.

Mr. Feaga inquired about the proposed amendments to the scoring system, asking if the price per acre would change. Ms. Levy stated that the County Executive is considering a wide range of proposed changes that may include the maximum price per acre. She noted that there have been a few property owners who have expressed interest in applying, so one of the things the Executive will need to decide is whether to keep the current cycle open, or to close it and reevaluate batching.

Ms. Levy referred to the handout and noted that there was \$55 million in allocated funds when the program was reopened in 2013. Of that, \$32.8 million has been spent or committed, with the balance remaining for potential future acquisitions.

Ms. Jones asked for clarification as to what the County Executive is considering in making his decisions regarding the proposed changes, so that perhaps he could be encouraged to complete his review soon. Ms. Levy said that he has expressed interest in making sure the best remaining properties are protected with the funding that is available. He asked staff to consider the elements of the scoring system in light of that priority and any current trends that might make the scoring more relevant.

Mr. Feaga asked if the Board would have any input into the proposed revisions. Ms. Levy stated that the amended scoring system would come to the Board after the County Executive reviews it. Ms. Jones stated that the Board should request the County Executive to make his review a priority.

1b) Meeting Schedule

Ms. Levy referenced the meeting schedule handout, noting changes to their usual schedule due to holidays. She reminded them that they have elected to not meet in April and October because of peak farming season demands. Ms. Levy noted that this information is available to the public on the County website under the DPZ Agriculture webpage.

Ms. Levy noted her leave of absence for the month of February and stated that Ms. Burgess will be the staff contact.

1c) Members

Ms. Levy stated that County staff has been reaching out to citizens about filling the two upcoming Board positions. She encouraged the Board members to let anyone they think might be interested to contact David Lee in the County Executive's office. Applicants should send a resume with a letter of interest to Mr. Lee, who handles all board appointments. Any interested applicant is invited to attend an ALPB

meeting to see how the Board functions. New members will start in May since the ALPB does not meet in April.

Ms. Levy recognized Ms. Gibbon, stating that she was attending the meeting due to her interest in serving on the Board. Mr. Bauer asked if it was a new requirement that interested applicants attend Board meetings. Ms. Burgess explained that it's not a requirement but that staff has been recommending it lately because it is a good introduction to the business of the Board, and may help a potential member decide if they'd like to apply.

Ms. Kaiss asked if both applicants must be farmers. Ms. Levy confirmed, quoting the Code section that requires a certain Board composition. Mr. Bauer asked how someone proves that they meet the 50% income from farming requirement to be considered a farmer. Ms. Burgess stated that it is usually apparent that someone is a full-time farmer, but that may not always be the case. She noted that the County Executive's office will handle those matters when reviewing the applicants.

2) Launch of the Ombudsman's Role

Mr. Zoller stated that his role includes all agricultural issues, not just those pertaining to the ALPP. He is the go between for the various county departments that have an agriculture component, and he is available to assist the farmers with any concerns or grievances. He noted that he will be available to meet with people before each ALPB meeting.

Mr. Feaga requested tabling the discussion regarding the ombudsman role per an email from Mary Kay Sigaty's assistant, Mary Clay. Mr. Zoller asked for clarification as to what was being tabled. Mr. Bauer stated that the email he received from Ms. Clay said, "Per our conversation this afternoon, Chair Councilperson Sigaty asked me to email you regarding the Board acting in the role of the ombudsman. Chairperson Sigaty respectfully asks that the Board members consider delaying the discussion of this item until the next meeting. She has recently meet with the County Solicitor and would like the opportunity to have further discussions with the Board and the Solicitor and we hope to schedule a meeting in the near future."

Mr. Brown stated that he didn't understand what is being tabled. Mr. Zoller asked if the issue is that the Board wants to act as the ombudsman rather than have county staff in that role. He questioned whether the Board is currently able to serve in that capacity.

Mr. Feaga said his understanding of the Rules of Procedure is that is how it has always been for ALPP matters.

Ms. O'Brien restated her prior opinion that the Board's enumerated powers under Section 15.518 do not include this role, but that she has not been involved in the recent discussions between the County Solicitor and Councilperson Sigaty. She stated that under 15.518, there are limited items that the Board is authorized to consider, such as lot releases, tenant house requests and the review of easement acquisitions. These are all clearly stated and there is no catch all provision that includes an ombudsman role. Ms. O'Brien was asked why the Board of Education (BoE) can hear grievances. She stated that the two boards are not comparable because the ALPB is appointed and the BoE is elected. People taking grievances to the BoE are going to their elected officials, whereas the ALPB is appointed by elected officials to serve in a specific capacity.

Mr. Zoller sought clarification as to whether the Board can make decisions about issues that don't fall within the specified criteria. Ms. O'Brien stated that their authority is limited to the provisions of 15.518,

and that Mr. Zoller, in his role as ombudsman, can assist property owners with concerns by directing them to the appropriate county department or staff member.

Ms. Jones suggested stopping the conversation to table it for a later time, as requested by the Council Chair. Ms. O'Brien clarified that there is no motion before the Board to table. Ms. Gowan stated that the agenda item was limited to the launch of Mr. Zoller's role as an informational update, and that the discussion of the Board's role pertaining to grievances could be discussed at the next meeting. Mr. Zoller stated that his duties as Agricultural Coordinator are assigned by the County Executive, and that the ombudsman role was created by the County Executive for Mr. Zoller.

The Board discussed in further detail how this matter came to the table, the County Solicitor's involvement and who was initiating the role discussion. Mr. Bauer stated that he approached Chairperson Sigaty. Ms. Gowan reiterated that this discussion is about the launch of Mr. Zoller's role, and if the Board wants to discuss their potential role as ombudsman then it should be a future agenda item. Mr. Bauer agreed, stating that he thinks the issue hinges on an interpretation of the Rules of Procedure.

Ms. Levy stated that she recently added information about Mr. Zoller's role on the ALPP website to help spread the word about this resource. Ms. Burgess acknowledged that the ALPB often gets approached on many subjects, some of which may not fall within their stated responsibilities, so it is helpful to be able to refer people to Mr. Zoller to assist them.

3) Proposed State Legislation, Bill Ho Co 15-18

Mr. Feaga stated that Soil Conservation District board member Keith Ohlinger expressed concern to him about proposed State Bill Ho Co 15-18 (Bill 15-18), which would potentially reduce the percentage of transfer tax funding for the ALPP and increase the percentage given to school site acquisition and construction. Mr. Ohlinger is also concerned that the funding the SCD gets from the ALPP budget could be jeopardized if Bill 15-18 goes through. Mr. Brown asked if Bill 15-18 has made it to the floor yet. Ms. Jones said that it hasn't been formally introduced, but that she does not support it and she would like the Board to take a position against it. Ms. Jones stated that these funds should be used to support the ag community, opining that even if there is no more land for easement acquisition, there are many ways the funding could support the ag industry, rather than education or flood control. She advocated reviewing this issue comprehensively so that the Board can recommend how the ALPP funding should be utilized long-term. Mr. Brown asked how this dedicated government funding source could be used to support the ag community once the easements are paid out. Mr. Feaga suggested low interest loans for beginning farmers, low interest loans for farmers transitioning to new operations and deer control, including funding for cold boxes to facilitate the Farmers Feed the Hungry program. Mr. Feaga state that the schools already have sufficient funding.

Mr. Bauer asked what Mr. Ohlinger would like the Board to do. Mr. Feaga stated that Mr. Ohlinger wants to know the Board's position and for the Board to possibly take action. Mr. Bauer asked Ms. Levy to clarify whether the Board can comment on this matter since it is state legislation. Ms. Levy deferred to Ms. O'Brien.

Ms. O'Brien explained that Howard County, as an entity, does not have the authority to create taxes so tax related bills originate from the State Legislature. The county transfer tax, which is levied when deeds that transfer property are recorded, is controlled by the State Legislature. This Bill would give the County Council the authority to make changes to the transfer tax allocation, in accordance with the proposed provisions. Bill 15-18 would allow the Council to increase funding for the "School Site Acquisition and Construction Fund" from the current 25% of the transfer tax to 50%. The difference could be made up by

reducing funding to any of the other recipients, conditioned on the ALPP receiving enough to continue meeting its contractual obligations to pay the installment purchase agreements.

Ms. O'Brien reiterated that in order to change the allocation without this law being in effect, the State Legislature would have to act, but Bill 15-18 would shift the authority to the County Council. Ms. Jones stated that the Bill would give the Council control and would allow them to change the allocation formula.

Ms. O'Brien responded that the Bill would allow the Council to change the funding percentages, but in and of itself doesn't change them. Ms. Jones stated that this change isn't being sought without the intention of reallocating the funding. Ms. O'Brien said she couldn't speak to the intent of the Bill.

Mr. Feaga asked if the ALPB can take a formal position.

Ms. O'Brien stated that as a body, the Board has no authority to represent the County on this matter, but individual members can do as they see fit. Ms. O'Brien suggested that the Board provide comments to Sandy Schrader, who is the Director of Intergovernmental Affairs for the County. Ms. O'Brien said that Ms. Schrader may allow the Board to give testimony, but that she should be consulted.

Ms. Gowan asked if the Board could take a vote on this matter and give a recommendation to the County Executive and Council. Ms. O'Brien confirmed a recommendation to Council and the County Executive would be appropriate.

Mr. Brown asked why giving the County Council the authority to make changes is undesirable. Ms. Jones stated that the authority would allow them to reduce funding to the ALPP. Mr. Brown noted that the State Legislature could make those funding revisions right now.

Mr. Bauer suggested that the Board should encourage the County Delegation to not sponsor this Bill. Mr. Feaga stated that could only be done as individuals. County staff agreed that as the ALPB, a recommendation could be made only to the County Executive and Council. If individual Board members wish to testify at the State level, they can do so as long as they are not representing the ALPB.

Ms. Jones made a motion that the Board notifies the County Executive that the ALPB is against Bill 15-18, and specifically against anything that reduces the amount of money available to the ALPP.

Mr. Feaga seconded. Mr. Brown read from Section (C)(3) of the Bill, "the County Council may not reduce funding for the Howard County Agricultural Land Preservation fund in a manner that would cause the County to default on its contractual obligations to landowners under Agricultural Land Preservation Program." Ms. Jones agreed that was correct.

Ms. Burgess said that statement covered the payment for the easements but that did not necessarily include funding of the Economic Development Authority, the SCD or other grants and programs. Mr. Feaga said that this is the cause for their concern.

Mr. Bauer asked Mr. Brown if he knew that the Soil Conservation District gets a lot of funding through the ALPP fund. Mr. Brown said that he did, but he does not believe that is what they are voting on. He believes the question is whether the Board wants the State or the County to be able to make changes to the allocation.

The Board voted unanimously in favor with Mr. Brown abstaining. He stated the motion should be tabled since Bill 15-18 has not been introduced yet.

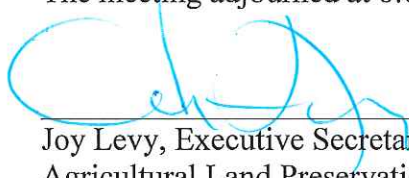
Mr. Bauer asked how to proceed. Ms. Burgess said a formal letter should be drafted and sent to the County Executive. Mr. Bauer asked if Ms. Levy or one of the Board members should draft it. Ms. Jones stated she would draft it and will email it out.

4) Mulch

Mr. Bauer inquired whether the ALPB would support and give testimony on the new mulch bill. Ms. Gowan stated that the Planning Board testimony is over so the earliest a bill can be introduced to Council is February for a March vote. Mr. Feaga said ALPB should still support it. Ms. Jones agreed and said nothing has changed.

Mr. Feaga motioned for the ALPB to support the bill as before with the added amendments. Ms. Jones seconded. There was no discussion and the vote was unanimously approved.

Mr. Feaga moved to adjourn the meeting, which was seconded by Ms. Kaiss and carried unanimously. The meeting adjourned at 8:04 p.m.



Joy Levy, Executive Secretary
Agricultural Land Preservation Board