



HOWARD COUNTY OFFICE OF COMMUNITY SUSTAINABILITY
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**HOWARD COUNTY AGRICULTURAL PRESERVATION BOARD (APB)
AND STATE AGRICULTURAL PRESERVATION ADVISORY BOARD (APAB)**

November 23, 2020

Attendance:

Board Members: Mickey Day (Chair)
Savannah Kaiss
Cathy Hudson
Ann Jones (Vice Chair)
Jamie Brown
Abby Gibbon

Staff: James Zoller, Executive Secretary/Agricultural Coordinator (OCS)
Morenike Oyenusi, Senior Assistant County Solicitor
Joy Levy, Program Administrator, (ALPP)
Beth Burgess, Chief, Resource Conservation Division
Matthew Hoover, Administrative Aide, (OCS)
Mary Kendall, Deputy Director, (DPZ)
Josh Feldmark, Director, (OCS)

Guest: Sang Oh
Robert Vogel
Ricky Bauer
Frances Yuhas
Theodore Mariani
Josh Smith
Walter Serafyn
Curtis Lowery
Jennifer Lowery

Action Items

1) Approval of minutes from the meeting on September 21, 2020

No additions or corrections. Mr. Brown motioned for approval and Ms. Hudson seconded the motion. All members in attendance were in favor of approving the minutes.

2) **Request for Recommendation on Easement Acquisition, Lowrey property; 34.5 acres (APB) ([Staff Report](#))**

Ms. Levy reviewed the [Staff Report](#) with the board and the contents that were included in the Staff Report packet. The owners are William and Jennifer Lowrey. The 34.5-acre property is on McKendree Road and they are applying to sell an easement to the County. Ms. Levy stated that with the information she received the property meets all the eligibility criteria.

The draft scoring sheet was displayed, and the total doesn't include the optional points. Depending on what the Board decides the overall scoring system will be revised to reflect the changes and an updated version will be sent out.

Ms. Levy reviewed the optional points category and the information provided to her by the applicant. She reviewed the categories and the points she recommended but did state that is up to the Board's discretion for this portion of the scoring sheet.

Sixty five percent of the farm is agricultural, and the rest is wooded. The farm is active in the community and they purchase all their hay and hay products from Seneca Ayr Farm. The bedding for the stall is from American Wood Fibers located in Jessup. They compost everything in a dumpster on site and have it hauled off each month.

For Contribution to Agricultural Economy, Ms. Kaiss made a motion to add five more points to the drafted recommendation and it was seconded by Mr. Brown. All members in attendance were in favor of adding the five points and that brought the total up to ten points in this category.

For Contribution to Agricultural Sustainability, Green Infrastructure/Water Quality, Historic and Scenic Resources no changes were made to the recommended points.

For Discretionary points, Mr. Brown motioned to add 10 points for being a next generation farmer and it was seconded by Ms. Kaiss. All board member in attendance approved the ten additional points for continuing the farming operation into the next generation.

It will be a total of fifteen additional points added to what was included in the drafted optional points and that adds a total of twenty-three points to the Optional APB points to the main scoring sheet. Ms. Jones moved to add the additional twenty-three optional/discretionary points to the total and it was seconded by Ms. Hudson. All members were in favor of adding the twenty-three additional points.

Mr. Brown motioned to approve the recommendation for easement acquisition of the Lowrey property and it was seconded by Ms. Kaiss. All members in attendance were in favor of approving the request for easement acquisition of the Lowrey property.

Discussion Items

1) **Discussion of County Executive's response to Solar Task Force recommendations as it applies to Agricultural Preservation properties**

The Board decided to speak about this Discussion Item before the third Action Item. The current policy of 10% or 10 acres whichever is less was a focal point of the discussion. The Administration is looking at a sixteen acre maximum cap and going back to the 34% number that the APB used in their prior policy.

They began the discussion about recommendation three which is to Require one of the following on Agricultural Preservation Land in conjunction with the Commercial Solar Facility. Administration Response: The Administration supports this concept but believes it should remain as a point of guidance to allow flexibility to

work with individual projects. After discussing this the APB decided they wanted to make this a requirement rather than a point of guidance.

Mr. Brown motioned to put recommendation three from the Solar Task Force into the Agricultural Land Preservation Program Commercial Solar Facilities Policy to require one of the following on Agricultural Preservation Land in conjunction with the Commercial Solar Facility: Pollinator or native grass habitats; Livestock grazing, such as sheep; Agrivoltaics (i.e. crop production under or directly adjacent to an installation, edible landscape barriers, tree crops); Or other suitable alternative, as proposed by the applicant. Ms. Jones seconded the motion. All member in attendance approved the addition to the APB Solar policy.

The Board discussed the maximum allowance of two megawatts and all that were in attendance felt comfortable with that. They discussed the acreage allowance and determining if the CSF is ancillary to the farm.

Mr. Brown motioned for in determining if the CSF is ancillary to the primary farming operation the commercial solar operation area must be a maximum of 16 acres or 34% of the property's size, whichever is less, and that it is ancillary to the farming business. No member seconded the motion. The motion failed

There was additional discussion about the allowable acreage and the CSF being ancillary to the farming operation. It was stated that if the requirement is to show ancillary to the farming operation it would be up to the farmer to figure out how to do that.

Mr. Brown motioned in determining if the CSF is ancillary to the primary farming operation, the commercial solar operational area must be a maximum of 16 acres or 34% of the property size, whichever is less, and the petitioner must provide substantive proof that the CSF use is ancillary to the farming operation. No board member seconded the motion. The motion failed.

Ms. Jones motioned in determining if the CSF is ancillary to the primary farming operation, the commercial solar operational area must be a maximum of 16 acres or 20% of the property's size, whichever is less, and the petitioner must provide substantive proof that the CSF use is ancillary to their farming operation. The motion was seconded by Ms. Hudson. All members in attendance approved the change to the policy. The motion passed.

Action Items (Cont.)

3) Request for Advisory Comments, Commercial Solar Facility (CSF), BRAG, LLC property, HO-91-15-E(S1), 50 +/- acres (APB) ([Brag CSF Staff Report](#))

It was advised that this is not a pre-meeting but a formal request for advisory comments from the Board. Ms. Levy reviewed the [Staff Report](#) with the Board. When the staff report was written it was based on the previous APB Solar Policy and not the updated policy that was voted on during the meeting. The property came into the program in August of 1991 and the total lease area proposed is 10.84 acres and is approximately 21.4% of the overall property. The soils capability of the land not included in the solar operation area is approximately 97.5% USDA Classes I-III. Ms. Levy referred to the Aerial, the Protective Lands and Soils Map reflecting the parcel and the configuration of the CSF. Mr. Vogel, Mr. Oh and Mr. Bauer were in attendance to represent the property. Mr. Vogel advised he had the request letter from the Bauer's and he displayed it on the screen.

The Board discussed the size of the requested area. Included in the proposed CSF area is a gas main which is a fifty-foot easement that runs through the site that they won't have access to. The area was included, because it is within the CSF fenced area. If the area wasn't included, it would subtract about 1.6 acres from the CSF proposal and that would put them under the current APB Solar Policy requirement. The Board was advised that the site is located off Howard Road and will be accessible by an existing driveway. The project is going to include a pollinators habitat and is going to have sheep grazing inside the fence area throughout the lifetime of the CSF.

A question was asked about the vegetative buffer on the southern part of the map and if it is included in the acreage of the CSF and they were advised it was not. It was stated, if any portion of that buffers it from their own property they should not need additional buffers added, because that takes more land out of preservation. The Board was advised that they could include that in their advisory comments.

Ms. Hudson made a motion for an advisory comment to remove the southern boundary of the tree buffer and Ms. Jones seconded the motion. No other discussions. All members in attendance were in favor of the advisory comment.

Ms. Jones made the motion for an advisory comment for the area subject to the commercial solar facility regulation be no more than the 20% which she believes is 10.11 acres and that the 1.6 acres, which is the gas line easement, not to be included in that calculation. It was seconded by Ms. Hudson. No other discussions. All members in attendance were in favor of the advisory comment.

2) Program Updates

Mr. Zoller advised the [HoCo Harvest For the Hunger program](#) is still active and they are still taking deer donations. He advised they would not be offering a prize for the most deer donated.

The letter to all the eligible property owners that are uncommitted in the RC and RR to let them know about the ALPP were sent out. There were 78 letters that were mailed out and they heard back from a few people already.

The Sharp easement acquisitions that was reviewed at the last meeting had an informal offer letter and they accepted it. The next step is the formal commitment letter with the County and they are doing that now.

Ms. Levy advised that there are about a total of ten properties that are currently applying for the County Agricultural Land Preservation Program (ALPP) and the Maryland Agricultural Land Preservation Foundation (MALPF) program.

Public Testimony

Mr. Mariani suggests that they look very carefully of how they word their definition of what is ancillary and what is not to have a basis for convincing the Hearing Authority of their position. He also suggested talking to a zoning attorney because Maryland law relies very heavily on the area of the site as opposed to the productive capacity of the site.

Mr. Mariani thinks another issue is the allocation of 20% of the site. He said the allocation of 20% sounds pretty good if the site is pretty much open. He referred to a CSF proposal that was a sixty-acre site but of that sixty acres only thirty-eight acres were open land. The rest was stream valley, flood plain, heavily wooded slopes and so forth. He thinks that the 80% outside the CSF should be tempered by what is tillable and what is occupied by steep slopes, forest, green valley, easements, and any other not tillable land.

Ms. Hudson motioned to adjourn, and Ms. Jones seconded it. All members in attendance approved the motion to adjourn.