

# **AGRICULTURAL PRESERVATION WORK GROUP MEETING MINUTES**

**March 28, 2007**

1. **Attendance:** Tom Dernoga, Marilynn Bland, Phil Carr, Boyd Campbell, Daniel Filippelli, Fred Tutman, Debra Naylor, Michael Martin, William Moore, Richard Krueger, Torben Agesen

2. **Meeting Agenda:**

I. **Compatibility of Woodland Conservation and Other Land Preservation Programs:**

CJ Lammers of the County Planning Department's Environmental Planning Section was present to discuss the Planning Department's work on an update to the Woodland Conservation Ordinance.

Currently, the use of land for woodland conservation (on-site or off-site) that is encumbered by easements (utility easements are the most common) is not allowed.

In the updated ordinance, clarity is needed with regard to land preservation programs and the ability to use land for both woodland conservation and some other land preservation program. The applicable references from Code of Maryland Regulations (COMAR) are in Section 08.19.02.02 – Criteria for Evaluating Local Programs, O. "Other Forest Conservation Credits for Special Project Areas."

The Work Group could suggest amendments to the Department of Natural Resources (DNR) to address the policy concern of "double-dipping".

Yates Clagett, Soil Conservation District staff, noted that with the potential price of \$9,000/acre for Purchase of Development Rights (PDR), tree mitigation banking would be an additional incentive for property owners. It was also noted that tree mitigation uses developer, not County, funds.

Margaret Addis, County Attorney's Office, clarified that density is extinguished when tree mitigation easement is placed on property and that the County would not purchase PDRs in this situation.

There is no requirement that the location of tree mitigation remain in the same location; the easement can be moved and re-mitigated somewhere else.

Chair Dernoga suggested that Ms. Lammers seek clarification of the COMAR language from DNR prior to finalizing the language in the update to the Woodland Conservation Ordinance. Ms. Lammers agreed to copy Chair Dernoga, Vice-Chair Bland, Yates Clagett, Margaret Addis and Jackie Brown on all emails corresponding with the State on this matter.

## **II. Overview of Agricultural Preservation Programs in other Maryland Counties**

Margaret Addis distributed a chart and provided an overview of County programs, in addition to State programs, for the following counties: Anne Arundel, Baltimore, Carroll, Charles, Frederick, Harford, Howard, Montgomery, and St. Mary's.

Boyd Campbell provided the following data that he obtained from the Montgomery County webpage concerning their preservation efforts: a total of 64,998 acres have been preserved, 48,500 acres of this total preserved through Transfer of Development Rights program.

Phil Carr noted that Calvert, Charles, and St. Mary's are the fastest growing counties (by population) in Maryland.

Chair Dernoga indicated that at the next meeting, Ms. Addis would continue this discussion and provide additional comments concerning on which programs are working and the top five programs that may be replicated in Prince George's County. He also encouraged members to email questions concerning the programs to Ms. Addis.

Chair Dernoga noted that he would email the March 7 and March 21 meeting minutes to members for review and approval at the next meeting.

### III. Discussion/Comments from observers in attendance

Joanne Flynn commented that “double-dipping” should be an incentive; property owners may not participate in PDRs waiting for woodland conservation easements. Ms. Flynn suggested obtaining information on woodland conservation regulations in other counties.

Harry Ketts posed the following questions, which at the request of Chair Dernoga, were emailed to the Chair subsequent to the meeting:

1. In the definition of “agricultural preservation” as used by the AGRICULTURAL PRESERVATION WORK GROUP and Prince George’s County, how do PUBLIC HORSE FARMS, vice PRIVATE HORSE FARMS, ORCHARD(S) and VINEYARDS/WINERIES fit into the picture? From the best information that I have these terms are not included under FARMS from the Federal to the local government level.
  
2. EMINENT DOMAIN is a powerful term in today’s political and business world. What effect would EMINENT DOMAIN play in connection with both the owner and the purchaser if EMINENT DOMAIN were to be enacted over parcels of land that came under the PDR (or other government easement) statute? It seems to me that many of these types of items are being overlooked in the briefings that are being given to the AGRICULTURAL PRESERVATION WORK GROUP and this could lead us all to a very harsh legal position.
  
3. **Next Meeting:** April 4, 2007 at 3:00 p.m.
  
4. **Adjourn:** The meeting was adjourned at 4:30 p.m.