

## Open Work Session

### Agriculture Land Preservation Easement – 10855 Snethen Church Road

May 1, 2018

Mr. Jack Lennox, Director of Planning, Zoning and Community Development, came before Council. He said this is a question that, to his knowledge, has never come to the County before. He said it has to do with the terms of an easement purchase that the County made back during a different time in the economy, and, at that time, Council may remember, they had a local County Agricultural Preservation Program that was funded through a transfer tax, and that was when real estate transactions were quite high. He said he would say it was their classic good news/bad news. He said the good news was there was a lot of money in the fund, and the bad news was there was a lot of land coming out of agriculture, hence causing that fund balance. He said it is nowhere near that today, and, frankly, he thinks that is a good thing. He said the County made two purchases from the Harcum family, and this request before Council today, as outlined by the executors of the estate of Glen Harcum, Sr., has to do with their request to separate, and he will use the word separate rather than subdivide, a portion of the easement area in order for the land itself to be sold. He clarified, the land would still be subject and fully encumbered by the conservation easement the County paid for. He said the thing that is also a little bit unique about this situation is the time to maximize the amount of dollars available. He said they partnered with the Lower Shore Land Trust, and what they brought to the table was some Federal money. He said, at the time, there was money available through something called the Federal Farm and Ranch Land Program, and it mirrored quite closely the County's interests. He said the easement documents sometimes are a little bit different when they get involved with that particular Federal program, but not relative to the provision that is before Council today because the standard agreements state that when they establish an easement area that it should not be separated. He said, that being said, it does provide an out, and that is for something. He said, in his summary letter to Council, he quoted "except for extraordinary reasons". He said those extraordinary reasons are not defined, but, again, it is there for a purpose. He said the extraordinary reasons can be determined by the grantees, and the grantees are Wicomico County and the Lower Shore Land Trust, so it actually takes both of those organizations to consent to it. He said that is the request Council has before them this evening. He said the executors of the estate have provided Council with a sales agreement that has been entered into with a local farmer, and they are requesting Council's consent to be released. He said the emphasis, again, is that the property cannot be developed, and all the terms may remain in place. He said the 60 acres they are looking to separate technically, under subdivision, is already separated because it is on the other side of a County road, which is Snethen Church Road. He said, in terms of land records, they have to complete a survey because it has never been sold separately from the rest of the family holding. He said it can be easily defined, it stands alone, it will still be used for farming purposes, and they would request the County Executive and Council grant consent.

Mr. John Hall asked, if Council agrees to this and the Lower Shore Land Trust does not, does it go through, to which Mr. Lennox responded, it does not. Mr. Lennox said he has been in close contact with the Executive Director, who is Kate Patton. He said they have their own bureaucracy, and they have their own process. He said they have a Land Committee it goes before, and they have visited it before and asked questions. He said that Committee would make a recommendation to their General Board. He said that has not happened yet, but they are expecting that to happen this month.

Mr. Dodd asked who would really want to buy property that is in a conservation easement. He then asked if it is going to be farmland that will be farmed, to which Mr. Lennox responded, yes, it would have to be. Mr. Dodd then asked if this would take the property off the County tax rolls, to which Mr.

Lennox responded, no, it does not affect that at all. Mr. Dodd asked if the new owner would still have to pay property taxes on the 60 acres, to which Mr. Lennox responded, that is correct. He said, obviously, in the way the properties are assessed, it has an agricultural assessment to it, so it is much lower than what they would pay for their homes, but it does not affect the taxes. Mr. Dodd said he has had people contact him, and they were worried about that with the previous easement, to which Mr. Lennox asked, easements in general? Mr. Dodd clarified, from the land conservation, to which Mr. Lennox responded, the encumbrance of an easement which is already in effect, obviously, decreases the value of the property, which is why the price per acre is probably less than it would be if it was developable. He said it is not, and it will not be developable.

Mr. Kilmer said it seems to him that the spirit of the program is being followed here, and it is just under a different owner. He said there is not a change in the conservation status of the land. He said it will be the same purpose of the land, but, moving forward, it is just, technically, going to require approval to divide the land even though everything is going to continue much the same as it was before, and he does not have a problem with that.

Mr. Hall asked if Mr. Lennox sees any reason why they should not approve this, to which Mr. Lennox responded, he does not. He said he does not want to quote any of the skeptics personally, but there are some questions about whether they are doing it for someone's financial benefit, and that they agreed to the easement, so, therefore, they should stick to the easement, and whether they should be getting something else out of this, though he does not know what that would be. He said he thinks they can all agree, as outlined by the request, that there have been, in his opinion, some extraordinary circumstances, and he thinks they should let the process work its way through. He said they know the purchaser is an active farmer, so they know it is going to be used for that. He said, by the way, there is a monitoring requirement, and, as part of the deal, Lower Shore Land Trust has to get out there and review it every year. He said they have been following the program, and he is sure it will be continued with the new owner.

Mr. Cannon asked if this will come back to Council, to which Mrs. Hurley responded, it would be scheduled for the next meeting for resolution. Mr. Kilmer asked if it has to be a Public Hearing, to which Mr. Lennox responded, no. Mr. Cannon said it is very unusual circumstances, but he understands, and, as Mr. Kilmer said, the intent is still there as far as the conservation. Mr. Lennox said most of the easements in the County are called MALPF easements, and that would require State approval as well, so, fortunately, they do not have that step in this situation. There was no further discussion.

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John T. Cannon, President



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Larry W. Dodd, Vice President, District 3



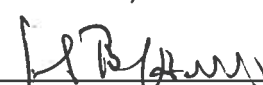
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Ernest F. Davis, District 1



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Marc Kilmer, District 2



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John B. Hall, District 4



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Joe Holloway, District 5

\_\_\_\_absent\_\_\_\_  
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Matt Holloway, At-Large



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Laura Hurley, Council Administrator