



# BERKS COUNTY *agricultural land* PRESERVATION BOARD

Berks County Agricultural Center  
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**County Commissioners:**

Christian Y. Leinbach, Chair  
Kevin S. Barnhardt  
Michael S. Rivera

**Board Members:**

David L. Phillips, Chair  
James R. Coker, Vice Chair  
Gregg Eshelman

Morgan A. Firestine  
Kimberly J. McGrath  
Jeremy R. Meck

Steven C. Mohn  
Clyde A. B. Myers  
Louise A. Swartley

**Ex Officio:**

Robert C. Ziegenfus, Ph.D.

**Solicitor:**

Mark R. Sprow, Esq.

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## Minutes from the March 30, 2022 Meeting

The Berks County Agricultural Land Preservation Board (Board) held a regular monthly meeting on Wednesday, March 30, 2022 at 7:00 PM via virtual platform “**Microsoft Teams**.” David Phillips, Chair, called the meeting to order. Board members present included James Coker, Gregg Eshelman, Morgan Firestine, Steven Mohn, and David Phillips. Board members Jeremy Meck and Clyde Myers joined during the meeting. Also, in attendance were Mark Sprow, Esq. Special Counsel for the Board; Staff: Amanda Burkard-Sell and Kimberly Fies; Emily Wangolo, Deputy Director and Tami Hildebrand, Executive Director.

### **I. PUBLIC COMMENTS ON AGENDA ITEMS – None.**

### **II. APPROVAL OF MINUTES**

**Motion: A motion was made to approve the minutes of the February 23, 2022, meeting, as drafted. (S. Mohn, M. Firestine)**

**Discussion: None**

**Vote: Motion carried. J. Coker abstained.**

### **III. STATUS OF RECOMMENDATION UPDATES**

- T. Hildebrand reported that since the Status of Recommendations had been distributed to the Board, the landowners of Docket #1706 had accepted the offer and the farm was now in the process of survey and title work.
- T. Hildebrand informed the Board that the landowners of Docket #1907 had requested a three (3) month extension to the offer. Hildebrand reviewed the current status of the application: it had been selected in October, the appraisal had been reviewed by the Board at the January 26, 2022 meeting, and the offer was made on February 15, 2022. Hildebrand added that A. Burkard-Sell has had several discussions with the landowners regarding issues surrounding the implementation of their conservation plan and the bog turtle evaluation which were necessary steps in determining whether a new plan could be developed. Therefore, the landowners are requesting a three (3) month extension since they are unsure of the timing of these steps. A. Burkard-Sell clarified that the staff is attempting to be more proactive in stressing the importance of having an implemented conservation plan with practices that the landowner is willing to follow and that the extension is necessary to allow for this to occur.

### **IV. NEW BUSINESS**

#### **A. Conveyance Report**

- A. Burkard-Sell reported on the transfers of ownership:

- Section A: Transferred in Compliance - Settlement #659.0.FD has transferred correctly.
- Section B: Transferred with Concerns Noted - Settlements #520.2, #517.0, and #740.0 the deed of easement was omitted when recorded, but the attorneys and title companies are working to record corrective deeds and no action is required from the Board at this time.
- Section C: Outstanding Violations - None to report.
- Section D: Transfers Resolved – None to report.

### III. STATUS OF RECOMMENDATIONS - resumed

- T. Hildebrand added that the Board has granted extensions in the past for various reasons.

**Motion: A motion was made to allow for a three (3) month extension of the offer for Docket #1907 to June 30, 2022. (J. Coker, G. Eshelman)**

**Discussion: None**

**Vote: Motion carried unanimously.**

### V. OLD BUSINESS

#### A. Update: Subcommittee Meeting held on February 4, 2022

- D. Phillips reported that there had been no Subcommittee meeting held in March.

#### B. Tabled at the August 25, 2021 Meeting: Settlement #526.0 Stelmach – Request to Relocate Replacement Residence

- T. Hildebrand reported that no additional information had been received from the landowner's attorney. Hildebrand added that if the information is not received by the next meeting that she may request that the Modification of the Easement request be removed from the table and denied, but that the landowner would have the option to resubmit a request at any time. She will attempt to contact the attorney again.

#### C. Update: Settlement #321.0 Hetrick – Residential Subdivision Request

- T. Hildebrand reminded the Board that at the February 23, 2022 the Hetricks had submitted a request to subdivide five (5) acres for the residential subdivision and that an opinion from the State Bureau had been sought. Hildebrand added that the State had confirmed that Act 33 only allows for a residential subdivision of a maximum of two (2) acres for either the existing or additional residential structure.
- Hildebrand reminded the Board that the Hetricks had also requested a two (2) acre residential subdivision in the event that the five (5) acres would not be permitted. The Board discussed the specifics of the subdivision. C. Myers questioned as to whether the landowners could utilize an additional two (2) acres for their additional residence. D. Phillips and the staff clarified that the additional residence would still be permitted, but it would not be permitted to be subdivided. C. Myers further questioned the additional residence and the residential subdivision. The Board and staff further discussed the request and how it relates to situations on other farms.
- G. Eshelman questioned as to whether the township had approved the request. K. Fies clarified that the landowners were working with the township and that the current request was only for a general approval of the concept of the subdivision and that the landowners would need to come back to the Board for final approval once they had the official survey drawings.

**Motion: A motion was made to approve the concept of the two (2) acre subdivision on the Hetrick property, with the final approval contingent on the submission of official drawings. (G. Eshelman, J. Coker)**

**Discussion: None.**

**Vote: Motion carried unanimously.**

**D. Update: House Bill No. 1984**

- T. Hildebrand reminded the Board about the proposed legislation, which would allow for an annexation of less than ten acres from one preserved farm to another and that the legislation was currently moving through the House. Hildebrand added that the bill had been discussed at the recent Pennsylvania Farmland Preservation Association's (PFPA) recent spring conference, that was attended by Burkard-Sell and Fies. A. Burkard-Sell reported that PFPA was requesting opinions from County Boards and clarified points of the bill, including that it would be required that County Boards include this right, that there are no minimum acreages, and that County Boards would have the discretion to determine whether this annexation would be considered the allowed subdivision on the property.
- The Board and staff discussed the bill including the ambiguity of whether the right to the additional residence or the residential subdivision could be transferred with the annexation and the need to clarify that the landowner was responsible to finance the subdivision. K. Fies added that there is also some concern over how the legal descriptions for the easements would be merged. The Board expressed support for the concept of the bill but further discussed the specifics. T. Hildebrand reminded the Board of its request to send a letter to Representative Mark Gillen, since he is one of the sponsors of the bill.

**Motion: A motion was made to send correspondence to and possibly meet with Rep. Mark Gillen requesting clarification on the Board's concerns and expressing support if the bill would only allow for the adjustment of property lines but not transfer any development or subdivision rights. (J. Coker, S. Mohn)**

**Discussion: C. Myers suggested that a copy also be sent to Senator Judy Schwank.**

**Vote: Motion carried unanimously.**

- D. Phillips informed the Board that a discussion on Senate Bill 64 had been inadvertently omitted from the agenda.

**Motion: A motion was made to amend the agenda to include a discussion on Senate Bill 64, which had been discussed at a previous meeting. (J. Coker, G. Eshelman)**

**Discussion: None**

**Vote: Motion carried unanimously.**

**E. Update: Senate Bill 64**

- A. Burkard-Sell informed the Board that PFPA had also discussed Senate Bill 64 and was also requesting opinions from County Boards; this bill would allow for land trusts to utilize a portion of the State funding for easement purchases. Burkard-Sell clarified that the current bill proposed to allow for a maximum of \$3 million, but that there may be the ability to amend it to allow for the use of unencumbered State funds not spent by the Counties or allocating a lesser amount of funds. Burkard-Sell

clarified that land trusts were allowed to apply for reimbursement of 50% of the easement purchase and that incidental expenses were covered separately, and land trusts could currently request up to \$5,000 in incidental expenses. The Board further discussed the bill and the fact that it would mean a potential reduction in the amount of funds available to the Counties. T. Hildebrand added that last year, Berks County had received approximately \$94,000.00 in reallocated unencumbered funds from the State. Hildebrand reminded the Board that currently and historically tax dollars and donations from the State and County have funded the easement purchase program not membership fees.

**Motion:** A motion was made to send a letter to Senator Schwank expressing the Board's disagreement with SB 64 (J. Coker, J. Meck)

**Discussion:** None.

**Vote:** Motion carried unanimously.

## VI. NEW BUSINESS

### B. 2022 LESA Ranking Results and Selection

- T. Hildebrand informed the Board that 76 farms totaling 5,551.88 acres had been ranked in 2022 and that a total of \$3,585,508 is available for easement purchases. Hildebrand further explained the ranking process for the benefit of the newer Board members and reminded them that the process is confidential with the applicants given a docket number for identification.
- Hildebrand calculated that utilizing the cap of \$2,600 per acre and allowing for an estimate of \$10,000 in incidental expenses per farm would allow for farms ranking 1-13 to be selected without incurring a deficit. Hildebrand further explained the ranking factors and highlighted that one application had a perfect soil score. Hildebrand also explained the selection process and how farms move through the preservation process. K. Fies highlighted that seven (7) of the first 13 farms were new applicants for 2022 and that some of the selected applicants had remained on the list for several years but may not be ready to proceed. T. Hildebrand added that farms are re-ranked every year based on the current data.

**Motion:** A motion was made to select farms ranking 1-13 in the 2022 LESA Ranking and to give the staff the ability to continue to move down the list without incurring a deficit, should any of the applications within the first selection withdraw (J. Coker, J. Meck).

**Discussion:** None

**Vote:** Motion carried unanimously.

### C. Settlement #793.0 Hoover – Rural Enterprise Request

- T. Hildebrand informed the Board that the landowners of Settlement #793.0 (Hoover) in Bethel Township had submitted a rural enterprise request to sell livestock and cattle equipment in two (2) areas around the buildings. Hildebrand added that the requested area was less than .25 acres and would not take any land out of agricultural production. The Board further discussed the request and clarified that the sales would occur on an irregular basis.

**Motion:** A motion was made to grant the rural enterprise request from the landowners of Settlement #793.0. (J. Coker, J. Meck)

**Discussion:** None

**Vote:** Motion carried unanimously.

## VII. EXECUTIVE DIRECTOR'S REPORT

- T. Hildebrand presented the following easement modification requests:
  - Settlement #608.0 C&O Farms (Albany Twp.) – request to construct a 60' x 120' pole barn to store farm equipment. This request to construct an ag structure meets the terms of the easement.
  - Settlement #608.0 C&O Farms (Albany Twp.) – request to construct a 35' x 55' farrowing room to allow for a longer weaning period for the piglets. This request to construct an ag structure meets the terms of the easement.
  - Settlement #792.0 Kunkle (Tilden Twp.) – request to construct a 100' x 24' building for equipment storage. This request to construct an ag structure meets the term of the easement.

## VI. NEW BUSINESS - continued

- D. Phillips informed the Board that additional discussion on the Subcommittee meetings will be needed, due to recent changes to the Sunshine Law, which required that the meetings be advertised, open to the public, and have an agenda and minutes. Phillips added that the Subcommittee meetings fall under the requirement for public meetings due to three factors: they are prearranged, they contain a quorum, and they discuss agency business or take official action. The Board, Attorney Sprow, and staff further discussed the specifics of the Subcommittee and how to continue to hold meetings, including prescheduling meetings and holding them in person.

**Motion:** A motion was made to amend the agenda to include discussion on how to continue convening the Subcommittee meetings (S. Mohn, J. Coker)

**Discussion:** None

**Vote:** Motion carried unanimously.

- The Board determined that Subcommittee meetings will be held in person at the Ag Center, advertised with a public agenda, and pre-scheduled, with the ability to cancel if needed. Philips added that a date for the next Subcommittee meeting will be determined.

**EXECUTIVE SESSION – None.**

## VIII. CITIZEN COMMENT / BUSINESS FROM THE FLOOR - None

**Motion:** A motion was made to adjourn the meeting at 9:09 PM. (J. Coker, J. Meck)

**Discussion:** C. Myers informed the Board that the *Reading Eagle* articles highlighting preserved farm owners have resumed, with the first article in today's edition. D. Phillips complemented Myers for his involvement.

**Vote:** Motion approved.

Respectfully submitted,

*Signature on file.*

Amanda K. Burkard-Sell, ACE Program Coordinator