



BERKS COUNTY *agricultural land* **PRESERVATION BOARD**

Berks County Agricultural Center
1238 County Welfare Road, Suite #260
Leesport, PA 19533
(610) 378-1844 Fax (610) 378-7983
www.countyofberks.com/dept/deptofag

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.

Minutes from the February 23, 2022 Meeting

The Berks County Agricultural Land Preservation Board (Board) held a regular monthly meeting on Wednesday, February 23, 2022 at 7:04 PM via virtual platform “**Microsoft Teams.**” David Phillips, Chair, called the meeting to order. Board members present included Morgan Firestine, Kimberly McGrath, Jeremy Meck, Steven Mohn, Clyde Myers, David Phillips, and Louise Swartley. Also, in attendance were Mark Sprow, Esq. Special Counsel for the Board; Staff: Amanda Burkard-Sell and Kimberly Fies; Tami Hildebrand, Executive Director; and, Scott and Lisa Hetrick, members of the Public.

The Board welcomed new Board member, Morgan Firestine, who is a general member appointed by Commissioner Leinbach. The Board and staff introduced themselves.

I. PUBLIC COMMENTS ON AGENDA ITEMS – None.

II. APPROVAL OF MINUTES

Motion: A motion was made to approve the minutes of the January 26, 2022, meeting, as drafted. (C. Myers, L. Swartley)

Discussion: None

Vote: Motion carried unanimously.

III. STATUS OF RECOMMENDATION UPDATES

- T. Hildebrand reported that since the Status of Recommendations had been distributed to the Board, the landowners of Docket #1117 had accepted the offer and the farm was now in the process of survey and title work. The remaining Dockets are currently in various stages of the process.
- Hildebrand reminded the Board that Docket #0336 had been discussed at the January 26, 2022, Board meeting and that, as per the Board’s direction, the matter has been referred to Attorney Sprow to write a letter to the landowner informing him that the application will be withdrawn, and he will be responsible for the incidental costs; documentation had been provided to Sprow. Sprow added that he is drafting the letter and that it will be sent to the staff for review prior to sending.

IV. OLD BUSINESS

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

- T. Hildebrand reported that the Subcommittee meeting scheduled for February 4, 2022 had been cancelled and that another meeting will be scheduled for March.
- L. Swartley reported that she is researching the number of farms in each township that are between 10-50 acres, but that she is having some difficulty obtaining the exact numbers. D. Phillips clarified that Swartley is researching the information to assist with the discussion regarding changing the minimum acreage for subdivision.

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

- T. Hildebrand reminded the Board that more information had been requested from the landowner of Settlement #526.0 to fully evaluate the request. Hildebrand reported that no additional information had been received, but the landowner's attorney is working to provide the information and that the request can remain tabled. Hildebrand added that she had contacted the landowner's attorney on February 11, 2022, but no response had been received to date.

C. Update on the 2022 State Funding Allocation for ACE Program Purchases

- T. Hildebrand informed the Board that at the February 11, 2022 State Board meeting, the State Bureau had distributed the 2022 Allocation of Funds; Berks County's certified approximately \$1.3 million had been matched with approximately \$2.4 million for a total of \$3,731,637.00 in available funds. Hildebrand clarified that approximately \$151,129.00 will be allocated to easement monitoring for hiring another inspector, leaving approximately \$3.5 million available for easement purchases. Hildebrand added that a portion of these funds are for incidental expenses associated with the purchase of easements and the forecasted amount may need to be increased to \$10,000.00 per farm this year.
- The Board discussed the amount of funding received in relation to other counties. D. Phillips added that the amount received this year was a slight increase from last year.
- T. Hildebrand further explained the sources of funding and the funding formula.

D. Tabled at the January 26, 2022 Meeting: Setting of the 2022 Agricultural Conservation Easement Purchase Cap

- D. Phillips reminded the Board that the discussion regarding setting the cap had been tabled at the January 26, 2022 meeting. Phillips added that cap had remained the same for 16 years and that the number of applicants appears to be dropping.
- The Board further discussed the number of applications received versus the amount of farmland available for preservation in the County, increasing agricultural values, and appraisal values overall in Berks and across the State. The Board discussed the potential reasons for landowners not applying to the ACE Program or proceeding and whether raising the cap would affect the number of applicants or if other measures, such as public relations, were necessary. C. Myers suggested meeting with members of the Plain Community to explain the ACE Program.
- D. Phillips reminded the Board that the cap needed to be set at this meeting to allow for the 2022 LESA Ranking to proceed. Phillips also stressed that even if the cap is raised, the Board would only be able to pay the appraised easement value up to that cap. The Board continued to discuss the change in agricultural values.
- K. McGrath stated that offering more money would not necessarily translate into large numbers of applicants and that it would mean preserving fewer acres overall. D. Phillips reminded the Board that last year, 1358 acres had been selected at \$2,500 per acre. C. Myers suggested raising the cap incrementally. The Board and staff discussed the implications of raising the cap on current applicants. Phillips calculated that every increase of \$100 would mean a potential decrease of approximately 52 acres in the number of acres selected.

Motion: A motion was made to set the cap at \$2,800 for easement purchases in 2022 (C. Myers, motion not seconded).

- The Board further discussed the potential implications of raising the cap on current and future applicants. J. Meck suggested possibly raising the cap in smaller increments to limit the possibility of applicants withdrawing and then reapplying for the potential of a higher purchase price. T. Hildebrand stressed the importance of providing for a method to recoup any funds spent on those applicants who withdraw during the process.

Motion: Motion died on the floor.

Motion: A motion was made to set the cap at \$2,700 for easement purchases in 2022 (J. Meck, motion not seconded – motion died).

Motion: A motion was made to set the cap at \$2,600 for easement purchases in 2022 (M. Firestine, L. Swartley)

Discussion: None. C. Myers questioned as to whether this would only apply for 2022. D. Phillips clarified that the decision on the cap was made every year.

Vote: Motion carried unanimously.

E. Update: PDA Bureau of Farmland Preservation’s Soil Health Education Grant

- T. Hildebrand reported that the application for the State Bureau of Farmland Preservation’s Soil Health Grant that had been previously approved by the Board and the County Commissioners had been sent to the State and was approved on February 18, 2022.
- Hildebrand added that Kim Fies and Deputy Director, Emily Wangolo, will update the Board regarding the usage of the grant funds.

V. NEW BUSINESS

A. Conveyance Report

- Hildebrand reported on the transfers of ownership compiled by Burkard-Sell and explained the nature of the report:
 - Section A: Transferred in Compliance - Settlements #751.0, #752.0, #87.0, and #90.0 have transferred correctly.
 - Section B: Transferred with Concerns Noted - Settlements #520.2, #517.0, and #583.0 the deed of easement was omitted when recorded; Hildebrand added that Burkard-Sell is working with the attorneys and title companies 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 – Settlement #583.0 has been resolved with a corrective deed recorded.

B. Presentation of the 2021 ACE Program Inspection Report

- K. Fies explained the annual inspection report and informed the Board that including the 54 federal farms that required a yearly inspection, a total of 298 farms had been inspected in 2021. Fies added that of these, 261 had been in compliance with the easement, 33 had required recommendations, and four (4) had concerns that could result in potential violations. Fies noted that she also includes the conveyance information prepared by A. Burkard-Sell and that a total of 56 farms had transferred with 76 deeds reviewed. Fies presented a slideshow prepared by her and C. Myers highlighting both the positive and negatives found during the inspections.

C. Settlement #321.0 Hetrick – Residential Subdivision Request

- T. Hildebrand presented a request from the landowners of Settlement #321.0 (Hetrick), 86.3 acres in Tulpehocken and Jefferson Townships, for a special exception to subdivide 5.9 acres for the residential subdivision; if 5.9 acres is not approved, the landowners are requesting a 2-acre subdivision. Hildebrand explained the request and noted that the proposed 2-acre subdivision would require a 20' set back as per township requirements and would require the removal of a portion of an unused milking parlor. Scott and Lisa Hetrick further explained their request. Hildebrand reminded the Board that the regulations do not allow for subdivisions outside of the guidelines and that all subdivisions must also go to the State Board, which will not approve anything outside of the guidelines.
- The Board further discussed the proposal including the limitations on what is permitted under the guidelines and State regulations. The Board discussed sending the proposal for the 5.9-acre subdivision to the State for their review and opinion.

Motion: A motion was made to request an opinion from the State Bureau on the possibility of permitting the requested 5.9-acre residential subdivision larger at the landowner's request (K. McGrath, S. Mohn).

Discussion: None

Vote: Motion carried unanimously.

D. Settlement #119.0 Vooz – Rural Enterprise Request

- T. Hildebrand presented a request from the landowners of Settlement #119 (Vooz) 93.5 acres in Oley Township, to operate a wedding venue in an existing barn. Hildebrand added that weddings would be held during three seasons and accommodate approximately 150 people; the township is requiring two bathrooms to be installed in the barn.
- Hildebrand also reported that the landowners are also requesting to construct the allowed additional residence for the landowner's in-laws. Hildebrand clarified that part of the 2-acre curtilage area for the residence would be used to provide parking for the rural enterprise; there is a well in the area and the property is connected to public sewer. K. Fies added that the request meets the terms of the guidelines and township approvals have been sought.
- The Board discussed the request. L. Swartley expressed concern with the amount of parking required.

Motion: A motion was made permit the requested rural enterprise on Settlement #119.0 (C. Myers, K. McGrath).

Discussion: L. Swartley questioned as to whether the venue would require lighting. K. Fies clarified that the landowner needed to continue working with the township to determine their requirements and that recent changes to the agrotourism laws might affect what was required.

Vote: Motion carried unanimously.

E. House Bill No. 1984

- T. Hildebrand informed the Board that the proposed House Bill No. 1984 would allow for subdivisions of fewer than ten (10) acres for annexation from one preserved farm to another without Clean and Green rollback taxes.
- K. Fies questioned as to whether this subdivision would exhaust the right for general subdivision. Hildebrand responded that there are several areas that are unclear with

the bill and that she had reached out to the State Bureau for further clarification. The Board discussed concerns with the Bill and how to respond. C. Myers suggested that the subcommittee review the bill.

Motion: A motion was made to send the matter to the Subcommittee for review and also send a letter to PA State Representative Mark Gillen expressing the Board's concerns with the Bill (C. Myers, S. Mohn).

Discussion: None

Vote: Motion carried unanimously.

VI. EXECUTIVE DIRECTOR'S REPORT

- T. Hildebrand reminded the Board that a new Board member directory that had been previously distributed.
- T. Hildebrand reported on the State statistics that had been distributed following the February 11, 2022 State Board meeting:
 - Total number of farms approved-to-date for preservation: 6,004
 - Total number of acres approved-to-date for preservation: 608,091
 - Total number of farms approved-to-date for preservation in Berks County: 800
 - Total number of acres approved-to-date for preservation in Berks County: 76,765
 - Hildebrand added that the State hit the milestone of 6,000 farms preserved at the meeting, approving a farm in Mercer County.
- Hildebrand informed the Board that HP Avian Influenza had been discovered in nearby states and that staff had been advised by the State Bureau not to inspect poultry operations and to follow strict biosecurity protocols. Hildebrand added that additional information will be distributed to the Board.
- Hildebrand reminded the Board that the statement of financial interest for Board members on the Board in 2021 were due to the County's Chief Clerk, Carmen Torres, by April 29, 2022.

EXECUTIVE SESSION – None.

VII. CITIZEN COMMENT / BUSINESS FROM THE FLOOR - None

- D. Phillips reminded the Board that the next meeting is March 30, 2022, at 7:00 PM and the deadline for the agenda is March 16, 2022. T. Hildebrand added that the next Subcommittee meeting will be determined via email.

Motion: A motion was made to adjourn the meeting at 9:23 PM. (J. Meck, M. Firestine)

Discussion: None.

Vote: Motion approved.

Respectfully submitted,

Signature on file.

Amanda K. Burkard-Sell
ACE Program Coordinator