



BERKS COUNTY *agricultural land* PRESERVATION BOARD

Berks County Agricultural Center
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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

Robert B. Ludgate, Sr., PE, PLS
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 January 26, 2022 Meeting

The Berks County Agricultural Land Preservation Board (Board) held a regular monthly meeting on Wednesday, January 26, 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, Steven Mohn, Clyde Myers, David Phillips, and Louise Swartley. Kimberly McGrath joined during the meeting. Also, in attendance were Mark Sprow, Esq. Special Counsel for the Board; Staff: Amanda Burkard-Sell and Kimberly Fies; and Tami Hildebrand, Executive Director.

The Board welcomed new Board member, Gregg Eshelman, who is a farmer member appointed by Commissioner Rivera. 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 November 17, 2021 meeting, as drafted. (J. Coker, C. Myers)

Discussion: None

Vote: Motion carried unanimously.

III. STATUS OF RECOMMENDATION UPDATES

- T. Hildebrand explained the Status of Recommendations report and reminded the Board that applications are completely confidential, even from the Board, until the landowners accept the offer and that landowner names continue to be withheld from the public until the farms are submitted to the State Board.
- Hildebrand reminded the Board that Docket #0336 had been discussed at the September 29, 2021, Board meeting and that, as per the Board’s direction, a letter had been sent giving the landowner a 90-day timeframe to provide clear title as required. Further, the letter informed the landowner that the application would need to be withdrawn and he would be responsible for reimbursing the incidental expenses, which total \$25,723.25, if clear title could not be provided. Hildebrand informed the Board that the landowner had not complied with the request and the 90 days had expired.
- C. Myers questioned as to whether the landowner had been in contact with the office since receiving the letter. A. Burkard-Sell reported that she had contacted the landowner in early December and that he had been in contact with a lender but needed to provide additional documents; no further communication from the landowner had occurred. The Board further discussed the landowner’s situation and inability to secure subordination agreements or obtain funding from a lender that would subordinate.

Motion: A motion was made to have Attorney Sprow write a letter to the landowner of Docket #0336 informing him that the application had been withdrawn along with an invoice for the \$25,723.25 in incidental fees that had been expended. (J. Coker, L. Swartley)

Discussion: C. Myers questioned whether any applications had needed to be withdrawn at this stage before. T. Hildebrand informed the Board that about three (3) applications had been withdrawn after accepting the offer but prior to State Board approval. The Board discussed further options should the landowner be unable to pay for expenses.

Vote: Motion carried unanimously.

- T. Hildebrand informed the Board that the remaining dockets were from the 2021 and 2022 selections. Hildebrand highlighted that Dockets # 1016, and #2017 had recently gone to settlement, Dockets #1404 and #2011 are scheduled for settlement on February 11, 2022, and that the appraisals for Dockets #1706, #1907, #1117, and #0939 will be reviewed in Executive Session.

IV. OLD BUSINESS

A. Update: Subcommittee Meeting held on January 7, 2022

- T. Hildebrand reported that the Subcommittee had discussed two (2) situations: how to track the construction of the additional residential structure, which will be addressed going forward by the updated guidelines that will require an affidavit to be recorded, however, this needs to be addressed for farms already preserved; and a preliminary request from a landowner to subdivide five (5) acres from a farm preserved prior to the 1996 subdivision guidelines. Opinions from the State Bureau will be sought on both situations before they will be brought back to the Subcommittee and ultimately the Board, if necessary.
- Hildebrand added that the next Subcommittee meeting is scheduled for February 4, 2022 at 10:00 am.

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.

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 #646.0, #720.0, #37.0, #781.0, #252.0.FD, #101.0, #787.0, #304.2, #348.0.AN, #304.1.AR, and #790.0 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 – Settlements #696.0 and #19.0 have been resolved with corrective deeds recorded.

B. Ratification of Voting for 2022 ACE Program Purchase Funds and Ratification of Voting to Amend the 2022 ACE Program Purchase Funds Decision

- T. Hildebrand thanked the Board members for responding to her emails and voting on the certification of County funds to the State but reported that due to a change in the Sunshine Law, voting via email and ratification was no longer permitted. Hildebrand added that a new motion will be needed to certify the 2022 County funds to the State for matching, which include money from the County's general fund, any donations received, and Clean and Green roll back penalties. Hildebrand reminded the Board that the Clean and Green roll back funds will be utilized for easement monitoring, rather than easement purchases and clarified that if approved, the certification will be on the Berks County Commissioners' meeting agenda for the next day.

Motion: A motion was made to certify the 2022 County Funds, which include money from the general fund, any donations received, and Clean and Green roll back penalties to the State for matching; the Clean and Green funds will be utilized for easement monitoring. (K. McGrath, S. Mohn)

Discussion: None.

Vote: Motion carried unanimously.

- Hildebrand informed the Board that the 2022 County funds will include \$1 million from the County's general fund; \$150,195.55 in donations in memory of Board member Robert Kopfer and Clayton Schannauer, and the Estate of Michael Sisk; and \$151,129 in Clean and Green roll back taxes, for a total of \$1,301,324. Hildebrand added that the State funding amounts are typically released at the February State Board meeting, but will definitely be released by March 1, 2022, as required.
- C. Myers questioned as to whether the monitoring funds which will be utilized for the additional full-time inspector position will be held separately. Hildebrand reported that they will be as required and that the funds from 2021 are still available, since the position will need funding for both a salary and benefits. Hildebrand added that she and Deputy Director Emily Wangolo are finalizing position descriptions, which still need further review by the County's Human Resources Department.
- D. Phillips elaborated that the amount of match funding from the State is difficult to determine ahead of time, since the formula utilized is unknown, despite the Board's prior efforts to determine the methods used. Hildebrand added that last year's funds totaled \$3.4 million comprised of over \$1 million from the County that was matched with almost \$2.4 million by the State.

C. Setting of the 2022 Agricultural Conservation Easement Purchase Cap

- T. Hildebrand presented information regarding the appraisal averages from the 2021 selection for both farms above and below 50 acres, the State averages, also divided into less than and more than 50 acres, and the averages over the last 11 years. Hildebrand noted that the average appraised easement value for the 19 selected farms in 2021 was \$3,010 per acre, the cap of \$2,500 per acre had remained the same since 2006, fewer applications are being submitted, and therefore she suggested that it might be time for a discussion about raising the cap. The Board discussed the cap, the number of applicants, and the implications of a potential change to the cap. Hildebrand offered that the Board could postpone the decision to the February

meeting and that any additional information necessary could be provided. The Board discussed the amount of funding received from the County and how changing the cap could affect the number of farms selected and the number of applications received.

Motion: A motion was made to table setting the 2022 easement purchase cap until the February meeting (J. Coker, L. Swartley).

Discussion: None

Vote: Motion carried unanimously.

D. Setting of the 2022 Agricultural Conservation Easement Purchase Interest Rate

- T. Hildebrand reminded the Board the interest rate for easement purchases in installment payments must be set every year, even though the funds do not currently earn interest.

Motion: A motion was made to set the 2022 easement purchase interest rate at 0% (J. Coker, K. McGrath).

Discussion: None.

Vote: Motion carried unanimously.

E. Election of BCALPB 2022 Vice Chair

- D. Phillips reminded the Board that while the County Commissioners had appointed him as the Board's Chair, the Vice Chair must be elected by the Board yearly. Phillips added that the current Vice Chair is James Coker.

Motion: A motion was made to nominate Steven Mohn as Vice Chair (J. Coker, C. Myers).

Discussion: S. Mohn declined the nomination at this time due to his busy schedule.

Vote: Motion failed.

- L. Swartley questioned as to whether there were term limits for the Vice Chair; Hildebrand informed them that while there are term limits for the Chair, there are no term limits for the Vice Chair.

Motion: A motion was made to nominate James Coker for Vice Chair for 2022.

Discussion: None

Vote: Motion carried unanimously.

Motion: A motion was made to close the nominations for the Vice Chair for 2022.

Discussion: None

Vote: Motion carried unanimously.

- James Coker was elected as the Vice Chair for 2022.

F. PDA Bureau of Farmland Preservation's Soil Health Grant

- K. Fies reported that the Pennsylvania Department of Agriculture will be awarding ten (10) \$1,000 grants for soil health education on preserved farms. Fies explained that she and Deputy Director Emily Wangolo have been working with the USDA – Natural Resources Conservation Service to develop a workshop that would take place on a preserved farm in the Maiden creek watershed in June and would target 100 landowners in the area. Fies added that the proposal will need approval from the Board and the projected budget is \$1,738 with \$1,000 from the proposed grant and

the required 75% in matching funds coming from the County Department of Agriculture funds or sponsorships.

Motion: A motion was made to apply to the Pennsylvania Department of Agriculture for a \$1,000 grant for soil health education for a workshop on a preserved farm in the Maiden creek watershed (C. Myers, J. Coker)

Discussion: L. Swartley questioned as to whether this would be a yearly event. Fies explained that this event would be the first of its kind, but that if successful could continue and perhaps be held in different areas of the County.

Vote: Motion carried unanimously.

VI. EXECUTIVE DIRECTOR'S REPORT

- Modifications of Agricultural Conservation Easements
 - Settlement #35.0 (Hurst) – 124.84 acres in Heidelberg Township
 - The Hursts are requesting to construct a 50' x 96' hoop house to store hay and equipment.
 - This request to construct an ag structure complies with the terms of the Deed of Easement.
- T. Hildebrand reported on the State statistics that had been distributed following the December 15, 2021 State Board meeting:
 - Total number of farms approved-to-date for preservation: 5,979
 - Total number of acres approved-to-date for preservation: 606,215
 - Total number of farms approved-to-date for preservation in Berks County: 796
 - Total number of acres approved-to-date for preservation in Berks County: 76,475
- 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.
- Hildebrand referred to the new Board member directory that had been previously distributed.

EXECUTIVE SESSION

RESUMPTION OF REGULAR MEETING

Motion: A motion was made to offer the cap of \$2,500 per acre to Dockets #1706, #1907, #1117, and #0939 (J. Coker, K. McGrath)

Discussion: None

Vote: Motion carried unanimously.

VII. CITIZEN COMMENT / BUSINESS FROM THE FLOOR - None

- C. Myers reported that he is working to resume the monthly articles in the *Reading Eagle's* "Berks Country" featuring preserved farm owners.
- K. Fies suggested that at the Berks County Conservation District's meeting she had noted scheduled mid-monthly workshops, which are advertised and comply with the updated Sunshine Law; such meetings could provide a method to conduct business in between meetings and can be cancelled if unneeded, since voting via email and ratifying at the next meeting are no longer permitted under the Sunshine Law.
- D. Phillips reminded the Board that the next meeting is February 23, 2022, at 7:00 PM and the deadline for the agenda is February 9, 2022.

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

Discussion: None.

Vote: Motion approved.

Respectfully submitted,

Signature on file.

Amanda K. Burkard-Sell
ACE Program Coordinator