



BERKS COUNTY *agricultural land* PRESERVATION BOARD

Berks County Agricultural Center
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County Commissioners:

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Michael S. Rivera

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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 24, 2021 Meeting

The Berks County Agricultural Land Preservation Board (Board) held a regular monthly meeting on Wednesday, February 24, 2021 at 7:30 PM via virtual platform “**Microsoft Teams.**” David Phillips, Chair, called the meeting to order. Board members present included Robert Kopfer, Kimberly McGrath, Jeremy Meck, Steve Mohn, Clyde Myers, David Phillips, and Louise Swartley. Also, in attendance were Mark Sprow, Esq. Special Counsel for the Board; Amanda Burkard-Sell and Kimberly Fies, Staff 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 January 27, 2021 meeting, as drafted. (R. Kopfer, L. Swartley)

Discussion: None

Vote: Motion approved.

III. STATUS OF RECOMMENDATION UPDATES

- T. Hildebrand reported that since the report was distributed, Docket #'s 1908 and 1509, listed under Section B, have been scheduled for settlement on Wednesday, March 3rd.
- Docket #2014, listed under Section G., will be discussed in Executive Session.

IV. OLD BUSINESS

A. Update: BCALPB Subcommittee Meeting of Friday, February 5, 2021

- K. Fies provided an update:
 - Individual Modification of Easement request forms will be created for the construction/modification of agricultural structures, construction of a new residential structure and/or the modification of an existing residential structure, Rural Enterprise, and Subdivisions with supporting documents will be prepared for review at the next Subcommittee meeting.
 - C. Myers added that he and Kim felt it necessary to separate the original form in this manner to make each form specific to the request which will be accompanied by the appropriate procedure for submission.
 - The next Subcommittee Meeting is scheduled for Friday, March 5th and the State Bureau of Farmland Preservation Staff and State’s legal counsel will be attending.

B. Update: 2021 County Certification & State Allocation of Funds

- Hildebrand reported that the 2021 State Allocations of Funds were released at the State Board of Farmland Preservation’s meeting of February 18, 2021.
 - Berks County Certified a total of \$1,068,664 for agricultural conservation easement purchases in 2021; \$1,000,000 from the General Fund, \$67,989 in Interest Collected

in 2020 from Rollback Penalties of Clean & Green, and \$675 donated in memory of Cassandra Evans.

- The State matched these funds with \$2,409,318 which totals \$3,477,982.
- The Board was reminded that though the Interest Collected in 2020 from Rollback Penalties of Clean & Green was reported for matching of funds by the State, those funds will not be utilized for agricultural conservation easement purchases, but rather they will be redirected for the salary and benefits in the hiring of an ACE Program Technician.

V. NEW BUSINESS

A. Conveyance Report

- Hildebrand reported on the transfers of ownership compiled by A. Burkard-Sell:
 - Transferred – In Compliance: Settlements #733.0, #86.0, and #186.0 have transferred correctly.
 - Transferred – Concerns Noted: None to report.
 - Outstanding Violations: None to report.
 - Transfers - Resolved: Settlements #152.0 and #175.0 have been resolved.

B. 2020 Annual Farm Inspection Report

- Fies reported that 561 farms were targeted for inspection prior to furlough; however, post-furlough, 305 farms were inspected between August and December.
 - 261 farms inspected were in compliance with the Deed of Easement and Conservation Plan.
 - 61 farms inspected were reported to have potential resource concerns or potential infraction of the terms of the Deed of Easement identified and may require an inspection in 2021.
 - 8 farms inspected were identified to having serious resource concerns or that no action had been taken after previous recommendations or infractions to the terms of the Deed of Easement were reported to the landowner for correction.
 - 30 Deeds of Easement reviews were conducted by Burkard-Sell on 46 properties prior and post-transfer of ownership, which are reported monthly throughout the year on the Conveyance Report.
- Fies provided a PowerPoint presentation to show various conservation issues and unreported Rural Enterprises that she and Myers discovered during these inspections.
 - Swartley pointed out the necessity of having the State become more involved and supportive in the reconciliation of these conservation issues that are leading to potential violations. Her concern is that the people that signed up for preservation need to be held accountable rather than continuing to ignore the information Fies is providing to rectify the problem.
 - Fies responded that reassembling the Board's Subcommittee was necessary to work through these issues. Having the State Bureau join the next meeting to seek its guidance on defining, documenting, and resolving these issues as well as determining when the State should be notified regarding the issues is critical.
- Fies will submit this report to the State Bureau of Farmland Preservation, as required.

C. Settlement #136.0 Leonard & Rosanne Hoover – Request to Replace Existing Residence

- Hildebrand shared that Hoover's 149.1-acre farm, originally owned by Miles Hollenbach located in Upper Tulpehocken Township, and was preserved on August 11, 2000.
- Fies presented Hoover's request:

- The initial request, submitted a few years ago, was to replace the existing residential structure. Referencing the ACE Program guidelines, the replacement of an existing residential structure is also used when you rebuild a house in the existing curtilage and remove the existing residence.
- This newer proposal locates the replacement house and garage within the curtilage; however, the proposal includes the creation of a circular driveway that would take a small amount of land out of agricultural production and would expand the curtilage. Roughly, 6,500 square feet would be impacted.
- Myers discussed with Hoover the possibility of utilizing the right to construct the permitted residential structure on a 2-acre area anywhere on the farm instead of the area he is proposing for the replacement house and circular driveway, which will extend into ag productive land and would not be allowed. Hoover stated that he would prefer to reserve that right for later use.
- Myers also mentioned the possibility for Hoover to use the 2-acre subdivision allowance for the construction of the new house and driveway. Hoover stated that he would like the Board to determine if he would have the ability to swap land currently not being farmed, by converting it into productive land to offset the land being taken out of production for the circular driveway. Hoover and his family would consider their options after receiving the Board's decision.
- The existing house will be removed when the new residence is constructed.
- State regulations do not allow for the swapping of land to offset the removal of agricultural production land with land currently not being farmed.

Motion: A motion was made to acknowledge that this specific design submitted by the Hoovers as replacement of the existing residential structure does not meet the requirements of the deed of easement because it extends beyond the existing curtilage, which is not permitted by State regulations. (R. Kopfer, J. Meck)

Discussion: None.

Vote: Motion approved (C. Myers abstained).

- A letter will be sent to the Hoovers regarding the Board's decision and how it was rendered. The 2-acre subdivision option will be reiterated as a possibility of resolving the proposed driveway location.

VI. EXECUTIVE DIRECTOR'S REPORT

A. Modification of Easement Requests:

1.) Settle #103.0.FD – Kerwin & Corrie Mast

- The 119.3-acre Mast farm, located in Oley Township, was preserved with a Federal Farm and Ranchlands Protection Program (FRPP), State, and County agricultural conservation easement on April 22, 1999.
- The Masts are requesting to remove a garage and construct a larger one, as well as install a swimming pool within the curtilage of the farm.
- There is no impervious surface limitation on this farm preserved through the FRPP Program.
- This request is compliant with the Deed of Easement.

2.) Settlement #240.2 – Wayne & Linda Hoover

- The Hoover 60.2-acre farm located in Longswamp Township was preserved by previous owners, brothers Clair & Walter Seidel, on October 10, 2002.
- The Hoovers are requesting the acknowledgement of additional moveable grain bins and grain tanks as agricultural structures.

- Prior to this submission, the Masts had not submitted a request to report that a Rural Enterprise was located on their farm, however over a 4-year period of time, eight (8) large grain bins have been placed on concrete pads taking land out of production indicating that a Rural Enterprise exists on the farm.
- Rural Enterprise guidelines state that at least 50% of the grain must be produced on the farm; however, if this is a grain mill and it is importing crops and selling them, then this is no longer defined as an agricultural/rural enterprise, but rather a commercial business enterprise. The burden of proof and/or truth needs to be provided by the landowner.
- The Hoovers will be provided guidelines regarding Rural Enterprise requirements as set forth by the terms of the deed of easement emphasizing that no new structures for Rural Enterprises can be constructed or expanded into areas of agricultural production.

Motion: A motion was made to recognize that a grain mill exists and is being operated on the Hoover farm as a Rural Enterprise. Its continued operation is subject to the terms of the deed of easement which states that no new structures can be constructed for Rural Enterprises or expanded into areas of agricultural production. (J. Meck, R. Kopfer)

Discussion: None.

Vote: Motion approved.

- 3.) Settlement #353.0.FD - Roger & Janet Heller
 - Heller's 95.0-acre farm, located in Heidelberg Township, was preserved with a Federal Farm and Ranchlands Protection Program (FRPP), State, and County agricultural conservation easement on August 3, 2005.
 - The Hellers are requesting to remove a butcher house and extend their residence by 15'x25' to construct a bedroom for one-floor living.
 - This addition will be constructed within the curtilage and will not impact the impervious surface limitation designated on this farm.
 - This request is compliant with the Deed of Easement.
- B. State Board of Farmland Preservation Statistics of February 18, 2021 Meeting
 - Total number of farms approved-to-date for preservation in PA: 5,843
 - Total number of acres approved-to-date for preservation in PA: 594,457
 - Total number of farms approved-to-date for preservation in Berks County: 781
 - Total number of acres approved-to-date for preservation in Berks County: 75,610
 - C. 2021 Board Member Directory
 - Hildebrand distributed an updated Board Member Directory to the members, staff, and Solicitor.
 - D. The passing of Sharon Seaman, CAO Ron Seaman's wife
 - Hildebrand announced the passing of Sharon Seaman, wife of the County's Chief Administrative Officer, Ron Seaman, knowing that many Board members had worked with Ron previously as the County's Chief Clerk, as South Heidelberg Township's Manager, and relating to the Board that Sharon was Ernie Heckman's daughter. She provided Ron's address for Board members to offer their condolences.

EXECUTIVE SESSION

RESUMPTION OF THE REGULAR SESSION

Motion: A motion was made to include a 1.75-acre adjacent parcel to Docket #2014's property that is owned by the applicant and is part of the farming operation; it meets all the eligibility criteria for inclusion. (K. McGrath, S. Mohn)

Discussion: None.

Vote: Motion approved.

VII. CITIZEN COMMENT / BUSINESS FROM THE FLOOR – None.

Motion: A motion was made to adjourn the meeting at 9:57 PM. (R. Kopfer, L. Swartley)

Discussion: None.

Vote: Motion approved.

Respectfully submitted,

Signature on file.

Tami S. Hildebrand
Executive Director