



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
Mark C. Scott, Esq.

Board Members:

David L. Phillips, Chair
James R. Coker, Vice Chair
Wilson M. Balthaser
Robert E. Kopfer
Robert B. Ludgate, Sr., PE, PLS
Jeremy R. Meck

Ex Officio:

Steven C. Mohn
Clyde A. B. Myers
Robert C. Ziegenfus, Ph.D.

Minutes from the April 24, 2019 Meeting

The Berks County Agricultural Land Preservation Board (Board) held a regular monthly meeting on Wednesday, April 24, 2019 at 7:30 PM at the Berks County Agricultural Center. James Coker, Vice Chair, called the meeting to order. Board members present included Wilson Balthaser, James Coker, Robert Kopfer, Robert Ludgate, Sr., Jeremy Meck, Steven Mohn, and Clyde Myers. Also in attendance were Mark Sprow, Esq. Special Counsel for the Board; Tami Hildebrand, Executive Director; Kimberly Fies and Amanda Burkard-Sell, staff; and Ted Stokes.

I. PUBLIC COMMENTS ON AGENDA ITEMS – None.

II. APPROVAL OF MINUTES

- J. Coker requested to amend the minutes from the March 27, 2019 meeting to add that he had abstained from voting to approve the minutes from the February 27, 2019 meeting.

Motion: A motion was made to approve the minutes of the March 27, 2019 meeting, as amended. (R. Ludgate, R. Kopfer)

Discussion: None.

Vote: Motion approved unanimously.

III. STATUS OF RECOMMENDATION UPDATES

- The Board reviewed the previously distributed Status of Recommendations. There have been no changes since its distribution.

IV. OLD BUSINESS

A. Five-year Outreach Activities Plan – Status of Projects

- C. Myers reviewed the responses from the outstanding township who had not yet responded to the Board's request for funding for the Farm Forever sign project. The Board determined that follow up letters will be sent to the outstanding township in the fall.
- A. Burkard-Sell reported that in response to the landowner sign survey, to date landowners had requested 26 signs and only two had responded as not interested in the signs. Burkard-Sell will provide updated figures at the next meeting.
- C. Myers reported that another group of business will be solicited for funds in the next week or so.
- T. Hildebrand added that the first round of 25-50 signs will be delivered to the Office in late May.
- C. Myers reported that while another preserved farm had been highlighted by a Reading Eagle Berks Country article today, Editor Stacie Jones had informed him that due to the

paper's bankruptcy proceedings, there will be no more feature articles. Myers added that the paper will still accept informational sidebars.

B. The Friends of the Kauffman Farm – Preservation Agreement

- The Board reviewed the situation with the Kauffman Farm; the last communication had been a letter sent by Attorney Sprow to the Friends of the Kauffman Farm the previous July expressing the staff and Board's concerns with the proposed agreement, specifically: whether the proposed building restrictions and financial responsibilities of the new landowner would affect the agricultural viability of the property, as well as the perpetual nature of the agreement. The proposed agreement was put on the agenda to determine whether or not the Board would entertain agreements from third party organizations that were not owners of preserved farms. T. Hildebrand added that no other Counties have experience with such a document.
- Ted Stokes, who is a potential buyer of the farm, updated the Board that his attorney, Chris Hartman, Esq., had made updates to the proposed agreement and submitted the document to the Friends for review. Stokes reported that the Friends had not responded to his submission and that the current landowner is frustrated and is considering gifting the property to the Friends, since the group does not have the funds to purchase it; the plan would be for the Friends to then sell the property with restrictions.
- J. Coker stated that while an easement cannot be put on an easement an agreement may be permissible if it doesn't conflict with the terms of the Deed of Easement. Coker added that Oley Township's Historic Review Board provides additional restrictions for properties in the Township, including several preserved farms.
- The Board further discussed the terms of proposed agreement and the need to review any agreement that was proposed.
- The Board discussed the issue of usage for existing building on preserved farms that may no longer be useful to a farming operation. C. Myers suggested that requiring the exclusion of the buildings and curtilage from the easement may be a solution. The Board further discussed the Rural Enterprise guidelines.
- The Board determined that there will be no action on the proposed agreement until more information was received from the interested parties.

C. 2019 LESA Ranking Results – Second Selection Update

- T. Hildebrand informed the board that while the landowners from the first selection were still within their 15-day response period, five (5) had responded that they will not be proceeding in 2019. Hildebrand added that enough funding would now be available to select farms 19-24, ending with a score of 48.5; selection letters will be sent later in the week. Hildebrand added that the staff is still awaiting responses on three of the farms from the first selection; the remaining ten (10) will be proceeding.

V. NEW BUSINESS

A. Review of Conveyance Report

- The Board reviewed the Conveyance report. Settlements #527 and #447 had transferred correctly; Settlement #586 is still outstanding but will be corrected when ownership transfers from the Bank.

B. Settlement #213.0 Martin Subdivision Request

- K. Fies presented a subdivision plan that had been submitted by the landowner of Settlement #213.0 to subdivide into two parcels, one a total of 172.47 acres and the other a total of 80.91 acres. Fies discussed the requirements for a subdivision, including that parcels must be a minimum of 52 acres, have 50% in agricultural production, have 50% of soils in Class I-IV and have site characteristics that do not harm the economic viability of the parcel. Fies explained that although the submitted plan does meet the acreage and soil requirements, the agricultural production acreage was questionable and there is a concern regarding the parcel layout and access. Fies added that she had contacted Rosetree Consulting for a copy of the conservation plan to prove the acres in agricultural production, but she had not received anything yet and her own measurements do not support the necessary acreage.
- The Board discussed that plan. Fies added that she could suggest a possible alternative to the landowner that would definitely meet the agricultural production requirements.

Motion: A motion was made to deny the current request for subdivision, but have the staff go back to the landowner with an alternative to the subdivision plan that would meet the minimum criteria (C. Myers, J. Meck)

Discussion: None

Vote: Motion carried unanimously.

- The Board discussed various methods to hang the Farm Forever signs and reviewed the methods utilized by other Counties. R. Ludgate suggested that only galvanized fittings be used and that samples of suggested hanging methods be provided with the signs. The Board discussed providing a handout to distribute with the signs that will be developed by R. Ludgate.

VI. EXECUTIVE DIRECTOR'S REPORT

- T. Hildebrand reminded the Board that a discussion had occurred at the last meeting regarding revoking the right to the additional residence as an alternative to court proceedings and to resolve issues where the landowner had taken land out of agricultural production with some type of construction. Hildebrand reported that she had researched the subject and this method had been used at least five times in the past, two of which were supported by recorded documents. Hildebrand added that she had consulted the State Bureau of Farmland Preservation and that its viewpoint was that revoking the right to the additional residence would be hard to enforce and that it would be preferable to send the landowner a written warning. Hildebrand stressed the need to have a method to resolve the current outstanding issues, of which there are six (6).
- The staff presented the situation with the Nesting Box. K. Fies explained that the daughter-in-law of the owner of settlement #378.0 had presented a request for an agricultural structure from which to sell eggs; however the building was actually being utilized for a rural enterprise, with over 50% of the products sold not produced on the farm. Fies reminded the Board that the construction of buildings for a rural enterprise is not permitted under the easement. Fies added that parking is also a concern, as evidenced by the establishment's social media accounts that show large numbers of cars parked in the grass.
- The Board discussed possible solutions to the issue, including the forfeiture of the right to the additional residence. The Board determined that requiring that this right to be

revoked might not be enforceable, but may be offered as a possible solution, rather than requiring the removal of a building.

Motion: A motion was made to issue a violation to the landowner of Settlement #378.0, by sending a letter that they must correct the issue. (R. Ludgate, R. Kopfer)

Discussion: The Board discussed whether staff should offer a solution in the initial violation letter or simply request action from the landowner and let the landowner contact staff to discuss possible solutions. The Board determined that the landowner was responsible to contact the office before a solution was offered. The Board discussed the violation policy. C. Myers expressed support for allowing the staff to provide revocation of the right to the additional residence as a solution to the landowner.

Vote: Motion carried unanimously.

- The staff presented the situation with Settlements #348.0 (Rohrer) and #432.0 (Swinsinski), where several trees had been planted on Settlement #432.0 to line the driveway of Settlement #348.0, taking land out of agricultural production.

Motion: A motion was made to authorize staff to follow the violation policy up to and including issuing a violation of the deed of easement when the concern was discovered and report the violation to the Board, who will then ratify the violation. (R. Ludgate, R. Kopfer)

Discussion: The Board discussed when the State and County Commissioners would be notified in the process. The Board clarified that the staff would provide notice of the violation, but the resolution would be the responsibility of the Board. The Board also discussed that it would be necessary to record an agreement when the right to the additional residence was revoked.

Vote: Motion carried unanimously.

- C. Myers expressed support for requiring the exclusion of the building envelope for all future easement purchases.

EXECUTIVE SESSION – None.

Motion: A motion was made to adjourn the meeting at 9:58 pm. (R. Kopfer, R. Ludgate)

Respectfully submitted,

Signature on file.

Amanda K. Burkard-Sell
ACE Program Coordinator