



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
Michael S. Rivera

Board Members:

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

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 January 25, 2023 Meeting

The Berks County Agricultural Land Preservation Board (Board) held a regular monthly meeting on Wednesday, January 25, 2023, at 7:00 PM at the Berks County Agricultural Center and via virtual platform “**Microsoft Teams.**” Gregg Eshelman, Chair, called the meeting to order at 7:00 PM. Board members present included James Coker, Gregg Eshelman, Morgan Firestine, Kimberly McGrath, Jeremy Meck, Steven Mohn, Clyde Myers, and David Phillips. Louise Swartley joined during the meeting. Also, in attendance were Mark Sprow, Esq. Special Counsel for the Board; Staff: Amanda Burkard-Sell, and Kimberly Fies, Deputy Director.

I. PUBLIC COMMENTS ON AGENDA ITEMS – None.

II. APPROVAL OF MINUTES

Motion: A motion was made to approve the minutes of the December 21, 2022, meeting, as drafted. (J. Coker, D. Phillips)

Discussion: A. Burkard-Sell noted that the word “not” had inadvertently been omitted from page 3, the motion under New Business, Section D.

Motion: Motion amended to include revision to the minutes.

Vote: Amended Motion carried unanimously.

III. STATUS OF RECOMMENDATION UPDATES

- A. Burkard-Sell highlighted several items on the Status of Recommendations: Dockets #0336 and #1907 will be submitted to the State Board in February; Docket #1328 will be submitted at the April State Board meeting instead of February to give the landowner time to work through a Like-Kind Exchange.
- A. Burkard-Sell reported that the landowners of Docket #0818 had requested an additional extension of their offer to determine if their bank will sign the necessary subordination agreement. Burkard-Sell added that the landowners had submitted documents to the bank and were awaiting their review but were provided a date of March 21, 2023 as when the review would be completed by.
- Burkard-Sell noted that the landowner of Docket #1715 did not accept the offer and did withdraw based on his inability to obtain a subordination agreement but will remain on the list to be ranked for 2023 in hopes that he will be able to work through that issue.

Motion: A motion was made to grant an additional extension of 60 days for the offer for the landowners of Docket #0818. (C. Myers, J. Coker)

Discussion: None.

Vote: Motion carried unanimously.

IV. OLD BUSINESS

A. No Update Soil Health Education Grant Workshop

- K. Fies reported that there was no update on the Soil Health Education Grant Workshop; the only thing outstanding is the funding reimbursement.

B. No Update: Settlement #432.0 Swinsinski – ACE Program Violation

- K. Fies reported that there was no update on Settlement #432.0, but that she anticipated an update by the next Board meeting, since the delay was on the part of the staff. The Board noted that there should be a deadline for resolution.

Motion: A motion was made to set a deadline of 30 days for resolution of the outstanding violation on Settlement #432.0. (J. Coker, S. Mohn)

Discussion: None.

Vote: Motion carried unanimously.

C. Report on Certification of County Funding for 2023

- A. Burkard-Sell reported that the funds had been approved by the County Commissioners and had been certified to the State. The exact amount of the certification will be provided at the next Board meeting. The Board discussed the funding sources from both the County and the State. K. Fies later clarified that the amount included both the \$1 million in County funds, plus interest earned on the Clean and Green roll back penalties. Burkard-Sell later added that the exact amount of funds certified to the State were \$1,064,691.00.

V. NEW BUSINESS

A. Conveyance Report

- A. Burkard-Sell reported on the transfers of ownership:
 - Section A: Transferred in Compliance – Settlement #602.0, #213.1, #213.2, and #786.0
 - Section B: Transferred with Concerns Noted – None to report.
 - Section C: Outstanding Violations - None to report.
 - Section D: Transfers Resolved – Settlement #91.0 and #40.1 with corrective deeds recorded.

B. Settlement #749.0 Martin – Revised Concept Approval for Subdivision

- K. Fies reminded the Board that a request for subdivision for Settlement #749.0 had been reviewed and denied at the previous Board meeting. Fies explained that after working with staff, the landowner had resubmitted the subdivision request. Fies outlined that the amended proposal was to subdivide into two lots, one approximately 56 acres, which would retain the right to the additional residential structure, and the other approximately 53 acres. Fies noted that both parcels met the minimum criteria and had road access and reasonable accessibility and also each have a residence. The Board discussed the specifics of the request.
- Fies added that because prior approval had been granted for the construction of the additional residence, but since the landowner was reassigning the location, the original approval would need to be rescinded. Fies explained that this request was

for an initial concept approval, and that the request would still need to obtain a survey to submit the final drawings, as well as obtain approval from the township and the State, but that these additional approvals could be sought simultaneously.

Motion: A motion was made to grant concept approval for the subdivision for Settlement #749.0. (D. Phillips, J. Coker)

Discussion: None.

Vote: Motion carried unanimously.

Motion: A motion was made rescind the previously approved additional residential structure for Settlement #749.0. (D. Phillips, K. McGrath)

Discussion: None.

Vote: Motion carried unanimously.

C. Settlement #361.0 Holcombe – Concept Approval for Subdivision

- K. Fies presented a request for a ten-acre subdivision for Settlement #361.0 and noted that an additional letter from the landowners had been sent to the Board members. Fies clarified the minimum requirements for subdivision, as well as the specifics of the request to subdivide 10 acres from the farm to retain the driveway access and area in front of their residence, which is not part of the preserved farm. Fies noted that the request does not meet the minimum criteria for subdivision, which the landowners is aware of, but chose to make the request anyway.
- C. Myers suggested that the two-acre residential subdivision may be an option for the landowners. The Board and staff discussed whether the subdivision must be for the building of a residence and the specifics of the guidelines and whether or not this would satisfy the wishes of the landowners. The Board determined that if the two-acre subdivision was acceptable to the landowners, clarification on the possibility would be sought from the State.

Motion: A motion was made deny the subdivision request for Settlement #361.0, since the request does not meet the required criteria. (D. Phillips, K. McGrath)

Discussion: None.

Vote: Motion carried unanimously.

D. Settlement #258.0 Nolt – Rural Enterprise Request

- K. Fies presented a request for a Rural Enterprise for Settlement #258.0 Nolt. Fies reminded the Board that previous Rural Enterprise requests had been submitted for this farm. Fies added that the landowner had relocated the prior business, Aquajet Printing, and was now seeking acknowledgement of renting the vacated facility to two businesses: Koehn and Sons Trucking and Shirk Excavating. Fies noted that no buildings were constructed, and no land was taken out of agricultural production and that the request met the terms of the Guidelines.
- The Board discussed the specifics of the request and noted that the area around the buildings should be delineated for the landowner so that he understands that no additional land can be impacted by any Rural Enterprises. The Board further discussed the Rural Enterprise Guidelines and the specifics of the request.

Motion: A motion was made to grant the request for the Rural Enterprise on Settlement #258.0 with staff providing a delineation of the area to prohibit the expansion of the Rural Enterprise, along with the approval letter. (C. Myers, J. Coker)

Discussion: None.

Vote: Motion carried unanimously.

E. Setting of the 2023 Agricultural Conservation Easement Purchase Interest Rate

- K. Fies reminded the Board that the interest rate for installment payments needs to be set every year. J. Coker noted that the amount is typically set at 0% Fies added that there are currently no interest-bearing accounts.

Motion: A motion was made to set the interest rate at 0% for installment payments in 2023. (J. Coker, J. Meck)

Discussion: None

Vote: Motion carried unanimously.

F. Setting of the 2023 Agricultural Conservation Easement Purchase Cap

- A. Burkard-Sell provided the appraisal values from 2022, as well as the values for farms both less than and greater than 50 acres and the average purchase price across the State. Burkard-Sell also discussed the caps across different neighboring Counties. Burkard-Sell noted that not, unlike Berks, all Counties typically pay out their cap to the majority of their landowners. The Board discussed the implications of raising the cap from \$2,600 per acre, as well as the current number of applicants.

Motion: A motion was made to set the easement purchase cap at \$2,600 per acre for 2023 easement purchases. (J. Coker, K. McGrath)

Discussion: None

Vote: Motion carried unanimously.

G. Election of the 2023 Board Vice Chair

Motion: A motion was made to nominate David Phillips as Vice Chair for 2023. (J. Coker, L. Swartley)

Discussion: None.

Vote: Motion carried unanimously.

Motion: A motion was made to close nominations for the 2023 Vice Chair. (K. McGrath, J. Coker)

Discussion: None

Vote: Motion carried unanimously.

- David Phillips was elected as the Vice Chair for 2023.

VI. EXECUTIVE DIRECTOR'S REPORT

- E. Wangolo provided an update on staffing for the office. Fies noted that two new employees who had previously worked in the Berks County Residential Center would be starting week to fill the Office Support and Program Coordinator positions. Fies added that fifteen applications had been received and reviewed for the two open Inspector positions and the next steps of background checks and interview should be starting in the next two weeks.
- Fies also noted that the physical office had also been reorganized and that both the ranking and inspection schedules were still on target.

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

VIII. EXECUTIVE SESSION - None

- C. Myers questioned as to whether or not selected farms could be visited prior to the appraisal, despite the revisions to the guidelines still awaiting approval by the State Board. The Board and staff discussed whether or not this would be a possibility. The Board agreed that this would be a beneficial practice, provided that there was enough staffing to support this.
- D. Phillips questioned as to whether the Board wished to resume the Subcommittee meetings that had been postponed due to COVID. The Board discussed the specifics of resuming meetings and determined that monthly in person Subcommittee meetings would be scheduled for the Wednesday two weeks before the Board meeting beginning in May, but that an official determination would be made at the next Board meeting.
- L. Swartley questioned as to the status of the information that she had requested from the County regarding the size of farms both above and below 50 acres. K. Fies will follow up with Swartley.

Motion: A motion was made to adjourn the meeting at 8:40 PM. (J. Coker, L. Swartley)

Discussion: None.

Vote: Motion approved.

Respectfully submitted,

Amanda K. Burkard-Sell
ACE Program Coordinator