



# BERKS COUNTY *agricultural land* PRESERVATION BOARD

Berks County Agricultural Center  
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**County Commissioners:**

Christian Y. Leinbach, Chair  
Kevin S. Barnhardt  
Michael S. Rivera

**Board Members:**

David L. Phillips, Chair  
James R. Coker, Vice Chair  
Robert E. Kopfer

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.

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## Minutes from the March 31, 2021 Meeting

The Berks County Agricultural Land Preservation Board (Board) held a regular monthly meeting on Wednesday, March 31, 2021 at 7:31 PM via virtual platform “**Microsoft Teams**.” David Phillips, Chair, called the meeting to order. Board members present included James Coker, Robert Kopfer, Robert Ludgate, Sr., Kimberly McGrath, 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 February 24, 2021 meeting, as drafted. (C. Myers, L. Swartley)

**Discussion:** None

**Vote:** Motion approved (J. Coker abstained).

### **III. STATUS OF RECOMMENDATION UPDATES**

- T. Hildebrand reported that there were no changes since the report was distributed on March 29, 2021.

### **IV. OLD BUSINESS**

#### **A. Update: BCALPB Subcommittee Meeting of Friday, March 5, 2021**

- K. Fies provided an update:
  - State Board of Farmland Preservation Director, Doug Wolfgang and staff member, Stephanie Zimmerman, joined the meeting.
  - Fies and C. Myers created four PowerPoint presentations that outlined issues occurring on farms discovered during inspections, such as construction of buildings, expansion of homes outside of the curtilage, planting of trees and how they impact the curtilage.
  - The Board’s Curtilage delineation project was presented. The State supports the Board’s approach. Act 43 defines Curtilage as *the area surrounding a residential structure used for a yard, driveway, on-lot sewerage system or other nonagricultural purposes*. This area cannot be expanded.
  - Further, the State pointed out that silviculture is a part of agriculture and that the planting of trees is allowed on farms. However, after sharing photographs of tree-plantings explaining how the concern is not as much as the planting of trees that are taking land out of production but rather the quantification of the curtilage including the planting of non-ag productive landscaping trees along the driveway; in certain situations this is not being included when the landowner calculates the curtilage.

- The State offered to review the Board’s “Draft” procedures to resolve these issues within the confines of Act 43.
- The Board’s violation policy was briefly discussed. The State clarified that the County Board acts on behalf of the County Commissioners and it is the Board’s responsibility to issue a violation, which puts the farm on notice that it is in violation of the deed of easement.
- The next Subcommittee Meeting is scheduled for Friday, April 9<sup>th</sup>.
- Ludgate questioned the ability for a landowner to expand the farm’s curtilage if, at the time of settlement, the curtilage was small. Would the landowner be able to increase the curtilage to the 2-acre limit similar to the allowance for the construction of the additional residential structure or residential subdivision?
- Fies reported that this was discussed it is reasonable to provide additional guidance can’t control for the location of a septic system

B. Update: Status of the ACE Program changes resubmitted to the State Board of Farmland Preservation

- Hildebrand reported that the State Board of Farmland Preservation will consider the submitted changes to the ACE Program Guidelines at its April 15, 2021 meeting.
  - These changes included the addition of Act 33 language, updating the ‘Selection of Applications’ section, and condensing the Historic Qualities and broadening the Environmental Qualities within the Farmland Potential factors of the LESA Ranking system.

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. HB183 – Agricultural Land Conservation Assistance Grant Program funds for Succession Planning

- The Bill was introduced by Representative Mindy Lee of Lancaster County.
  - The proposed legislation is to issue grants, not to exceed \$5,000 each, for succession planning to ensure agricultural operations continue on farms preserved through the ACE Program.
  - The funds being proposed for utilization are remaining from the 1999 Agricultural Conservation Assistance Grant Program established from the proceeds from the sale of State Hospital farms and land. Counties were able to access \$25,000 of the \$750,000 funds for the development of spatial mapping software, computer hardware. Our office utilized most of these funds between 1999 and 2012, before the County centralized its GIS functions.
  - Roughly \$99,000 is remaining in the fund which could be redirected to this newly created grant.

**Motion:** A motion was made to support HB183 in its current form as of January 21, 2021. (S. Mohn, J. Coker)

**Discussion:** None.

**Vote:** Motion approved.

C. SB64 – Portion of ACE Program funds annually set aside for Land Trusts

- The Bill was introduced by Senator Scott Martin of Lancaster County.
  - The proposed legislation would amend the Agricultural Area Security Law Act 43 to redirect a portion of the state-allocated farmland preservation funding to be set aside annually for use by land trusts to preserve farmland.
  - Currently, there is a Land Trust Reimbursement Grant Program within Act 43 for Trusts to be reimbursed a maximum of \$5,000 for incidental costs towards each easement purchase.
  - Currently, private land trusts are ineligible to receive public preservation dollars, however, this Bill is seeking to direct \$2.5 million of the State’s annual allocation for the purpose of reimbursing eligible non-profit entities for the purchase of agricultural easements. Farms must meet all State minimum criteria.
  - The proposed legislation would require that land trusts provide matching funds that could be raised from agri-businesses, lender and/or private citizens which would infuse new funds into agricultural land preservation efforts.
  - The PA Farmland Preservation Association does not support this Bill.
  - The Board posed many questions regarding the Bill’s proposed percentages of the financial allocations and limitations associated with appraised per-acre values.

**Motion:** A motion was made to table the decision regarding SB64 until more information can be received and discussed further at the Board’s April 28, 2021 meeting. (J. Coker, R. Ludgate)

**Discussion:** None.

**Vote:** Motion approved.

VI. EXECUTIVE DIRECTOR’S REPORT

A. 2021 LESA Ranking Results – will be presented at the April 28, 2021 Meeting

- Hildebrand reported that there are no issues regarding the ranking process, however, those entities involved in this effort have been tasked with higher priorities; the results will be presented at the April 28, 2021 Board meeting.

B. Michael Sisk’s donation to Agricultural Land Preservation

- The Board was one of eight organizations that received a distribution \$149,540.55 from the Estate of Michael Sisk; Mr. Sisk passed on November 24, 2019.
- The office never had contact with Sisk, so Amanda did some investigating and found that he was a realtor/appraiser who lived in Reading with his wife, Lucille Hirneisen, who died in 1998. His father was also a realtor and was possibly involved in the Oley Valley Estates development.
- Attorney Sprow reviewed the “Notice of Audit and Filing” of the final Administrator’s account and determined that the Board would not have an objection to anything in the account.
- The funds will be certified to the State in 2022 for matching funds for easement purchases.
- The Board appreciates Mr. Sisk’s thoughtfulness.

C. Modifications of Agricultural Conservation Easements

- Settlement #399.1 – Laverne & Sandy Frey
  - Frey’s 111.4-acre farm, located in Tulpehocken Township, was preserved on September 18, 2006; the farm was originally owned by Nelson and Anna Brubaker.
  - The Frey’s are requesting to construct a 34’ x 34’ residential structure with a connecting 20’ x 30’ garage, however, it will expand the current curtilage into

- productive cropland by approximately 1/8 of an acre. The current house will be removed after the new one is constructed. No engineer's drawings accompanied the preliminary request.
- The Board directed that a letter be forwarded to the Frey's requesting the submission of more exact drawings and to adjust the proposal due to it exceeding the curtilage or the Board would designate this construction as utilizing the 2-acre allowance for the permitted residential structure.
- Settlement #47.0 – Harlan & Kathryn Hoover
    - Hoover's 150.0-acre farm, located in Oley Township, was preserved on July 17, 1995.
    - The Hoover's are requesting to construct a 1,600' roof between an existing weld-fabrication shop and an existing agricultural building.
    - At this time, the staff is requesting that the Board recognize that a Rural Enterprise is located on this property. The Hoover's manufacture milking stalls and large fans for dairy operations within an area of approximately 10,685 square feet.
    - Google Earth aerial photographs were shown to compare the construction of buildings on the property over time since settlement in 1995. There were no requests submitted to the Board by the Hoovers that reflect the construction of these additional structures.
    - The Board directed that a letter be forwarded to the Hoover's which clarifies that the intention of the requested roof is not for the convenience of the Rural Enterprise, but rather for the agricultural structures. The Board also requested a response from the Hoovers to provide a list identifying the buildings located on the property, each structure's size and its current/intended used; the office will provide an aerial photograph for this purpose. Upon the return of this information, the information will be presented to the Board for discussion and determination of the scope and boundaries of the Rural Enterprise.
  - Settlement #127.0 - Phares & Ellen Newswanger
    - Newswanger's 114.0-acre farm, located in Maxatawny Township, was preserved on June 1, 2000; the farm was originally owned by Tim and Pam Behm.
    - The Newswanger's are requesting to construct a 432 square foot addition to their current home. This construction is within the property's curtilage.
    - This complies with the terms of the Deed of Easement.
  - Settlement #348.0 – Jeffrey & Tracy Rohrer
    - Rohrer's 147.8-acre farm, located in Upper Bern Township, was preserved on July 14, 2005; the farm was originally owned by Penn Valley Pork, Inc.
    - The Rohrer's submitted a Modification Form to acknowledge the completed construction of the 81' x 428' Pullet house, that was constructed to raise layers for the layer barn that is also located on the farm.
    - The construction of agricultural structures is permitted under the terms of the Deed of Easement.
  - Settlement #432.0 – Bradley & Olyvia Swinsinski
    - Swinsinski's 43.9-acre farm, located in Upper Bern Township, was preserved on August 1, 2007; the original owners were Dianne Seaman and Guy Petery.
    - The Swinsinski's are requesting to construct a 80.5' x 244.5' nursery barn to raise piglets.
    - The construction of agricultural structures is permitted under the terms of the Deed of Easement.

**EXECUTIVE SESSION – was not convened.**

**VII. CITIZEN COMMENT / BUSINESS FROM THE FLOOR**

- L. Swartley requested to receive the Board meeting information earlier than two days prior to the Board meeting. She also questioned when the Department's website will be updated to display the current Board members. A. Burkard-Sell reported that formatting is difficult, but once she received biographies from all Board members, she will upload them.

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

**Discussion:** None.

**Vote: Motion approved.**

Respectfully submitted,

*Signature on file.*

Tami S. Hildebrand  
Executive Director