



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
Gregg Eshelman

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 December 21, 2022 Meeting

The Berks County Agricultural Land Preservation Board (Board) held a regular monthly meeting on Wednesday, December 21, 2022, at 7:00 PM via virtual platform “**Microsoft Teams.**” David Phillips, Chair, called the meeting to order at 7:00 PM. Board members present included Gregg Eshelman, Jeremy Meck, Clyde Myers, David Phillips, and Louise Swartley. James Coker joined during the meeting. Also, in attendance were Mark Sprow, Esq. Special Counsel for the Board; Staff: Amanda Burkard-Sell, Kimberly Fies, Deputy Director; and Emily Wangolo, Executive Director.

I. PUBLIC COMMENTS ON AGENDA ITEMS – None.

II. APPROVAL OF MINUTES

Motion: A motion was made to approve the minutes of the November 30, 2022, meeting, as drafted. (J. Meck, G. Eshelman)

Discussion: None

Vote: Motion carried unanimously.

III. STATUS OF RECOMMENDATION UPDATES

- A. Burkard-Sell highlighted several items on the Status of Recommendations: Docket #0336 is in the process of being submitted for encumbering and should be submitted to the State Board in February; settlements were held on December 2, 2022 for Dockets # #0804 and #1912; and Dockets #2016, #1102, #2019, and #1117 had been approved by the State Board on December 15, 2022.
- A. Burkard-Sell reported that the landowners of Docket #0818 had requested an 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.

Motion: A motion was made to grant an extension of the offer for the landowners of Docket #0818. (J. Meck, L. Swartley)

Discussion: C. Myers questioned as to whether this situation had happened before. A. Burkard-Sell reported that often banks that were unfamiliar with the easement required additional time to review subordination requests. D. Phillips questioned as to whether a time frame for the extension was necessary and if 30 days would be sufficient. A. Burkard-Sell was hopeful that 30 days would be adequate.

Motion: Motion was amended to add that the extension will be for 30 days.

Vote: Amended motion carried unanimously.

- C. Myers requested clarification as to whether the remaining Dockets were in normal process. Burkard-Sell clarified that they were.

IV. OLD BUSINESS

A. No Update Soil Health Education Grant Workshop

- E. Wangolo reported that there was no update on the Soil Health Education Grant Workshop.

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

- K. Fies reported that a response had been received from Attorney Sprow and that she anticipated an update to the Board at the next meeting.

V. NEW BUSINESS

A. Conveyance Report

- A. Burkard-Sell reported on the transfers of ownership:
 - Section A: Transferred in Compliance – Settlement #187.0
 - Section B: Transferred with Concerns Noted – None to report.
 - Section C: Outstanding Violations - None to report.
 - Section D: Transfers Resolved – Settlement #10.0 with a corrective deed recorded.

B. Settlement #321.0 Hetrick – Final Request for Residential Subdivision

- K. Fies reminded the Board that the preliminary approval for the 2-acre residential subdivision of Settlement #321.0 had been approved at the February Board meeting. Fies noted that due to the layout of this property, the septic system was across the road and was not included in the subdivision. Fies explained that the final drawing had been received and that both a septic agreement and a driveway agreement were necessary, and that the language was on the submitted plan. Fies added that Attorney Sprow had reviewed the language and that it was acceptable as it was not permanent and such agreements had been permitted in the past. Fies clarified that the request would still need to be submitted to the State for their approval.
- The Board discussed which property would get the additional residence. Fies clarified that the right to the additional residence remains with the original parcel and that residence would not be able to be subdivided.

Motion: A motion was made to approve the 2-acre residential subdivision for Settlement #321.0. (C. Myers, J. Meck)

Discussion: None.

Vote: Motion carried unanimously.

C. Settlement #271.0 Snyder – Concept Approval for Residential Subdivision

- K. Fies presented a request for the two-acre residential subdivision for the existing residence. Fies explained that the farm owners recently passed away and that their daughter will occupy the residence and their son will retain the farmland. Fies noted that the request was presented in two different versions: one including the driveway and the other without the driveway, with the acknowledgement that an access agreement would need to be recorded. Fies clarified that she would need to consult with the State Bureau if such an agreement was acceptable, should the Board consider that option and that this request was for the initial concept approval, with final approval based on the final drawings submitted.

- The Board discussed the request and the need to include a driveway access, whether the existing one or a newly created one. The Board further discussed the specifics of the request and the requirements for driveway construction.

Motion: A motion was made to grant conditional concept approval for two-acre residential subdivision for Settlement #271.0, with the caveat that the request include either the existing driveway or a new access that goes to the road. (G. Eshleman, J. Meck)

Discussion: The Board further discussed the specifics of the property.

Vote: Motion carried unanimously.

D. Settlement #749.0 Martin – Concept Approval for General Subdivision

- K. Fies presented a request for subdivision of Settlement #749.0, which is 109 acres in North Heidelberg Township. Fies also outlined the guidelines for subdivision and described the layout of the potential subdivision, which included a 36-acre parcel connected to a 16-acre field by a 20-foot strip. Fies noted that the two parcels, while technically continuous, would need to be accessed separately due to their layout
- The Board discussed the specifics of the request and expressed concern that one of the subdivided parcels did not fully have access to itself and that this would negatively impact the farming operation. Fies noted that the additional residence, while previously approved in a different location, would be reassigned to the remaining parcel. G. Eshelman questioned as to whether the request would have to be approved if it met the criteria. Fies clarified that all five (5) of the criteria would need to be met: parcels must be a minimum of 52 acres, have 50% in both agricultural production and Class I-IV soils, the subdivision cannot harm the agricultural viability of the farm and must allow for the practicality and reasonability of farming activities. The Board further discussed the layout of the potential subdivision and its inability to meet all of the criteria.

Motion: A motion was made to deny the subdivision request as presented, on the grounds that it does not meet the criteria of preserving the agricultural viability of the property or allow for the practicality of the farming operation, (J. Coker, J. Meck)

Discussion: Comments from the landowner explaining his rationale for the layout were read.

Vote: Motion carried unanimously.

- Additional comments from the landowner were read. The Board noted that a different configuration that does meet all of the criteria could be requested for the subdivision.
- K. Fies noted that the following two requests had inadvertently been placed on the agenda and should have been placed under the Executive Director's report. Fies added that these requests will not require approvals.

E. Settlement #110.0 Burkholder, J. Request to Acknowledge an Addition to the Residential Structure

- K. Fies presented a request to acknowledge a previously constructed 30 x 40' addition to the existing residential structure that had occurred within the curtilage on Settlement #110.0. Fies noted that the construction was permitted under the deed of easement and also had municipal approval.

F. Settlement #411.0 Burkholder, J. Request to Acknowledge a Personal Use Structure

- K. Fies presented a request to acknowledge a previously constructed 42 x 32' garage. Fies noted that this construction of a personal use structure within the curtilage has been permitted under the deed of easement.

G. Certification of County Funds for 2023

- E. Wangolo reminded the Board that County funds must be requested to be certified to the State to be matched for easement purchases in 2023. Wangolo added that the current funds included \$1,000,000 from the general fund committed by the County Commissioners, as well as any interest collected from 2022 Clean and Green roll-back tax penalties and any donations received during 2022. Wangolo reminded the Board that the exact dollar figures would be calculated after the end of the year.

Motion: A motion was made to request that the County Commissioners certify funds to be matched by the State for agricultural conservation easement purchases in 2023 in the amount of \$1,000,000, in addition to donations received in 2022 and Interest Collected on Rollback Penalties of Clean & Green in 2022. (J. Coker, G. Eshelman)

Discussion: None.

Vote: Motion approved.

H. Announcement of 2023 BCALPB Chair

- E. Wangolo announced that at the December 8, 2022 County Commissioner's meeting, Gregg Eshelman had been appointed as Chair of the Board for 2023. Wangolo clarified that the appointment was for a one-year term. D. Phillips noted that Vice Chair would be elected by the Board in January.

VI. EXECUTIVE DIRECTOR'S REPORT

- K. Fies presented the following requests for modification of the easement:
 - Settlement #688.0 (Burkholder) in Township – a request had been received regarding the construction of a 50' x 100' hoop house to house dry cows and store big bales. This request to construct an ag structure is permitted under the deed of easement.
 - Settlement #666.0 (Newswanger) in Maxatawny Township – a request had been submitted to construct a 42' x 80' coverall structure to store farm machinery. This request to construct an ag building is permitted under the deed of easement.
- E. Wangolo provided an update on staffing for the office. Wangolo noted that K. Fies would be replacing her as Deputy Director and that A. Burkard-Sell had accepted a new position as the Ag Program Manager; the three positions would continue to support the ag land preservation program, as well as support agribusiness development for the County. Wangolo added that approval had been granted to back fill the vacated Ag Technician and Ag Coordinator positions, as well as an Office Support position and the additional Technician position that was previously noted. Wangolo continued that fully staffed, the department would have 8 employees. Wangolo and the Board further discussed the timeline for filling the outstanding positions.

VII. EXECUTIVE SESSION - None

RESUMPTION OF REGULAR MEETING

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

D. Phillips thanked the Board for their professionalism and dedication during his last four years as Chair. The Board, in turn, thanked Phillips for his service.

Motion: A motion was made to adjourn the meeting at 8:03 PM. (J. Coker, J. Meck)

Discussion: None.

Vote: Motion approved.

Respectfully submitted,

Amanda K. Burkard-Sell
ACE Program Coordinator