



# 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 April 28, 2021 Meeting

The Berks County Agricultural Land Preservation Board (Board) held a regular monthly meeting on Wednesday, April 28, 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, 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 March 31, 2021 meeting, as drafted. (J. Coker, R. Kopfer)

**Discussion:** None

**Vote:** Motion approved.

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

- T. Hildebrand reported that there were changes since the report was distributed on April 23, 2021:
  - The State’s easement purchase checks were received and, therefore, Docket #0210 is scheduled for settlement on May 24<sup>th</sup> and Docket #1333 is scheduled for settlement for May 26<sup>th</sup>.

### **IV. OLD BUSINESS**

#### **A. Update: Changes to the ACE Program Guidelines**

- Hildebrand reported that prior to the submittal of the proposed changes to the ACE Program guidelines to the State Board for its April 15<sup>th</sup> meeting, Assistant County Solicitor Heidi Masano made some grammatical and verbiage corrections of the proposal that did not change the intent of the submittal. Due to the nature of the revisions and the Board’s previous approvals, Hildebrand did not seek approval of these proposed changes by the County Board prior to the State’s April 15<sup>th</sup> meeting. However, it was suggested that the Board should approve these most recent revisions that the State Board approved on April 15<sup>th</sup>.
  - Changes to the ACE Program Guidelines approved by the County Board on September 25, 2019 – include the addition of Act 33 of 2019 language relating to residences, relinquishing, and extinguishing the right to construct an additional residential structure.
  - Changes to the Ace Program Guidelines approved by the County Board on April 29, 2020 – Selection of Applications.

- Changes to the ACE Program Guidelines approved by the County Board on November 18, 2020 – LESA Ranking Farmland Potential Factors: Historic, Scenic and Environmental Qualities.

**Motion:** A motion was made to approve the revisions to the ACE Program Guidelines dated March 26, 2021 and approved by the State Board on April 15, 2021. (C. Myers, S. Mohn)

**Discussion:** None

**Vote:** Motion approved.

B. Update: BCALPB Subcommittee Meeting of Friday, April 23, 2021

- K. Fies provided an update:
  - The ‘Curtilage Review Procedure’ and ‘Curtilage Agreement’ documents were distributed prior to the meeting. The Subcommittee’s intention was to have the Board review and acknowledge these procedures, which have historically been used, but have now been refined so the Board is aware of how the Staff employs the established method when infractions occur. Also, the intention of these documents is meant to provide the Board with a level of confidence in making swift and timely decisions when addressing the curtilage infractions.
  - If a landowner does not agree to the Curtilage delineation, they are still held to the terms of the Deed of Easement regarding the curtilage area.
  - The Subcommittee received ‘Easement Modification’ forms, separately created for individual actions, that will be reviewed at the next Subcommittee meeting, which is scheduled for May 7, 2021 @ 10:00 AM.
  - The State Bureau of Farmland Preservation provided guidance with regards to these procedures.
  - J. Meck added that the “Welcome” packet is very essential for the landowners that purchase a preserved farm to receive; they may not fully understand what an ‘agricultural easement’ is or what ‘curtilage’ means. Meck suggested that a pamphlet be created to describe the benefits and value of owning a preserved farm and how it impacts the community and the agricultural industry, which could also be included in the packet.
  - A. Burkard-Sell listed the contents of the “Welcome” packet includes: a welcome letter, a copy of the ACE Program Guidelines, a copy of the recorded Deed of Easement, and now the Curtilage map and Agreement. In the future, a “A Farm Forever” signage form will be included.
  - Meck also suggested educational YouTube-type videos about owning and transferring a preserved farm.
  - C. Myers asked Attorney Sprow if it was necessary for the Board to approve these documents; Sprow said it was unnecessary because they are procedures carried out by the Staff.

C. SB64 – Portion of ACE Program Funds annual set-aside for Land Trusts (Tabled at March 31, 2021 meeting)

- Hildebrand reported that no new information has been gleaned regarding this Senate Bill; therefore, the Board did not remove it from the table.

V. **NEW BUSINESS**

A. Conveyance Report

- Hildebrand reported on the transfers of ownership compiled by A. Burkard-Sell:

- Transferred – In Compliance: Settlements #299.0, #300.0, #481.0, and #482.0 have transferred correctly.
- Transferred – Concerns Noted: Settlements #718.0 and #472.0 deeds of easement were omitted when recorded; Burkard-Sell is working with the Attorney and landowner, respectively, to have these concerns resolved.
- Outstanding Violations: None to report.
- Transfers - Resolved: Settlements #85.1 and #364.0 have been resolved.

**B. 2021 LESA Ranking Round #47 - Results & Selection**

- Hildebrand reported that there were 92 eligible applications representing 6,425 acres ranked in Round #47:
  - There were 11 new applications applying 789 acres.
  - The highest score was an 80.90. The last ranking round to have an application that ranked in the 80's, which was for the Schuler Brothers 134.4-acre farm in Richmond Township in April 2007.
  - With the increase in incidental costs for appraisals, surveys, title work, and notification-postage, Hildebrand forecasted \$9,000 per farm for these expenses this year.

**Motion: A motion was made to select the first 17 applications for the 2021 Selection at a cut-off score of 48.75 and to also allow the staff to continue down the list if selected farms chose not to proceed while leaving a margin of \$100,000. (J. Coker, S. Mohn)**

**Discussion: None.**

**Vote: Motion approved.**

**VI. EXECUTIVE DIRECTOR'S REPORT**

**A. Modifications of Agricultural Conservation Easements**

- Settlement #27.2 – Michael Burkholder
  - Burkholder's 47.3-acre farm, located in Richmond Township, was preserved on August 25, 1993; the farm was originally owned by Stephen and Darleen Burkholder.
  - Burkholder is requesting to remove a 40' x 60' hog barn with no immediate plans to construct a new building; the project should be completed in July.
  - There is a Rural Enterprise located on the farm – a tractor sales business. The letter to Burkholder will include a statement regarding the regulation that no new, non-agricultural structure may be constructed for the Rural enterprise.
  - This modification of the easement to remove a hog barn complies with the terms of the Deed of Easement.
- Settlement #137.0 – Mark & Linda Rohrbach
  - Rohrbach's 140.2-acre farm, located in Perry Township, was preserved on August 10, 2000; the farm was originally owned by Earl Rohrbach.
  - The Rohrbach's are requesting to construct a bank barn within the existing footprint where the original 52' x 100' bank barn collapsed in late 2020; the replacement will be built with some slight modifications.
  - The Rohrbach's are also requesting to construct a 52' x 80' machine and equipment shed in an area that would take land out of production.
  - This modification of the easement to construct agricultural structures are allowed and in compliance with the Deed of Easement.
- Settlement #312.0 – James Stoltzfus

- Stoltzfus' 103.3-acre farm, located in Bethel Township, was preserved on July 21, 2004; the farm was originally owned by Benjamin and Fannie Stoltzfus, James' parents.
  - Stoltzfus is submitting a preliminary request to construct the permitted additional residential structure. His parents reside in the only residence on the property, which was there at the time of settlement.
  - The approximate area for the proposed yard, house, and septic area would be 25,000 square feet or more than a half an acre. The proposed house dimensions would be approximately 30'8"x46' or 1,417 square feet.
  - This property is fewer than 104 acres and, therefore could not go thru a general subdivision.
  - This Modification request complies with the terms of the Deed of Easement.
- B. 2020 Statement of Financial Interest forms
- Hildebrand reminded the Board members to submit the forms to Chief Clerk Maryjo Gibson by May 1<sup>st</sup>.
- C. State Board of Farmland Preservation's statistics after the April 15, 2021 meeting
- Total number of farms approved-to-date for preservation: 5,869
  - Total number of acres approved-to-date for preservation: 596,827
  - Total number of farms approved-to-date for preservation in Berks County: 782
  - Total number of acres approved -to-date for preservation in Berks County: 75,698
- D. Board member nomination to the Smart Growth Alliance (SGA) committee
- With David Hunter leading the Berks County Planning Commission, he has reinstated the SGA committee and has begun to convene meetings.
    - Hildebrand reviewed the history of the SGA and reported that Robert Ludgate represented the Board on the Smart Growth Alliance since July 2003. Ludgate recently indicated that he is no longer interested in serving on the committee.
    - Hildebrand surveyed the Board to determine if a member was willing to serve on the SGA committee; Meck would like more information about the committee before volunteering to be nominated.

## EXECUTIVE SESSION

### RESUMPTION OF THE REGULAR SESSION

**Motion:** A motion was made to offer the cap of \$2,500 per acre to Docket #2014. (R. Kopfer, J. Meck)

**Discussion:** None.

**Vote:** Motion approved.

## VII. CITIZEN COMMENT / BUSINESS FROM THE FLOOR

**Motion:** A motion was made to adjourn the meeting at 8:58 PM. (R. Kopfer, L. Swartley)

**Discussion:** None.

**Vote:** Motion approved.

Respectfully submitted,

*Signature on file.*

Tami S. Hildebrand  
Executive Director