

Lancaster County Agricultural Preserve Board
Meeting Minutes
Thursday, July 26, 2018

Present: Mr. Jeffrey Frey, Chairman
Mr. Gary Landis, Vice Chairman
Mr. Edward C. Goodhart III
Mr. Andrew Lehman
Mr. Roger Rohrer
Commissioner Dennis Stuckey
Mr. Matthew Young
Mr. Daniel Zimmerman

Absent: Mr. H. Eugene Garber

Staff: Mr. Matthew Knepper, Director
Mr. Kevin Baer, Farmland Preservation Specialist
Ms. Noelle Fortna, Farmland Preservation Specialist
Ms. June Mengel, Farmland Preservation Specialist

Guests: John M. Smith, Esq, Nikolaus & Hohendel, LLP
Sheridan Dannelley, property owner West Donegal Township
Linda Dannelley, property owner West Donegal Township
Robert Fox, Fox Meadows Creamery
Corey Fox, Fox Meadows Creamery
Chad Fox, Fox Meadows Creamery
Jeffrey Swinehart, Lancaster Farmland Trust
Jeb Musser, Lancaster Farmland Trust
Linnhe Martin, Lancaster Farmland Trust
George T. Cook, Esq, Blakinger Thomas Law Firm

I. Call to Order

Mr. Jeffrey Frey called the meeting to order at 8:30 a.m.

II. Review of Mission Statement

Mr. Edward C. Goodhart read, *"To forever preserve the beautiful farmland and productive soils in Lancaster County and its agricultural heritage; and to create a healthy environment for the long-term sustainability of the agricultural economy and farming as a way of life."*

III. Announcements

Executive Session: The Agricultural Preserve Board (APB) met in executive session on July 26th at 7:15 am to discuss real estate matters and potential litigation regarding a violation of an agricultural conservation easement on the Hottenstein property, the Kauffman property and action required regarding the Fryberger property.

New APB Staff: Mr. Matthew Knepper shared that the second staff opening has been filled. Ms. Jessica Graham was hired and will be starting on August 6, 2018. Ms. Graham is a graduate of Millersville University with a degree in Geography. She has worked for and/or had internships with the Lancaster County Planning Commission, the Lancaster Farmland Trust and the Natural Resource Conservation Service. She has also worked and continues to work on a dairy farm north of Manheim. The Agricultural Preserve Board will not meet her until the September Meeting.

IV. Approval of Minutes

Mr. Matthew Knepper pointed out that a 2nd Draft of June's Minutes had been distributed to the Agricultural Preserve Board which corrected some minor inconsistencies.

Mr. Gary Landis pointed out that the portion of the minutes that discuss SB 819 omitted some comments he believed relevant to the discussion. He reminded the Agricultural Preserve Board that he suggested that it is important that agritainment activities would have more merit if there were educational components. He cited Cherry Crest Farm as an example of agritainment that also incorporates education for participants.

Motion to approve the June 28, 2018 meeting minutes with the correction offered by Mr. Gary Landis made by Mr. Edward Goodhart and seconded by Mr. Daniel Zimmerman.

MOTION CARRIED UNANIMOUSLY

V. Business from Guests

- Introduction of guests were made at this time.

VI. Old Business.

- **NO OLD BUSINESS**

VII. New Business

A. Hottenstein/Dannelley Septic Easement

Mr. George Cook reviewed the background. Mr. John Smith submitted a letter dated July 11, 2018 that highlights the steps that the Dannelleys have taken to evaluate other options for resolving the septic situation on their residential property and the neighboring Hottenstein farm subject to an agricultural conservation easement. Mr. John Smith expressed that they are of the opinion based on all their research there are no real options available. He offered the draft settlement and enforcement agreement he prepared as an "opening volley" to start a dialogue on how best to craft such a document to satisfy the needs and expectations of the involved parties.

Mr. John Smith explained that Mr. Doug Hottenstein had a conflict and could not attend today's Meeting; however, he indicated to Mr. John Smith that he does not want to be penalized. It was never his intention to violate the agricultural conservation easement, he was simply trying to be a good neighbor.

Mr. Jeffrey Frey emphasized that the Agricultural Preserve Board's issue was with the Hottensteins as they are the owners of the farm subject to the agricultural conservation

easement and that by granting an Easement for the drain field, they are in violation of the agricultural conservation easement. Because the Dannelley's property needs the drain field for their septic, they are directly impacted and have been bearing the weight of the Agricultural Preserve Board's concern.

Mr. Matthew Young asked a question that was posed numerous times in prior Meetings of the Agricultural Preserve Board: "What would you do if the Hottensteins had requested the ability to grant this drain field easement first and were denied?" He shared that he is not confident that all options have been explored.

Motion that until the matter between the Hottensteins and the Dannelleys is resolved, neither the Agricultural Preserve Board nor the staff shall entertain or approve any application for the residential structure or any rural enterprise on the Hottenstein property was made by Mr. Andrew Lehman and seconded by Mr. Matthew Young.

Mr. Andrew Lehman, as did Mr. Jeffrey Frey, stated that the Agricultural Preserve Board members sympathize with the situation in which the Dannelleys and Hottensteins find themselves.

Mr. Sheridan Dannelley stated that he is not going to allow the Hottensteins to be penalized because they tried to help. He won't allow them to lose value in their property and would sooner decommission his new septic and have a house with no value than have the Hottensteins no longer have the ability to construct an additional house.

Mr. John Smith asked what could be done to resolve this situation?

Mr. Gary Landis asked if there had been given serious consideration to any of the alternate systems? He then proceeded to share that he too is the owner of a small lot and was in a position whereby he had to use a shallow absorption area with a high-pressure system. It was costlier than some alternatives and it does have to be pumped every year.

MOTION CARRIED UNANIMOUSLY

Mr. John Smith asked if it would be appropriate for him to continue working with George Cook to resolve this matter? Mr. Jeffrey Frey said yes that would be desired.

Mr. Daniel Zimmerman suggested that someone make contact to DEP in order to discover other approved methods because surely there are many small lots throughout the County and the State that have had failing septic systems and DEP would be aware of approved methods.

B. Fox Meadows Creamery

Mr. Robert Fox and his sons, Mr. Corey Fox and Mr. Chad Fox thanked the Agricultural Preserve Board for granting approval in 2015 to allow parking on their farm which is subject to an agricultural conservation easement. This parking area is utilized for fall produce sales but also to accommodate parking at their creamery on an adjoining commercial lot. One of the requirements of the approval was that each year a request for an extension be made because the parking use approval was not intended to be indefinite.

To this end, the Fox family submitted a letter dated May 8, 2018 with attachments that provided a history on the family's dairy farm and the creamery. They also took this opportunity to

emphasize that their passion is dairy and their technique to keep the family's dairy operation sustainable for the future was to start the creamery. Most recently, Fox Meadows Creamery was the kick off site for the Pennsylvania's "Ice Cream Trail."

Mr. Chad Fox shared with the Agricultural Preserve Board members that over the past year, the milk co-operative that they ship the bulk of their milk to terminated contracts with many producers. And, while they were not terminated they realize that losing their milk market is a real possibility which is why the on-going success of the creamery is so important. Additionally, the price that farmers are getting paid for milk is at all time low and margins are very tight. So, while the family continues to negotiate with the neighboring property owner to secure land, current finances do not allow for them to pursue a deal now.

The family also shared some data with the Agricultural Preserve Board members which clearly indicates that the bulk of the sales at Fox Meadows Creamery are from ice cream not from lunch and other goods that are sold in the store. The data supports one of the main factors that the Agricultural Preserve Board looked to when approving the parking: this is the type of agricultural production business that could have occurred on the farm.

The family explained that their focus is on ice cream production because that is what they do well and that the introduction of lunch items was a means to maintain steady income over all seasons. There is no intention of expanding meals. The motivation to see the on-going success of the creamery is very strong as there are 45 staff people and three families that rely on the creamery.

Plans for the future, include increasing their ice cream catering business, raising more beef for use in lunch meals and for sale as freezer beef in the store, expanding ice cream sales and offering more fall produce items.

The parking area is utilized over the Summer months at lunch time and in the evening. Off peak times of year it may be used occasionally on weekdays and evenings. In Fall, in conjunction with produce sale, it used regularly. They explained that if the buildings are removed from the adjoining lot, there would be satisfactory parking for the creamery. Mr. Chad Fox stressed that the family is committed to securing parking other than what is currently being used on their farm. Mr. Robert Fox thanked the Agricultural Preserve Board members for allowing the use of the farmland for parking. It is helping with the entire transition to the next generation. He stated that in June, Mr. Corey Fox quit his job and is now working fulltime at the farm and in the creamery. Mr. Chad Fox has cut back his hours at Acuity Advisors where he works as a CPA to work at least three days on the farm.

Mr. Jeffrey Frey thanked the Foxes for sharing this update and informed them that he and his wife went to the creamery and were very impressed with the operation and the dairy focus.

Mr. Edward C. Goodhart inquired if the family has had to replace the gravel in the parking lot? Mr. Chad Fox responded that they have not had to replace the gravel. He reminded those present that the family retained the top soil so that when this area is no longer needed for parking, the gravel would be removed and the top soil would be replaced.

Commissioner Dennis Stuckey acknowledged that the dairy industry is in a tough spot right now, he wondered if the family can control their costs in order to keep the farm sustainable?

Mr. Chad Fox responded that their cost of production is \$1.00 or more better than the average. The family keeps a close watch on their cost of production and manages the farm accordingly. Mr. Robert Fox added that they are committed to farming and are in it for the long haul with a full family commitment.

There was consensus on the Agricultural Preserve Board that the Fox family should not be required to come annually, but rather there should be a longer view as this activity is directly associated with agricultural production.

Mr. Jeffrey Frey inquired if the Foxes could give up their right to one additional house to allow the parking area to continue indefinitely? Mr. Gary Landis stated that this is clearly ag production because over half the sales are ice cream or fall produce goods grown on the farm. He wondered that if the Creamery and the farm were in the same ownership if it would be more plausible to permit the parking to continue?

Mr. Daniel Zimmerman said that the agricultural conservation easement is inhibiting the evolution of an agriculturally based business. This evolution is what will make the farm viable and it doesn't seem logical that the preservation of the farm should thwart this process. The Agricultural Preserve Board's mission to create a healthy environment for the long-term sustainability of the agricultural economy.

Mr. Gary Landis said the family does a great job educating the public, to which Mr. Chad Fox added they do host field trips to the farm and to the creamery.

Mr. Matthew Young echoed the sentiment of the Agricultural Preserve Board when he said, "This is a breath of fresh air, the creamery is merely an extension of the farm."

Mr. Robert Fox offered to give up the option to the additional residential dwelling in order to maintain the parking area.

The Agricultural Preserve Board members concurred that the family should be given a longer period of time to acquire the neighboring property and should not be required to come to the Agricultural Preserve Board on an annual basis. There should be a stream lined process. Mr. Matthew Knepper added that as long as over 50% of the product being sold in the creamery is an agricultural product from the farm, the extension should be granted. He suggested annual reporting of that data might be sufficient.

Motion to approve the extension for another year and to formulate a more permanent, longer term approval to the parking by Mr. Edward C. Goodhart and seconded by Mr. Roger Rohrer.

Mr. George Cook indicated that the approval the Agricultural Preserve Board does offer some quid pro quo to explore some other options. Mr. George Cook offered to work on an arrangement that is being discussed.

Mr. Matthew Knepper offered that perhaps there can be a longer-term extension if annually the Foxes submit data supporting that the creamery is more ag production than a rural enterprise. He commended the Foxes for their willingness to offer to forego their construction of an additional residential structure but did not want them to feel that such a compromise was the only viable option.

MOTION CARRIED UNANIMOUSLY

C. Kauffman Additional Dwelling – No discussion as Mr. Sam Kauffman was unable to attend; however, he did submit an update letter which the Agricultural Preserve Board members received.

D. Requests for Subdivision/ Land Development-

1) Retroactive FRPP Non-Residential Construction Request: Herbert S., Darlene F., Scott J. and Vickie L. Kreider, ACQ 0760, 128 Black Bear Rd, East Drumore Township

Approval for the construction of an 80' x 370' (29,600 square feet) hoop structure, Approximately 75% of the hoop structure is within an area excluded from the agricultural conservation easement. 25% of the structure, or 7,656 square feet is located within the agricultural conservation easement. Manure storage has also been constructed on the farm and is 90 feet in diameter, or 6,361.75 square feet. With the addition of this impervious surface area, the farm would still have a balance available of 6.194 acres.

2) Retroactive FRPP Non-Residential Construction Request: John D. and Barbara Ann Lapp, ACQ 0724, 679 Bartville Rd, Bart Township

Approval for construction of a 32' x 90' (2,880 square feet) tobacco barn is requested. With the addition of this impervious surface area, the farm will still have a balance of 6.906 acres.

3) Retroactive FRPP Non-Residential Construction Request: Jeremiah N. and Barbara Ann Sensenig

Approval for construction of a 11' x 22' (262 square feet) grain pad at the end of the calf barn is requested. With the addition of this impervious surface area, the farm will still have a balance of 6.09 acres.

Motion to approve the additional impervious surfaces for both the Kreider Farm, the Lapp Farm and the Sensenig Farm made by Mr. Matthew Young seconded by Mr. Roger Rohrer.

MOTION CARRIED UNANIMOUSLY

Mr. Gary Landis asked if the recent bill that passed that exempts hoop structures from storm water planning would impact how these construction requests are reviewed? Mr. Matthew Knepper stated that the NRCS FRPP guidelines for calculating impervious surface would prevail.

E. Requests for Rural Enterprise – No Rural Enterprise requests made.

F. Places 2040 – Partners for Place – update to the County's Comprehensive Plan

Partners for Place ~ Motion to support the Lancaster County Planning Commission's Places 2040 through membership in Partners for Place made by Mr. Daniel Zimmerman and seconded by Mr. Edward C. Goodhart.

MOTION CARRIED UNANIMOUSLY

G. Other – Fryberger/Quarryville Resorts LP –

Motion to authorize solicitor to prepare and file an appeal to the Environmental Hearing Board opposing DEPs decision to approve a sewage module that would utilize a portion of the Fryberger farm for the dispersal of waste water effluent. Additional notification and correspondence to the property owner as appropriate was authorized. This Motion was made by Mr. Edward C. Goodhart and seconded by Roger Rohrer. Mr. Matthew Young abstained from any action.

MOTION CARRIED with seven affirmative votes and one abstention.

VIII. Adjourn

The meeting adjourned at 9:33 a.m.

The next scheduled meeting of the Agricultural Preserve Board

Thursday, August 23, 2018, at 8:00 a.m.

Lancaster County Government Center

150 North Queen Street, Room 104

Lancaster, Pennsylvania 17603