

Lancaster County Agricultural Preserve Board
Meeting Minutes
Thursday, August 23, 2018

Present: Mr. Jeffrey Frey, Chairman
Mr. Gary Landis, Vice Chairman
Mr. H. Eugene Garber
Mr. Edward C. Goodhart III
Mr. Andrew Lehman
Commissioner Dennis Stuckey
Mr. Daniel Zimmerman

Absent: Mr. Roger Rohrer
Mr. Matthew Young

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

Guests: Mr. Samuel Kauffman, Drumore Township

I. Call to Order

Mr. Jeffrey Frey called the meeting to order at 8:10 a.m.

II. Review of Mission Statement

Mr. H. Eugene Garber 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 (also: APB and Board) met in executive session on July 26th at 7:15 am to discuss real estate matters and potential litigation regarding the Hottenstein matter, the Kauffman matter and the Fryberger matter.

IV. Approval of Minutes

Motion to approve the July 26, 2018 meeting minutes made by Mr. Gary Landis and seconded by Mr. Daniel Zimmerman.

MOTION CARRIED UNANIMOUSLY

V. Business from Guests

- **NO BUSINESS FROM GUESTS at this time.**

VI. Old Business.

- **NO OLD BUSINESS**

VII. New Business

A. Kauffman Additional Dwelling – Mr. Samuel Kauffman, Drumore Township was present to provide the Agricultural Preserve Board members an update.

Mr. Matthew Knepper provided some background information:

- The Robert Kauffman farm in Drumore Township was agriculturally subdivided and the portion of the farm owned by Mr. Robert Kauffman retained the ability to construct the one additional residential structure as permitted by the Agricultural Conservation Easement (ACE.)
- Mr. Samuel Kauffman purchased the southern portion of the farm and constructed a carriage barn/residential structure.
- This carriage barn/residential structure is not permitted because that right was retained by Mr. Robert Kauffman.
- The Agricultural Preserve Board and Mr. and Mrs. Samuel Kauffman entered an Enforcement Agreement on January 20, 2017 providing the Kauffmans two years to remove the use of a residence in the carriage barn, or by December 31, 2018.
- The Enforcement Agreement requires that the Kauffmans provided six month written updates of any progress to meet this deadline.
- The Kauffmans submitted their most recent update statement and requested an extension of time.
- The Kauffmans have also had some other pressing issues to address on the farm, including meeting Act 38 Nutrient Management goals.
- The Kauffmans have made some substantial progress, including but not limited to:
 - Signing an EQIP contract with NRCS for the installation of Best Management Practices (BMPs) that include barnyard improvements, heifer building construction, and manure storage.
 - Mr. Samuel Kauffman's son, Jacob, has purchased the cows and is now operating the dairy, as part of this there was small herd dispersal to down-size the herd.
 - Mr. Samuel Kauffman is now working full time off the farm.

Mr. Samuel Kauffman provided the following comments and posed the following questions:

- The family has been faced with many challenges over the past few years, including low milk prices, mandate to install BMPs or face serious consequences with the Department of Environmental Protection and a requirement to remove the additional residence above the carriage barn.
- The family believed that their efforts first needed to be placed in resolving the environmental concerns with their barnyard area and manure storage before addressing the removal of the residence.
- They wish they would have modified their existing home first and not built a residence above the carriage barn but they truly did not realize that it would be problematic as the Township issued the building permit.
- Initially, after this residence was cited as a violation by the Agricultural Preserve Board, Mr. Kauffman requested five years to correct this problem and the Agricultural Preserve Board provided him two years. He is now asking for an additional two years.

Agricultural Preserve Board members and Mr. Matthew Knepper offered the following:

- Mr. Daniel Zimmerman asked if Mr. Samuel Kauffman had a plan in place to resolve the issue?

- Mr. Jeffrey Frey said that the Board members are sympathetic to this situation and mistakes can happen, but there must be a timeline in place that is met because “we can’t just keep kicking the can down the road.”
- Mr. Edward C Goodhart stated that while he is not opposed to granting an extension, he must see a timeframe with goals. Furthermore, he added, that he realizes that Mr. Samuel Kauffman is not the landowner who preserved the farm; hence, he did not receive the easement payment. However, he purchased a preserved farm and is now obligated to abide by the terms of the easement. This is the case for all those landowners who have purchased preserved farmland.
- Mr. Daniel Zimmerman and Mr. Gary Landis offered that Mr. Samuel Kauffman needed to draft some steps with various phases to strive to accomplish over a two-year period, if that is the length of the extension that is requested.
- Mr. Matthew Knepper said that Mr. Kauffman should work on these steps and submit something to the Agricultural Preserve Board before the December 31st deadline.
- There was consensus among the Board that a two-year extension was reasonable and that the Board had confidence that Mr. Samuel Kauffman wanted to resolve this issue, but Mr. Kauffman needed to provide a time frame prior to the Board taking any action.

B. Hottenstein/Dannelley Septic Easement

Mr. John M. Smith, Esquire submitted a draft Settlement and Enforcement Agreement (Agreement) and Mr. George Cook, Esquire reviewed and modified this Agreement. The Agreement reviewed and discussed during Executive Session

Motion that tentative approval be granted to approve the draft Settlement and Enforcement Agreement, inclusive of modifications (additions to and deletions from), as agreed upon by all involved parties. The terms of the Agreement, as modified, will be reviewed and approved by the Agricultural Preserve Board. Such approval of these modifications can occur prior to the next Agricultural Preserve Board Meeting. Motion made by Mr. Edward C Goodhart and seconded by Mr. Daniel Zimmerman.

Mr. Daniel Zimmerman added the following clarification that the Board was granting conditional approval of the Settlement and Enforcement Agreement, subject to the modifications and suggestions by the Board during Executive Session. The Board does want to see the final version of the Settlement and Enforcement Agreement.

H. Eugene Garber commended the Agricultural Preserve Board for the time and effort spent to work towards a resolution in this case.

MOTION CARRIED UNANIMOUSLY

B. Fox Meadows Creamery

Mr. Matthew Knepper announced that the Agricultural Preserve Board acted on this at last month’s Meeting; however, he was seeking clarification prior to notifying the Fox family officially in writing.

Mr. Matthew Knepper’s understanding was:

Approval for the parking area to continue was granted for another year and a longer-term approval process would be established so that the Fox family would not have to petition the

Board at a meeting annually for renewal of the parking so long as certain criteria (original rationale for approving the request) were met.

- Concept would be:
 - Annual “self-certification process/form”, whereby, Foxes would certify that the creamery, and associated parking still met certain criteria, including but not limited to:
 - Primary product at creamery was an agricultural product produced on the Fox farm, over 50% agricultural production
 - Continue to engage the neighboring property owner in quest to acquire land for parking
 - Parking should continue to also be used for fall products or other seasonal items produced on farm
 - Ownership of the farm and the creamery must be the same, or at minimum the same family members must be involved.
 - Staff will be authorized to grant annual extension of parking
 - Agricultural Preserve Board will receive an annual update of this self-certification
 - The original approval will still be in effect, in other words, this modification of how annual updates are provided will not alter the intent of the standards outlined in the original approval.

The Agricultural Preserve Board members agreed to this concept.

C. Ben Metzler, Martic Township, Pipeline video and pictures

Mr. Benjamin Metzler submitted a letter, photographs and a video to the Agricultural Preserve Board. Staff has viewed the video and reviewed all the photos. The entire video and sampling of the photographs were shared with the Agricultural Preserve Board.

Mr. Benjamin Metzler is an owner of a farm in Martic Township that was preserved in 1997. The purpose of his submission (which was also duplicated to Williams, DEP, LCCD and others) was to make clear his concerns and disappointment over the handling of the restoration to the disturbed land on his farm. Williams promised landowners that their land would be restored to the same condition it was in prior to any disturbance to install the pipeline. His photographs, video and commentary on his interactions with Williams representatives make it very clear that his land is far worse condition than it was prior to the pipeline disturbance. It is made apparent by this submission that there is little, if any topsoil remaining on the area that was disturbed.

The Agricultural Preserve Board concurred that it is imperative they go on record making a statement on Mr. Benjamin Metzler’s behalf and all the other owners of preserved farms who experienced pipeline activity. The statement should be in the form of a letter to Williams and copied to Mr. Benjamin Metzler, the Lancaster County Conservation District, the Pennsylvania Department of Environmental Protection, the local legislatures and the Chesapeake Bay Commission.

Mr. Daniel Zimmerman stated that there is no way the land disturbed will ever be the same as it was. The restoration on many these farms has been less than satisfactory. Many have concern with the restoration of these farms. Metzler’s concerns are valid. They (Williams) can’t just walk away.

Mr. Andrew Lehman paraphrased Mr. Metzler’s concerns, “who is the jurisdiction that can weigh in?” Mr. Metzler is searching for who has some enforcement capability to help him.

Mr. Matt Knepper said the involved agencies with some degree of influence would be the Lancaster County Conservation District and Pennsylvania Department of Environmental Protection. But, there are private agreements with landowners that are signed and the terms and conditions outlined in those agreements are likely what Williams will emphasize.

Mr. Daniel Zimmerman questioned, "Did Williams cause this landowner, and presumably others, to not be in noncompliance with their Conservation Plan?" If these landowners are not in compliance with their Conservation Plans, it is not at their own doing. Having a Conservation Plan is State law, it is the emphasis of the Chesapeake Bay clean up initiative and a requirement of Agricultural Conservation Easement.

Mr. Andrew Lehman commented that anywhere else, if you were to see these conditions on a construction site, there would be huge penalties to pay.

Mr. Commissioner Dennis Stuckey affirmed the Agricultural Preserve Board does need to address the situation. Likely, the only thing that may impact Williams is the court of public opinion.

The letter will make clear our interest in the preserved farm (and all preserved farms.) The correspondence should convey that the Agricultural Preserve Board has been made aware of the very serious concerns expressed by the landowner. Williams assertion and promise to the landowner that the land would be restored to prior to disturbance conditions have not been met. While there have been challenges this year due to extreme weather conditions, the restoration is not anywhere close to meeting expectations.

Motion made for the Agricultural Preserve Board to draft a letter to Williams in response to concerns expressed to us by one or our to preservation partners requesting some sort of response from Williams on how they plan to remediate and to ensure that all of our farms under Agricultural Conservation Easements are not in violation of their Conservation Plans. This motion made by Mr. Daniel Zimmerman and seconded by Mr. Edward C. Goodhart

The letter will be copied to other appropriate parties, including but not limited to: the owner of the preserved farm, the Lancaster County Conservation District, Pennsylvania Department of Environmental Protection and local legislators, indicating that remediation efforts have not been successful and we request that restoration efforts be completed to the satisfaction of those restrictions outlined in the Agricultural Conservation Easement and that our preserved farms are not in violation of their Conservation Plans.

MOTION CARRIED UNANIMOUSLY

Mr. Edward C. Goodhart asked if the Agricultural Preserve Board should make a more formal public position statement? Mr. Andrew Lehman and Mr. Daniel Zimmerman shared that they believed that step should be secondary if there is no positive response from Williams. Mr. Jeffrey Frey stated that we should wait a month. The other Board members agreed to this course of action.

D. Requests for Subdivision/ Land Development- No Subdivision or Land Development requests made.

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

VIII. Adjourn

The meeting adjourned at 9:30 a.m.

The next scheduled meeting of the Agricultural Preserve Board

Thursday, September 27, 2018, at 8:00 a.m.

Lancaster County Government Center

150 North Queen Street, Room 104

Lancaster, Pennsylvania 17603