

**OHIO FARMLAND PRESERVATION ADVISORY BOARD
MINUTES OF BOARD MEETING**

**Ohio Department of Agriculture
Reynoldsburg, Ohio**

**November 3, 2010
Minutes taken by Amanda Bennett**

*Disclaimer: Many individual opinions have been captured by the recorder but do not necessarily reflect the opinions of the entire Advisory Board.

Advisory Board members present: Kristen Jensen, Chair; Jill Clark, Vice-Chair; John Detrick; Lucille L. Hastings; Dean LaRue (left at 12:10 p.m.); Joe Logan; Glenn Myers; Jay Rausch (arrived at 10:17 a.m.); Roger Rhonemus; Brian Schlatter; Kurt Updegraff (arrived at 10:19 a.m.); and Brian Williams

ODA staff members present: Jessica Atleson, Ohio Attorney General's Office; Jody Fife; Cindy Shy and Amanda Bennett

Visitors: Krista Magaw, Tecumseh Land Preservation Association; Michele Burns, Tecumseh Land Preservation Association

Opening Remarks

- Kristen Jensen called the meeting to order at 10:11 a.m., in conference room 308 of ODA's Bromfield Administration Building, and introductions were made.
- MOTION: Jill Clark moved to accept the August 18, 2010 Advisory Board minutes. Lucille Hastings seconded; motion carried.

Public Comments

There were no public comments from visitors. Kristen passed out copies of two letters from Black Swamp Conservancy regarding the Fast Track recommendation from the Kaizen Event in June, for discussion later in the meeting agenda.

Board Member Duties

Jessica Atleson talked about the duties of a Board Member. She provided excerpts from the document *Guide for Charity Board Members*. While the Ohio Farmland Preservation Board is not a Charity Board, she tailored the document to apply to this Board. She highlighted various parts: Under Duty of Care, she remarked that it is important to attend and participate in meetings and be made aware of what is going on in the Department. Board members should prepare for meetings, read material sent prior to the meetings, and stay informed. Duty of Loyalty was mentioned as perhaps the most important piece for the Board; being a member of the Board should take precedence over any bias, and that members must act fairly and be objective. When guests are present, Board members should be mindful of comments and how comments could be perceived. Finally, under Duty of Compliance, Board members want to be sure to understand their role and responsibilities. Jessica recommended an annual reminder of these responsibilities, including when new Board members begin their terms. Jill Clark asked if the current Advisory Board Scoring Guide is in line with the document just shared, and Jessica answered yes, that it is.

Recent Farm Withdraw

Recent farm withdraw: Cindy Shy explained that the Britton farm from 2009 AEPP (Northeast Quadrant) has formally withdrawn from the program. The easement purchase price was to be \$174,954. The Board discussed several options for the \$174,954, including putting the money back into the NE Quadrant for the 2011 funding round, or putting it into the general 2011 funding total to be divided equally amongst the quadrants. Kristen explained that the office's recommendation was to use this funding for administrative costs. At the May 2010 Board meeting, the Board voted to use up to 3.5% of the 2011 AEPP principal for administrative costs. If the office uses the funds formerly earmarked for Britton, then the 2011 AEPP allocation to be divided equally between the four quadrants would remain at \$6,250,000.

MOTION: Lucille Hastings moved to utilize the \$174,954 for administration costs. Brian Williams seconded. The Board then had discussion to clarify that the 3.5% out of principal voted on in a previous meeting was indeed for the 2011 funding round and not the 2010 funding round. Kristen explained that the 3.5% was from the 2011 funding total, which would have meant that the 2011 funding round would leave \$6,031,250 to be distributed equally between the four quadrants. The question was raised about how funding would be handled if another farm withdraws in the future. Kristen explained that if a farm withdraws prior to the end of the offering phase of the funding round, then funding would automatically be offered to the next farm in line in that quadrant. This particular instance of has occurred one other time (2006).

AMENDED MOTION: Lucille Hastings moved to utilize the \$174,954 for administration costs in 2011 in lieu of using 3.5% from the 2011 AEPP funding round total of \$6,250,000. Brian Williams seconded; motion carried.

2011 Application Policy Questions

Prior to today's meeting, the office sent a document to the Board with several policy-related questions that needed to be addressed for the 2011 AEPP application. The document included the 2010 application question as it was written, the proposed 2011 wording of the question (if applicable), previous Advisory Board discussion (if applicable), and a recommendation from the office.

- Step 3C – Contiguous Parcels – The Board decided at the August 18, 2010 meeting to revisit the issue at this meeting. The Board discussion included remarks that the program should be more flexible on this policy because the next generation of farmers looking to buy land may not be able to buy these preserved farms because they are too large. Others commented that with more than 80% of applicants being turned away each year, there may be no need to change the policy because the program is not hurting for applicants. There is also a Large Farm Size exception for farms over 400 acres. Historical context was provided that the contiguous parcel policy came into place because there was a fear that farms would be subdivided if the program didn't stipulate that all contiguous parcels must be applied. The Board recommended no change to the contiguous parcels policy at this time.
- Step 12 – Proximity Points – A comment came from a stakeholder that additional points should be provided on the application for proximity to other preserved properties, and the Advisory Board decided during the August 18, 2010 meeting to discuss at a later time. The Board discussed again and asked that the staff take the issue to the Technical Meeting after the 2011 AEPP funding round for more information from local sponsors. The Board decided against recommending more points for proximity on the 2011 AEPP Application.
- 13C – Development Pressure – The Board concurred with the staff's recommendation that the wording of the question not be changed to freeway interchange for the 2011 Application, but

recommended that staff take the issue to the 2011 Technical Meeting for more input and continue to gather information on the most appropriate wording of the question.

- 15A – Comprehensive Land Use Plan and incorporating Balanced Growth Initiative –Kristen explained that the Balanced Growth Initiative provides funding for watersheds to undergo a Watershed Balanced Growth Plan, and these plans incorporate both Priority Conservation Areas and Priority Development Areas. Further, some plans include Priority Agricultural Areas. A community participating in a Watershed Balanced Growth Plan would show that the community has essentially undergone another type of planning. The state requires a demonstration of significant support from local government representing at least 1.) Seventy-five percent of the watershed’s population must approve the plan, 2.) 75 percent of the watershed’s local governments, and 3.) 75 percent of the watershed’s geographic land area must approve the plan. The Board recommended that the question incorporate the Balanced Growth Initiative, but that the question should be amended to include whether that the farm’s own jurisdiction approved the Watershed Balanced Growth Plan.
- 15B – The next question on the application awards points for farms located in areas specifically designated for agricultural use within a comprehensive plan. Staff recommended the question now read, “Is the applicant property located within a specific area designated for agricultural use by the comprehensive land use plan – or – is the applicant property located within a Priority Conservation Area (PCA) or Priority Agricultural Area (PAA) in an approved Watershed Balanced Growth Plan?” The Board recommended the change, with the inclusion of whether the farm’s own jurisdiction approved the Watershed Balanced Growth Plan.
- Guidelines and Policies – 40 acre minimum – During the last Board meeting, the Board decided it would revisit this issue. The question was asked about the FRPP minimum, and it was explained that there is no longer a minimum acreage for FRPP farms. The Board felt that the issue must be studied further, because there is no guarantee that the second farmland preservation program, planned to be geared toward smaller acreages, will become a reality. The Board decided to not change the minimum at this time but to continue to research the issue.
- Guidelines and Policies – Large Farm Size Exception – During the August 18, 2010 meeting, the Board decided to amend the Large Farm Size Exception to allow farms over 400 acres in size *or* two times their county’s average farm size the ability to request a Large Farm Size Exception. The office requested further discussion on this issue because it was discovered that county averages vary greatly. The Board discussion included remarks about perhaps adding a threshold for the two times average farm size, and considering again that the trend towards smaller farm sizes needs to be considered. There was a comment that a farm with many acres under one easement could always go to ODA and request a change in the deed if they wanted to subdivide for family, etc. It doesn’t mean the request would be granted, but it would provide an option. Cindy Shy added that altering a deed could create problems with the IRS and appraised value, so it would be better for allowing splits to be spelled out ahead of time in the deed. The Board felt that this issue should also be researched, since agricultural viability and the program’s wish to preserve large blocks of farmland are both important considerations. The Board recommended taking out the two times county average farm size, and only allowing the request for Large Farm Size Exception when a farm is at least 400 acres in size. The Board suggested that staff talk to other state farmland preservation programs to see how they are dealing with these issues. Jill Clark, Lucille Hastings, Jay Rausch, Brian Schlatter, and Brian Williams offered to work with staff on this research.

2011 Guidelines and Policies

Cindy Shy led an overview of proposed 2011 Guidelines and Policies:

- Appraisal costs – Staff perceives difficulty in paying for FRPP appraisals, not knowing where the funding would come from. Under the new Guidelines, landowners required to get an appraisal for FRPP purposes could be reimbursed up to a certain threshold. The Board asked about the average cost – and Kristen said it varies between \$1200 and \$1800 per appraisal. The total spent by landowners on appraisals for 2009 was about \$25,000. Currently, a landowner can have ODA bid their appraisal or purchase their own. If bid by ODA, the landowner pays for it out of the closing costs. Kristen explained that reimbursement to landowners could not come from administrative costs. Matching dollars received by FRPP is available, and purchasing an appraisal is a part of purchasing the easement, a requirement of the FRPP matching dollars. The Board recommended that ODA reimburse landowners required to purchase appraisals for FRPP purposes for the 2011 funding round. The issue would need to be revisited next year, especially since this would cut into the proposed second farmland preservation program’s funding. The threshold or cap on the amount reimbursed to each landowner should be set by ODA.
- Multi-county farm policy – For funding round 2010, the main county of application was determined by which county had most of the farm’s acreage. This year, the Guidelines and Policies allow the farm to choose which county it would like to apply under, regardless of how many of the farm’s acres are in that county. There would still be multiple deeds and PCRs for each county in which the farm sits.
- Regional Balance – The 2011 Guidelines and Policies have no changes to this section, the quadrants are the same and the funding will be split equally between them.

Discussion: Roger Rhonemus requested that the first page of the document be updated, since it incorrectly lists the 2011 funding total at \$6,031,250. Jessica Atleson believes the word threshold should be changed in the section on title and appraisal costs.

MOTION: Kurt Updegraff moved to accept the 2011 Guidelines and Policies Document with the following changes – change the amount of funding on the first page back to \$6,250,000 and indicate in Title and Appraisal Costs that the ODA Director should determine the maximum amount of appraisal reimbursement. Roger Rhonemus seconded; Motion carried.

The Board then discussed creating a subcommittee to discuss Large Farm Exception and to research future concerns of AEPP such as contiguous parcels and minimum acreage.

MOTION: Kurt Updegraff moved to form subcommittee. Joe Logan seconded; Motion carried. Jill Clark, Lucille Hastings, Jay Rausch, Brian Schlatter, and Brian Williams volunteer to be members of the subcommittee.

Exception Policy

Cindy Shy discussed the revised exception policy that came as a result of Kaizen. A pilot program was set up for 2010 selected farms, and some local sponsors are working with landowners to clear the title exceptions. It was noted that one local sponsor in the pilot program is requesting a landowner to extinguish historic leases, even though the farm is slated for a state deed, which is stricter than the proposed Exception Policy. It is asked if the timeframes are concurrent or cumulative if there are multiple issues, and Jessica answered that it would be concurrent. Jessica added that ORC 5301.332 explains the requirements of extinguishment, for reference. Kristen commented that until now, ODA has been taking the main responsibility in clearing the title, but with increased workload and limited staffing, this has become increasingly more difficult. The office intends to use the pilot as a way to find out what ODA can help with, as it works to transition the responsibility for all title issues to

landowners. While being piloted for 2010 farms, this policy would go into full effect beginning with the 2011 selected farms.

MOTION: Jill Clark moved to adopt the Exception Policy. Brian Williams seconded; Motion carried.

Advisory Board Scoring Guidelines

Cindy Shy reviewed the 2011 Advisory Board Scoring Guidelines document, noting that the only change for 2011 was the addition of the 2011 Scoring section, which explained how six members of the Board will score all applications from Quadrants 1 and 2, and the other six members will score Quadrants 3 and 4. A Quadrant map listing how the Advisory Board was assigned for 2011 was included with the Guidelines for the Board. The current assignment of Board Members could change if circumstances require.

MOTION: Lucille Hastings moved to adopt the 2011 Advisory Board Scoring Guidelines. Jill Clark seconded; Motion carried.

2011 Application Process

Amanda Bennett provided an overview of the 2011 Application Process, which included the following: Kaizen, Technical Meeting, Advisory Board Meeting in August, submitting changes to IT, creating the Tutorial, revising the Application Handbook, arranging landowner Quadrant meetings and the local sponsor training. Staff requested the presence of at least one Advisory Board member at each quadrant meeting and at the local sponsor training. The 2011 AEPP application is due to open on January 5 and close on April 5. Staff expects to send Tier 2 essays to the Advisory Board approximately a week after the application closes, and scoring would need to be completed by the time of the next Advisory Board meeting in May 2011.

Kaizen Overview

Fast Track Discussion – Cindy Shy provided a document to the Board to give an overview.

Discussion: The Board asked clarifying questions about whether an incentive should be given for producing a title or a clean title, and staff explained that this was never fully clarified in Kaizen. Remarks were made that in allowing landowners to choose their own title services, ODA could specify requirements and that may protect the agency when it comes to the quality of the search and the insurance. Concerns were expressed that by implementing an incentive for clearing exceptions prior to application, ODA may still need to devote significant time to landowners, perhaps before the application process. Kristen commented that the number one priority of Kaizen was to close more quickly. The bond requires a certain number of closings within a certain timeframe, and federal matching dollars can be lost due to the length of time it takes to clear exceptions. Landowners can become frustrated with the length of time it takes to close on their farms. She reminded the Board that ODA's Legal Office is looking at whether the landowner will be permitted to purchase their own title search to be recognized by ODA. The Board began looking at areas of the application where points could be given for an incentive. Kristen explained it would have to come from the "Other Factors" section of the application because those points are distributed at the Director's discretion. A remark was made that the points should be taken away from a question that is in general answered the same way by everyone. Another option would be to change the local match point structure, where an applicant can earn up to 12 points. Kristen clarified that the Kaizen team did not recommend a certain amount of points for what would be a worthwhile incentive for clear title, and perhaps staff could reach out to landowners and local sponsors to determine how many points would make it worthwhile. The Board also discussed whether a point incentive, if recommended, would be put in place in 2011 or 2012. The

Board felt that either way, an incentive should only be given on a trial basis, for one funding round, to see if it truly was an incentive and if it truly resulted in less staff time to close easements. Kristen suggested that staff research which part of the application would be appropriate to swap out for a potential incentive. If done for the 2011 funding round, staff would have to get the word out immediately so that landowners and local sponsors would have enough time to clear titles. Some Board members felt that implementation should be considered for 2011 since Kaizen team members would not want to wait two application cycles to see if the incentive would help. Others felt that in implementing an incentive the same year as requiring landowners to clear their own titles, it might not reveal if either change was successful. Kristen commented that implementation could be difficult because landowners submitting title searches at the time of application will have to wait for the searches to be reviewed by the office's attorney before it could be known that they deserve the points. A remark was made that if a landowner is going to the expense of purchasing a title search prior to application, it is more likely that it will be legitimate, and ODA could give requirements on those searches as well. The Board recommended that staff take 10 days to investigate whether an incentive could be put in place for the 2011 funding round, and to see if other state farmland preservation programs do anything similar. If it can't be done, the incentive could go into place for a trial in the 2012 funding year.

OAC – Kristen explained that revisions to the OAC went into effect on October 28. The company that updates the online version only does so twice a year, so the changes may not be reflected online at this time. However, the changes are in effect and have resulted in many changes to the 2011 application.

News and Office Updates

A News and Office Updates document was provided to the Board prior to the meeting. Kristen mentioned two additional updates since sending to the Board: 1) The Wagner Family in Allen county has expressed interest in donating a farm. The Wagners had previously donated two farms in Shelby County. This would be the first donation in Allen County, and West Central Ohio Land Conservancy has expressed interest in being the monitoring agent. 2) The Voge Easement from AEPP 2009 – NRCS has decided to allow the SprintComm lease to remain on the title without changes to the deed or subordination. NRCS will still require the leasehold mortgage to be subordinated, however.

Announcements

Annual Farmland Preservation Summit is November 18. Deadline for registration was Friday, November 5 but has been extended to Nov. 12. The theme is Setting the Agenda, and will include real-time voting by participants.

John Detrick announced that Tom Daniels, the first director of farmland preservation in Lancaster, PA will be speaking at a Lunch and Learn on Wednesday, November 10, 2010 @ Noon at the Courtyard Marriott, 100 S. Fountain Avenue, Springfield. Tickets are available from Tecumseh Land Trust.

Kristen thanked the following Advisory Board Members whose terms are ending this year.

Kristen announced that for the next and subsequent meetings, members will receive emails with pertinent documents, but will then also receive the hard copies in the mail.

Next Board Meeting is scheduled for May 4, 2011, 10am-3pm.

MOTION: Motion for adjournment by Jay Rausch. Seconded by Brian Schlatter; motion carried.