

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

**Ohio Department of Agriculture  
Reynoldsburg, Ohio**

**May 4, 2011  
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 (left at 11:30 a.m.); John Detrick (left at 12:30 p.m.); Lucille L. Hastings; Dean LaRue; Glenn Myers; Jay Rausch; Roger Rhonemus; Kurt Updegraff (arrived at 10:34 a.m.); and Brian Williams

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

**Visitors:** Jonathan Ferbrache, Fairfield Soil and Water Conservation District; Michele Burns, Tecumseh Land Preservation Association; Matt Harbage, Natural Resources Conservation Service; Larry Frimerman, Three Valley Conservation Trust

**Opening Remarks**

- Kristen Jensen called the meeting to order at 10:15 a.m., in conference room 308 of ODA's Bromfield Administration Building.
- ODA Director Jim Zehringer made opening remarks and thanked the Ohio Farmland Preservation Advisory Board for their role in preserving farmland.

**Budget Outlook**

Tom Johnston, CFO for ODA provided the Advisory Board with an update on the Governor's proposed budget for the 2012-2013 biennium, and its impact on the Department of Agriculture and the Office of Farmland Preservation. He explained that the Budget Bill is in deliberation, and may soon be moving from the House to the Senate for committee meetings. He provided Board members with a spreadsheet comparing FY 2011 appropriations and FY 2011 estimates to proposed FY 2012 and FY 2013 levels. Board members asked if General Revenue Funds (GRF) were to go up, would the Office of Farmland Preservation (OFP) receive an increase, and Mr. Johnston said it would be unlikely in the next biennium that there would be any changes to the proposed GRF allocation for OFP.

Kristen explained that the 5% allocation for administrative costs from the bond could cover up to three staff members if combined with the GRF allocation. Although the work load has increased in the office and the amount of dollars the office disburses in easements has increased, the staffing level has remained virtually unchanged since 2002.

It is pointed out that in light of the survey results on the Agricultural Easement Purchase Program (AEPP), especially the amount of reinvestment the program spurs, a case needs to be made for farmland preservation.

It is mentioned that Howard Wise, former Executive Director of the Office of Farmland Preservation, has been asked to provide a proposal to the administration on reducing administrative costs and workload for the OFP. This proposal has taken shape as one that converts the AEPP from a centralized program to a decentralized. Instead of the closing process taking place at the state-level, the OFP would award funds in a block-grant style to local entities.

Many on the Board said they wanted to know more about the proposal and would like the opportunity to provide input.

MOTION: Brian Williams moved to ask the OFP to let the Director of ODA know that the Ohio Farmland Preservation Advisory Board wishes to provide input on the decentralized AEPP proposal. John Detrick seconded; Motion carried.

Kristen will contact Howard and the administration to try and find a time at the end of May or in early June for the Advisory Board to learn more about the proposal and provide input.

#### **Previous Advisory Board Meeting Minutes – November 3, 2010**

MOTION: Kurt Updegraff moved to accept the November 3, 2010 Advisory Board meeting minutes. Roger Rhonemus seconded; motion carried.

#### **Public Comments**

There were no public comments from visitors.

Kristen asked the Board to consider one more thing about the budget. As pointed out in the spreadsheet provided by Tom Johnston, the OFP has \$3.8 million in Federal reimbursement funds received when the OFP receives matching dollars through the Farm and Ranch Lands Protection Program (FRPP). This funding was sitting in preparation for a second farmland preservation program that is indefinitely on hold. She asked the board for thoughts on what to do with the funds. Kristen further explained that up until about four years ago, matching dollars were put back out into funding rounds, but that the past administration began accumulating it for easements in a proposed second farmland preservation program. At this time, the OFP is authorized to spend up to \$1 million in one year. However, additional spending authority could be sought.

The Board asks if the bonds have been authorized for the 2011 Clean Ohio AEPP funding round, and Kristen answers no, it is anticipated to take place in the fall with the capital bill but has not been authorized as of yet. General consensus from the board advises the office to hold-off utilizing the federal reimbursement funding until Clean Ohio is secured for 2011.

### **Recent Farm Withdraws**

Kristen provided Advisory Board members with information on farm funding changes prior to the meeting. She asked the Board for their recommendation on what to do with the funding.

Kristen summarized that one landowner withdrew from the 2009 funding round from Lake County with an easement purchase price of \$160,100. Another landowner withdrew from the 2010 funding round in Fulton County (\$201,554). Finally, there was a purchase price reduction in another 2010 Fulton County farm resulting in a difference of \$35,549.

John Detrick asked if there is precedent on what the Advisory Board has recommended in the past, and Kristen clarified that during a recent Advisory Board meeting, the Board was presented with funding round changes but that the Board recommended that funding to be used for administrative costs. John asked if the same can happen in this situation, and Kristen explained that no, the OFP cannot use more than 5% out of any one funding year.

Board members asked about the landowners' reasons for withdraw. Kristen explained that there were various reasons, and those included landowners' problems with provisions of the Deed of Agricultural Easement, such as subdivision, oil and gas policies, and non-agricultural commercial businesses.

Prior to today's meeting, the Board was provided with letters from a landowner asking that the Board recommends that the funding be reallocated to their quadrant and distributed according to the 2010 AEPP ranking. Kristen explained that the office's recommendation is to put the additional funding in the 2011 funding round, because the 2010 ranking and offers are officially over and would be extremely complicated.

**MOTION:** Lucille Hastings moved to put the additional funding from recent withdraws into the 2011 funding round. Jill Clark seconded; Kurt Updegraff asks for a point of clarification, remembering that the Board discussed someone getting a partial offer in the past and the Board recommended full funding. Kristen clarified in that situation the partial offer was the mistake of the OFP and was different than this particular request; motion carried.

Kristen also asked for any thoughts on how this additional funding should be allocated in the 2011 funding round – among all quadrants or back into the quadrants they came from? The consensus from the group was that the money to be placed in the statewide fund.

### **Request for Agricultural Subdivision**

Kristen provided Advisory Board members with information on the subdivision request prior to the meeting. ODA was approached by a landowner requesting a split of 25 acres from their 114.99 existing agricultural easement. The property was preserved in the 2005 Clean Ohio AEPP round of funding. Kristen explained that the office cannot make a clear recommendation on this situation, and is seeking advice. The Director is also seeking a

recommendation from the Board on this situation, since the 2005 Deed of Agricultural Easement signed by the landowner allows them subdivision of the protected property only with the advance permission of ODA.

Board members reviewed the changes in Deed language over time regarding subdivision of protected property and discussed several factors: whether or not the Board can determine the full reason behind the request for the split from the landowner's request letter alone; if the Board sets precedent by recommending approval or denial of the request; if the split is granted, would the land remain agricultural and would the landowner seek to build a home; and the pros and cons of allowing subdivision at all (allowing younger generations the ability to build collateral to buy more property, preserving large blocks of farmland, etc.). Consideration was also given to the potential risks and additional work load for ODA and local sponsors with the creation of a second easement.

MOTION: Glenn Myers moved to recommend denial of the request for a split. Kurt Updegraff seconded; Board member Jill Clark left meeting prior to this vote taking place. Vote for motion was 4-4, motion failed.

MOTION: Brian Williams moved to table recommendation on split until next meeting while OFP gathers more information from landowner on reasons for the request for a split and on what other steps/options the landowner has pursued. John Detrick seconded; Vote 5-3; motion carried.

The Board broke for lunch at 12:07 p.m., and at this time Board Member John Detrick left the meeting. The Board resumed the meeting at 1:00 p.m.

### **2011 Application Process Overview**

Amanda provided a recap of events that led up to the 2011 Clean Ohio AEPP application process and provided an overview of statistics and issues throughout the application period and subsequent review of the 190 submitted applications. Figures and issues were detailed in a document provided to the Board prior to the meeting.

The Board shared their thoughts about grading the Tier 2 narratives. Board members wondered why some narratives mentioned "attached list" and there was no list – Kristen explained that the policy on attachments to the narratives is that only visual aids may be provided with a one-sentence caption, so lists would not have been provided to the Board for review. Some Board members felt that it would have been helpful if more landowners described the aspects of their applicant farm as opposed to their entire farm operation, while other Board members shared that it showed commitment and viability to see that the applicant farm was a part of a larger farming operation. Board members appreciated applicants that used bullet points and got straight to the point of answering the questions, regardless of the length of the narrative, as well as narratives that answered multi-part questions in the order they were presented in the question. Some Board members that attended quadrant meetings before the application round discussed the advice they gave to potential applicants, and how that did or didn't show up in this year's narratives.

Board members were asked about the new structure of having all applications scored for Tier 2, with six members being responsible for scoring one half of the state, while the other six scored the rest. Kristen explained that the division was not even, in that six members received 124 applications and the other six members received only 64 applications. Board members explained their various strategies for scoring narratives, with some reading all questions for one applicant at a time, while others scored the same application all the way through the applications before moving on to the next.

Board members asked local sponsor guests if their discussion was helpful to local sponsors, and it was shared that having all applications scored this year will help them in showing landowners the impact of the Tier 2 score. Local sponsors shared their experiences with landowners, and the challenges of having too much information to pare down or not enough information to highlight the qualities of the applicant property.

Kristen then explained the situation with Board Member Thomas Mazur, who cannot locate his Tier 2 narratives due to weather damage at his workplace. Kristen explained that the Board could excuse Thom's scoring responsibility for the year, which would mean that one half of the state's applications would be averaged by five scorers. Kristen could also have the applications sent to Thom at home but that it would be a few weeks before they could be returned.

**MOTION:** Lucille Hastings moved to excuse Thom of scoring 2011 Tier 2 narratives. Jay Rausch seconded; motion carried.

### **News Updates**

Kristen explained that Board members received the Office's News Updates prior to the meeting, but that she would touch on a few in particular at this time. With the Donation program, there is a landowner who is having doubts about continuing due to the extinguishment clause in the Deed of Agricultural Easement. Even though the landowner is not receiving compensation from ODA, extinguishing the easement in the future would mean that ODA is entitled to a portion of the value of the easement. Jay Rausch asked about the impact of that clause on future generations, and Dean LaRue adds that without the clause, landowners wouldn't have a commitment to preserving the land in perpetuity, they could just preserve it for awhile and then try to extinguish in the future with no consequence.

Board members asked for more information about the easement violations mentioned in the Office Updates document. With regard to the landowner that split the property after the easement was placed, she explained it was caught during annual monitoring by the local sponsor.

With regard to the pipeline easement violation, Kristen explained that the office is recommending a letter come from the Director explaining that signing the right-of-way with the company was a violation of the terms of the Deed of Agricultural Easement, but because of the placement of the pipeline (it is sited in a forested area and along the road),

ODA is not pursuing enforcement action on the violation. The letter is currently under the Director's review. Kristen also added that it was recently discovered that the pipeline goes through other protected property in the area, so the office is investigating that issue as well.

Lucille Hastings mentioned that the Board may want to consider the impact of the shale drilling and leasing in Ohio.

MOTION: Roger Rhonemus moved to adjourn the meeting at 1:49 p.m. Brian Williams seconded; motion carried.