

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

**Ohio Department of Agriculture  
Reynoldsburg, Ohio**

**October 26, 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:** Mike Bailey, Chair; Jill Clark, Vice-Chair; John Detrick; Thomas Mazur; Glenn Myers; Brian Schlatter; Kurt Updegraff and Brian Williams

**ODA staff members present:** William Hopper, Chief Legal Counsel; Jody Fife; and Amanda Bennett

**Opening Remarks**

- Mike Bailey called the meeting to order at 1:20 p.m., in conference room 308 of ODA's Bromfield Administration Building.
- Mike introduced William Hopper, Chief Legal Counsel for ODA. Legal review of title work, as well as legal advice, is now in-house through ODA.

**Previous Advisory Board Meeting Minutes – June 15, 2011**

MOTION: Jill Clark moved to approve the June 16, 2011 Advisory Board meeting minutes as presented. John Detrick seconded; Vote 6-0; motion carried. This vote occurred before the arrival of one Board member.

**Proposed Local Clean Ohio Agricultural Easement Purchase Program (AEPP)**

Mike Bailey provided an update on the proposed local AEPP program. Mike explained that since the time of the last Advisory Board meeting, two working group meetings were held with representatives from various land trusts and soil and water districts to discuss the design and implementation of the program. It became apparent that in order to do things thoroughly, the proposed local program would have to be postponed for the 2012 funding round. The Office of Farmland Preservation (OFP) expects to resume these discussions in the winter or spring, with a target date of implementation being the 2013 funding round. Therefore, the 2012 funding round application process will resemble that of last year's.

Jill requested an update from Mike on the status of Clean Ohio funding. Mike explained that we have not received our 2011 or 2012 funds yet, but have been given no indication that we won't receive them. The OFP is pushing forward with implementing the 2012 application, and we anticipate being able to offer up to \$6.25 million for the 2012 funding

round. Other Advisory Board members had heard very little about the Clean Ohio funding. Mike mentioned that there is an upcoming Coalition of Ohio Land Trusts (COLT) meeting, and there will be a Clean Ohio session at that meeting. He will be interested to hear what the Land Trust community has heard.

### **Current AEPP Update**

Amanda provided the Advisory Board with an update about each funding round with pending easements.

2009 AEPP: Amanda explained that there are still three farms yet to close, all that had various issues to be addressed resulting in significant delays (Federal appraisal rejection, oil and gas lease subordination, and cell phone tower lease issue). Amanda went on to say that all issues are on track to being addressed, and all three farms are expected to close by the end of the calendar year.

2010 AEPP: Of the 36 existing 2010 farms, two have closed and one was sent to escrow yesterday. Beyond that, three Controlling Board batches have been started, all at various degrees of completeness. Provided the Controlling Board approves the release of funds and all title issues are complete, the OFP expects more than half of the 2010 easements to be closed.

2011 AEPP: Title work is arriving for all selected farms (there was 41, there are now 40 pending easements). Each batch of title work received is forwarded to ODA Legal for review. Although the focus of closing easements remains on the 2009 and 2010 projects, Amanda mentioned that she is getting started on the clearing of exceptions.

The Board was updated that, for the 2011 funding round, ODA did not be apply for Federal matching dollars through the Farm and Ranch Lands Protection Program (FRPP). Instead, local sponsors were able to leverage ODA's offer to the landowner as the necessary local match needed to apply for federal dollars, allowing them to build local capacity for farmland preservation efforts. It was mentioned that, as a result of this change, an additional \$1.8 million (approximate) was brought into the State as a result of the increased amount of applications from other entities to AEPP. Board members expressed their support that additional money is being brought into local communities as a result of FRPP. Some stated that that this will help land trusts (especially new or small ones) to begin to build capacity and increase awareness of their efforts in their communities.

Also with regard to the 2011 farms, Amanda shared that one property has dropped from the program. The OFP was alerted by the local sponsor that after visiting the farm and speaking with the family, there was little interest in correcting conservation issues that would need to be addressed prior to closing. As a result, the family wrote the OFP and asked to withdraw from the program.

**Public Comments - None**

### **2012 AEPP Application Changes (Policy Questions)**

Amanda explained that the Technical Meeting - the process whereby local sponsors provide comment and feedback on the previous funding round's application - took place on October 12, 2011. Advisory Board members were provided with a copy of the notes from that meeting prior to the Advisory Board Meeting. Both internal OFP recommendations and Technical Committee notes resulted in the Policy Question document, provided to the Board prior to the meeting. Amanda led the Board through the document for their input and suggestions.

#### *Regional Balance*

Staff recapped the comments from the Technical Committee regarding regional balance, and provided the Board with two alternative map suggestions provided by local sponsors. The Board discussed concerns, including complaints about competition within quadrants (one local sponsor benefiting and others being unable to "compete" as a result), and staff reiterated the Technical Committee's wish for knowing the quadrants before the application period and not after. Historical suggestions for new maps were discussed, including various methods used over time.

MOTION: John Detrick moved to recommend adopting the 2011 regional balance map (CCAO) for the 2012 funding round. Jill Clark seconded; Vote 7-0; motion carried.

#### *Proximity*

Staff explained that last year, the OFP provided local sponsors with an interpretation of proximity questions 12A-12C via FAQ and diagram on the application website. The interpretation dealt with properties that lay somewhat within 2 miles of any corner of the applicant property, as well as somewhat outside the 2 mile maximum radius. For the 2011 application, applicants were only permitted to count acreage that lay inside the 2 mile (10,560 feet) radius.

Amanda explained that between concerns expressed during the 2011 application period and at this year's Technical Committee meeting, this was the number one complaint by local sponsors, who felt that this interpretation resulted in them having to submit more applications just to garner points in Step 12, that acreage became more difficult to calculate, and that this interpretation ignored the primary purpose of the AEPP (to build large blocks of farmland).

Board comments included an explanation of GIS capabilities and the ease in calculating partial acreage based on distance; concerns about allowing applicants to count irregular-shaped items that could stretch far beyond the radius (like bike or walking trails); implications about whether the hypothetical property "in and out" of the maximum range is a 40-acre farm or 40 acres of a 100-acre farm; concern about changing the interpretation based on complaints; and agreement that perhaps limiting acreage only

within 10,560 feet may in fact appear to ignore the purpose of building and rewarding large blocks of protected farmland.

Staff and Board members drew various scenarios and discussed implications for opening up the interpretation of proximity for both easement-protected properties and non-easement protected properties (such as trails). There was discussion of allowing a new interpretation for 12A & 12C, but perhaps keeping the stricter interpretation for trails, but the Board felt it best to be consistent on the policy.

A proposal was brought forth for trails that a set acreage should be set for 12B regardless of the length or size of the trail. This way, applications with farms within 2 miles of a long trail wouldn't have significant advantage, and it would make it easier to verify. Someone suggested that if the average trail is about 25 feet in length, applicants should be able to count 2 miles of that trail regardless of how long it is (or isn't). That way, everyone would be level in counting trails (bike, walking, hiking, etc.). Applicants could still list multiple trails (if they are separate) in 12B, and would get higher point multipliers for trails at different ranges within the 2 miles, but every trail would have to be entered as 6 acres.

MOTION: Kurt Updegraff moved to recommend that the 2012 application allow applicants to calculate proximity such that it is measured by the nearest distance from the border of the applicant property and that the entire acreage of the property being entered be counted for points. Further, all publicly-accessible trails being entered for proximity points in 12B should receive a "flat rate" of 6 acres, regardless of actual length or width; Jill Clark seconded; Discussion – clarification was requested to ensure that if the part of the trail within 2 miles of the applicant property is closer or further away, applicants would still have the opportunity to receive different points based on the proximity of those "6 acres"; Vote 7-0; motion carried.

Amanda moved the conversation on to a particular word in question 12B – protected wetlands. According to one local sponsor, the method for obtaining wetland information suggested by ODA in their FAQ (National Wetlands Inventory), does not identify wetlands as "protected." Staff wanted to bring this comment to the Board for discussion, to perhaps amend the question or the requirements for documenting the "protected" part of "protected wetland."

Board members discussed the NWI – how old it was, how inaccurate it might be, and how it may still be the best way to identify any wetland whatsoever for purposes of the application, protected or not. Some felt that it was unnecessary to require any documentation of how applicants identify wetlands, since they are signing off on the application anyway.

Bill Hopper noted that the OAC does not specify that the application have "wetland" or "protected wetland" in it.

MOTION: Kurt Updegraff moved to recommend removing the word “protected” preceding “wetlands” from question 12B, but continue to allow any wetlands to be counted towards points in 12B. Jill Clark seconded; Vote 7-0; motion carried.

### *Development Pressure*

The first item to discuss regarding development pressure was the word “freeway interchange” vs. “roadway intersection.” Amanda pointed out that Board member Thom Mazur was consulted last year (in preparing the 2011 application) on this very question. One local sponsor noted that the OAC, when referring to development pressure, uses the words “freeway interchange,” yet the application asks for proximity to the nearest “roadway intersection.”

Amanda explained that last year, staff had difficulty in finding conclusive definitions for “freeway interchange,” and after speaking to Thom, decided to not change the wording of question 13C. It was suggested to staff by the Board that perhaps an FAQ should be added explaining this to local sponsors who note the difference in wording from the OAC.

MOTION: Glenn Myers moved to recommend no changes to question 13C for the 2012 application. Thom Mazur seconded; Vote 7-0; motion carried.

The next question in Step 13 to discuss is the applicant property’s proximity to nonfarm homes. Staff explained that last year, the Board recommended inserting the word “nonfarm” in front of homes to distinguish between subdivisions and smaller farms, for example. It was noted by some on the Board that regardless of size, any home is still a sign of development pressure.

MOTION: Thom Mazur moved to recommend removing the words “nonfarm” from question 13E. Brian Williams seconded; Vote 7-0; motion carried.

### *Other Factors (Step 14)*

Amanda asked if landowners should be able to receive more points for donating a higher local match (Question 14D). Comments from staff and Board members included: looking historically, don’t most owners pick 60%; allowing for more points could become an advantage to higher-value large farms because most are already donating 60% due to the cap of \$2,000/acre; and the concern that allowing more points could potentially harm farms that can’t afford to donate more than 60%.

MOTION: John Detrick moved to recommend no changes to question 14D for the 2012 application. Thom Mazur seconded; Vote 7-0; motion carried.

Amanda then presented the Board with a new proposal for calculating points for question 14G (new counties to AEPP). Currently, applicants receive zero points for having an easement in the program in their county, while only counties with no easements receive

points (three points). Local sponsors shared in the Technical Committee that this could harm counties that have one easement, but then can't garner any points in this section in future funding rounds. This could create agricultural "islands." One Board member noted the concern that by changing the point structure of 14G, then the advantage to new counties could be diluted (sometimes the three points awarded here means the difference between being funded and not being funded).

The Board discussed several options for a new point structure, and agreed on one in particular that still allows a 2-point advantage to counties with no funded farms in the program:

0 farms = 3 points  
1-3 farms = 1 point  
4 or more farms = 0 points

MOTION: Brian Schlatter moved to recommend the new point structure for question 14G in the 2012 application. Brian Williams seconded; Vote 7-0; motion carried.

#### *Local Government's Comprehensive Planning*

Board members discussed questions in Step 15 and potential changes to these questions based on the Technical Committee's concerns about the economy. Comments included concerns over comments from local sponsors that comprehensive plans are difficult to write or revise in a poor economic conditions; clarification about the word "seven" in the question 15A – the number seven was picked to give a cushion to local governments because it was determined long ago that a comprehensive plan usually lasts five years but can take two years to develop/review; the importance of these questions regardless of economy because comprehensive planning is a pillar of farmland preservation and the AEPP; and the general acceptance of lowering the values in question 15D (local government funding) due to decreased budgets.

One Board member brought up the issue of 15D only referring to the expenditures of a local government. It is suggested that question 16D of the application (Tier 2) be broadened to allow applicants to talk about the contributions of all local institutions (land trusts, for example).

MOTION: Jill Clark moved to recommend that question 15D be amended to reduce the values within the question due to the economy (half them) and to add language to question 16D to include "or other local institutions." Discussion – the question was asked if local sponsors should be required to provide documentation of expenditures as proof of claim for 15D. It was decided that no documentation would be necessary since the local sponsor is already signing off on the application. Glenn Myers seconded the motion; Vote 6-0 (Thom Mazur left prior to the motion); motion carried.

## **Other Business**

Jill Clark reminded the Board about the upcoming Farmland Preservation Summit on November 17, 2011 at Nationwide and Ohio Farm Bureau 4-H Center. She shared highlights such as a reception with Director Zehringer, live broadcasting by Dale Minyo, keynote by the President of American Farmland Trust, and the variety of breakout sessions being offered.

Mike explained that the OFP will be contacting Board members about the next Advisory Board meeting, tentatively scheduled for sometime in May 2012. He also mentioned that the OFP expects the 2012 application to open sometime in late January. Mike mentioned that the current terms for Jill Clark, Lucille Hastings, Roger Rhonemus, and Glenn Myers will be expiring on December 31, 2011, and thanked them for their service on these teams.

Brian Williams mentioned that he brought with him copies of a new MORPC document that looks at urban development and re-development – sometimes considered the other side of the farmland preservation coin. He also mentioned that a breakout at the Summit will address some of these same themes.

**MOTION:** John Detrick moved to adjourn the meeting at 3:45 p.m. Brian Schlatter seconded; Vote 6-0; motion carried. This vote occurred after the departure of one Board member.