

CHESTER COUNTY AGRICULTURAL LAND PRESERVATION BOARD
August 26, 2014 MINUTES

1. Call to Order –

Chairman Melba Matthews called the August 26, 2014 meeting of the Agricultural Land Preservation Board (ALPB) to order at 6:30 p.m. in Suite 270, GSC.

The following Board Members were in attendance: Melba Matthews, Chairperson; Don Cairns, John Diament, Mark Dunphy, Duane Hershey, Amy McKenna, Judy Noyalas, and Eli Silberman. Staff: Bill Gladden, Director, Tom Abrahamsen, Solicitor, Diana Hoopes, Geoffrey Shellington, Margaret Hodgkiss-Lilly, and Kimberly Gordon.

Absent: Rick Abbott

Visitors: Ortrud Coudon, Betsy Douglas, Stephen Fodor, Lynn Koster, Richard Koster, Wayne Murphy, Jeff Ranalli, Sally Schwartz, and Jill Shine, all from North Coventry Township.

2. Approval of Minutes – July 22, 2014

The Board meeting minutes were approved as sent. Motion made by Duane Hershey, seconded by Eli Silberman. Motion carried.

3. Public Comment /Discussion of Arborganic Acres Operation –

The Board and visitors introduced themselves. Neighbors of a farm owned by E. Kent High, Jr. which was preserved by the Chester County ALP Board (CCALPB) through the Chester County NORCO program in 2003 in North Coventry were in attendance to express their objections to operations on the farm. A package was mailed to the CCALPB members regarding their concerns about the farm operation, Arborganic Acres.

Richard Koster (a neighbor of the farm) started the discussion and stated his belief that the operation is not farming and should not be allowed under the NORCO Program Agricultural Deed of Easement. He referred to a letter that Douglas Wolfgang, Director of the PA Dept. of Ag Bureau of Farmland Preservation wrote regarding a mulch operation in Montgomery County. Mr. Koster wondered if the Board disagreed with Mr. Wolfgang's conclusion that the Montgomery County operation (under the terms of the Commonwealth Program Deed of Easement) did not meet the State Bureau of Farmland Preservation definition of a farm. Mr. Koster also mentioned that the group felt that Arborganic Acres were in violation of a PADEP permit, because of the offensive odors it creates, and asked if the Board would be an advocate for the neighbors and help them get PA DEP to shut them down.

Betsy Douglas spoke and stated that she is very concerned about groundwater. She has spoken with the CC Conservation District, who forwarded the complaint to PA DEP.

Jeff Ranalli noted that he lives close to the entrance of the farm. He explained his belief that the operation is a public nuisance, because Cherry Hill Lane is a small road, ill equipped to handle the continuous flow of 18 wheelers and trash trucks entering the High Farm. He noted that the

North Coventry planning commission placed this area in its “Rural Conservation Zone”, and he believes that having a commercial facility is out of character for that zoning designation.

Wayne Murphy spoke next and stated his belief that M&M Tree Service, also operating out of the High Farm, is not an agricultural operation. He noted that on Wednesdays, trash trucks and Walmart tractor trailers drive on Cherry Hill Lane approximately every 20 minutes. The trucks are not tarped, and trash spills out onto the road. Residents are now starting to see rats that are attracted to the trash.

Steve Fodor spoke next and added that he has been a professional truck driver for 26 years, and it is his belief that Cherry Hill Lane, and surrounding roads, are not built for this type of truck traffic. He is concerned that the truck traffic is a safety hazard for the local residents.

Al McCarthy spoke and noted Arborganic Acres is creating garbage odors that are so offensive as to preclude the residents from planning any outdoor activities and believes Township officials must work to correct the situation.

Trudy Coudon also spoke. She described 17 tractor trailer loads of food trash with New Jersey license plates coming to Arborganic Acres within two months, which add to the offensive odors. She also noted that the residents voted to accept an open space tax, which was used to preserve this land.

The group stated they have spoken to the North Coventry Township supervisors, who say that their concerns are a County matter, under the Deed of Agricultural Easement.

Mr. Abrahamsen noted that the High farm is doing compost used on the farm and not mulch, that it is under a NORCO easement, not a state easement, and that it his opinion that the operation was permitted under the Rural Enterprises section of the law Subchapter 1, Section 138e.241 (2). He further noted the composting operates on less than 5 acres of a farm that is approximately 162 acres. The operation does not significantly impact the ability for the acreage to be under cultivation and/or used as a farm. He noted that the letter from Doug Wolfgang to the Montgomery County Farmland Program Administrator, Elizabeth Emlen, concerned a business that produced mulch which was not used on the farm while Arborganic Acres produces compost, which is being used on the farm. He also noted that the Agricultural Security Act, guidelines, and regulations do NOT say that 50% of the raw materials of whatever is being produced as a rural enterprise must originate on the farm. As one example, Mr. Abrahamsen explained that if a dairy sells ice cream, the farmer would not have to prove that the sugar in the ice cream originated on the farm. In conclusion Mr. Abrahamsen summed up that CCALPB does not have jurisdiction in matters related to odors, traffic, zoning, and groundwater water quality. The Township and PA DEP are the proper regulatory bodies for them to seek relief on these issues.

As at the July meeting, it was also explained that the CCALPB jurisdiction is limited to enforcement of the terms of the Deed of Agricultural Easement. Foul odors, groundwater contamination, and traffic concerns are not under the jurisdiction of the Deed of Easement. The

protocol is for CCALPB to authorize staff to investigate specific allegations that are directly related to the terms of the CCALPB easement. If it is determined that the farm is noncompliant with the deed of easement, a written notice of the violation is sent to the landowner, follow up inspections are conducted, and if necessary, enforcement actions are taken.

The Board also suggested that some of their concerns about Arborganic Acres are a township zoning issue. The Board suggested the group file a formal complaint with the North Coventry zoning officer and that, if necessary, they may wish to consider the services of an attorney to guide them through the process and procedure of the zoning hearing board, the supervisors, and possibly other avenues – but that the CCALPB did not have the jurisdiction or expertise to do so.

Mr. Shellington explained that, at the July meeting, the Board authorized and directed him to audit the Arborganic Acres composting facility to determine if it is in compliance with the NORCO Deed of Easement. To that end, he went to the farm and met with Kent High, Jr. and Bob MacMillan, Manager of the composting operation. At that meeting, Mr. High said that he is spreading over 50% of the compost produced on his farm, and that he and Mr. MacMillan are working on a report to provide documentation of that fact. Mr. High and Mr. MacMillan were very cooperative and offered to add any specific elements to the report they can as requested by the CCALPB. Mr. Shellington reported that the first report from Arborganic Acres will be provided within the next couple of months and will be utilized as part of the standard inspection process thereafter. Mr. Shellington also reported that the farm conservation and nutrient management plan is in the process of being updated and that, as with all conservation plans, theirs will address nutrient inputs on the farm (including spreading of the compost).

At the July visit Mr. Shellington also inspected the size of the composting operation to determine if it is in compliance with the five acre limit. He reported that the area is clearly marked and well within the size limitation. He described the area as including a permanent “headquarters” building of the operation, and two buildings with two walls and a roof that are being used to store the compost per PA DEP regulations. Responding to questions from the Board, he noted that there is a scale on the farm to get the most accurate information concerning both inputs and outputs of the compost. The Board then directed staff to proceed and have the operator generate a report, to then inform the CCALPB and have it placed on a meeting agenda and to provide advance notice to the Kosters (who would notify the neighbors) when the report is scheduled to be presented to the CCALPB.

There was additional input from various guests who had spoken previously noting they believed that the Arborganic Acres operation should have never been allowed under the Agricultural Conservation Easement, and objecting to the odors and traffic created by Arborganic Acres. On behalf of the Board, Chairman Matthews thanked the guests for attending the meeting, and for their input.

4. State Agricultural Conservation Easement Program – Status Report

2011 Round

#17 Conway, Anne ----- Offer Accepted – Highland Township
 #33 Mangus, Anthony and Karen ----- Offer Accepted – Lower Oxford Township

2012 Round

#14 Horst, Nelson and Joanne ----- Settled 8/14/14 – Upper Oxford Twp
 #24 Hoopes, Naomi ----- Offer Accepted – Penn Township
 #38 Lofting Trust ----- Offer Accepted – West Marlborough Township
 #42 Strine, Derek ----- Settled 7/25/14 – West Marlborough Township
 #53 Stoltzfus, Nathan and Patricia ----- Settled 8/6/14 – Honey Brook Township
 #54 Mast, Keith and Melinda ----- Offer Accepted – Honey Brook Township
 #57 Stoltzfus, Gideon and Rose Marie ----- Settled 8/12/14 – Honey Brook Township
 #64 Wilson Family ----- Offer Accepted – Lower Oxford Township

2012 Round – 50% Donation

#1 Pannell, Bootsie ----- Offer Accepted – Londonderry Township
 #4 Pannell Revocable Trust ----- Offer Accepted – Londonderry Township
 #6 Cooper, David and Sharon ----- Commonwealth Approved – Franklin Township

2013 Round

#5AStoltzfus, John and Priscilla #2 ----- Offer Accepted – Honey Brook Township
 #7 Stoltzfus, Daniel and Rebecca #2 ----- Offer Accepted – Honey Brook Township
 #13 Esh/Yoder ----- Commonwealth Approved – Highland Township
 #20 Sellers, Kenneth ----- Settled 7/31/14 – East Marlborough Township
 #22 Barnes, Brendan ----- Commonwealth Approved – Londonderry Twp
 #37 Stoltzfus, Samuel and Ruth ----- Offer Accepted – Honey Brook Township
 #45 Griest Family ----- 2nd Appraisal Review – West Nantmeal Township
 ##51 Stoltzfus, Benueal and Emma ----- Offer Accepted – West Nottingham Township
 #53 Castaldi, LP ----- Offer Accepted – West Brandywine Township
 #54 Yoder, Daniel and Hannah ----- Offer Accepted – East Nottingham Township
 #55 King, Levi and Emma ----- Offer Accepted – West Sadsbury Township
 #56 King, Abner and Mary ----- Offer Accepted – Honey Brook Township
 #58 Shantz Family ----- Offer Accepted – East Vincent Township
 #62 Gawrys Family ----- Offer Extended – South Coventry Township

5. Challenge Grant Program – Status Report

2011 Round

#60 Oxford Gun Club ----- Settled 7/25/14 – Elk Township

#70 King, Wilson ----- Offer Accepted – Elk Township
#78 Stoltzfus, Emanuel and Emma ----- Offer Accepted – Honey Brook Township

2013 Round

#6 Hendriks, Richard ----- Settled 7/31/14 – East Fallowfield Township
#8 Kauffman, Benjamin and Anna ----- Settled 8/6/14 – West Fallowfield Township
#38 Wright, Eric and Dawn ----- Offer Accepted – West Nantmeal Township

6. Updates and Other Business –

- Ms. Hoopes noted that the combined program totals for both Commonwealth/County and Challenge Grant programs are 392 farms eased for 33,508.158 acres preserved in Chester County.
- Ms. Hoopes announced her retirement, effective in May 2015. The position of Agricultural Programs Coordinator will transition to Mr. Shellington. Mr. Gladden and the Board members reflected on Ms. Hoopes’ leadership and dedication during her many years of service to Chester County, and expressed confidence in Mr. Shellington’s abilities to maintain the excellent public perception that the ALPB programs have generated.
- Mr. Gladden explained that the County Clean and Green (Act 319) rollback tax interest funds are allocated by law to the CCALPB. These funds are allocated between easement acquisition and compliance related eligible expenses as part of the annual County certification. The County Finance Department has requested direction as to how these funds are to be allocated. After a discussion, the Board proposed to authorize the Director of the Department of Open Space Preservation to act on their behalf and allocate County rollback tax interest funds to the compliance activity area as part of the annual certification at the Director’s sole discretion. This authority is to continue indefinitely until such time as funds are not available. The following allocations from the rollback tax interest to the compliance activity area are retroactively approved as follows:
2011: \$60,204.00
2012: \$2,035.00
2013: \$33,830.00
2014: \$24,000.00

Motion made by John Diament, seconded by Duane Hershey. Motion carried.

7. Executive Session –

- Appraisal (1)

8. Adjournment – Meeting adjourned at 8:10 p.m. Motion to adjourn made by Eli Silberman, seconded by Duane Hershey. Motion carried.

9. Next Meeting – September 23, 2014 at 6:30 PM