

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

**Ohio Department of Agriculture
Reynoldsburg, Ohio
January 30, 2013**

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: Howard Wise, Chair; Brian Williams, Vice-Chair; John Detrick; Lucille Hastings; Joe Logan; Thomas Mazur; Jay Rausch; Roger Rhonemus.

ODA Staff Members present: John Schlichter, Deputy Director; Michael Rodgers, ODA Chief Legal Counsel; Denise Franz King, Executive Director, Office of Farmland Preservation (OFP); Amanda Bennett, OFP; Jody Bowen, OFP.

Visitors: Krista Magaw, Tecumseh Land Trust

Opening Remarks

Meeting called to order at 10:34am by Howard Wise, Chair and Assistant Director of the Ohio Department of Agriculture (ODA). The meeting began with a sign-in by Advisory Board members and an update of cell phone contact information.

Howard and Denise Franz King provided updates to two parts of the last meeting's (September 13, 2012) minutes:

- Regarding Wetland Reserve Program landowners that have received tax recoupment bills because being determined disqualified from Current Agricultural Use Value (CAUV) – The Ohio Department of Taxation's ruling maintained that if more than 25% of a parcel is permanently set aside for a wetland, the parcel cannot stay in CAUV. One landowner did appeal to the Franklin County Board of Revision, and the Board agreed with the landowner. Howard spoke with a Department of Taxation representative this morning, who stated the Department of Taxation has not appealed the decision. Joe Logan added that his organization (Ohio Environmental Council) assisted on the appeal to the Board of Revision and the Department of Taxation indicated that they would be reviewing their position on wetlands and CAUV qualification. Krista Magaw mentioned that the Coalition of Ohio Land Trusts (COLT) is following the situation, and legislation may be introduced by Rep. Ann Gonzales that instructs Auditors how to evaluate wetlands. Howard added that ODA is neutral on the issue because tax policy is under the jurisdiction of the Department of Taxation. However, ODA is following the situation closely.

- Regarding discussion on the Local Sponsor Certification categories of “start-up” and “experienced” – Denise explained that after ODA Legal input and the review of an Ohio Attorney General Opinion, it was determined that the State could have only one statewide ranking system, and therefore could not have two categories of Certified Local Sponsors. Instead, commented Howard, ODA is encouraging the mentor/mentee relationship for less experienced applicants.

MOTION: Lucille Hastings moved to approve the September 13, 2012 Advisory Board meeting minutes as presented. Brian Williams seconded; Vote 7-0; motion carried.

Jody Bowen reminded Advisory Board members about Travel Expense Reports and collected the Reports.

Update on Current Programs and Projects

Amanda Bennett provided an update on current easement programs and Agricultural Security Areas (ASA).

2010 Funding Round: 36 total easements, 1 still pending.

2011 Funding Round: 41 total easements, more than half are now closed, 17 in December alone. 20 easements were applied to the Natural Resources Conservation Services (NRCS)’ Federal Farm and Ranch Lands Protection Program (FRPP) by local sponsors. Of those, 12 have closed and local sponsors are now applying for their \$1.5+ million in reimbursement dollars for those easements. ODA has submitted 4 easements to FRPP as well, for up to \$206,725 in reimbursement.

Agricultural Easement Donation Program (AEDP): 4 pending easements in Fulton County.

Agricultural Easement Donation Partnership Program (AEDPP): One “Intent to Participate” has been submitted by West Central Ohio Land Conservancy (WCOLC), looking to receive \$3,000 per easement donation. WCOLC is looking to preserve 3-4 farms under AEDPP.

Agricultural Security Areas (ASA): Three ASAs added in 2012 – Montgomery County (505.995 acres); Mercer County (their first, 512 acres); and Madison-Clark-Greene Counties (804.409 acres).

Denise thanked ODA Chief Legal Counsel Michael Rodgers for his office’s assistance to the Office of Farmland Preservation (OFP). Howard mentioned that in December, the OFP permanently preserved its 50,000 acre (including Clean Ohio, Tobacco, and AEDP easements). John Detrick asked how many dollars have gone into landowners’ hands in Clean Ohio funds. Jody volunteered to retrieve the figure before the end of the meeting.

Local Agricultural Easement Purchase Program (LAEPP) Application for Local Sponsor Certification

The deadline for the Application for Local Sponsor Certification, March 15, 2013 was selected to keep the process moving. At the Farmland Preservation Summit, organizations commented that they would need anywhere between 30-60 days, and there were concerns about their ability to then complete a landowner application process in time to submit their selected farms to FRPP.

Howard drew the Advisory Board's attention to a draft LAEPP timeline document prepared by Denise that highlights the two obligations of the Advisory Board, involving review and recommendations on Local Sponsors selected for Certification and the approval of landowner applications selected by Certified Local Sponsors. The OFP will send potential dates for these two meetings to the Advisory Board as soon as possible. Denise mentioned that the second funding round of approximately 2.7 million may be moved up to this Fall in order to meet bond requirements.

Denise asked the Advisory Board for their comments on the Application for Local Sponsor Certification. Denise added that the OFP has worked hard to gather all needed information from applicants in the simplest manner possible. The Application will be accompanied by a Frequently Asked Questions document when posted online.

Thom Mazur asked if some items, like Comprehensive Plans, may not rest with the county in some areas; meaning, some townships may have plans but this application only asks about those plans at the county level. Denise agreed this should be addressed in the Frequently Asked Questions document. If those sorts of documents or plans exist, they should be noted in the comments section. Brian asked if Balanced Growth Plans are considered equal to local comprehensive plans, as they are not specifically mentioned in the Ohio Administrative Code. Denise noted that they will be considered equal.

MOTION: John Detrick moved to approve the Application for Local Sponsor Certification. Roger Rhonemus seconded; discussion related to Motion:

Jay Rausch asked if all Local Sponsors that complete the application will be certified. Denise explained that applicants would be certified only if they meet the eligibility requirements and show capacity to hold, monitor, and enforce easements and noted that given limited funds, not all qualified applicants may be funded. Thom asked if large organizations have shown interest in mentoring other organizations. Denise remarked that informal mentoring has been occurring for years, and the OFP feels mentoring will be beneficial for both organizations involved. Denise went on to show the Advisory Board two maps:

- OFP Farmland Preservation Map, which shows easements (AEPP, AEDP and Tobacco Easements) in 55 counties.
- GIS map of Clean Ohio funded easements created by the Trust for Public Land which shows easements in 36 counties.

Denise commented that the maps show success in certain areas of Ohio thanks to strong local support and leaders. The maps also show the need to reach out to other parts of the state. John D. remarked that reaching out to other parts of the state is needed, such as in Darke County, a strong agricultural county with no ODA easements. Denise added that the Application for Local Sponsor Certification is trying to address this point.

MOTION continued; To approve the Application for Local Sponsor Certification. Vote 7-0; motion carried.

Local Agricultural Easement Purchase Program (LAEPP) Landowner Application

Denise reminded the Advisory Board that under the centralized AEPP, the Advisory Board historically commented on and approved the landowner application. She described the major change to the landowner application –there will be two applications posted online: one that maintains the current questions and point ranges, similar for the most part to the 2011 landowner application; and another application allowing for the Certified Local Sponsor to create their own Step 14 (Other Factors) questions and point ranges. Any changes to the Step 14 questions or point ranges by Certified Local Sponsors will need approval by the OFP (to ensure compliance with the law). Certified Local Sponsors who choose to localize Step 14 will then need to manually score the landowner’s application. Howard commented that perhaps ODA could allow Certified Local Sponsors to input the points for Step 14 (based upon their pre-approved questions and point ranges), allowing them to still receive an electronically-scored application.

Krista shared that she only knew of one organization applying for Certification that is planning on an alternate Step 14. She does not understand the inclusion of MSAs in Step 14, but given the timeframe, why change it, she said. Brian commented that he nonetheless likes giving the Certified Local Sponsors the option to change Step 14. Howard said he has heard some organizations’ concerns about an alternate Step 14 becoming a way for local sponsors to “play politics,” but he sees it as a way to tailor the application to the community’s individualized needs.

Denise reminded the Advisory Board that Tier 2 is no longer scored in the application ranking system, but the same narrative questions will remain within the application as an optional place for landowners to “put a face” on their farm. This information is often utilized by the OFP in the Annual Report. Brian mentioned that he appreciated the question in Tier 2 that asked about succession planning, as it shows commitment to the farm as a business. Jay agreed, stating that reading those responses was invaluable, and farm succession planning is vital. Both Jay and Brian felt that perhaps in future funding rounds succession planning could receive points in the landowner application.

Denise explained that the OFP is seeking an approval of the landowner application later in the meeting, but that due to his schedule, Michael Rodgers needs to provide his comments regarding the Memorandum of Agreement (MOA).

Michael explained that the MOA came about in response to NRCS asking ODA to sign onto Local Sponsor's FRPP Cooperative Agreements. By doing so, ODA could potentially open itself up to being responsible for a "bad actor" organization that misuses their FRPP reimbursement. The MOA, therefore, formalizes the relationship between ODA and the Local Sponsor applying for FRPP. It explains the responsibilities of each party, and acknowledges that ODA is giving up its right to seek reimbursement through FRPP for easements submitted by Local Sponsors using ODA's purchase payment as the required match for FRPP. ODA Legal has worked with entities to revise the document to meet their needs prior to signing. Indemnification has been an issue with county entities in particular, and we will continue to work on that by providing alternative solutions. The MOA is holding Local Sponsors responsible for taxpayer dollars, and we want to ensure that these funds are being spent appropriately. He asked that if anyone on the Advisory Board is hearing concerns about the MOA, that they please direct those individuals to ODA so that we may address those concerns.

Howard asked Michael if there is anything in the MOA about the obligations of monitoring and enforcement. Michael said no, those are addressed in the Deed of Easement. Thom shared that in his opinion, monitoring will not be an issue, but maybe enforcement will if organizations' prosecutors or attorneys do not want to act on a violation. Michael clarified that if locals do not act, the State would take the lead, and if a Federal Deed, include NRCS. Fortunately, it has not gone that far yet with any of our easements.

Lucille asked why the MOA covers such a short period of time. Michael explained that it cannot cross a biennium, so each MOA will need re-executed. Jody added that all contracts require a renewal with the biennium and is a common practice. Thom asked what happens if the nonprofit holding an easement folds. Michael and Krista mentioned that this is explained in the Deed. Krista added that her organization is beginning to see this with some of their easements. They are thinking of taking on another organization's easements. One issue that comes up is the funding needed to take those easements on (both for legal and monitoring purposes).

Brian asked John D. for his perspective on the MOA as a County Commissioner and for Krista's as a Local Sponsor who has signed one. Krista said their attorney will work with Michael's staff on revised language in the next MOA. They know there is an issue for some counties related to the indemnification clause, but they are confident all concerns can be addressed. Jody added that in the case of one county, ODA Legal suggested that the county already likely had an insurance policy that would cover indemnification. There would not be any additional cost to the county. Although it did not work out for that particular county, there are options. Jay asked what happens if a Certified Local Sponsor refuses to sign an MOA. Denise explained that the Certified Local Sponsor would still be able to participate in completing State Deeds of Easement, but that the Local Sponsor would not be able to apply to FRPP using ODA's purchase funds as a local match.

Thom asked how many Local Sponsors the OFP expected to apply for Certification. Denise said there is no way to know for sure, but the guess is about 40, with the ability to fund hopefully 15-20 entities. Jody added that in the past, entities applying tended to be about half government and half nonprofit.

Howard asked Krista for her thoughts on the LAEPP on the whole. Krista said that ODA should expect some initial pushback, as not everyone that applies for Certification will receive funding. She felt that there is a certain lack of transparency, but it is understood that it is a tight timeline. She is encouraged by a possible second funding round in the Fall, as it shows ODA is attempting to work out the kinks. She added that COLT works year-round to secure funding for Clean Ohio. Howard asked Krista if they intend to have one application for their multiple counties, or one for each county. Krista said she is awaiting more clarification from ODA on this point as it relates to the allocation of funds to Certified Local Sponsors.

MOTION: Brian Williams moved to approve the landowner application as presented. Jay Rausch seconded; Vote 7-0; motion carried.

Final Comments

Howard thanked everyone for attending. He explained the importance of building the program as a pilot program. There will be bugs and wrinkles to work out. When the time comes later this year, ODA will review and bring it to the Advisory Board for discussion.

Denise added that in response to John D.'s earlier question about the amount of funds that have gone into our 50,000 preserved acres – the amount is \$47.4 Million. Howard added that this amount also helped ODA to leverage even more funds in federal matching dollars.

MOTION: Roger Rhonemus moved to adjourn at 11:46am. Lucille Hastings seconded; Vote 7-0; motion carried.