

Jefferson County Farmland Protection Board

Board Meeting.....Monday, April 11, 2016

Jefferson County Public Services Building
Development Authority Conference Room
1948 Wiltshire Rd, Kearneysville, WV 25430

AGENDA

5:00 pmCall to Order and Opening Remarks * Action item

Approval of Minutes of Previous Meeting March 14, 2016 *

Treasurer's Report *

- Quarterly financial report

Administrator's Report

New Business:

- Consider approval of applications for matching funds to the WV Agricultural Land Protection Authority.
- Consider approval of a policy regarding subdivision of a Retained Development Right envelope.

Committee Reports

- Easement Committee
- Finance Committee
- Fundraising and Public Relations Committee
- Personnel Committee/ Board Development
- Strategic Plan Committee

Announcements:

7:00 pm ----- Adjourn

All Farmland Protection Board meetings are open to the public.
To address the Board, contact Elizabeth McDonald to be placed on the agenda.
Email: FarmlandProtection@jcda.net Phone: (304) 724-1414



Jefferson County Farmland Protection Board

Board Meeting.....Monday, March 14, 2016

Jefferson County Public Services Building
Development Authority Conference Room
1948 Wiltshire Rd, Kearneysville, WV 25430

MEETING MINUTES DRAFT

5:00 pmCall to Order and Opening Remarks

* Action item

- Meeting called to order by President Ms. McDonald. Attending the meeting were Mr. Glenn, Ms. Tabb, ~~Mr. Kercheval~~, Mr. Ober, Mr. Quinn and Ms. Wheeler. Absent - Mr. Kercheval, Mr. Reisenweber.

Introduction of Guests:

- None

Approval of Minutes of Previous Meeting February 8, 2016 *

- Hearing no objections the minutes were approved by unanimous consent.

Treasurer's Report *

- Ms. Wheeler presented Treasurer's report in Mr. Reisenweber's absence.
- Mr. Glenn moved to accept the Treasurer's Report, seconded by Mr. Quinn. The motion passed unanimously.

Administrator's Report

- Received administrator's report from Ms. Wheeler

Unfinished Business

- None

New Business:

- Consider approval of Board payment for an additional four acres for bargain sale of AAA easement *
 - o Discussed the owner's proposal to add an additional 4 acres (approximately) to the easement (bringing the total acreage in the easement from approximately 314.15 acres to 318.14 acres), and the designation of a 2 acre residential envelope and a 3 acre farm complex area in the easement. Since NRCS will only commit to funding its share of 314.15 acres in the easement, the Board considered whether to solely fund the additional 4 acres (approximately) in the easement for a purchase price of \$6,500/acre or a total of \$25,935 and the designation of a 2 acre residential area and a 3 acre farm complex area in the easement.
 - o Mr. Glenn moved that the Board solely fund the additional 4 acres (approximately) in the easement for a purchase price of \$6,500/acre or a total of \$25,935, and that Board agree to designate a 2 acre residential area and a 3 acre farm complex area in the easement, subject to the standard terms for residential areas and farm complex areas., seconded by Mr. Ober. The motion passed.

- Consider approval of the Board's letter in response to Edward and Helen Moore request to the Board for the approval of the transfer of one-third acre of abutting land to the adjacent property owner. *
- o Reviewed requested minor boundary adjustment.
- o Discussed minor language changes to draft amendment easement and administrative fee being waived due to easement was donated, and that a survey is needed for this property.
- o Mr. Glenn moved to approve letter subject to changes discussed, administrator discretion with negotiations with LTEP, seconded by Mr. Ober. The motion passed unanimously.

Committee Reports

- Easement Committee
- Finance Committee
- Fundraising and Public Relations Committee
- Personnel Committee/ Board Development
- Strategic Plan Committee

Announcements:

6:23 pm ----- Adjourn

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Email: FarmlandProtection@jcda.net Phone: (304) 724-1414

AAA

~~XXXXXXXXXX~~ FARM EASEMENT FUNDING

	Acres	price/acre	Funds
USDA Cooperative Agreement Calculation	314.15	6,500	2,041,975.00
USDA Commitment			1,361,305.74
JCFPB match			680,669.26
TOTAL			2,041,975.00
Appraised value	318.14		5,440,000
Adjusted acreage	318.14	6,500	2,067,910.00
USDA Commitment			1,361,305.74
JCFPB match			706,604.26
Easement TOTAL			2,067,910.00
donation			3,372,090.00
TOTAL			5,440,000.00
JCFPB additional cost			25,935.00
JCFPB contribution %			0.34
NRCS contribution %			0.66

Jefferson County Farmland Protection Board

Balance Sheet

As of March 31, 2016

	Mar 31, 16
ASSETS	
Current Assets	
Checking/Savings	
BCT - ICS	2,073,409.77
BCT - Easement Acquisition Fund	22,074.17
Bank of Charles Town	146,364.35
BCT - Fundraising Account	1,001.49
BCT - Stewardship Account	12,548.32
Total Checking/Savings	2,255,398.10
Other Current Assets	
Transfer Taxes Receivable	55,457.00
Legal Retainer	3,000.00
Total Other Current Assets	58,457.00
Total Current Assets	2,313,855.10
Fixed Assets	
Computer Equipment	1,663.73
Total Fixed Assets	1,663.73
TOTAL ASSETS	2,315,518.83
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	155.82
Total Accounts Payable	155.82
Other Current Liabilities	
Due to County Commission	49,009.99
Total Other Current Liabilities	49,009.99
Total Current Liabilities	49,165.81
Total Liabilities	49,165.81
Equity	
Reserved for Encumbrances	706,604.26
Reserved for Farmland Protect.	1,178,764.12
Net Income	380,984.64
Total Equity	2,266,353.02
TOTAL LIABILITIES & EQUITY	2,315,518.83

Profit & Loss

March 2016

04/11/16

Accrual Basis

	Mar 16
Ordinary Income/Expense	
Income	
Transfer Tax	55,407.00
Interest/Dividends	1,216.56
Contributions Income	797.38
Total Income	57,420.94
Expense	
Event Expense	270.00
Dues and Subscriptions	350.00
Postage and Delivery	9.80
Professional Fees	
Audit	348.00
Consulting/Contract	415.00
Total Professional Fees	763.00
Salary & Benefits Expense	14,941.32
Telephone	75.00
Travel & Ent	
Travel	61.02
Total Travel & Ent	61.02
Total Expense	16,470.14
Net Ordinary Income	40,950.80
Other Income/Expense	
Other Expense	
Current Year Encumbrances	
Easement Acquisition	20,605.00
Easement Costs	
Surveys	500.00
Total Easement Costs	500.00
Total Current Year Encumbrances	21,105.00
Total Other Expense	21,105.00
Net Other Income	-21,105.00
Net Income	19,845.80

Jefferson County Farmland Protection Board

4/11/2016 3:40 PM

Register: Bank of Charles Town

From 03/01/2016 through 03/31/2016

Sorted by: Date, Type, Number/Ref

Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
03/04/2016			BCT - ICS	Funds Transfer	100,000.00	X		115,740.63
03/11/2016			Transfer Taxes Receiva...	Deposit		X	32,729.79	148,470.42
03/14/2016	3782	Land Trust Alliance	Dues and Subscriptions	Annual Dues	350.00	X		148,120.42
03/14/2016	3783	WV State Auditor	Professional Fees:Audit	RFP15-136	348.00	X		147,772.42
03/14/2016			BCT - Easement Acqui...	Funds Transfer	313.14	X		147,459.28
03/29/2016	3784	The Shepherdstown ...	Event Expense	Rental Fee	120.00			147,339.28
03/29/2016	3785	The Shepherdstown ...	Event Expense	Security Deposit	150.00			147,189.28
03/29/2016	3786	Sirna Appraisal	Current Year Encumbr...	2/17/16 Invoice	500.00			146,689.28
03/29/2016	3787	Mindy Sizemore	-split-	Invoices 20 an...	405.00			146,284.28
03/31/2016			Interest/Dividends	Interest		X	80.07	146,364.35

Jefferson County Farmland Protection Board

Balance Sheet

As of March 31, 2016

04/11/16

Accrual Basis

	Jun 30, 15	Sep 30, 15	Dec 31, 15	Mar 31, 16
ASSETS				
Current Assets				
Checking/Savings				
BCT - ICS	1,664,817.25	1,767,397.67	1,870,189.28	2,073,409.77
BCT - Easement Acquisition Fund	16,451.34	16,491.66	19,796.95	22,074.17
Bank of Charles Town	105,891.09	172,209.57	227,155.12	146,364.35
BCT - Fundraising Account	800.81	801.02	1,001.24	1,001.49
BCT - Stewardship Account	12,538.87	12,542.03	12,545.19	12,548.32
Total Checking/Savings	1,800,499.36	1,969,441.95	2,130,687.78	2,255,398.10
Other Current Assets				
Transfer Taxes Receivable	61,266.67	54,215.56	56,451.02	55,457.00
Legal Retainer	3,000.00	3,000.00	3,000.00	3,000.00
Total Other Current Assets	64,266.67	57,215.56	59,451.02	58,457.00
Total Current Assets	1,864,766.03	2,026,657.51	2,190,138.80	2,313,855.10
Fixed Assets				
Computer Equipment	508.95	1,578.94	1,663.73	1,663.73
Total Fixed Assets	508.95	1,578.94	1,663.73	1,663.73
TOTAL ASSETS	<u>1,865,274.98</u>	<u>2,028,236.45</u>	<u>2,191,802.53</u>	<u>2,315,518.83</u>
LIABILITIES & EQUITY				
Liabilities				
Current Liabilities				
Accounts Payable				
Accounts Payable	511.60	0.00	600.57	155.82
Total Accounts Payable	511.60	0.00	600.57	155.82
Other Current Liabilities				
Due to County Commission	0.00	0.00	34,068.67	49,009.99
Total Other Current Liabilities	0.00	0.00	34,068.67	49,009.99
Total Current Liabilities	511.60	0.00	34,669.24	49,165.81
Total Liabilities	511.60	0.00	34,669.24	49,165.81
Equity				
Reserved for Encumbrances	685,999.26	685,999.26	685,999.26	706,604.26
Reserved for Farmland Protect.	1,343,661.39	1,178,764.12	1,178,764.12	1,178,764.12
Net Income	-164,897.27	163,473.07	292,369.91	380,984.64
Total Equity	1,864,763.38	2,028,236.45	2,157,133.29	2,266,353.02
TOTAL LIABILITIES & EQUITY	<u>1,865,274.98</u>	<u>2,028,236.45</u>	<u>2,191,802.53</u>	<u>2,315,518.83</u>

Jefferson County Farmland Protection Board Profit & Loss

July 2015 through March 2016

	<u>Jul - Sep 15</u>	<u>Oct - Dec 15</u>	<u>Jan - Mar 16</u>	<u>TOTAL</u>
Ordinary Income/Expense				
Income				
Transfer Tax	163,281.65	168,540.48	123,455.92	455,278.05
NPS/CWPT/ABPP Grants	4,363.10	878.88	655.09	5,897.07
Interest/Dividends	2,841.12	3,036.69	3,494.65	9,372.46
Contributions Income	36.17	3,614.26	1,958.89	5,609.32
Total Income	<u>170,522.04</u>	<u>176,070.31</u>	<u>129,564.55</u>	<u>476,156.90</u>
Expense				
Event Expense	0.00	0.00	270.00	270.00
Advertising & Marketing Expense	350.00	53.42	548.70	952.12
Conferences Education & Training	664.00	0.00	0.00	664.00
Dues and Subscriptions	255.00	230.00	425.00	910.00
Licenses and Permits	15.00	0.00	0.00	15.00
Postage and Delivery	0.00	9.80	9.80	19.60
Printing and Reproduction	190.00	1,354.48	185.00	1,729.48
Professional Fees				
Accounting	525.00	525.00	525.00	1,575.00
Audit	0.00	0.00	348.00	348.00
Computer Support	1,762.09	219.78	121.85	2,103.72
Consulting/Contract	995.00	1,610.00	1,900.00	4,505.00
Total Professional Fees	<u>3,282.09</u>	<u>2,354.78</u>	<u>2,894.85</u>	<u>8,531.72</u>
Rent	66.00	0.00	0.00	66.00
Salary & Benefits Expense	0.00	34,068.67	14,941.32	49,009.99
Supplies	99.96	313.14	33.12	446.22
Telephone	225.00	225.00	225.00	675.00
Travel & Ent				
Meals	86.00	154.00	46.69	286.69
Travel	1,215.92	127.11	265.34	1,608.37
Travel & Ent - Other	0.00	583.07	0.00	583.07
Total Travel & Ent	<u>1,301.92</u>	<u>864.18</u>	<u>312.03</u>	<u>2,478.13</u>
Total Expense	<u>6,448.97</u>	<u>39,473.47</u>	<u>19,844.82</u>	<u>65,767.26</u>
Net Ordinary Income	<u>164,073.07</u>	<u>136,596.84</u>	<u>109,719.73</u>	<u>410,389.64</u>
Other Income/Expense				
Other Income				
Prior Years Encumbrances				
Easement Costs				
Appraisal	0.00	-3,500.00	0.00	-3,500.00
Survey	-600.00	-4,200.00	0.00	-4,800.00
Total Easement Costs	<u>-600.00</u>	<u>-7,700.00</u>	<u>0.00</u>	<u>-8,300.00</u>
Total Prior Years Encumbrances	<u>-600.00</u>	<u>-7,700.00</u>	<u>0.00</u>	<u>-8,300.00</u>
Total Other Income	<u>-600.00</u>	<u>-7,700.00</u>	<u>0.00</u>	<u>-8,300.00</u>
Other Expense				
Current Year Encumbrances				
Easement Acquisition	0.00	0.00	20,605.00	20,605.00
Easement Costs				
Surveys	0.00	0.00	500.00	500.00
Total Easement Costs	<u>0.00</u>	<u>0.00</u>	<u>500.00</u>	<u>500.00</u>
Total Current Year Encumbrances	<u>0.00</u>	<u>0.00</u>	<u>21,105.00</u>	<u>21,105.00</u>
Total Other Expense	<u>0.00</u>	<u>0.00</u>	<u>21,105.00</u>	<u>21,105.00</u>
Net Other Income	<u>-600.00</u>	<u>-7,700.00</u>	<u>-21,105.00</u>	<u>-29,405.00</u>
Net Income	<u>163,473.07</u>	<u>128,896.84</u>	<u>88,614.73</u>	<u>380,984.64</u>

Jefferson County Farmland Protection Board

Administrator's Monthly ReportApril 11, 2016

Easement Progress:

- AAA: Waiting for Chris Luttrell to complete title work/title insurance on mineral estate, HUD, closing cost estimates. County attorney & Planning & Zoning has approved deed of easement, County attorney sent internal memo re: inconsistencies with citations of Federal law.
- FY15 NRCS coop agreement to be combined with FY 16 coop agreement. Still not completed.

Easement Monitoring:

- 15 properties monitored, no issues. Former Board member Peter Fricke volunteered on four visits.

Easement Inquiries:

April 4 – met with prospective applicant to explain easement program.

Easement policy/ issues:

- NRCS requires a title search for mineral rights; Berkeley and Jefferson County wish to seek a waiver from this requirement.

Administration:

- Scanned missing monitoring reports obtained from LTEP.

Fundraising/outreach:

- Dr. Oscar C. Stine memorial gifts: 15 donations, \$1,050
- Met with prospective board member Dave Simmons
- Farmland Protection Bumper sticker
- 2016 County Fair catalog ad

Projects in process:

- ABPP Landowners Guide: maps delayed; still seeking battle detail for mapmaker. Designer is producing layout for the guide. Worked with volunteer photographer Mark Muse to take battlefield landscape shots.
- Planning for AAA event for easement announcement w/ Liz McDonald, Jane Tabb
- Easement corrections pending: Shannon Donley, Sam Donley, Latterell, Stine, Willis.
- RCPP: Proceeding on announcing application period for FY15 and FY16 (\$1.8MM). Will use yellow book appraisal process, as NRCS has not progressed with market study.
- FY17 RCPP WV grant application – preproposal due May 10, 2016.
- Outreach workshops for RCPP applicants, to be planned with Berkeley FPB and Authority. \$2,592 remaining in grant from Conservation district to be spent by June 30, 2016.

Events/Meetings:

April 14 – WV NRCS – meeting with State Conservationist - Morgantown
April 20 - WV Association of Farmland Protection Boards quarterly meeting, Seneca Rocks
April 27 – State Technical Committee meeting, Morgantown
April 28 WV Agricultural Land Protection Authority Quarterly meeting - Clarksburg

Elizabeth Wheeler

From: Russ Quinn <russquinn@frontier.com>
Sent: Monday, April 11, 2016 4:28 PM
To: Elizabeth Wheeler
Subject: Fw: Interpretation of exclusions and residential envelopes

From: [Glenn, Robert E.](mailto:Glenn.Robert.E)
Sent: Monday, March 14, 2016 8:19 PM
To: <mailto:FarmLandProtection@jcda.net> ; <mailto:liz@blackwellmgmt.com> ; <mailto:dober@hughes.net> ;
<mailto:russquinn@frontier.com> ; <mailto:vinemont@frontiernet.net>
Subject: FW: Interpretation of exclusions and residential envelopes

Here is a memo I sent to Mark regarding retained development rights.

From: Glenn, Robert E.
Sent: Friday, February 26, 2016 4:37 PM
To: F. Mark Schiavone
Cc: fwkursey@aol.com; 'Susan Whalton'; Glenn, Robert E.
Subject: RE: Interpretation of exclusions and residential envelopes

Mark: this follows on our conversation today about exclusions and residential envelopes.

As we discussed, Section of 8A-12-16(C) of the WV Code permits the Board to create a 2 acre envelope for each existing single residential dwelling on the easement property. Although the statute uses the word "exclude," it looks to me as if these residential envelopes created per Section 16(C) remain subject to terms of the easement, EXCEPT that the envelope is excluded from the "easement prohibitions on residential development." Since these areas remain in the easement, the owner is compensated for otherwise restricting the envelopes.

The Board regularly creates these "16(C) envelopes" for the existing homestead on the farm and other existing residential structures.

In addition to these 16(C) envelopes, the Board has agreed in several easements (at least during my tenure) to permit the landowner to create additional residential envelopes called "Retained Development Rights." These provisions permit the owner to building additional residential structures within two acre envelopes created or to be created within the easement property.

Both the 16(C) envelopes and the "RTD envelopes" are subject to the impervious surface limitations established under the easement.

For example, the Dirting easement provides that with respect to a structure within a RTD envelope:

"Grantors have the right to maintain, repair, enlarge or replace each allowed single residential dwelling as they may so desire, except that the impervious surface of each such single residential dwelling is limited to 5,000 square feet."

and

“Grantors have the right to construct appurtenances such as garages, sheds and recreational facilities within each building envelope, except that the total allowed impervious surface within each building envelope, including the single residential dwelling(s), shall not exceed 9,000 square feet.”

The limitations within each RTD envelope and each 16(C) envelope are subject to the overall impervious surface limitations in the easement. Thus the Dirting easement provides:

“The total surface coverage of the Property by all impervious surfaces, including all single residential dwellings, structures considered as an appurtenance to such dwellings, structures associated with agricultural uses, driveways and parking areas, shall not exceed 120,225 square feet, which is less than 2% of the total Conservation Easement area.”

Both Section 16(C) of the WV Code and the Board's easements expressly prohibit further subdivision of the property under easement.

Recently, questions have arisen whether 16(C) envelopes or RTD envelopes could be legally subdivided into legally separate lots so that they could be conveyed and mortgaged separately from the easement property.

Apparently Lavonne Paden at the WVVALPA takes the position that residential envelopes created within easements can be subdivided as legal lots and sold apart from the easement property. My understanding is that Joe Hatton at NRCS disagrees with Lavonne's position, at least with respect to 16(C) envelopes. Joe (and I think Mark) believe that the intent of 16(C) envelopes is to permit existing residences to exist within the easement but the envelopes cannot be conveyed separately from the easement parcel.

This position, I think makes sense, in that 16(C) envelopes are most often used to permit the farmer to put the homestead within the easement (and get paid for it). I don't think either the farmer or the Board envisions that the ownership of the homestead would be separated from the ownership of the larger easement tract. Especially, since the homestead often sits deep within the easement tract.

That said, I think there is a reasonable argument that restrictions on subdivision defeat the purpose of RTD envelopes. RTD envelopes are clearly created to permit additional homes to be built on the farmland and are always located on the public right of way. I think it's fair to say that the farmer that creates an RTD envelope intends to convey that land to a child or relative to build a home on that land. However, if the farmer cannot legally subdivide that land from the easement property, then the envelope cannot be conveyed or mortgage separately.

I remember having a discussion with Bob White about this and I think Bob concluded that he should stop offering RTD envelopes to grantors and have them exclude future building lots from the easement property entirely to avoid the subdivision issue entirely (I think this is Jefferson County's position).

[As an aside, I do not believe that a landowner can argue that the approval of a farmland plat with either 16(C) envelopes or RTD envelopes creates separate subdivided lots. Although, the Berkeley County Planning Commission does not expressly state this in its approval. The Jefferson County Planning Commission, however, expressly states that its approval of the farmland plat does not constitute a legal subdivision.]

As we discussed, I think going forward that the Board should not offer or approve RTD envelopes. If a grantor wants to build additional residential structures on the farm, then those lots (which must be located on the perimeter of the farm on existing ROWs) must be entirely excluded from the easement property and not be included within the acreage of the easement for compensation purposes.

With respect to 16(C) envelopes, I think the best policy (consistent with the position of NRCS) is that a 16(C) envelope cannot be legally subdivided from the easement property and conveyed or mortgaged separately from easement property.

With respect to RTD envelopes, I think it is in the best interests of the Board to establish a policy as to how to deal with RTD envelopes. Certainly the Board can adopt the same policy as applies to 16(C) envelopes, i.e., no subdivision.

However, by doing so, the Board is effectively prohibiting any further construction of dwellings on the farm, which does not appear to be the intent of the granting RTD envelopes in the first place.

The Board could consider permitting the landowner to subdivide a RTD envelope and convey it separately from the easement property; HOWEVER, the new parcel would remain subject to all other provisions of the easement, especially including the impervious surface requirements and the no further subdivision prohibition. This is essentially adopting the Paden position on subdivision of envelopes but only with respect to RTD envelopes NOT 16(C) envelopes.

I wanted to give you my thoughts on the overall issues; as with much in life, the devil is in the details.

Rob Glenn
DD: 304.260.4957
Mobile: 304.268.8125

From: F. Mark Schiavone [<mailto:berkeley@wvfp.org>]
Sent: Tuesday, February 23, 2016 2:33 PM
To: Glenn, Robert E.
Cc: fwkursey@aol.com; 'Susan Whalton'
Subject: Interpretation of exclusions and residential envelopes

Rob,

What is your interpretation of 8A-12-16(C) with regard to exclusions (it's on page 7)? It appears that the state code permits a 2 acre residential envelope to be excluded from the conservation easement provided that the owner pay for the survey. My concern is with the *However* clause as it appears to indicate that no additional exclusion areas may be subdivided for residential use. I'm thinking of the case of Phyllis Sperow. She had indicated a wish to exclude her house within a 2 acre area, yet the NRCS is also requiring an exclusion area of 11.8 acres on a different part of the property (this is due to the acreage offered in the original application for FY 2012). I could see one "loose" read of this section of code meaning that the 2-acre residential exclusion is the focus of the prohibition against further subdivision but the tighter, literal read of this section of code seems to imply that if such a 2-acre exclusion area is created, any additional exclusion areas are also prohibited from subdivision for residential purposes.

Any thoughts?

Mark

F. Mark Schiavone

AAA

~~XXXXXXXXXX~~ FARM EASEMENT FUNDING

	Acres	price/acre	Funds
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USDA Commitment			1,361,305.74
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