

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

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**MEETING MINUTES**  
**MASSACHUSETTS AGRITOURISM STUDY COMMISSION**

**Monday, May 17, 2021**  
**Via Zoom**

**Board Members in Attendance:** Chair John Lebeaux, Erin Williams, James Ostis on behalf of Senator Edward Kennedy's office, Brad Mitchell, Derek Dunlea on behalf of Rep. Fiola, Keiko Orrall, Shannon Emmett on behalf of Rep. Dykema, Nathan L'Etoile, Matt Douglass on behalf of Sen. Rausch, Karen Schwalbe, Michael Moore (arrived late)

**Absent:** None

**Also in Attendance:** Michael Smolak, Amy Parker

**MDAR Staff in attendance:** Christine Smith, Ashley Randle, Phu Mai, Tina Smith

1. **Call to Order:** The meeting started at 1:04 pm, with full remote participation.
2. **Approval of the minutes from the last meeting on April 26, 2021.**

Karen Schwalbe made a motion to approve the minutes from the last meeting, which was seconded by Nathan L'Etoile. The vote to approve the minutes was unanimous.

3. **Industry Updates.**

Keiko Orrall provided an update that Travel and Tourism has a photo contest going on right now as well as a capital grant program. This is all posted on visitma.com. Also, there will be a program focused on restaurants starting May 29 called "Let's Go Out". She asked if there were restaurants in the agritourism arena, she said to have them reach out to be featured on the website. Keiko Orrall confirmed this included farm to table dinners.

Chair Lebeaux stated that the Governor just announced today that the Commonwealth's face covering mandate will be updated on May 29 and that DPH will update guidance in accordance with CDC. The Governor also announced he plans to end the State of Emergency on June 15. This might also impact the ability to meet remotely but there could be an updated legislative fix to allow remote meetings under the Open Meeting Law.

#### **4. Old Business**

There was no old business.

#### **5. New Business**

##### **a. Cottage food/commercial kitchens and BOH**

Erin Williams reviewed the legislation information and did not see that it varied much from what already existed.

Brad Mitchell thought this was all covered under residential kitchens and commercial kitchens and local BOH regulations.

Erin Williams stated that it was a topic that comes up often in farmer discussions and on agritourism pages and that it was an item of interest.

Brad Mitchell stated that he thought that the cottage kitchen rules aligned with residential kitchens with a retail component. He is not sure if the new legislation changes anything or if changes will be made in committee. Brad Mitchell thought Michael Moore could add insight, but he was not in attendance at the time of this discussion.

Michael Moore arrived late, and the Commission picked up this discussion again. Erin Williams asked for clarification on what the new cottage kitchen legislation will change from the existing residential kitchen legislation.

Michael Moore stated he had looked into it and could not comment on pending legislation.

##### **b. Building Code Discussion – Michael Smolak/Kevin Hastings**

Michael Smolak owns a farm in North Andover and has found that each municipality has its own set of rules. He ran into a building code issue with the Town regarding his barn and had to appeal to the Board of Appeals to overturn the Town's decision. He also had an issue with his plastic greenhouses where they could not allow people to sit down inside. So, he wanted to replace with polycarbonate, which the building department did not understand and so the project could not go forward. He said it is a problem in that farms do not comply with state codes and if they were held to that standard most would be out of business. He is looking for some backing and assistance with the building code issue as it would help all farms. He noted that the laws are archaic for what the farms do now.

Brad Mitchell agreed that this is a problem that his members encounter quite often. For example, he brought up an issue with a farm and orchard in Worcester County that has a cidery and was told that there was an issue under the fire code. He stated that the plumbing code is also a problem as farms fall under the commercial plumbing code.

Michael Smolak emphasized that the last thing any farm owner wants is for something to happen to their customers, so they are diligent about safety. He thinks there is a need for a fix.

Brad Mitchell noted that they are in the process of re-writing the building code. He also noted that there is legislation pending to look at the plumbing code.

Michael Smolak has a draft of some proposed fixes as far as the greenhouses go. He also stated that support from Travel and Tourism would help as well.

Brad Mitchell asked Michael Smolak to share the proposed changes with the group. Brad Mitchell also stated that he could share a link to the proposed plumbing changes. He added that there needs to be a change so that the fire department feels comfortable issuing approval.

Michael Smolak stated that he would get the language to the Commission in advance of the next meeting.

Erin Williams asked what appeal process was when they got the use of the barn back.

Michael Smolak said he made changes to the barn that the Town had said were required in order to sign off. When those items were done, the new Town inspector decided those changes were not good enough and also cited an issue with the greenhouses and brought in the State Fire Marshall. He said it was the State Building Board of Appeals that gave them ability to move forward. They required installation of pull fire alarms and also a training he was required to attend.

Erin Williams said that her town had a similar approach but at more restrictive numbers. She noted that crowd control and fire prevention were the biggest issues she has seen.

Michael Smolak stated that agriculture is different from other businesses and that a lot of these activities have been going on for a long time.

**c. PYO Guidance**

Chair Lebeaux noted that this is changing as we speak with the Governor's announcement this morning on changes to the mask mandate and lifting of the Emergency Order in June. He stated that there may not be a need for new guidance.

Michael Smolak agreed that the guidance might become a moot point. He thought a primer on a "how to" would be good for farmers.

Chair Lebeaux stated that last year they were able to put together protocols and that the industry was able to move forward.

Michael Smolak said he felt that the Department did a great job keeping the farmers informed.

Brad Mitchell said he was discussing whether they should still have guidance since Boards of Health are able to implement their own restrictions. He was hoping the BOH would be satisfied with the Governor's declaration.

Chair Lebeaux said they heard similar concerns from farmers' markets. He said that it seems that most of these restrictions will be going away.

**d. Subcommittees**

Chair Lebeaux noted that there has been no subcommittee activity recently and apologized that it was a capacity issue. He said that they are talking about getting some more staff support for the commission.

Brad Mitchell stated that there is pending legislation and that the regulatory subcommittee could meet to flesh out the language on the pending legislation. Chair Lebeaux agreed that this would be a priority.

Michael Smolak said that he has reached out to other farms to see how they could work together to support each other but that some are leery of doing that for fear that they will be losing business. He said that they can support each other and all farms benefit. He also reached out to Mary Jordan about having a cider donut contest state-wide. He said it highlights farms and brings people out to the farms. He also thought Travel and Tourism could be used to support tours to farms.

Ashley Randle said she would be in touch regarding subcommittee assignments.

**6. Next Meeting**

Chair Lebeaux suggested June 21 for the next meeting date. He stated that a notification would be sent out.

**7. Adjournment**

Brad Mitchell made a motion for a vote to adjourn. The motion was seconded by Erin Williams. The vote to adjourn was unanimous. Meeting was adjourned at 1:49 pm.