

Department of Agricultural Resources
AGRICULTURAL LANDS PRESERVATION COMMITTEE
MINUTES OF MEETING

November 2, 2018

Department of Fishery and Wildlife Field Headquarters
1 Rabbit Hill Road, off North Drive
Westborough, MA

MEMBERS PRESENT:

- John Lebeaux
Department of Agricultural Resources
- Warren Shaw, Jr.
Public Member
- Stephen Verrill
Public Member
- Patricia Vittum
Associate Director of Center for Agriculture, UMass, Amherst
- Laura Abrams
Board of Agriculture
- Fred Dabney
Public Member
- Phillip DeMartino, Designee for Janelle Chan
Department of Housing & Community Development
- Robert O'Connor, Designee of Matthew A. Beaton
Executive Office of Energy & Environmental Affairs

MEMBERS ABSENT:

- Daniel Wright
Natural Resources Conservation Service, Non-Voting Member
- George Beebe
Public Member
- Robert O'Connor, Designee of Matthew A. Beaton
Executive Office of Energy & Environmental Affairs

ALSO PRESENT:

Gerard Kennedy, Department of Agricultural Resources
Ron Hall, Department of Agricultural Resources
Michele Bodian, Department of Agricultural Resources
Barbara Hopson, Department of Agricultural Resources
David Viale, Department of Agricultural Resources

Public:

Nathan L'Etoile
Maurice Tougas
Kathy Orlando
Laura Sapienza-Grabski

Chairperson of the Agricultural Lands Preservation Committee ("ALPC"), John Lebeaux and Commissioner of the Massachusetts Department of Agricultural Resources (the "Department"), called the meeting to order at 10:04 AM.

I. UPDATE

Commissioner Lebeaux provided a brief update on the hiring process of an Assistant Commissioner. The Commissioner summarized developments within the "Cannabis Space" including the Hemp Program having approximately 15 licenses this year ranging from piloting to harvest ready and that a protocol for testing THC levels to confirm crops are hemp vs. cannabis is in process. He explained that currently cannabis does not meet the definition of agriculture as defined by Chapter 61A. Pat Vittum noted that federal funded projects automatically close the door on cannabis. There was a question from Mr. Shaw on who would determine whether a landowner was in violation. Discussion ensued regarding the process of getting approval to grow cannabis with THC levels above hemp. A representative from the American Farmland Trust noted that some APR's may use different definition of agriculture than Chapter 61A.

The Commissioner's update moved on to Food Safety – an area where the work continues to ramp up. A new MDAR office location in Lakeville has opened in the same office park as DEP. Amherst lease is up in March 2019 and the Department is looking at spaces in the Western portion of the state. The Boston office lease is up in 2020 and the Department is currently examining whether to stay in the current location or move.

The APR summary report dated November 2, 2018 (attached hereto by reference) was presented. Program totals to date include 73,815 acres restricted via 922 Farm properties. Total sources of program funding are at \$5,720,000.

FY19 Year to Date has 1 project closed, while protecting 34.165 acres of farmland, with an APR value of \$730,000, at cost to DAR of approximately \$657,000, and with Local Contribution of \$73,000. There are 28 properties that have been nominated via a vote of interest and 6 final voted projects totaling 559 acres with a DAR cost of \$5,070,300, local contributions currently at \$208,000 () and Bargain Sales currently total at \$518,700 (at final vote several local contributions and bargain sales still needed to be determined "TBD").

II. APPROVAL OF MINUTES

a. September 6, 2018

There was a proposed amendment to note that Phil was a designee for Janelle Chan. It was moved, seconded, no further discussion and

VOTED: To approve of the minutes, as amended. The vote was unanimous.

III. **VOTES**

MDAR Agricultural Preservation Restriction Program (APR) Coordinator Ron Hall provided a summary of the APR final vote process. Nine (9) projects are being recommend for a vote today.

1. Araujo - Dighton

Ron Hall distributed an updated narrative for the project and presented information on this recommendation to the Committee including maps and a description of the location, proposed APR boundary, acreage, soils, nearby APR lands, current farm operations, appraised value and funding support from outside partners such as the Town and local land trust. Mr. Hall recommended that this application is final voted at the APR value of \$290,000 less a local contribution of \$83,000 which equals a Commonwealth share of \$207,000 subject to the following conditions:

- 1.) Available funding
- 2.) The town and/or parties must provide the aforementioned match at or before closing
- 3.) All parcels to be excluded (if any) must conform to the layout as appraised, must be surveyed out and must be approved as required by the municipal zoning body.
- 4.) The Department will complete a recordable survey of the APR property, the cost of which will be shared according to an agreement with the owner, in formats suitable for the purposes of the Department prior to closing
- 5.) Any lowered value as a result of the final survey will result in the difference being deducted from the state share of the APR, and any higher number may result only in an increase in the local contribution/ bargain sale.
- 6.) The owner must execute the current approved and un-amended APR contract in effect at the time of closing with the Department.

It was moved, seconded. There was a question on whether there was any difference in the APR expected by the time it is signed. Mr. Hall answered there is no anticipated difference.

VOTED: To final vote the property per the terms and conditions as presented. The vote was unanimous.

2. Amaral – Rehoboth

Ron Hall presented information on this recommendation to the Committee including maps and a description of the location, proposed APR boundary, acreage, soils, nearby APR lands, current farm operations, appraised value and funding support from outside partners such as the Town and local land trust. Mr. Hall recommended that this application

is final voted at the APR value of \$290,000 less a local contribution/bargain sale of \$29,000 which equals a Commonwealth share of \$261,000 subject to the following conditions:

- 1.) Available funding
- 2.) The town and/or parties must provide the aforementioned match at or before closing
- 3.) All parcels to be excluded (if any) must conform to the layout as appraised, must be surveyed out and must be approved as required by the municipal zoning body.
- 4.) The Department will complete a recordable survey of the APR property, the cost of which will be shared according to an agreement with the owner, in formats suitable for the purposes of the Department prior to closing
- 5.) Any lowered value as a result of the final survey will result in the difference being deducted from the state share of the APR, and any higher number may result only in an increase in the local contribution/ bargain sale.
- 6.) The owner must execute the current approved and un-amended APR contract in effect at the time of closing with the Department.

Michelle Bodian recommended final voting the project on the condition that an OPAV waiver be issued to the tenant farmer due to a known intent of the current landowner to sell the land to the tenant farmer after the APR closes. Mr. Hall accepted the recommendation and added it to the list of conditions.

It was moved, seconded, no further discussion and

VOTED: To final vote the property per the terms and conditions as presented. The vote was unanimous.

3. Batacchi– Sheffield

Barbara Hopson presented information on this recommendation to the Committee including maps and a description of the location, proposed APR boundary, acreage, soils, nearby APR lands, current farm operations, appraised value and funding support from outside partners such as the Town and local land trust. The values for the Supplemental Appraisal report need to be confirmed based on the most recent configuration (presented here). Ms. Hopson recommended:

ALPC – MINUTES OF MEETING –November 2 2018

Page 5 of 10

This parcel represents a valuable agricultural resource, is critical to a local farm operation and is located in an agricultural area. Staff recommends that this application is final voted at the APR value of \$534,100 less a local contribution/bargain sale of \$53,410 which equals a Commonwealth share of \$480,690 subject to the following conditions:

- 1.) Available funding
- 2.) The town and/or parties must provide the aforementioned match at or before closing, if applicable.
- 3.) All parcels to be excluded (if any) must conform to the layout as appraised, must be surveyed out and must be approved as required by the municipal zoning body.
- 4.) The Department will complete a recordable survey of the APR property, the cost of which will be shared according to an agreement with the owner, in formats suitable for the purposes of the Department prior to closing
- 5.) Any lowered value as a result of the final survey will result in the difference being deducted from the state share of the APR, and any higher number may result only in an increase in the local contribution/ bargain sale.
- 6.) The owner(s) must complete clean-up plan for reclaiming identified land into productive agricultural condition.
- 7.) The owner(s) must execute the current approved and un-amended APR contract in effect at the time of closing with the Department.

It was moved, seconded, no further discussion and

VOTED: To final vote the property per the terms and conditions as presented. The vote was unanimous.

4. Dube – Sheffield

Barbara Hopson presented information on this recommendation to the Committee including maps and a description of the location, proposed APR boundary, acreage, soils, nearby APR lands, current farm operations, appraised value and funding support from outside partners such as the Town and local land trust. This project is eligible for over the cap spending. Ms. Hopson recommended:

This parcel represents a valuable agricultural resource, is critical to a local farm operation and is located in an agricultural area. Staff recommends that this application is final voted at the APR value of \$435,000 less a local contribution/bargain sale of \$43,500 which equals a Commonwealth share of \$391,500 subject to the following conditions:

- 1.) Available funding
- 2.) The town and/or parties must provide the aforementioned match at or before closing, if applicable.
- 3.) All parcels to be excluded (if any) must conform to the layout as appraised, must be surveyed out and must be approved as required by the municipal zoning body.
- 4.) The Department will complete a recordable survey of the APR property, the cost of which will be shared according to an agreement with the owner, in formats suitable for the purposes of the Department prior to closing
- 5.) Any lowered value as a result of the final survey will result in the difference being deducted from the state share of the APR, and any higher number may result only in an increase in the local contribution/ bargain sale.
- 6.) The owner(s) must execute the current approved and un-amended APR contract in effect at the time of closing with the Department.

It was moved, seconded, no further discussion and

VOTED: To final vote the property per the terms and conditions as presented. The vote was unanimous.

5. Garbiel – Montague

Barbara Hopson presented for Michele Padula (unable to attend meeting) information on this recommendation to the Committee including maps and a description of the location, proposed APR boundary, acreage, soils, nearby APR lands, current farm operations, appraised value and funding support from outside partners such as the Town and local land trust. Staff recommended final voting this property for \$382,500 from the Commonwealth. The Town of Montague will contribute \$32,500 and the Franklin Land Trust will contribute \$10,000.

The Final Vote is conditioned on:

- 1.) Available funding
- 2.) The town and/or parties must provide the aforementioned match at or before closing
- 3.) All parcels to be excluded (if any) must conform to the layout as appraised, must be surveyed out and must be approved as required by the municipal zoning body.
- 4.) The Department will complete a recordable survey of the APR property, the cost of which will be shared according to an agreement with the owner, in formats suitable for the purposes of the Department prior to closing
- 5.) Any lowered value as a result of the final survey will result in the difference being deducted from the state share of the APR, and any higher number may result only in an increase in the local match.

It was moved, seconded, no further discussion and

VOTED: To final vote the property per the terms and conditions as presented. The vote was unanimous.

6. Kosinski – Agawam

Barbara Hopson presented information on this recommendation to the Committee including maps and a description of the location, proposed APR boundary, acreage, soils, nearby APR lands, current farm operations, appraised value and funding support from outside partners such as the Town and local land trust. This project is eligible for over the cap spending. Ms. Hopson recommended:

This parcel represents a valuable agricultural resource, is critical to a local farm operation and is located in an agricultural area. Staff recommends that this application is final voted at the APR value of \$175,000 less a local contribution/bargain sale of \$8,750 which equals a Commonwealth share of \$166,250 subject to the following conditions:

- 1.) Available funding
- 2.) The town and/or parties must provide the aforementioned match at or before closing, if applicable.
- 3.) All parcels to be excluded (if any) must conform to the layout as appraised, must be surveyed out and must be approved as required by the municipal zoning body.
- 4.) The Department will complete a recordable survey of the APR property, the cost of which will be shared according to an agreement with the owner, in formats suitable for the purposes of the Department prior to closing
- 5.) Any lowered value as a result of the final survey will result in the difference being deducted from the state share of the APR, and any higher number may result only in an increase in the local contribution/ bargain sale.
- 6.) The owner(s) must execute the current approved and un-amended APR contract in effect at the time of closing with the Department.

It was moved, seconded, no further discussion and

VOTED: To final vote the property per the terms and conditions as presented. The vote was unanimous.

7. Niedbala – Hadley

Ron Hall presented information on this recommendation to the Committee including maps and a description of the location, proposed APR boundary, acreage, soils, nearby APR lands, current farm operations, appraised value and funding support from outside partners such as the Town and local land trust. Mr. Hall recommended that this application is final voted at the APR value of \$660,000 less a local contribution/bargain sale of \$103,864 which equals a Commonwealth share of \$556,136 subject to the following conditions:

- 1.) Available funding
- 2.) The town and/or parties must provide the aforementioned match at or before closing
- 3.) All parcels to be excluded (if any) must conform to the layout as appraised, must be surveyed out and must be approved as required by the municipal zoning body.
- 4.) The Department will complete a recordable survey of the APR property, the cost of which will be shared according to an agreement with the owner, in formats suitable for the purposes of the Department prior to closing
- 5.) Any lowered value as a result of the final survey will result in the difference being deducted from the state share of the APR, and any higher number may result only in an increase in the local contribution/ bargain sale.
- 6.) The owner(s) must complete clean-up plan for reclaiming identified land into productive agricultural condition.
- 7.) The owner(s) must execute the current approved and un-amended APR contract in effect at the time of closing with the Department.

It was moved, seconded. It was pointed out that the narrative had a typo in adding 3 extra zeros to the local contribution/ bargain sale. Mr. Hall noted the narrative distributed should have reflected a local contribution/ bargain sale \$103,864.

VOTED: To final vote the property per the terms and conditions as presented. The vote was unanimous.

8. Pray – Seekonk

Ron Hall distributed an update to the narrative handout and presented information on this recommendation to the Committee including maps and a description of the location, proposed APR boundary, acreage, soils, nearby APR lands, current farm operations, appraised value and funding support from outside partners such as the Town and local land trust. Mr. Hall recommended that this application is final voted at the APR value of \$180,000 less a local contribution from the Town of Seekonk of \$82,000 which equals a Commonwealth share of \$98,000 subject to the following conditions:

- 1.) Available funding
- 2.) The town and/or parties must provide the aforementioned match at or before closing
- 3.) All parcels to be excluded (if any) must conform to the layout as appraised, must be surveyed out and must be approved as required by the municipal zoning body.
- 4.) The Department will complete a recordable survey of the APR property, the cost of which will be shared according to an agreement with the owner, in formats suitable for the purposes of the Department prior to closing
- 5.) Any lowered value as a result of the final survey will result in the difference being deducted from the state share of the APR, and any higher number may result only in an increase in the local contribution/ bargain sale.
- 6.) The owner(s) must execute the current approved and un-amended APR contract in effect at the time of closing with the Department.

It was moved, seconded. There was a question regarding the conditional town funding. The funding is not yet secured – does this imply the landowner is committed to a bargain sale? Mr. Hall responded a bargain sale would be necessary if there was no local contribution, however the revised narrative which was distributed notes that the Town had indeed committed a local contribution.

VOTED: To final vote the property per the terms and conditions as presented. The vote was unanimous.

9. Thatcher – Plainfield

Barbara Hopson presented for Michele Padula (unable to attend meeting) information on this recommendation to the Committee including maps and a description of the location, proposed APR boundary, acreage, soils, nearby APR lands, current farm operations, appraised value and funding support from outside partners such as the Town and local land trust. Staff recommended final voting this property for \$90,000 from the Commonwealth with a \$10,000 owner bargain sale.

The Final Vote is conditioned on:

- 1.) Available funding
- 2.) The town and/or parties must provide the aforementioned match at or before closing
- 3.) All parcels to be excluded (if any) must conform to the layout as appraised, must be surveyed out and must be approved as required by the municipal zoning body.
- 4.) The Department will complete a recordable survey of the APR property, the cost of which will be shared according to an agreement with the owner, in formats suitable for the purposes of the Department prior to closing
- 5.) Any lowered value as a result of the final survey will result in the difference being deducted from the state share of the APR, and any higher number may result only in an increase in the local match.

It was moved, seconded. There was a question regarding scoring and whether this property meets the current score threshold. Staff answered yes.

VOTED: To final vote the property per the terms and conditions as presented. The vote was unanimous.

IV. OTHER BUSINESS

a. Renewable Energy Policy

Division Director Gerard Kennedy introduced the proposed program guidelines (distributed) regarding requests for a certificate of approval to construct a ground mounted renewable energy system on APR lands. The current policy (unwritten) is: if energy generation is primarily (51%) for the farm, it is allowed. Based on feedback received, the proposed guidelines exclude roof mounted systems from purview of approval, ground mounted systems can't be more than twice the projected annual use of the entire Agricultural operation, and there is a requirement for a decommissioning plan if the system serves anything off the APR (this is in case the APR is ever sold separately).

DISCUSSION: There was discussion of the crossover of other forms of energy. The staff explained the intent of these proposed guidelines is to allow for roof mounted systems without approval requirements. Next steps would be to go to the Ag Board to solicit their input, then bring it back to the ALPC for a vote. There was a question if there are any farms being held up due to the current policy. Staff noted that one farm was currently under review. A discussion ensued regarding which policy was in effect currently since the ALPC had not yet voted to approve the draft policy.

b. APR legislation

At 11:49 am Laura Sapienza-Grabski joined the meeting as a member of public. When asked she confirmed she was recording the meeting. Division Director Gerard Kennedy introduced the APR legislative changes including the various requirements and timeline (see power point presentation attached via reference). He also presented an overview of the current status of APR's with ROFR's and OPAV's, how the current process works, and some lessons learned over time with proposed thoughts.

c. ALPC Meeting Schedule

There was discussion of the ALPC meeting schedule with regard to the calendar for regulation development as just discussed. The ALPC will have approximately two more meetings in 2018 (to be scheduled) in order to try to meet the required deadline.

It was moved to adjourn, it was seconded, with no further discussion and

VOTED: To adjourn the meeting at 12:19 PM.

Vote was unanimous.

Respectfully submitted,



David Viale,
Agricultural Lands
Acquisition Specialist