

MINUTES: AGRICULTURAL LANDS PRESERVATION COMMITTEE MEETING

Monday, January 10, 2022

10:00 AM to 12:30 PM

MEMBERS PRESENT:

John Lebeaux, Department of Agricultural Resources
Kurt Gaertner, EEA
Philip DeMartino, Department of Housing and Community Development
Skip Vadnais, Board of Agriculture
Rita Thibodeau, Natural Resources Conservation Service, Non-Voting Member
Warren Shaw, Jr., Public Member
Susan Flaccus, Public Member
Fred Dabney, Public Member
Laura Abrams, Public Member
Kathy Orlando, Sheffield Land Trust
Karen Schwalbe, SEMAP

ALSO PRESENT:

Gerard Kennedy, Department of Agricultural Resources
Ron Hall, Department of Agricultural Resources
David Viale, Department of Agricultural Resources
Barbara Hopson, Department of Agricultural Resources
Michele Padula, Department of Agricultural Resources
Christine Smith, Department of Agricultural Resources
Kristina Smith, Department of Agricultural Resources
Ashley Davies, Department of Agricultural Resources
Dorothy Du, Department of Agricultural Resources
Jill Ward, Department of Agricultural Resources
Becca George, Department of Housing and Community Development

Public

John Lebeaux,, Chairperson of the Agricultural Lands Preservation Committee ("ALPC") and Commissioner (the "Commissioner") of the Massachusetts Department of Agricultural Resources (the "Department"), called the meeting to order. The Commissioner asked participants on the call to voluntarily identify themselves if they were a member of the public though noted that participants were not required to identify themselves.

He provided instructions on how he will manage the virtual Teams meeting. He noted that the meeting was being recorded and that pursuant to the Governor's Emergency Order, all votes need to be roll-call votes.

I. Department Updates

Commissioner Lebeaux presented an overview of Department activities. He explained that Laura Abrams, who was formerly the Chair of the Board of Agriculture, has been appointed to the fourth farmer representative seat on the committee. Fred "Skip" Vadnais is now the new Chair of the Board of Agriculture and will join the committee in that capacity. The Board is now fully constituted.

Chair Lebeaux mentioned that the administration is changing its current work model due to the ongoing pandemic. Overall operations have been impacted due to new administrative matters, particularly for managers, relative to the pandemic. He also mentioned that there are workforce shortages due to COVID.

At this point Skip Vadnais joined the meeting and introduced himself as a livestock farmer and selectman from Rehoboth, in addition to his role on the Board of Agriculture.

Since the last ALPC meeting in November, 3 new APR projects totaling approximately 70 acres have closed in partnership with NRCS. In partnership with NRCS and the Berkshire Natural Resources Council, the program closed on an approximately 31-acre property in Sheffield. In Sunderland the program closed on two properties owned by Stephen Gunn totaling approximately 38 acres.

The program closed out calendar year 2021 by protecting 15 properties for a total of just under 498 acres with an APR value of almost \$7.3 million.

Rita Thibodeau reminded participants that the next ranking application deadline for ALE is Friday January 21st and asked for applications to be sent in soon. Following that, the next deadline will be the 3rd week in March.

II. Approval of Minutes from November 30, 2021.

Chair Lebeaux asked for a motion to approve the minutes. Fred Dabney made the motion, Warren Shaw seconded. Kathy Orlando had sent some grammatical and typo corrections to Gerard. Approval was unanimous.

III. APR Program Updates

Discussion of APR Local Match Policy requirements. David Viale delivered a presentation (Attachment A and Attachment B) on the local match.

Chair Lebeaux asked if there were any questions.

Kathy Orlando expressed support for reducing the local match to 10%. However, she had concerns about creating two separate categories, specifically being able to reduce the match for those properties under cap as opposed to those over cap. Kathy said that it seems like the idea is to try to burden farmers less. But she thinks this will remove a tool from a tool box that is really crucial. She said that being able to have the bargain sale element available at any time can be crucial because it could be far down the process when a landowner knows if the project is over or under the cap.

Frequently an increase in value over the original appraised value will occur before a project closes. Being able to take advantage of a bargain sale can allow a landowner to not miss out on that value and take a deduction. It can also reduce the capital gains tax which is really important.

Dave responded that he had heard two things: one that the option for a landowner to choose to take a bargain sale would be taken away, which is not the case as a landowner can choose to take any level of bargain sale to take advantage of the state or federal tax incentive program. Also, for higher value properties appraised over \$17,000 that the 10% local match would be required, which is correct. Though he did point out that the recent increase in the cap per acre to a \$34K/ acre was a way to address the bargain sale issue for high value properties.

Ashley Davies added that a 10 % match is required currently for over the cap projects. So, there is not really much of a change there.

Warren Shaw stated that he has been an advocate for engaging the community to contribute more towards the acquisition of properties. He added that the policies originally resulted from concerns that there was insufficient funding for the program to support acquisitions. The program appears to be in a better place lately so maybe that is no longer a factor. Some farmers do not want to ask the towns for support. Warren indicated that he would like to make a motion to approve the change.

Chair Lebeaux stated that the Commissioner is the decision maker here and that a vote is not required.

Kathy Orlando asked that if this goes into place, can the vote state that the local match will come in the form of either a local match or a bargain sale or through a combination. Dave Viale stated that the program is not proposing to change the suite of tools to address the local match. Any combination of a match from the community or a land trust or a bargain sale will work.

Susan Flaccus stated that she has concerns about towns where the tax base is low and does not support a requirement for the town to pay a private landowner for putting their property in APR. She sees it as having the opposite effect and of making fewer farmers apply to APR. Dave responded that landowners could choose whether they want to get funding from the town or accept a bargain sale, noting that any of those options are acceptable. Susan Flaccus stated that this response made her more comfortable.

Phil Demartino asked how many towns have Right-to-Farm bylaws. Ron Hall stated that this is information that the program could get for the committee.

Chair Lebeaux asked for any other comments.

Chair Lebeaux asked again for comments or questions. He noted that the agenda has presentation and discussion, so although he is not asking for a vote, he would like a general opinion about whether this change will be beneficial. He asked for objections. Laura Abrams asked when this would go into effect. The Commissioner stated that this would go into effect immediately.

Kathy Orlando asked if there is a way to have flexibility so if a farmer chooses to take a bargain sale, we can make sure that those farmers are not burdened more because of not wanting to go to the community for funding.

Dave Viale certainly can contemplate modifications to the proposed policy and asked for staff input. Ron Hall says that as we work with landowners, we discuss the local match with the landowners, and the town is notified that we are looking at an APR in their community.

Kathy Orlando asked why we cannot reduce the local match down to 5%. There is a large gap between what a bargain sale covers and the community match.

Michele Padula stated that she has only had one instance when a landowner has asked not to go to the town, once in 30 years.

Kurt Gaertner wanted to let people know that he was involved with Commonwealth Capital and thinks that these changes are entirely appropriate at this point in time. A lot of communities are asked to financially support other types of land acquisition/protection projects, so it is appropriate for this change to be made.

Chair Lebeaux said that most communities have funds that have been collected via their CPA fund, so matches can be made that make no new funding required from the community.

Fred Dabney asked how we will determine whether everyone supports it without a roll call. He states that he supports the measure.

Chair Lebeaux asked for questions from Staff; there were none. He then thanked the ALPC members for input, and stated that he would take it under advisement, and will let the members know what actions have been taken.

Motion to Adjourn

Kathy Orlando made a motion to adjourn, seconded by Fred Dabney. Unanimous approval.

Submitted by Jill Ward

Attachment A – Local Match Presentation
Attachment B – Local Match Memo to APLC

Approved by ALPC at September 14, 2022 Meeting