

MINUTES: AGRICULTURAL LANDS PRESERVATION COMMITTEE MEETING

Wednesday, September 14, 2022

10:00 AM to 12:30 PM

MEMBERS PRESENT:

John Lebeaux, Department of Agricultural Resources
Philip DeMartino, Department of Housing and Community Development
Skip Vadnais, Board of Agriculture
Rita Thibodeau, Natural Resources Conservation Service, Non-Voting Member
Clem Clay, UMass Center for Agriculture Food and the Environment
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
Chris Chisholm, Department of Agricultural Resources
Dorothy Du, Department of Agricultural Resources
Jill Ward, Department of Agricultural Resources
Julie Weiss, Department of Agricultural Resources
Becca George Department of Housing and Community Development

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. 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

Chair Lebeaux presented an overview of Department activities. He spoke about the upcoming annual Big E event and the hard work and repairs that have gone into the Massachusetts Building, including a new big fan mounted on the ceiling to help manage air flow and keep things dry.

Other issues that the Department is focused on include the Spotted Lantern Fly. Insect populations are being increasingly observed as it moves up the East Coast. USDA is treating this differently from previous infestations, as they do not have confidence that the Lanternfly can be contained in the way that they contained other invasive species such as the Asian Long-horned Beetle.

Another problematic issue is that of PFAS, or “forever chemicals”. PFAS chemicals are fairly ubiquitous in the environment. They have been detected in the chemical sprays used for aerial mosquito control where they were found to have leached from plastic containers that held the insecticide. They are also associated with biosolids. Treated and processed sewage sludge is not permitted for composting on farms involved with MDAR. However, some of our farms may be exposed to the sludge currently. MDAR is working on this issue with DEP, and the EPA will be getting more involved. There are outside entities offering third party coordination of testing.

There will be a new Governor on January 5th, but MDAR is working full steam ahead until there is a new directive. The Farmland Action Plan, hopefully, will be moved through before the end of the term.

He asked for questions: Fred Dabney mentioned that Beech trees are contracting a fungus that is killing them and asked if the Department is aware. Chair Lebeaux confirmed that he was aware. Kathy Orlando asked when there will be parameters put out by state about PFAS? Is there any testing required prior to farmers using sludge, or is anything in the works? Chair Lebeaux stated these are under discussion currently, but he does not know when there may be a resolution.

II. Approval of Minutes from January 10, 2022.

Chair Lebeaux asked for a motion to approve the minutes. No changes were offered. Karen Schwalbe made the motion, Fred Dabney seconded. Approval unanimous

III. APR Project Ranking: Locally Important Soils

David Viale referenced the memo (Attachment A) that was provided and presented an overview of Locally Important Soils.

The ALPC is tasked with approving projects to move forward into the APR Program. MDAR has developed a score sheet to rank projects which includes soil types as part of the criteria. Projects with prime and state important soils tend to rank highly in the program’s evaluation of projects to advance to NRCS for federal funding through the ACEP/ALE program.

The ACEP/ALE program also favorably ranks projects with “locally important soils”. Up until recently, locally important soils were not delineated in MA. But recently twenty-five communities have now adopted locally important soils designations. To include these soils in the ranking sheet for evaluating land for inclusion in the APR program, the program is proposing to update the ranking sheet and is recommending that the ALPC votes to support their inclusion.

Warren Shaw asked how a community goes about establishing the presence of locally important soils. David Viale said that it’s a vote by the municipality to adopt the locally important soils. Kathy Orlando said communities have been working with Al Averill, soil scientist with American Farmland Trust, to identify by aerial photography where the soils are located. She says that it’s a pretty straightforward and clear process. A map is produced and a letter from either the Agricultural Commission or Select Board is sent to NRCS to request the designation.

Warren Shaw asked how projects with locally important soils will be evaluated at this stage given that the ranking sheet has to be finalized first. David Viale said that staff can currently add discretionary points for local soils as they see fit. Kathy Orlando said that would be very individualized by community so could it be incorporated into the primary criteria. David Viale said that the ALPC decides what criteria the farms are vetted on, so that is why the question is being raised.

Susan Flaccus expressed confusion but then said that she supports this approach. Karen Schwalbe asked where information about this is located so they can talk to local farmers about this topic. Clem Clay would like to discuss

more implications in the future. Rita Thibodeau put a link in the chat, along with Al Averill's, Soil Scientist, email address if anyone would like more information. Al was the state soil scientist at NRCS for a long time, and although retired, he is still out mapping soils. A municipality could contact Al to come out and map their soil. There was some discussion of how to let communities know that this assistance is available.

Motion: to update the APR project ranking form to include locally important soils as one of the eligibility thresholds for the ALE/ACEP program.

Motion: Warren Shaw

Second: Karen Schwalbe

Vote taken unanimous approval; Susan Flaccus abstained.

IV. Final Vote

1. Morven Allen (Balsam Hill Farm)- Sheffield - Berkshire County

Barbara Hopson gave a presentation about property-

This 13.86+/- acre property is located on Maple Avenue in Sheffield. This parcel is used to raise corn for silage for the dairy herd. Morven Allen owns several APR properties in the Sheffield/Egremont/New Marlborough area and runs a very successful organic dairy operation with his son. This field was part of the original Chapin/Balsam Hill Dairy Farm for generations and Morven has rented it for the past 19 years. It was recently divided off to the non-farming Chapin son and Morven Allen purchased it in January of 2020. His plan is to continue to farm it as part of Balsam Hill Dairy Farm. Soils on the parcel consist of 81% prime farmland soils.

The Market Value Before Imposition of APR has been determined by appraisal to be \$95,000. The Fair Market Agricultural Value is \$30,000. The resultant price of the APR is \$65,000. A 10 percent match and/or bargain sale (\$6,500) is required for this project. Morven Allen has agreed to a \$6,500 bargain sale. The Commonwealth will be purchasing an APR on approximately 13.86 +/- acres for \$58,500.

Staff Recommendation:

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 \$65,000 less a local contribution/bargain sale of \$6,500 which equals a Commonwealth share of \$58,500 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.

Motion to Approve: Warren Shaw

Second: Karen Schwalbe seconded.

Unanimous approval with Kathy Orlando abstaining.

V. New Applications:

1. Michael Gene Kosinski – Westfield – Hamden

Chris Chisholm gave a presentation about the property.

This 102 +/- acre property is located on Little River Road (Rt. 187) in Westfield and is currently owned by the Bannish Family. Michael has a P&S with the family and hopes to close on the property this fall. Michael has been renting this parcel for 15 years and is currently growing a mix of corn, soybean, pumpkins and squash. In 2021, an irrigation system was permanently installed to increase yields and mitigate drought conditions. The property is in an active agricultural area and abuts (across the river) the W S Westfield Properties LP APR. Several other APRs are nearby.

The property abuts the Westfield River and consists of 80 acres of tillable and 16 acres of woodland and 6+/- acres are part of a power easement. There are no structures on the parcel. Soils on the property proposed for ALE funding (approximately 102 acres) consist of approximately 90.9 acres of prime soils (88.3%) and 12 acres of state important soils (11.7%).

This is an incredible farmland resource.

APR Parcel Score: 440

Staff Recommendation: Staff recommendation is to nominate for a vote of interest.

Motion to approve: Warren Shaw

Second: Kathy Orlando.

Unanimous approval.

2. Raymond R. Rex III & Diana L. Rex – Hadley – Hampshire

This 21 +/- acre property is located on Spruce Hill Road and Nash's Lane (also known as Szafir Lane) in Hadley and is currently owned by Four Rex Farm. The property is in an active agricultural area and abuts the Pipczynski AFT APR. Several other APRs are nearby. The property consists of 16.5 acres of tillable and 4.5 acres of woodland. The Rex Family grows combination of sweet corn and winter squash on the property. There are no structures on the parcel. Soils on the property consist of approximately 11.7 acres of prime soils (60.6). The entire parcel is eligible for ALE funding.

APR Parcel Score: 345

Staff Recommendation: Staff recommendation is to nominate for a vote of interest

Motion to approve: Clem Clay

Second: Karen Schwalbe

Unanimous approval.

THERE ARE TWO #2S SO THE REST OF THE NUMBERING NEEDS TO BE FIXED

2. Edward P. and Mary M. Hamel – Southampton – Hampshire

Chris Chisholm gave a presentation about the property.

This 79 +/- acre property is located on Glendale Road in Southampton. The property is in an active agricultural area and abuts the Fournier APR. Several other APRs are nearby. The property consists of 49.25 acres of hay land, 5 acres of vineyard stock, 17 acres of pasture and 8 acres of woodland. The Hamel Family are known for their award-winning wines under the name of Glendale Ridge Vineyards. They are currently in the process of creating a succession plan and actively working with a grower in Long Island for possible transfer. They market their wines through on-farm events. The Hamel's neighbor grows the hay on the property. The house and wine production/tasting room as well as several other structures will be excluded from the APR bringing the APR total to approximately 77 acres. Soils on the property consist of approximately 21 acres of prime soils (27.2%) and 38.8 acre of state important soils (50.1%). The entire parcel is eligible for ALE funding.

APR Parcel Score: 310

Staff Recommendation: Staff recommendation is to nominate for a vote of interest.

Motion to approve: Warren Shaw

Second: Karen Schwalbe.

Unanimous approval.

3. Kent - Sutton – Worcester County

Michele Padula gave a presentation about the property.

This property on King Road in Sutton is known as King Farm and is owned by Sharon (King) Kent. King Farm is one of the oldest farms in the country, dating to 1716 and has been in continuous use for 304 years. Sharon is the ninth generation of ownership and inherited the farm when her parents passed away in 2000. The land had historically been operated as a dairy farm, but Sharon is managing the property with her brother Glenn as a sheep operation. Glenn has been farming the land for his entire life and Sharon returned to the farm after she inherited the property.

They currently have 170 Dorper sheep that they sell for meat and breeding purposes. The animals are all sold live at 4 months of age. The land consists of 65 acres of hay (50% fed to their animals and 50% sold) and 5 acres of pasture. Fifty-nine percent of the land is classified as prime/state important soils. Although there are no heirs to continue the farming operation when Sharon and Glenn are unable to farm, there are several farm headquarters in the area that have expressed interest in renting/purchasing the land if it were to become available. Sharon's brother, Glenn, owns an abutting 20-acre parcel that includes a hay field used by King Farm. He applied to the APR Program 2 years ago and accepted an offer, so the land will eventually be protected by an APR. The Town of Sutton voted to contribute 10% of the cost of the King restriction and it is likely that they will contribute 10% towards the Kent application as well.

APR Parcel Score: 270

Staff Recommendation: Nominate for appraisal.

Motion to approve: Warren Shaw

Second: Laura Abrams.

Unanimous approval.

4. Whittier Farms, Inc. – Sutton – Worcester County

Michele Padula gave a presentation about this property.

Whittier Farms, Inc. is a 5th generation dairy with a headquarters located in Sutton. They are currently milking 75, with 55 beef animals as well. The corporation owns a total of 500+/- acres with nearly all of the land in the APR Program. The majority of the open acreage (300 + acres) is used to raise hay to support the dairy operation, but they also raise 15 acres of sweet corn, 34 acres of mixed vegetables and an acre of blueberries. The milk is sold through AgriMark and the beef and produce are sold through a retail stand in Sutton.

This application is for a 79-acre parcel located on Putnam Hill Road in Sutton which is the only remaining parcel owned by the Whittier family that is not in the APR Program. Since they are committed to continuing the dairy operation with the next generation working full time on the farm, the family decided to permanently protect the parcel. The Putnam Hill Road field consists of 34 acres of hay, 3 acres of oats and 6 acres of corn. The remainder is unmanaged woodland. Fifty four percent of the land is prime/state important soils. It is very important support land for the farm and preservation of this parcel will help insure the long-term viability of the farm headquarters.

APR Parcel Score: 270

Staff Recommendation: Nominate for appraisal.

Motion to approve: Warren Shaw,

Second: Kathy Orlando.

Unanimous approval.

6. Peter Kielbasa, Trustee of the Lyons Street Trust – Ludlow & Granby – Hampden & Hampshire

Chris Chisholm gave a presentation about this property.

This 87+/- acre property is located on Lyons Street in Ludlow and Granby and is currently owned by the Lyons Street Trust. Chester Kielbasa was the Trustee, but he has since passed away and his son Peter is now Trustee. The property is in an active agricultural area and abuts the Breezy Acres LLC APR which is currently owned by Ryan Voiland. Ryan farms the Kielbasa parcel, as well, with a variety of mixed vegetables. This is a key parcel for the Voiland operation.

The house is currently being surveyed out onto its own 1+/- acre house lot. The barn will be kept with the property proposed for the APR. The remainder of the property is a mix of open cultivated fields, wooded wetlands and unmanaged woodland. The back woodland, as well as the wooded wetland area, will be excluded from the ALE application (approximately 37.46). Soils on the property for the ALE funding (48.6 of the 87 acres) consists of approximately 26.2 acres of prime farmland (54%) and 5.3 acres of state important farmland (11%). The family would likely donate the backland and wooded wetland to be included in the APR.

APR Parcel Scoresheet Rating: 255

Staff Recommendation: Nominate for a vote of interest.

Motion to approve – Karen Schwalbe

Second – Susan Flaccus

Unanimous approval.

7. Wilson – Spencer – Worcester County

Michele Padula gave a presentation about this property.

Carl and Mary Wilson own this 147-acre property on Wilson Road in Spencer. After excluding a large area of the parcel that includes a solar facility, a 2-acre lot with an existing home and two 2-acre unimproved lots, approximately 52 acres are being considered for APR. Carl has been leasing the land for over 30 years to local farmer Jim Desrosiers for hay production. Jim leases over 100 acres of hay land in the Spencer area which he sells to local horse owners and to Olde Sturbridge Village to feed their livestock. Eighty one percent of the land is classified as prime/state important soils.

Parcel Score: 275

Staff Recommendation: Nominate for appraisal.

Karen Schwalbe questioned whether the excluded parcels are developable. Chris Chisholm said that frontage and wetland make it unlikely.

Motion to approve: Karen Schwalbe

Second: Warren Shaw.

Unanimous approval. (Fred Dabney did not vote)

The Commissioner thanked everyone for their presentations and votes.

VI. Special Permit Policy.

David Viale provided an update relative to the Special Permit policy as described in his memo to the committee (Attachment B). The regulations require the program to consult with the ALPC on any proposed revisions to policies. He outlined a high-level history of Special Permits. Previous to the late 1990s, all APRs were prohibited from any use that was non-agricultural. In 1994, the ALPC recommended that special permits be incorporated to allow non-agricultural activities. By 2004, legislation and policy were updated to allow special permits for all APRs. Since that time, there's been ongoing feedback from landowners, including through the 2020 listening sessions.

David Viale related the steps taken by the Special Permit Working Group – an internal group composed of APR staff - to get to the point where it had enough information, input, and feedback to bring the matter to the ALPC for discussion. He said that, to date, approximately 80 special permits have been granted. The vast majority of those were for events and for parking associated with those events. To date, only five special permit requests have been denied. One of those denials was because the landowner applied after the fact.

David Viale went through an informational slide show about a new proposed Special Permit policy due to the provision that the ALPC be consulted on new policies. The existing policy is too complicated, requiring a lot of interpretation. In addition, APR staff has identified that there are many activities occurring on APRs that technically require Special Permits and, if all of those landowners were to apply for Special Permits, the program would not have the capacity to process the permits.

The proposal is to improve the Special Permit Policy by:

1. Clarifying when a permit is needed. Specifically, clarify that events and activities that draw people to a farm to buy products grown/raised from the farm, do not require a special permit.
2. Removing consideration of the amount of income generated from special permit activities.
3. Streamline the process by establishing criteria that will qualify landowners to receive a Special Permit without discretionary approval.
4. Streamline the process for renewing special permits

Christine Smith pointed out that applicants for a Special Permit would still have to comply with any state and local

requirements for their activities.

Phil DeMartino asked if there is a timeline to finish this process up. David Viale agreed that our goal is to get this rolled out so that farmers have this information over the winter. Susan Flaccus asked how members should give feedback? David Viale replied that they should contact him, and also offered to have an additional session if more discussion is needed.

Karen Schwalbe asked how the decision works. David Viale said it may depend on the details of how and when they are doing it. Clem Clay commented that there is subjectivity in the decision process and, by trying to make it easier, we could end up with disputes after the fact.

David Viale replied that part of outreach to farmers would include a list of things that have been approved in the past, as examples of the types of things that have received a permit. David Viale described how MDAR monitoring activities allow MDAR to know what types of things are being done on the farms. Warren Shaw asked if there was a way to get a link to the proposal, and David Viale said of course. Karen Schwalbe would also like to have the slideshow.

The Commissioner proposed that once the ALPC provides feedback on the proposal that the program will consult with the Board of Agriculture, and that the ALPC should meet on this topic a final time. Also, that to get this done before the end of the term, it would need to be done before the end of the year.

Kathy Orlando asked to make it clear that income from agriculture vs. income from special permit activities remain part of the decision process, so that farmers are aware of that. Susan Flaccus agreed that it was one of her concerns also, due to the decision tree on the score sheet. David Viale agreed that it had been part of the discussion all along and abiding by those restrictions is something MDAR is paying attention to.

Fred Dabney asked about the status of the Board of Agriculture and asked that we be updated about new members as they are appointed. The Commissioner said that 6 appointment letters had gone out.

He then asked if we've looked at the five Special Permits that were denied, and would the decisions on them have changed under the new policy? David Viale said 2 out of the 5 would still have been denied, but they can look back at the other 3 to see.

The Commissioner pointed out that this is most likely not the final policy change on special permits. If it's necessary in the future to tighten up the process, MDAR will be able to do that. MDAR will get some experience with the current iteration to be able to make decisions in the future. David Viale gave a shout-out to the APR staff for all of their hard work during this process.

The Commissioner invited a motion to adjourn

Moved: Laura Abrams

Second: Karen Schwalbe

Unanimously approved

Adjourned at 11:58

Minutes submitted by Jill Ward and Gerard Kennedy.

Approved at ALPC meeting 11/28/22.