

MINUTES: AGRICULTURAL LANDS PRESERVATION COMMITTEE MEETING

Monday, July 20, 2020

10:00 AM to 12:30 PM

MEMBERS PRESENT:

John Lebeaux, Department of Agricultural Resources

Clem Clay, UMass, Center for Agriculture, Food and Environment

Robert O'Connor, Designee of Kathleen Theoharides, Executive Office of Energy & Environmental Affairs

Rita Thibodeau, Natural Resources Conservation Service, Non-Voting Member

Laura Abrams, Board of Agriculture

Warren Shaw, Jr., Public Member

Fred Dabney, Public Member

Susan Flaccus, Public Member

Kathy Orlando, Sheffield Land Trust

Karen Schwalbe, Southeastern Massachusetts Agricultural Partnership, Inc

ALSO PRESENT:

Gerard Kennedy, Department of Agricultural Resources

Barbara Hopson, Department of Agricultural Resources

Michele Padula, Department of Agricultural Resources

Delia Delongchamp, Department of Agricultural Resources

Caroline Raisler, Department of Agricultural Resources

Taylor Arsenault, Department of Agricultural Resources

Christine Smith, Department of Agricultural Resources

Ashley Randle, Department of Agricultural Resources

Kristina Smith, Department of Agricultural Resources

Ashley Davies, Department of Agricultural Resources

Dorothy Du, Department of Agricultural Resources

Public

Ken Crater, Volunteer Board Member with Community Harvest Project

Jill Messick Ward, Agawam (starting as the Office Administrator for the Western MA MDAR office)

Anna Wilkins

Chairperson of the Agricultural Lands Preservation Committee ("ALPC"), John Lebeaux 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 Zoom 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 commented that the ALPC last met on March 30. At that time, the Department was putting together a plan for operating in the COVID environment. He noted that some operations, because of their essential nature, such as Division of Animal Health inspections, had continued essentially un-interrupted. However other field work, such as APR program field activities, was put on hold. APR field staff was just in the process of getting back out into the

field. He stated that it was necessary to work with the unions to establish how the staff could get back into the field safely.

The Department has been actively participating in the Food Security Task Force. Of three working groups, the Commissioner was co-chair of a group dealing with food supply issues. A host of recommendations were subsequently presented to the Governor. One recommendation was the establishment of a Food Security Grant to correct structural gaps that have resulted from COVID. The funding requests run the gamut from small dollar proposals such as signage at farmers' markets to six figure proposals for renovations to a slaughterhouse. The funding includes the fishery industry. Applications are currently being accepted.

He also mentioned that the Department is working on an online platform to enable business to business interactions. While not quite ready to roll out the platform will be ready soon.

Another recommendation of the Task Force was a \$5million expansion of the HIP program.

Another programming item that he mentioned was pending legislation relative to how mosquito control is delivered in the Commonwealth. It is important that this is addressed quickly as conditions that are conducive to the development of Eastern Equine Encephalitis (EEE) have been identified in the south east. The conditions are similar to those in 2019 which led to the Department conducting multiple aerial spray events.

Finally, the Department received its Certificate of Occupancy for the new Southborough field office.

He asked Bob O' Connor to present on two initiatives.

Bob stated that there are two yearlong planning projects that EEA has been coordinating with other stakeholders. The first is the Healthy Soils Action Plan looking at all five of the main land uses in the state and what can be done to improve the health of the soils. Agriculture is one of the key land uses that the team of consultants is looking at. The plan is also covering forests, wetland, developed turf areas, home lawns and institutional lawns and developed areas. Using the latest MassGIS Land Cover data, they determined that farming takes up about 200,000 acres of land and lawns take up twice as much area with 400,000 acres. There have been a number of meetings which included some ALPC members and there have been public meetings. The team presented to the Secretary recently with the expectation that the final plan will be issued in the Fall. Bob highlighted the contribution that NRCS made. The first recommendation is to ensure measures are in place to limit the loss of carbon from forests and farms. Secondly, to research practices to minimize impacts on soil as a result of development. Thirdly, provide funding and technical assistance for best practices to farmers, foresters and turf managers. One of the goals of the Healthy Soils Action Plan is to link with the Global Warming Solutions Act ("GWSA") which is setting its own goals for carbon emissions. The Governor has announced that by 2050 there will be no net emissions of carbon in the state. Efforts around land management to reduce carbon emissions could contribute towards that goal.

Kathy Orlando asked if there is an opportunity for the dairy farmers and others to be able to take a look at what the recommendations are in order to be able to make sure that they are practical and can work. She understands that a lot of funding will be associated with this overall effort. The dairy industry has a lot of challenges that are unique to land management associated with that particular industry. Bob stated that there are three listening sessions coming up and that he would send the information to Gerard to distribute to the ALPC.

Fred Dabney was curious to know if there has been any study on the relative impact on carbon emissions of maintaining forests as opposed to expanding solar. Bob indicated that he would cover that shortly but that there are new solar regulations that have been put in place which are more focused on shifting solar development on to parking lots and roof tops and developed areas as much as possible.

The second initiative that Bob discussed is the Resilient Lands Initiative which is looking at land cover (as opposed to soils) and is wrapping up in the early Fall. Dave Viale and Rose Arruda from MDAR and Kathy Orlando from the

Sheffield Land Trust and the ALPC have been active participants in the Steering Committee. The UMass Donahue Institute has produced SWOT analyses for the 8 land values which include farms, forests, urban parks, water resources- supply and watersheds, outdoor recreation, economic impacts of the land, and how the land can help people with climate impacts. There were 14 focus groups including 2 in February which included farmers. The farm focus group in Hadley had about 30 participants. The two focus groups had about 30 farmers overall.

Eight strategies have been developed which focus on all the open land in the state. The recommendations include a no-net loss of farms and forests. The GWSA work has been doing a lot of modeling on where the areas of development will be over the next decade. The 2020s are expected to be a very active era for land development. Incentives for developers and towns to mitigate impacts are under consideration.

Fred Dabney asked if there had been any Cost of Community Services studies conducted as part of the initiative. Bob commented that it had come up and that there had been hundreds of recommendations and suggestions which were distilled into a few major initiatives. Fred referred to the fact that preserving open space and farmland is an important part of local planning activities in Dartmouth and is a real asset to the bottom line.

The second recommendation was to expand food production and to prepare the food system for the future impacts of climate change. Included in the recommendation is an expansion of the APR program and an effort to look at turning vacant lots in Gateway Cities into community gardens and urban farms.

Another recommendation was looking at greening our cities significantly more over the next decades and linking this to the health of residents.

And while he did not have time to go through all of the recommendations, he did highlight another goal which is looking at large landscape areas that could be preserved especially where farmland intersects with water supply areas.

There will be listening sessions over the Summer and Fall with the hope of wrapping the projects up in the Fall.

The Commissioner complemented Bob on the work product and asked for a document that the program could share with the ALPC. Bob said that there is a document and that he can provide it to Gerard to share with the ALPC.

II. Approval of Minutes from March 20, 2020.

Fred Dabney commented that there had been very poor sound quality at the last meeting. He stated that there were some comments that had been made that were important but that the poor sound quality had made the comments impossible to decipher. He asked if there had been any effort to follow up with the people making the comments or if they had submitted their comments to the Department. The Commissioner stated that there were no comments received subsequent to the meeting but that the program would try to address the matter. In response to a question from the Commissioner, Gerard stated that he did not receive any additional comments from ALPC or members of the public on the meetings.

The Commissioner asked for a motion to approve. Fred Dabney stated that he would make a motion pending a clarification on the garbled comments from the meeting. Kathy Orlando had a number of comments:

- Page 3, Paragraph 7: add "the" to in consultation with the ALPC.
- Page 4, Paragraph 1, last sentence: an extra "are" needs to be removed.
- Page 4, Paragraph 8, third sentence: "there" instead of "they".
- Page 5:
- Paragraph 2: add a "d" to "relate". Something dropped up at the end of Kathy's statement which needs to be added in – "where there was more funding for the program".

- Paragraph 4- capital "I" should be a little "i"
- Paragraph 5- add an "a".
- Paragraph 6- remove an "and".
- Paragraph 9- remove an "s" in "these".
- Page 6: Clarification on Delia's comments.

The Commissioner asked for a motion to approve the minutes as corrected.

Motion: Fred Dabney

Second: Laura Abrams

Vote was unanimous.

III. APR Program Updates

Project Status: Closings. New applications

Gerard presented Ron Hall's report on the ALPC and shared his screen with the participants. Ron had been unexpectedly detained. (The document is attached.) In FY20 the program has closed four properties. The capital FY20 has been extended into this fiscal year due to the pandemic. The program has a number of projects that are close to closing.

Overall there are 47 projects currently that are in play. Gerard outlined the stages for the projects. He mentioned that NRCS has introduced a new program as an option to Cooperative Agreements called a Partnership Agreement. This is more of a rolling process. He shifted to a presentation from NRCS which he asked Rita Thibodeau to present. The presentation provided an overview of the differences between Cooperative Agreements and Partnership Agreements. She stated that this new process will be easier to work through. The Agreement is a one-time 3 to 5-year agreement through the Agricultural Lands Easement program.

Funds are obligated to individual parcels. Right now there are 10 parcels being reviewed. The system allows NRCS more flexibility in terms of when to fund the project. If they are waiting on eligibility paperwork to be completed, they can hold a selected project until the eligibility criteria requirements are completed as opposed to immediately rendering the project ineligible. So, unlike with the Cooperative Agreements, it is not an "all or nothing" program. Currently, there is not enough funding to support the acquisition of the ten projects. So if one can wait till October or November when they receive their next allocation they could pick up the project then and not have to wait a whole other year. She went on to outline other administrative and review benefits.

In response to a question from Fred about whether this new process means that an application can be submitted at any time, Gerard responded that the program has always accepted applications at any point in the year. He noted however that because the APR Program was tied to the federal program that evaluations only took place once a year, typically at the end of the year. Under this new agreement applications can be submitted at any point to NRCS and can be reviewed at any point subject to the availability of funding. Rita clarified that this was in fact the case. She went on to say that the goal is that if projects come in that have been vetted by the entity and meet all NRCS criteria and there's funding available, those projects can be funded on a rolling basis as opposed to waiting till the end of the year. Gerard went on to say that the state opted for this process in part because the ALPC had expressed over the years a preference for a rolling application process.

Warren Shaw asked if the 16 projects that Gerard had previously referred to had already been seen by the ALPC. Gerald replied that these were new applications that were currently being evaluated and that they would be presented to the ALPC in the Fall of this year.

If the ALPC approves the nomination of these projects the Department will then move forward with securing an appraisal for each of the projects and will be positioned to make an offer to the landowner by the end of the year.

Kathy Orlando said that it is very helpful for the program to go back to a rolling process and expressed her support for this approach.

Karen Schwalbe asked if staff could clarify the funding sources for the APR program and if there was some way to ensure that Massachusetts was receiving its fair share of federal funding. Rita stated that this year Massachusetts will receive \$2.7 million in federal funding for land protection. She said that this is a significant amount given the size of the state and is one of the highest awards. She said that Massachusetts does very well.

Kathy Orlando commented that in previous years the state benefited from having a backlog of projects and that these projects were sometimes funded with federal slippage dollars. Funds that were not able to be spent elsewhere could be secured by the state and applied to the backlogged projects. She asked if slippage funding is something that is now also going to be available through this new process. Rita responded in the affirmative. She said that there are always states that send back money and then we can always request more money.

Gerard went on to provide a staffing update. He said that over the last few months the program has been focused on expanding its role with respect to APR stewardship. The department has had a contract for many years with the Massachusetts Association of Conservation Districts (MACD) for monitoring of the federal APRs. The Department co-holds with the federal government, in some capacity, over 330 APRs. These are required to be monitored annually. MACD has not been able to commit to doing this work moving forward. As a result, the Department has decided to take this function in house and in order to do that has increased staffing levels on the stewardship side of the program.

In the western part of the state Tina Smith was hired to replace Nick Pitel who left last year. Tina is a native of Massachusetts who has most recently worked for the Texas Department of Agriculture. In the north-eastern part of the state, we have created a new stewardship position and that position is being filled by a former APR acquisition planner Christine Chisholm. Chris is returning to the Department after a stint with MassWildlife. A stewardship administrator is also being hired. Her job will be to make sure that we are meeting our federal obligations around monitoring. To support administrative needs in the western office Jill Messick Ward was hired in a contract role. Looking at the acquisition side the program is aware of the need to increase its presence in the Eastern part of the state. This was also a comment at the listening session that was held in Dartmouth past year. To fill that position Ashley Davies has been hired. Ashley previously worked at Sudbury Valley Trustees. Gerard asked the new staff members to briefly introduce themselves.

Stewardship Updates

Gerard described how the stewardship program has for a number of years been trying to address issue of non-agricultural uses on APR land. As part of that effort, the staff is conducting research into the program's history with special permits and has also developed a survey. Warren Shaw noted at the ALPC meeting in March that the issue of uncertainty around non-agricultural uses of APR land is one that came up at the listening session he attended. It also came up at other sessions. So as part of the program's efforts to address this, staff presented a survey to the ALPC which was intended to help better understand what is actually taking place on farms around non-agricultural uses.

Delia Delongchamp the Eastern Mass stewardship planner gave an overview of the status of the survey. She said that they had developed a survey and released it in the late Spring and while the response was small it's served to confirm staff's own thoughts on the matter and also comments that they had heard expressed at the listening sessions. The responses included helpful suggestions such as creating categories of activities, and making the process clearer. She offered to send out the spreadsheet after the meeting with the questions and the responses received. There is not as much pushback on process as a whole as one might think. Sometimes landowners are uncomfortable going through the process and that may be because the APR Program has not clearly defined the

process or that there are activities that may be more clearly defined as agricultural or non-agricultural. Generally speaking it helps the APR Program shape its future steps around policy formulation.

Susan Flaccus commented that she would like to have that type of material sent in advance of the meeting. She said that there were several pieces of materials that she would like to have seen before the meeting to provide an opportunity to review and provide thoughts.

Caroline Raisler, the stewardship planner for the Central part of the state presented an update on Special Permits. Two items that the team will be looking at is coming up with a report of the Special Permits that the Department has issued to date to help understand what the impact has been on the natural resources of the farm and also on the agricultural operation. The concern is that the farm may shift over to being more of an events location as opposed to a farm. The program is also researching what is occurring on other APRs through online promotion. This will give a baseline profile of what is going on.

Warren commented that there are still people who have a problem with the process and want to know as quickly as possible if their activity will be allowed. He did say that the program has done an excellent job over the past five years of improving the process and making it more farmer friendly. But he said that there is still a way to go.

Certificate Of Approval Process.

Taylor Arsenault a stewardship planner who supports the team presented on a revised Certificate of Approval application form. The current form is a catch all one-page form that the program will use for different requests for example Ag Structures; Excavation; Ag-Energy. To increase efficiency and allow for greater specificity, the goal is to separate out categories of requests into separate forms. He shared a screen showing a new form for Ag Structures. The goal is to eventually have forms that can be completed and submitted online.

Resource Guides and Manual.

Gerard shared a screen showing the APR Program Resource Guide which complements the APR Manual which was presented at the last ALPC meeting. He said that the Resource Guide is a series of factsheets including APR Contacts, Grants, the APR Acquisition Process and APR Stewardship. The Guide also includes a factsheet on the Change of Ownership and the OPAV Process which is intended to explain as clearly as possible the process to transfer an APR with an OPAV or ROFR. This is also part of the program's efforts to conduct more outreach and be more transparent. The guide is available through the APR website at www.mass.gov/apr.

IV. Listening Sessions Review

Back in January the Department conducted five listening sessions to review the program. The reviews were required by legislation. APR Program materials were mailed out to the farming community. The ALPC was previously sent a copy of the comments that were received. Overall, 90 specific comments were received of which 33 were submitted online.

In an unscientific analysis the Special Permit process was the most commented on issue followed by APR Process; Transparency; Solar/ Grant Eligibility; Carbon Sequestration Payments; Hemp; Beginning Farmer Needs; and Dwellings.

So the program is seeking guidance from ALPC on how to proceed in terms of reviewing the program. At the last meeting Warren had mentioned ancillary uses and providing certainty upfront; comments about business value and broadening the scope beyond the federal program.

The Commissioner opened up the discussion and asked the ALPC to help the Department prioritize how to move ahead. Fred asked about timeliness. Will the changes to the program with the Partnership Agreement shorten the time it takes for an APR to close and should that be communicated to the farming community. Gerard responded that the program would like to see how it goes. NRCS is working on its procedures. It would be great if the pace of

closings could be accelerated. The APR Program also needs to examine its own internal processes to see where changes could be made to increase the pace of closings. Fred said that anything that the program can do to increase the speed of closing is welcome and that information would be warmly received by the farming community. Kathy added that it does not need to be so specific but could communicate that there is a new process that we are hoping will help address a number of issues and that it is something that the Department is working on because if they do not know that something is being done they are operating in a vacuum of information.

Warren mentioned that the issue of Business Value as part of the transfer process appears to have been addressed but has to be more clearly communicated to the APR owners. The other points that he thought were valid included grazing. There is a growing livestock industry with some of it organic and some of it grass-fed. Managed grazing has started to become a more significant use of farmland than in prior uses. Another comment referenced greenhouses. He thinks greenhouses needs to be looked at more carefully. And finally, he thinks that solar is the big issue that needs to be addressed and that opportunity should not be taken away from APR farms.

Susan Flaccus read in the comments about a farmer who had stated that he wanted to put solar on land that was not suitable for agriculture. She was confused by this because her understanding of an APR was that the land should all be suitable for agriculture. The other comment she had was about agri-tourism. In the absence of any studies, she has no data to say that paint-ball is any worse for the environment than weddings. So she was encouraged that the stewardship team is researching the impact of non-agricultural uses on farmland.

Fred Dabney referenced difficulties that Mike Smolak has experienced at the local level with a greenhouse and went on to comment about local boards that make it difficult for businesses and farms that operate in more than one community. Is there anything the Department can do to make it less difficult for farm businesses to operate at the local level?

The Commissioner expressed that the Department does not get involved in local municipal matters and respects the authority of local municipal governments. There are ongoing issues with building code interpretations and what farmers are trying to do. The Department can help provide a better understanding of the agricultural characteristics of the building.

Kathy Orlando said it might be helpful for the Resource Guide and the Manual to be distributed to participants at the listening sessions who had specific questions to see if the resources addressed their questions.

Clem Clay commented on carbon sequestration as a general point that if there are going to be incentives or funding priorities that come down the pike that some priority could go to lands that the state has already committed to protecting because that is a long term carbon building effort and that it would be important to have some assurance that those farms are going to be around for the long term. The APR Program may not be in the business of administering those incentives but it is worth keeping a close eye on it and prioritizing those farms where possible.

The other issue is solar. Looking at marginal land on APRs for solar development would be an area that he would be interested in participating in any discussion on.

The Commissioner thanked the ALPC for their input and comments. He mentioned that the Ag Tourism Commission is about to be convened and will be able to provide some insight into non-agricultural uses of farmland. The Commissioner mentioned that the issue of Carbon Sequestration is one which he has heard increasing comments on over the past few months and anticipated hearing more in the future. He asked if the ALPC has any further comments. The Commissioner invited a motion to adjourn the meeting:

Moved: Clem Clay

Second: Susan Flaccus

The vote to adjourn was unanimous.

Submitted by Gerard Kennedy

Agricultural Preservation Restriction (APR) Program

Summary as of July 20, 2020

Program Totals to date: **74,213 Acres Restricted**
 926 Farm Properties

Sources of Program Funding:

1. 2008 Environmental Bond	\$ 1,520,241.00
2. 2014 Environmental Bond	\$20,000,000.00
3. 2018 Environmental Bond	\$20,000,000.00
• Balance Remaining in Bond:	\$41,520,241.00

Total Acquisitions (FY20) Year to Date:

Farms	Acres	Total APR Value	MDAR Contribution	Local Contribution	Bargain Contribution	Comments
4	397.43	\$3,134,848	\$2,467,863	\$462,000	\$204,985	

Vote of Interest (Nominated) Projects:

<u>COUNT</u>	<u>ACRES</u>	<u>TOWN</u>	<u>COUNTY</u>
1	32	Buckland	Franklin
1	42.5	Dudley	Worcester
1	77	Great Barrington	Berkshire
2	51.5	Hadley	Hampshire
1	70	Harvard	Worcester
1	102	Lunenburg	Worcester
1	65	New Marlborough	Berkshire
<u>1</u>	6.6	South Deerfield	Franklin
1	18	Williamstown	Berkshire
10	464.1		

Final Voted Projects:

<u>COUNT</u>	<u>ACRES</u>	<u>TOWN</u>	<u>COUNTY</u>	<u>DAR COST</u>	<u>APR</u>	<u>Local Contribution</u>	<u>Bargain Sale</u>
1	27.5	Ashland/Holliston	Middlesex	\$465,588.00	\$1,110,000.00	\$644,412.00	\$0.00
1	20.7	Dighton	Bristol	\$207,000.00	\$290,000.00	\$83,000.00	\$0.00

1	23.3	Feeding Hills	Hampden	\$166,250.00	\$175,000.00	\$8,750.00	\$0.00
1	39	Hadley	Hampshire	\$556,136.00	\$660,000.00	TBD	\$103,864.00
1	81	Hawley	Franklin	\$191,250.00	\$212,500.00	\$0.00	\$21,250.00
1	29.9	Lee	Berkshire	\$475,723.00	\$687,500.00	\$211,777.00	TBD
1	77	Lunenburg	Worcester	\$522,000.00	\$580,000.00	\$58,000.00	TBD
1	36.1	Montague	Franklin	\$382,500.00	\$425,000.00	\$42,500.00	\$0.00
1	47	New Braintree/Oakham	Worcester	\$147,250.00	\$155,000.00	TBD	\$7,750.00
1	36.1	Northampton	Hampshire	\$559,500.00	\$635,000.00	\$75,450.00	TBD
1	20.4	Plainfield	Hampshire	\$90,000.00	\$100,000.00	\$0.00	\$10,000.00
1	29.87	Rehoboth	Bristol	\$261,000.00	\$290,000.00	\$29,000.00	\$0.00
3	243.73	Sheffield	Berkshire	\$872,190.00	\$969,100.00	\$0.00	\$96,910.00
1	5,25	Stow	Middlesex	\$85,500.00	\$95,000.00	\$9,500.00	TBD
2	33	Sunderland	Franklin	\$305,900.00	\$345,000.00	\$39,100.00	TBD
1	36	Westport	Bristol	\$539,600.00	\$820,000.00	\$280,400.00	TBD
2	44	Whately	Franklin	\$413,250.00	\$435,000.00	\$21,750.00	TBD
21	829.95			\$6,240,637.00	\$7,984,100.00	\$1,503,639.00	\$239,774.00

NEW APR Applications (June 30, 2020):

Farms	Counties
3	Berkshire
1	Franklin
4	Hampden
4	Hampshire
1	Plymouth
3	Worcester
16	Total APR Applications