

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



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MEETING MINUTES
MASSACHUSETTS AGRICULTURAL TOURISM STUDY
COMMISSION

Monday, December 14, 2020
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Yael Langer on behalf of Senator Anne Gobi, Senator Edward Kennedy, Keiko Orrall, Brad Mitchell, Colin McDonald on behalf of Rep. Pignatelli, Michael Moore, Karen Schwalbe

Absent: Representative Paul McMurtry, Erin Williams, Nathan L'Etoile

MDAR Staff in attendance: Christine Smith, Mary Jordan, Ashley Davies, Delia Delongchamp, Phu Mai, Julie Weiss, Gerard Kennedy, Ashley Randle

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 November 16, 2020.**

Senator Kennedy made a motion to approve the minutes from the last meeting, which was seconded by Karen Schwalbe. The vote to approve the minutes was unanimous.

3. **Industry Updates.**

Chair Lebeaux reported on the Christmas Tree industry. He stated that sales have been high as people are anxious to get outside. Some farms reported busiest day in history prior to Thanksgiving. Many farms have sold out and others are selling out both at MA farms and others who are selling at lots. There is increased demand for live Christmas trees this year.

Brad Mitchell agreed with the assessment that some farms and agritourism have had a good year. But for those farms who sell to the restaurant industry it has been a difficult year due to COVID. Chair Lebeaux agreed.

Keiko Orrall updated the group that ag resources have been added to the MyLocalMA.com web page, Mass Farmers Market, Mass Specialty Foods, SEMAP and others have been added to promote focusing on local community. The MyLocalMA campaign will run through June 2021.

Keiko Orrall asked if there are other groups that should be included to let her know. She appreciates that the MDAR team is using #mylocalma. She reported continuing discussions with restaurants as things move forward.

4. Final Report: Subcommittee Updates

National Issues Subcommittee

Chair Lebeaux reported that this subcommittee had discussed an agritourism definition.

Yael Langer reported that she worked with the National Council on State Legislatures to gather information. The Ohio definition was favored by the subcommittee. She posted a copy of that into the Zoom chat:

“Ohio - Ohio Rev. Code Ann. §901.80

Ohio defines agritourism as an agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity. An agritourism provider is immune from liability for any harm a participant sustains during an agritourism activity if the participant is harmed as a result of a risk inherent in an agritourism activity.”

Yael Langer reported that the subcommittee felt it was important to have a definition rather than having it defined for us by the courts. The Ohio definition left out the word “experience” and there was a thought that this should be added in.

Chair Lebeaux wondered if the second sentence of the definition is necessary or is in proper form since there are some laws on the books regarding liability.

Brad Mitchell did say that there are some liability laws on the books already.

Chair Lebeaux asked for a discussion focusing on the first sentence.

Keiko Orrall suggested that “experience” could be added in within the sentence that ends in “enjoy that activity.”

Chair Lebeaux asked for input from the rest of the Commission. Brad Mitchell agreed that a definition was needed and agreed that this was a pretty good and broad definition. Senator Kennedy agreed.

Chair Lebeaux asked for a motion to take the first sentence from the Ohio definition, to include experience. Yael Langer and Karen Schwalbe added it to the chat:

“Massachusetts defines agritourism as an agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, experience, or enjoy that activity.”

Motion made by Karen Schwalbe to adopt the above definition, seconded by Sen. Kennedy. Vote was unanimous.

Chair Lebeaux stated that relative to liability he is going to ask MDAR Legal to report back on existing liability statutes so that the Commission can discuss whether additional liability language would need to be included.

Regulations Subcommittee.

Brad Mitchell reported that there was a discussion regarding zoning and some confusion about how agritourism plays into zoning and whether it would be protected under MGL c. 40a section 3. Farms are largely exempt from local zoning under this statute. The zoning issue comes up often as a conflict with agritourism. The subcommittee suggested adding language to MGL c.128 section 1(a) to clarify what activities are legitimate agritourism activities. He noted that if, for example, there was a wedding, it needs to be related to promoting the farm products or it needs to be a minority portion of the income on the farm.

Chair Lebeaux agreed that MGL c. 128 section 1(a) was the way to go rather than amending MBL c. 40(a) which could be more contentious.

Brad Mitchell asked if we should propose this now as we are coming up on new legislative session or where do we go from here.

Chair Lebeaux stated that the legislation called on the Committee to file a final report which would include suggested legislation. However, it was supposed to be completed by December 2019, but the Commission was not fully constituted until well until middle of 2020. He thought there was some flexibility to advance legislation.

Sen. Kennedy stated that he would be happy to file anything that the Commission suggested. He does not see any harm in filing it separate from the report.

Yael Langer reported from Sen. Gobi that the date for filing is January 15th. She stated it is better to be sure we are filing what we really want the language to be rather than rushing to make it by a specific date.

Yael Langer stated there is a deadline for anything to be seasonably filed and that automatically gets sent to committee. However, bills can also be late filed but need to ask Rules Committee for permission to do so. She stated that while it is advantageous to file by the deadline it is certainly not a hard stop.

Sen Kennedy stated we could do both things by filing one by deadline and then late filing and replace with new legislation.

Brad Mitchell suggested that would be a good way to approach it as Rep. Pignatelli is Chairman and likely to remain Chairman.

Chair Lebeaux noted that the Commission is not likely to meet before January 15th so asked how comfortable the Commission was to authorize filing of legislation.

Yael Langer asked if this matter was the only thing that needed to be filed. She stated that it is likely that there are other things needing to be filed and warned against multiple bills.

Sen. Kennedy suggested a meeting just prior to January 15 and it would give people time to look at everything in advance and decide.

Chair Lebeaux asked about process and asked if Sen. Kennedy would like MDAR to work on suggested statutory language. Sen. Kennedy agreed that would be a good idea and that his office would also work with Sen. Gobi's office.

Chair Lebeaux asked if we could work on this and then take up on a meeting prior to January 15th.

5. New Business

Chairman Lebeaux asked if there was any new business. There was none.

7. Next Meeting

There will be a meeting scheduled for early January. He also suggested January 25 for the next general meeting.

8. Adjournment

Karen Schwalbe called for a vote to adjourn. Sen Kennedy seconded. The vote to adjourn was unanimous. Meeting was adjourned at 1:42 pm.