

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



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MEETING MINUTES
MASSACHUSETTS AGRITOURISM STUDY COMMISSION

Monday, February 8, 2021
Via Zoom

Board Members in Attendance: Chair John Lebeaux, Senator Anne Gobi, Keiko Orrall, Brad Mitchell, Nathan L'Etoile, Colin McDonald on behalf of Rep. Pignatelli, Michael Moore, Karen Schwalbe, Senator Edward Kennedy (joined late)

Also in Attendance: Yael Langer from Senator Anne Gobi's office, Dominik Lay and James Ostis on behalf of Senator Edward Kennedy's office

Absent: Representative Paul McMurtry, Erin Williams

MDAR Staff in attendance: Christine Smith, Ashley Randle, Mary Jordan, Caroline Raisler, Gerard Kennedy, Phu Mai, Alisha Bouchard, Delia Delongchamp

- 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 January 25, 2021.**

Sen. Gobi made a motion to approve the minutes from the last meeting, which was seconded by James Ostis. The vote to approve the minutes was unanimous.

3. Industry Updates.

Chair Lebeaux noted that Maple Month is approaching.

Brad Mitchell agreed not much happening this time of year but reported on a story he heard about a farm in England who was renting their goats out for Zoom calls.

Nathan L'Etoile noted that some of the actions that were taken up to make things easier during COVID, such as direct shipment for breweries within Massachusetts may be valuable to keep in place after COVID. Chair Lebeaux agreed it would be something to consider and warrants further discussion. Keiko Orrall stated that she has heard similar requests as we move out of COVID.

Keiko Orrall reminded the group that the Travel and Tourism grant for marketing closes on Friday. They have had a positive response to the grant and wanted to make sure that the agritourism folks knew that this was out there. She thought there could potentially be a place where farms and agriculture would fit into these grants in the future.

4. Old Business

a. An Act to Promote Agritourism Report (“Report”)

Chair Lebeaux noted that there were several references in the Report to protected APR land and how legislation might impact protected land. He noted that the APR staff had reviewed the document and had some comments as it pertains to the APR Program.

Gerard Kennedy, Director of the Division of Agricultural Conservation and Technical Assistance, which includes the APR Program, spoke on behalf of the program and noted that the report did a good job covering the issues. He said that there were some clarifications to make regarding APRs, particularly surrounding structures, federal program requirements, how to make sure that the agritourism activity did not become the primary use, and value. He noted that structures such as farm stands are allowed in the APRs as agricultural structures. Mr. Kennedy also noted that Federal government limits impervious surface limits on the APRs they hold and that going forward they are holding strict on a limit of 2% impervious surface limits, so the planning around structures is important in considering these limitations and pointed out that the report discussed agritourism buildings which would impact impervious surface calculations on the property. The issue is to how to determine whether agritourism use was principal use of the property was not covered. Finally, he stated that it was possible that if 61A was amended to include agritourism then it could have an impact on value and could possibly reduce the APR value, which would be a concern.

Brad Mitchell asked Gerard for his comments on the Report be provided to the Commission. He also stated he met with the new NRCS director and said that he was encouraging people to request impervious surface limit if farmers felt it was needed.

Nathan L’Etoile said he felt the document was helpful to clarify marketing versus tourism related to the agricultural products and also agriculture at tourism destinations. He felt all of it may be helpful to agriculture but that the commission should think through how they would handle different matters.

Karen Schwalbe found the document helpful in thinking about the task that the Commission has before them. She said she thought that in terms of the definition they were using, the report highlighted that there was more work to do.

5. New Business

a. Legislation Update

James Ostis stated that he wanted clarification on what legislation needed to be filed by Senator Kennedy regarding the Agritourism definition.

Chair Lebeaux stated that the plan was to move forward with the definition and that there might be a chance to enhance the legislation in another piece of legislation that might be later joined to the legislation definition.

Senator Kennedy stated that they were ready to file the legislation but then received a lot of emails with changes to the definition so they wanted to make sure that what they filed would be worthwhile.

James Ostis stated that the bill they had ready was to add a new section to Chapter 128 that defines Agritourism but wanted to be sure that is what the Commission wanted.

Brad Mitchell stated that he had some concerns regarding zoning but those details were not completely sorted out yet.

James Ostis asked if they were jumping the gun in filing the legislation but was willing to file with the understanding that there may be some additional changes needed.

Karen Schwalbe had some questions about the bill itself. In the definition, she had a question about the part that said "open to the public" whether or not the public paid a fee and wanted some clarification.

Yael Langer clarified that the Report was just a document that was provided for discussion but the proposed legislative language in the Report was not the language that was being used for the legislation.

Nathan L'Etoile provided some clarification on the term "open to the public" and how it was used in different situations.

Colin McDonald asked if it would be helpful if James could post the definition in the chat so that everyone was working off the same definition. As posted in the chat, the language being discussed is as follows: "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."

Yael Langer clarified that during the last meeting there was discussion about adding other matters to the legislation in addition to the definition.

Colin MacDonald stated that as Yael Langer had mentioned last meeting that the plan was to file legislation for the definition but that other items that come later may be combined with that further.

Senator Kennedy asked if we were agreed on the definition. The Chair asked everyone to look at the definition in the chat so that they could take a vote on the language.

Karen Schwalbe asked where the definition would go.

The Chair stated that he believed it go into Chapter 128. There was discussion if it should go into Section 1A or create a new Section 1B.

Yael Langer stated that typically that the legislation would include a suggestion as to where the definition would sit, provide with chapter and section.

Nathan L'Etoile thought that having a definition separately either as a second paragraph in 1A or in a new section 1B. He did think it was important to add "with or without a fee" to the definition.

Brad Mitchell stated that the one of the original reasons for looking at agritourism was to address zoning. His concern if the definition is included in Section 1A, then it would be viewed as another type of agriculture. He felt it should be in a different section so that when they did address zoning it would make it easier to distinguish.

Colin McDonald asked if the definition should just go into Chapter 128, Section 1, which contains all the definitions within the Chapter. He suggested that if they did that all sections using the term Agritourism would draw on the same definition.

Nathan L'Etoile said there might be resistance to add a definition if the word is not used elsewhere in the statute and suggested perhaps they could use the word elsewhere in the statute.

Colin McDonald suggested that then it could be added into the list in Section 1A.

Nathan L'Etoile said that was an option but wondered if it would not necessarily help Brad's concern.

Yael Langer stated that if they were filing other legislation during the session it could be just added as a definition and the other legislation would fix the issue of the word not being used.

Brad Mitchell thought Yael's suggestion was a better option.

Yael Langer asked about zoning and what part of MGL would the zoning section fit and asked if the definition needed to go there.

Brad Mitchell said Chapter 40A, Section 3 references Chapter 128, Section 1A and so if the definition is put in that section then it gets the same deference and it could cause other problems.

Yael Langer asked if within the zoning language it was referenced elsewhere then where should it be located.

Brad Mitchell stated that is why they were looking at Chapter 128, Section 1B was so that it would have its own section and not be in 1a and create a section 1b.

Yael asked if it is a new definition for 1 then do they also need a definition. Senator Gobi stated that both could be done.

Keiko Orrall asked if there was some place in the Tourism sections where this could fit better as a suggestion.

James Ostis had the same question. He noted that 1 and 1A both have definitions.

Yael agreed that since they both have definitions, there is no reason not to have a 1B that contains a definition. James agreed.

Chair Lebeaux noted that there is also a section 7 that contains definitions.

Yael Langer said she did not think it was an issue to create a new section for the agritourism definition and then if there is new language to be added later, then they had a new section set up where it could go.

Karen Schwalbe agreed that this approach made sense. Others agreed.

Motion made by Senator Kennedy that the Commission requests that the legislative delegation take the agreed upon language and propose legislation to add it to a new section 1B in MGL chapter 128. Seconded by Karen Schwalbe. Keiko Orrall asked about the definition itself and whether "with or without a fee" should be included. Senator Gobi stated she did not think it was necessary and suggested it could be added later as necessary. James Ostis clarified that the legislation would start with the words "Agritourism is defined as". The vote to approve the motion, as clarified, was unanimous.

6. Next Meeting

Ashley Randle suggested March 15 for the next meeting date. The Chair stated that a notification would be sent out.

7. Adjournment

Sen. Kennedy made a motion for a vote to adjourn. The motion was seconded by Karen Schwalbe. The vote to adjourn was unanimous. Meeting was adjourned at 1:57 pm.