

MEETING OF THE ADVISORY COUNCIL ON AGRICULTURE
Department of Agriculture and Markets Building 10 B Airline Drive
Albany, New York
September 7th, 2016 at 10:00 A.M.

Present: S. Casella, N. Rea, J. Bittner, D. Haight, K. Wagner, B. Reeves, L. Sobolewski, J. Suárez, Cornell University; I. Reynolds, NYFB; R. Ball, Commissioner; J. Czub, Deputy; G. Palmer, M. Brower, M. Latham, B. Somers, T. DellaRocco J. Brennan, J. Kehoe, D. Behm, Department of Agriculture and Markets.

Attachments:

Call to Order: N. Rea called the meeting to order at 10:04 a.m. Commissioner Ball welcomed all in attendance and extended his appreciation for making the trip to Albany.

Welcome: N. Rea shared recent correspondence involving the Champlain Valley Cuisine Trail & Adirondack Coast Cuisine Trails. J. Czub discussed that the Farm, Apple and Cuisine Trail Programs are administered by the Department. The ACA, amongst other organizations, are provided information packets seeking comments. If the group or individuals want to review these materials, in addition to Neil, please let me know of your interest.

N. Rea mentioned past concerns and stated that the recent shift in dairy market orders to Empire State Development would delay funding availability to promotion groups. He was pleased to report that as of today, the program is up and running and working fine. However, producers would like to have a dedicated person to deal with concerns. R. Ball commented that the movement of the market orders was done, largely as an efficiency and budgetary remedy. If there are any issues with market orders, please contact A&M directly as we are still very much involved with the program.

N. Rea also discussed recent administrative actions, agricultural movements and challenges going forward for agriculture. Ultimately the cost of production and the cost of the product have to be reasonable. He noted that the Commissioner's efforts more recently with bringing dairy groups together was appreciated.

A request for introductions was made. R. Ball reported on the success of the NYS Fair this year and the added improvements to the fair as a result of the state's \$50 million dollar capital investment. The Governor attended the fair twice this year and walked around the fair making various stops, including a visit to the live birthing center. R. Ball further discussed the support provided from the Governor and his interest in Agriculture; including today's signing of the State Liquor Authority bill that encompasses reforms for the craft beverage industry.

R. Ball read an email from Amy Machamer concerning various issues facing the industry. Ms. Machamer could not be in attendance today. (Attachment)

Review and Approval of the Minutes: S. Casella made a motion to approve the July 2015 minutes; seconded by J. Bittner. Motion approved, carried.

Review of 2016 Agricultural District/Agriculture and Markets Law Amendments: G. Palmer highlighted a few statutory changes that will impact agriculture this year. The anaerobic digesters bill was approved into law. The law ensures that qualifying agricultural digesters receive a property tax exemption and now includes anaerobic digesters that sell electricity back to the grid. Additionally, the bill has increased the digester size eligible for net metering. Some chapter amendments provided by the

Department were approved and signed into the Agriculture Districts Law. Adjustments were made to the woodland definition removing the “for sale” wording, and inserting “intended for sale”. Producers were receiving a very strict interpretation from localities, that in order to qualify for an Agricultural Assessment on up to 50 acres of woodland per parcel, wood products needed to be sold continuously, which was not consistent with past interpretations.

G. Palmer continued the discussion about legislative activity noting changes to the industrial hemp pilot program, increased penalties for unnoticed non-agricultural conversions in an Agricultural Districting and extension of a law that requires a slaughter house in NYC to be more than 1,000 feet from a residence. Speaking to the earlier comments from Neil, there is a bill in front of the Governor for reaction that would authorize cuisine trails to expand from 10 to 15 trails. The expansion is needed due to the increasing number of applications across the State.

G. Palmer turned the presentation over to J. Brennan. J. Brennan summarized the significant changes adopted in the last legislative session to streamline the Agricultural Districts process. A webinar along with this support material will be provided to County governments later this year. John noted that Counties continue to advocate for a process that uses electronic filing and noticing in existing Agricultural Districts. To date, the State Assembly has not been agreeable to moving away from the traditional required mailings. (Attachment)

Discussion reverted to the administrative and legislative procedures when comparing the process for cuisine and wine trails. R. Ball discussed that there have been reoccurring conversations with the legislature about improvements to this process. Several ACA members commented on the challenges associated with working with the legislature over wine trails, the complexity to even seek an amendment to an active wine trail and dealings with Department of Transportation concerning signage specifications concerning all trails. **J. Bittner motioned that all NY agricultural product trails, which support food, beverages, apples or farms, should be administered uniformly by the Department of Agriculture and Markets for purposes of creation, modification and/or discontinuance. Excepting Scenic Byways. Second by K. Wagner.**

N. Rea asked for a count of members present to assure quorum. Six of eleven were present, quorum verified.

Chair N. Rea called for the vote. Motion approved, carried.

D. Haight requested that J. Brennan share the webinar dates being developed, pertaining to Agricultural Districts Law Amendments, with all ACA members.

Large Scale Solar Photovoltaic Array Siting on Agricultural Lands B. Somers discussed the developing interest in siting large solar arrays (1-2 Megawatts) purposed for meeting the States Clean Energy program goals and the more recent interactions concerning conversion of agricultural lands. Bob noted that the Department has received many inquiries from landowners over the last six months. The Department has been assisting NYSERDA with publications concerning the conversion of agricultural lands to solar. Additionally, Departments staff have also attended many information meetings to assist landowners in understanding a variety of factors surrounding the use of agricultural lands for this purpose. The Department has urged farmers to consider siting arrays, have the least impact to agricultural production and away from their farms most productive soils. As with most development projects, prime soils tend to be more desirable, hence the concern. Bob reported that the Department has also asked NYSERDA to evaluate the use of incentives to assist with the siting of solar arrays on the least productive soils.

Discussion continued on the varying aspects of large solar arrays. B. Somers also reported that many municipalities were similarly caught off guard about the construction of these facilities. Some municipalities have entered into moratoriums to enact zoning or banned the activity. It was the consensus of the discussion that the education process for all parties involved should continue as should the dialogue with NYSERDA. **D. Haight motioned that the Department of Agriculture and Markets continue to work with its partners on the education of farmers and landowners concerning various decision points specific to large scale solar array projects. In addition, the Department should continue to encourage the installation of these projects on less productive agricultural lands. Second by J. Bittner. Motion approved, carried.**

J. Suarez asked if the group had information on the State Attorney Generals plans to develop a solar code of conduct. J. Czub indicated that she would follow-up and provide any new information to the group at a future meeting.

Local Laws regarding Biosolids: M. Brower updated the group on the present status of 4 cases concerning the application of biosolids on farmland and the Departments review of overly restrictive local laws. In most of these situations the laws being evaluated prohibit all application of biosolids, including those that are not regulated regardless of their classification. The Department views this total prohibition to be more restrictive than State Law and thus overly restrictive on its face. The AML Section 305a reviews include a lengthy legal process, considerable technical review and cooperation across multiple agencies. The Town of Bennington, Wyoming County has received an administrative order from the Commissioner. The Town is working with the Department on the development of a reasonable local law concerning the application of biosolids. The remainder of the reviews are ongoing.

Farmland Protection Implementation Program- J. Czub briefly discussed the farmland protection implementation program and the administrations strong support for its continuance. There remains some outstanding concerns about properly addressing conflicts of interest and long term compliance with easement terms at the local level. Some examples were provided. The Department is very interested in hearing from the group about these and any other issues that may be lingering or out of view. For background M. Latham discussed the current application process and the required disclosure of conflicts by grant applicants across multiple programs. D. Behm discussed the long term easement stewardship responsibilities required of land trusts and municipal governments. B. Reeves discussed various examples of conflicts of interest that might be marginal, yet important. It was noted that the "appearance of a perceived conflict" is now the standard to judge real and material conflicts. R. Ball suggested that the Department provide a broad overview of conflicts of interest and the importance of managing these conflicts at the local level during the next farmland protection stakeholders meeting. Additionally, it was the consensus of the group that the Department review future applications to ensure that expectations are clearly expressed.

NY Grown and Certified – R. Ball discussed the creation of the NY Grown and Certified program that originated from discussions over a year ago about food safety with the Governor and other state agencies. The official launch of the program was August 11th, at a location in the South Bronx. R. Ball discussed three finite messages to consumers that the program offers: the product comes from a NY agricultural enterprise, the enterprise follows good agricultural practices certifiably enforced on the farm, and the farm is producing and agricultural commodity pursuant to a NYS Agricultural Environmental Management plan. K. King introduce program staff and review concepts, current status and rollout time frames for NY Grown and Certified. The Pride of NY is still operating presently, but will not be marketed by the Department. NY State Grown and Certified is now in existence and branded products will be available in

the market this fall. The Department would appreciate any feedback concerning the program. There are application packets available from the Agricultural Development Division here at the Department.

Agricultural Update- Status of Dairy Industry – R. Ball discussed some of the current challenges facing the dairy industry and agriculture. Suppressed markets, drought, over supply of milk and trade barriers are currently big discussion points. The closing of Elmhurst Dairy was also discussed along with the positive partnership with NYC schools toward finding a solution to address this potential disruption in their supply of student packaged milk. R. Ball concluded that despite these challenges, NY is in a good place agriculturally.

Closing Remarks/Adjourn – R. Ball and N. Rea both extended their appreciation for the group's information and feedback. N. Rea requested that the group be provided the draft minutes as far in advance as possible for their review of the motions. A question was asked about foreign land ownership restrictions in America. T. DellaRocco noted that he is aware of some notification requirements but was not aware of any specific all-encompassing ownership prohibitions. S. Casella asked about access to fair buildings during the fair. R. Ball indicated that access to the horse barns will be reevaluated, but other building access issues were associated with transitioning livestock and cleaning. The buildings were predominantly open during the course of the State Fair.

Meeting adjourned.

Levine, Laurie (AGRICULTURE)

From: Amy S. Machamer <amy.machamer@gmail.com>
Sent: Wednesday, September 07, 2016 9:14 AM
To: agr.sm.Commissioner; Ball, Richard (AGRICULTURE)
Subject: Amy Machamer
Attachments: agri outreach 2016 word 3.docx

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Dear Commissioner,

I apologize for missing today's meeting. We have an event at our market today and in addition it is my daughter's first day of school. I would very much like to attend the next meeting. I would be happy to give input about my availability during the meeting planning process if that would help.

I would love to receive any notes or minutes about the meeting today as I would like to be better informed about the topics discussed.

I have a few reflections to share for today's meeting.

First, I think that for our farm, Hurd Orchards, the most important achievement of this year's work by the NYS Department of Agriculture and Markets was the work to mitigate the emergency closure of the Erie Canal west of Rochester. Our entire farm staff would like to thank all who were involved in this effort. The regrouping of the closure schedule, condensing repairs to only one week, allowed us to continue to irrigate and, during this drought year, essentially saved our crops. The whole issue opened a conversation with the Erie Canal Corporation and I think moving forward there is a better understanding about the importance of the Canal waters to all New York growers - not only those on it's edge, but those drawing water from much further away from the streams and drainages that the canal water fills. Thank you!!

As a fruit grower I would like to suggest that one of the most important topics for our future is the changing winter spring weather pattern. I would hope that the Dept. of Ag and Markets would channel resources and energy toward this issue. The changing weather patterns have already wreaked havoc with our fruit production. We need to learn how to cope and in addition jump start the efforts to reduce greenhouse gases - starting at the farm level. Please see the attached document from our 'Farming in a Changing World' series and the email that I will forward to you shortly.

On your agenda is state vs. local oversight of farmland protection programs. Though this topic does not affect our farm directly at this time I very much am in favor of STATE oversight on any and all programs. The damaging effects of local politics on business can be enormously detrimental and costly. Protecting farmers from bad and self serving local governance is very important. In fact, if possible we would like to see the Department more present and with more oversight of local processes including real estate taxation, code enforcement, agricultural definitions etc. We need help!

I am in favor of any and all identification of New York products. The New York Grown and Certified sounds great!

Thank you. Please give me a call if I can be of any help in the future.

AGRICULTURAL DISTRICTS LAW – AMENDMENTS TO PROCESS FOR CREATION, REVIEW AND CONSOLIDATION BY CHAPTER 35, LAWS OF 2016

AML §303. Agricultural districts: creation.

Acronyms Used Here: CLB = County Legislative Body, CPB = County Planning Board, AFPB = Agricultural Farmland Protection Board, AML = Agriculture and Markets Law

Old Law	New Law
<p>1. Proposal could include an 8, 12 or 20 year review period. [§303(1)]</p>	<p>Proposal must include an 8 year review period. *Only 8 year review periods are in effect now.</p>
<p>2. CLB provided notice of a proposal by publishing the notice in a newspaper and posting it in at least five (5) conspicuous places within the proposed district. [§303(2)]</p>	<p>CLB must also post the notice on the home page of the county's website and provide notice in writing by first class mail to municipalities whose territories encompass the proposed district. *Adds county webpage and use of first class mail for notification.</p>
<p>3. CLB's notice of a proposed district included a statement that at the end of the 30-day period for any proposed modification of the district, the proposal and any proposed modifications would be submitted to the county planning board (CPB) and the county agricultural and farmland protection board (AFPB). [§303(2)(a)(6)]</p>	<p>CLB's notice now only includes a statement that the proposal and any proposed modifications will be submitted to the county agricultural and farmland protection board (AFPB). *This change eliminates CLB's notification of county planning board of proposed modifications to district.</p>
<p>4. CLB, at the end of the 30-day period, referred the proposal and any proposed modifications to the CPB, which had 45 days to report to the CLB the potential effect of the proposal and any proposed modifications upon the county's planning policies and objectives. [§303(2)(c)]</p>	<p>CLB, at the end of the 30-day period, refers the proposal and any proposed modifications to the AFPB only, which, after consultation with CPB and within 45 days, reports its recommendations to the CLB. [§303(2)(c)] *This change also eliminates CLB's notification of county planning board, AFPB consults with CPB.</p>
<p>5. CLB's notice of public hearing for the proposed district was published in a newspaper and given in writing to those municipalities whose territories encompass the proposed district and any proposed modifications, owners of real property within such proposed district and any proposed modifications, the Commissioner of Agriculture and Markets, the Commissioner of Environmental Conservation, and the Advisory Council on Agriculture. [§303(2)(e)(3)]</p>	<p>CLB's notice of public hearing for the proposed district must be published in a newspaper, posted on the home page of the county's website, and given in writing by first class mail to those municipalities whose territories encompass the proposed district and any proposed modifications, owners of real property within such proposed district and any proposed modifications, the Commissioner of Agriculture and Markets, and the Advisory Council on Agriculture. [§303(2)(e)(3)] * This change adds county website posting, writing to affected municipalities by first class mail and removes notice to the DEC Commissioner.</p>

AML §303-a. Agricultural districts: review.

[*** New law applies to any district review that was commenced after May 25, 2016. Any district review that was commenced prior to this date must continue its review under the old law.]

Old Law	New Law
<p>11. The CLB was required to review any district 8, 12 or 20 years after its creation, consistent with the review period selected by the CLB at creation. The CLB could petition the Commissioner for an extension of up to 4 years for a district review. [§303-a(1)]</p> <p>AML §303-a. Agricultural districts: review. (continued)</p>	<p>The CLB must review a district 8 years after its creation since the 12 and 20 year options have been repealed. The option to seek an extension of up to 4 years for a district review has been repealed. [§303-a(1)]</p>
<p>12. The CLB provided notice of a district review district by publishing a notice in a newspaper and posting it in at least five (5) conspicuous places in the district. [§303-a(2)]</p>	<p>The CLB's notice of a district review must be published in a newspaper, posted in at least five (5) conspicuous places in the district, posted on the home page of the county's website and provided in writing by first class mail to those municipalities whose territory encompasses the district. [§303-a(2)(a)]</p>
<p>13. The CLB directed the AFPB to prepare a report concerning various information about the status of the district, farming, farm resources and local plans, policies and objectives. [§303-a(2)(b)]</p>	<p>The CLB directs the AFPB to prepare its report within 45 days. [§303-a(2)(b)]</p> <p>*45-day timeline starts following the 30 day period for filing proposed modifications with the clerk of the county legislature.</p>
<p>14. The CLB was required to hold a public hearing at least 120 days prior to the district review date and not more than 180 days prior to such date. [§303-a(2)(c)]</p>	<p>The CLB must complete the review process on or before the district's anniversary date. The Commissioner may, upon good cause shown, extend the period for a district review once for up to six additional months. [§303-a(4)] *One extension of up to 6 months is available.</p>
<p>15. The CLB was required to provide notice of the public hearing for a district review by publishing a notice in a newspaper, and providing notice in writing to those municipalities whose territories encompass the district and any proposed modifications to the district, to persons whose land was the subject a proposed modification and to the Commissioner of Agriculture and Markets. [§303-a(2)(c)(2)]</p>	<p>The CLB's notice of a public hearing must be published in a newspaper, posted on the home page of the county's website and provided in writing by first class mail to those municipalities whose territory encompasses the district and any proposed modifications to the district, to persons whose land was the subject a proposed modification and to the Commissioner of Agriculture and Markets. [§303-a(2)(c)(2)]</p>
<p>16. " " " " " "</p>	<p>A new §303-a (3) (b) provides the CLB with explicit authority to adopt any modification of the district review plan that it deems appropriate.</p>

AGRICULTURAL DISTRICTS LAW – AMENDMENTS TO PROCESS FOR CREATION, REVIEW AND

CONSOLIDATION BY CHAPTER 35, LAWS OF 2016 (Cont.)

AML §303-c. Consolidation of agricultural districts.

17. The AML did not include a statute that provided for consolidation of agricultural districts. AML §307 did have authority for the Commissioner to promulgate rules and regulations for consolidation. No regulations were ever adopted, however.

A new §303-c sets forth discretionary authority for the consolidation of agricultural districts reads as follows: § 303-c. Consolidation of Agricultural districts. Existing agricultural districts may be consolidated with an existing district undergoing review pursuant to and in the same manner prescribed for district review in section three hundred three-a of this article. The notice of public hearing required by subdivision two of section three hundred three-a of this article shall be given in writing by first class mail to those municipalities whose territories encompass the districts proposed to be consolidated; and to all persons, as listed on the most recent assessment roll, whose land is the subject of a proposed consolidation. In addition to the information required by subdivision two of section three hundred three-a of this article, the notice of hearing shall identify the district into which the existing district or districts will be consolidated and the new anniversary date for the consolidated district.

*This new Section provides for the consolidation of Districts that was not spelled out before. CLB can now do consolidation of Districts prior to their anniversary dates.