

Rural Enterprise Stakeholder Meeting

September 3, 2014

Richmond Town Offices, Richmond, Vermont

Participants: Robin Sheu, Addison Count Economic Development Corporation; Jane Clifford, Green Mt. Dairy Farmers; Ron Shems, Natural Resources Board; Sharon Murray, VPA; Chris Company, Windham Regional Commission; Jamie Renner, VLS; Peg Elmer, CRO; Matt Gordon, VT. Maple Sugar Makers Assoc.; Chris Granstrom, Lincoln Peak Vineyard; Karen Horn, VLCT; Enid Wonnacott, NOFA-VT;

Hosts: Stephanie Smith and Diane Bothfeld, Agency of Agriculture, Food and Markets (AAFM); Noelle Mackay and Faith Ingulsrud, Department of Housing and Community Development (DHCD).

Stephanie Smith welcomed participants and explained that this meeting is a follow-up to the recommendations developed through the [Act 59 working group meetings](#) last year. Those recommendations called for the Agency of Agriculture, Food and Markets (AAFM) to continue discussions on how farm-based enterprises fit into the definition of “farming” used in land use permitting.

Noelle Mackay, Commissioner of the Department of Housing and Community Development (DHCD) added that the agriculture working groups last year only scratched the surface but that the recommendations attracted legislative interest. DHCD is involved because this task will require cross-agency work. We will need to define the issues and identify responses including legislative, budgetary, and education and training.

She noted that much of what the group heard last year were stories of friction - when agricultural diversification turns into something else and may point to the need to clarify that farms are businesses. It also highlighted the need for planning entities to address agriculture in the economic development element in their plans and people need opportunities to learn about the realities of running farms. Specifically, regional commissions are doing this now.

Noelle outlined the main issues identified in the Act 59 report as follows. Are these the ones to pursue further, through the legislative session and beyond?

- Multiple definitions of “farming.” This is a challenge due to an inability to change federal definitions.
- Farming as defined in the Accepted Agricultural Practices (AAPs). While they are described as exemptions, it doesn’t mean farms are not regulated.
- Changes in farm activities often subject farmers to new laws that can result in legal difficulties, for example labor laws.
- Should there be a comprehensive definition of farming including a list land uses that are considered farming? – or not?
- Need for education. The general public needs a better understanding of farming. Farmers need knowledge of permitting and other legal requirements in order to operate their businesses.

Top recommendations from the Act 59 Report

- Keep agricultural exemptions, but clarify thresholds
- Align definitions, or identify differences between all the various regulatory definitions of farming
- Education
- Protect large blocks of farmland
- Ensure the profitability of farms

Stephanie referred to the [2014 Agricultural Enterprise Report](#) and survey results. The Agency conducted the survey last spring and received 332 responses. Some of the key findings were as follows:

- All respondents supported the goals identified in the survey, some goals were similar to those in the Act 59 report
- People are less confident that policies and programs support the identified goals
- There was strong support for agriculture in Vermont for many reasons articulated in the survey

The survey also revealed the following tendencies:

- There is a lack of awareness about programs and policies that help farmers access farmland or know what land is available for farming.
- All participants in the survey are aware of the complaints about farm operations. Those smaller farms (based on gross sales) were more aware of complaints. This could be because smaller farms may be in closer proximity to neighbors compared to medium and large farm operations. The AAFM issues permits and regulations are different for large/medium farms. Small farms must comply with Accepted Agricultural Practices regulations- but at this time, do not receive permits from the AAFM.

One concern shared was whether the survey really representative of the farming community? How do we get more input? The Agency will continue to reach out to stakeholders and plans conducting meeting at RPCs to gain more input. The Agency also has regular contact with producer/farmers regarding requests for interpretations of the AAPs, and therefore has anecdotal information on the diversification on farms.

Stakeholders began a discussion to identify issues and a path forward.

Right to Farm

- The enabling legislation for agricultural zoning districts in Vermont are not exclusive to agricultural activities (unlike forestry districts). These agricultural zoning districts tend to include the ability to develop at “low densities” and the municipality has the authority to decide what constitutes low density.
- Some towns’ efforts to require low density residential in agriculture districts limits farmers’ options for diversification.
- This issue can continue to be addressed locally but that creates piecemeal results.
- Right to Farm notifications/signage are commonly placed at entries into towns in Western Massachusetts. Is this something Vermont should pursue?
- Agricultural districts might be a way to pursue right-to-farm policies in Vermont
- We need to include people that can address overlap of forestry and farming.

- Transfer of Development Rights (TDR)/Purchase of Development Rights (PDR) – create incentives to develop more density in centers – allowing willing farmers to sell density rights
- Charlotte has provisions for transfer of density between non-contiguous land that essentially works as a TDR and has had good results.
- Act 250 ag mitigation is basically a reverse TDR that might be a better approach to expand-upon in a low growth state like Vermont.

Access to or Preservation of Ag soils

- The Natural Resources Board's summer intern documented the locations of primary ag soils, as part of onsite mitigation, that were set aside as a condition of Act 250 permits. The AAFM is in the process of mapping these locations. The locations of these soils have never been mapped or listed as soils available (with property owner permission) for agricultural activities.
- Virtually none of the farmland associated with clustered development is being used. It's the same with local ag land set-asides – they rarely get used.
- It's not just about preserving farms – also about protecting the soils. But the soils need to be better categorized. (AAFM Note: we think this means better planning for the preservation of soils.)
- TMDL (water quality standards) drove agricultural and zoning reforms in Maryland. Resulting TDR regulations yielded good income from land.

Land Use

- Problems arise from farmers not considering farms businesses, and not following regulations that otherwise govern their business.
- Farms have always had ancillary activities. Some rural zoning regulations define farms as having lots of other farm-related activities – ancillary uses. These should be used as examples.
- Act 148 – how to incorporate food waste and other organic waste for on-farm digesters and composting. All food waste could be accommodated on farms and it could become an income stream for farmers. The carbon product from digesters is important to farmers for the bedding it provides.
- AAP regulations do not contain regulatory standards addressing impacts from value-added production or sales from the farm. There should be a definition of farming outside of AAPs. Use the AAPs for their intended purpose - as a water quality law.
- When is an ag enterprise essential to the farm and when does it become something else?

Stephanie indicated that there was a high level of interest in diversification by farmers who completed the survey. Participants discussed this finding:

- Survey may not reflect the level of interest in on-farm events. People don't realize events may lead to being considered a restaurant/public gathering space/ event hall.
- Renewable energy is an opportunity for diversification.
- Agritourism is great way to both provide education and diversify a farming operation.
- Survey participants that identified as non-farmers were interested in performance standards as a way to address noise, odors, etc. This category of participants included the municipal, state and regional sectors.

- There is also the connection to tax law – current use. The threads of this conversation unravel into lots of different issues.

Diane Bothfeld, Deputy AAFM Secretary noted that there are big issues in agriculture happening now:

- TMDL – affecting farmers in the Champlain Basin
- Wastewater treatment rulemaking process for farms- Noelle expressed the importance of involving stakeholders and the public in the administrative rulemaking process
- Act 148 – opportunities and concerns about on-farm digesters and compost facilities
- DEC flood plain rules. AAFM issuing permits for farm construction in flood plain instead of municipalities.

In response to a question about what AAFM wants from this process, Diane responded that the agency wants to be able to articulate when a farm activity becomes something other than farming. She noted that value-added is encouraged and the agency is giving grants to incent creative business ideas, while on the other hand, dealing with the regulatory aspects of those same projects. Whereas, non-ag activities on farms (engine repair, agritourism) requires more attention.

Noelle added that in this discussion about diversification, land use issues are the focus. Participants responded with the following comments:

- Other issues like standards for labor/health/safety need to be addressed as well.
- When the public is invited onto a farm – it's the farmer's responsibility to understand all the permitting requirements. The word "exempt" gives the wrong idea – "pre-emption from municipal regulation" is more appropriate.
- Case studies would be helpful in identifying exactly what issues we need to address – identify the regulations and lessons that can help others.
- What should you regulate in ancillary farm businesses like paint ball courses and weigh stations? You may not care about the use, but its the impacts that need to be addressed.
- What are we are worried about? Illegal or harmful activities? Protecting the VT brand? Health and safety? And how the enterprises fit with in the towns?

Noelle proposed subcommittees to deal with two main issues - education and permitting thresholds.

Participants responded:

- On jurisdiction and regulations, local model regulations can be proposed instead of statewide regulations.
- No one knows where line is between what is agriculture and what isn't. Towns vary in whether or not they want to regulate it or not, sometimes creating a void for ag enterprises.
- Issues should be regulated consistently statewide.
- In Act 250, "principally produced" addresses processing, but doesn't address the weddings. Regulation occurs when someone files a complaint.
- One vineyard wants to do more events but the local planning commission is reluctant– they don't want to take chances and want some cover to make sure the local board is doing the right thing.
- Consider right-to-farm programs in other states - to communicate a stance promoting agriculture

- Sugar-makers fall between forestry and farming with lots of similar issues. There's been a huge proliferation of maple sugaring. Real life examples are important.
- Agree that models and case studies are critical and we want hear from farmers directly.
- The large and medium farms (LFO/MFO) are not so driven to do value-added activities when they already have \$1-2 million operations. There is less direct consumer sales. Forestry, maple syrup, etc for these farms are ancillary activities.

Noelle asked which associations are missing from this group? Some suggestions included:

- NOFA and Farm Based Education – summer workshops for farmers. (Contact Meghan Camp.)
- Farmers Market Association – Law School applied for grant to look at conflicts.
- NOFA's Feb winter conference – Opportunity to do a session and have discussions - Sept 15 RFP deadline/Oct 15 workshops.

Noelle summarized next steps:

- A similar stakeholder meeting in Woodstock on Sept. 25, 9:00 a.m. at the municipal offices.
- Set up 2 working groups with participants self-selecting. Reach out to identify those who need to be at the table.
 - Education – who's doing what and case studies.
 - Thresholds for permitting – tension-points. What can we do for a "soft landing?" Legislation and other next steps.

Participants continued their discussion making the following points:

- Check out the Glynwood Center that fosters international exchange around rural land protection. Other countries have more experience with agritourism. Project Harmony and the Countryside Exchanges provided opportunities to learn. They may be able to offer conceptual solutions.
- Farmers markets are evolving. What are they now? For example, the New York State interstate rest station farmers markets. Market solutions reduce liability. Occupy a space that is already insured, etc.
- Community kitchens – church basements, school kitchens, etc. are great places for food processing businesses since they potential meet all necessary requirements of a commercial kitchen.
- Make sure the Farm to Plate staff participates in this conversation. Personally invite a few additional people. (Peg will contact Jake Claro – will be surveying muni officials. Baseline being established before the "Sustaining Agriculture" publication is issued.)
- Focus on how you address producers that are not producing 50% of income
- It was a suggestion that regulation shouldn't be done on the basis on income – income thresholds should not be used in permitting.
- Invite Joel Russell (MA land use/conservation attorney) to speak in Vermont.
- Outreach at NOFA makes sense because those are the farmers that need swome education about regulation.
- Secretary of State should require registration of all small farm enterprises. NY state visits all new farms being established and they get an introductory visit from Dept of Labor.

- Washington State has a good introductory document for small farmers – based on a Cornell publication.
- Legislature too permissive of small farms. It creates an artificial environment for those starting up. This is setting up the small farms for failure by giving them unrealistic expectations.
- AAFM should offer education on small farm regulatory requirements for its grantees.