

CHAUTAUQUA COUNTY AGRICULTURE & FARMLAND PROTECTION BOARD MINUTES

Gerace Office Building Room 331

3 North Erie Street

Mayville, N.Y. 14757

December 4, 2019

PRESENT: Brian Aldrich, Jim Caflisch, Steve Kimball, Don McCord, Dan Steward, Fred Crosut, Dennis Rak

ABSENT: Jim Joy, Jay Gould, Heather Woodis

OTHERS: Matt Bourke, Melissa Keller, Lisa Kempisty

Administration / Organization

MINUTES	Chairperson Kimball called the meeting to order. Chairperson Kimball motioned to approve the minutes of the April 3, 2019 Agriculture and Farmland Protection Board (“Board”) meeting. Jim Caflisch made a motion to approve the minutes. The motion was seconded by Fred Crosut and was approved by unanimous consent.
CORRESP.	NEPA – Re: Town of Dunkirk, Shorewood Water District NEPA – Re: Town of Pomfret, Vanburen Water District NOI – Re: NCCWD, Water Main Improvements (Towns of Dunkirk & Sheridan) NOI – Re: Construction of 5.0 MW Solar Array in the Town of Sheridan Notice of Open House for the South Ripley Solar Project
PRIVILEGE OF FLOOR	None.

Old/Unfinished Business

Farmland Protection Plan Update and RFP	<p>Melissa Keller: A few weeks ago we send out the drafted RFP and received a few comments back. We also sent the draft to Jeff Kehoe from the NYS Department of Agriculture and Markets and incorporated his comments. We wanted to run this by you one more time and see if you had any additional thoughts.</p> <p>Steve Kimball: I was curious if there would be anyone within our County that would be qualified to do this.</p> <p>Don McCord: Yes and no. There are a couple of engineering firms that might step up to the plate with a planning arm to them. Some of them might have offices in Chautauqua County, but usually their main base is elsewhere.</p> <p>Jim Caflisch: What are we talking about as far as climate change in here?</p> <p>Dennis Rak: If you look at it, it says the impact of climate change on agriculture not the other way around. From a grape perspective, our average bloom date on Concord grapes is a week earlier than when I first started forty years ago. There are also varieties here that we couldn’t grow here thirty or forty years ago. I think that’s a part of what’s being addressed here.</p>
--	--

**Farmland
Protection
Plan Update
and RFP
(continued)**

Don McCord: I think some of what it is, is also that the storms we seem to be having. They're not County wide, but they are more frequent and more intense. That has an impact on agriculture.

Dan Steward: I was at a certified crop advisor training and there was a presentation on just that. Cornell's Field Crop Department is really focused on that now and they go through county by county on what the impacts are. Interestingly, Chautauqua County is one of the county's that has seen a lot of those high intensity rainfalls. The frequency has gone up. One of the big things is that you want to be resilient. You want to have those erosion control practices and keep organic material in the soil. It is a good thing to include.

Brian Aldrich: I have a feeling whoever writes this is going to look at the past five or ten years and base it on that. If blooms have changed a week in forty years, I don't really care what's happened ten years ago. I want to look at what's going to happen in the next ten years. We also want to be sure we look at other factors as well, like the size of farms. How many twenty acre grape farms do we have anymore? We have to have this prepared for the next ten years, not look at it from a historical standpoint.

Dennis Rak: When you look at the historical data you can see the trends and can hopefully identify whether or not that is going to continue, or see if there are other factors influencing it.

Fred Crosut: How much money do we have for this?

Don McCord: At the moment we have \$80,000 and are actively looking to secure another \$10,000. We also have another \$20,000 in in-kind. We took a look at Steuben County's plan, which is now about four or five years old, and it cost them about \$120,000.

Dan Steward: Cattaraugus County is doing their plan now. They hired someone and are in the process of developing it now.

Fred Crosut: So you're looking for a firm or an individual to do this?

Don McCord: We'll send out the RFP and see what kind of responses we get. We'll see what the costs come in at.

Fred Crosut: I guess it's been almost twenty years ago since we did the last one and there is a need to do it.

Don McCord: I believe so. When we did this eighteen years ago, we were talking about purchasing development rights and we thought that that was going to work here. We've only had one application in and it didn't go through. That's not the answer.

<p>Farmland Protection Plan Update and RFP (continued)</p>	<p>Dan Steward: The thing that I'd be concerned about is that you want to be specific enough about what you're asking that they actually do something specific to the County. We don't want this to be a cookie cutter type of thing. I know someone on the committee for the Cattaraugus plan, and they're already a little disappointed that the company that is doing it isn't doing enough outreach. They're not talking to the people involved in it. It seems to me like the tendency is to just pull information from the internet. If we're spending this kind of money, we want to make sure it's specific to our County and they talk to the shareholders. I don't know how you put that in and RFP though.</p> <p>Don McCord: I'll speak to that item specifically, Dan. I will tell you I've seen a lot of those cookie cutter plans from around the State, that's why I've zeroed in on Steuben's plan. That's one of the first ones I saw that did it differently. In going into this, we're very sensitive to who we select as a consultant and putting that our there up front so that we get what we want.</p> <p>Steve Kimball: Is there anymore discussion?</p> <p>Dan Steward: I'll make a motion.</p> <p>The motion was seconded by Dennis Rak and passed unanimously.</p> <p>Melissa Keller: I have one additional item to share with you all on the Farmland Protection Plan. Emily Reynolds sent us a list of individuals she thought would be good for the plan's steering committee. We sent out invitations to those people and have compiled a list of those that are interested. I am going to pass around the list.</p>
<p>Large Scale Solar Installations</p>	<p>Melissa Keller: We discussed this subject a little at our April meeting, but wanted to revisit some of our questions. We wanted to know if the impact of large scale solar on available farmland a concern to you, and if you think there are specific areas of farmland for protection. Matt has created a map that shows where prime farmland is and where some of the transmission lines are.</p> <p>Matt Bourke: Do you all have a sense of how many projects are out there? Do you hear about many of these projects? The biggest project that we have now is in South Ripley.</p> <p>Don McCord: They were attempting to get 4,000 acres, but the breakpoint for them is about 1,200 to 1,400 acres and they've already got that under option. The project is a definite go, it's passed all the environmental hurdles. The project area is almost half the town. It's not all going to have solar on it. Because of the size of this particular project, it will go through the Article 10 process. The Article 10 process is for all projects over 25MW. That takes the project out of the hands of the local Boards. However, many of the projects we're seeing now are below this threshold. This one in Ripley is going to be around 270MW.</p> <p>Matt Bourke: That's the largest project that we know of right now. There's one on the</p>

**Large Scale
Solar
Installations
(continued)**

border of Brocton and Portland that's smaller, 20 or so acres. The one we're looking at today is in Sheridan and that's about 40 acres. Those are the ones we have in the pipeline and we've heard about more coming our way as well.

Don McCord: When we first started writing solar laws, we were writing them to allow the installations on commercial structures or residential homes. We didn't really think that they would pay to run lines too far. We didn't put as much time or discussion into the large scale operations. The other consideration is technology, we didn't really have battery storage on the radar back then.

Dennis Rak: For transparency, I have an 80 acre project that we're in the middle of getting through. I can give you my insights on that.

Fred Crosut: What did the Ripley farmers get per acre?

Don McCord: Most of the time it's the acre of solar panels verses the acre of ground.

Dennis Rak: On a larger scale project, I'm not sure how much you would get. The range that I've heard goes from \$800 to \$1,500, I'm looking at \$1,200 per acre per year.

Brian Aldrich: My guess is that is would depend on the typography and the distance to the transmission lines.

Dennis Rak: The 2,000 acre project is going to tie into a high voltage transmission line. The smaller projects, like 40 acres or 20 are going to go into three phase lines. As long as you're close to the three phase lines and there is capacity, you can tie into that line.

Brian Aldrich: When you say close, how close are we talking? Five miles?

Dennis Rak: No, we're looking more like under a mile.

Dan Steward: With the laws, what do you see in the laws?

Don McCord: Most of the laws allow for solar. With the other communities, if it is under the Article 10 threshold and it isn't written into the zoning, it is not allowed. If you want to have solar, you need to pass these laws for solar to come in. In Portland's case, at one point they weren't going to allow large scale solar below, I think, 1,200 ft. of elevation. They were trying to protect the grape land. They've since backed off of that and have picked specific types of gravelly loam that are good soils for growing grapes and have prohibited solar on these soils. They'll allow you to build, but just not on the good soils. If you look at Chautauqua County, we have a lot of soils that aren't necessarily great for growing that no one would object to putting solar on. If we're talking about grapes, we have to be aware of the special conditions such as the microclimate and soil types.

**Large Scale
Solar
Installations
(continued)**

Dan Steward: From my stand point, I'm about property rights. If someone wants to do something on their land, they should be able to do it. It's when people do something on their land that impacts us all as a whole, we have challenges. We talk about stormwater, are these impermeable surfaces? You're going to have all of this runoff and erosion. You talk about this on a watershed basis, it's going to flow differently into those water bodies. I don't know if they say anything about this in these laws.

Dennis Rak: They don't totally cover the ground, it's not like asphalt or concrete, there is still ground. The water may hit a panel, but then it goes to the ground.

Brian Aldrich: How big are the panels?

Dennis Rak: I think they are 8 by 16 or something like that. They can pivot as well.

Jim Caflisch: These are industrial projects in agricultural areas that are going to have a huge impact on farm production, recreational use of property, and possibly homes. They should do pooling like they do with oil and gas, because it is going to have just as much impact on the property owner as those surrounding them. That property owner, like Dennis, is not sharing any of his royalties.

Brian Aldrich: With the windmills, the Town of Arkwright receives money from that project.

Jim Caflisch: It's a \$110 million dollar project and they get \$150,000.

Brian Aldrich: Theoretically then, everyone in the Town receives a lower tax rate.

Jim Caflisch: Not much lower right now.

Brian Aldrich: The plan was that it would reduce taxes in the coming years.

Jim Caflisch: It's a \$110 million dollar project there. The total they're paying in taxes and fees amounts to about \$750,000 dollars. If this was an industrial project they'd be paying around four to five million. Wind and solar are highly subsidized, and aren't required to give much back. Dennis is making way more than the taxing entities are going to receive.

Dennis Rak: I'm the landowner, shouldn't I be making the money? As a landowner and a business owner, my obligation is to run a profitable business. It's not to generate tax dollars for the taxing jurisdiction.

Jim Caflisch: I'm just saying for the projects that are going out there, they are paying a very low tax rate. I don't begrudge you a dime because it's on your property. I'm just saying they should pay more in tax revenue, and they are not.

Brian Aldrich: I sit on the Town of Sheridan's Planning and Zoning Board. One of the

**Large Scale
Solar
Installations
(continued)**

concerns I have with agricultural land is that you don't have fire protection or police protection. You don't have requirements for water infrastructure. When you put a \$300,000 house on that, now you have the police and fire protection, and the tax dollars, that you would not get with farmland. You don't have that same protection with solar. It doesn't increase the requirement for fire and police. At least the towns are still getting money from the windmills. From an economic standpoint, if you put in industry you need to supply those protections.

Jim Caflisch: You have jobs and the economic development going with that industry then. You don't have that with solar and wind.

Brian Aldrich: So then what's the difference between solar and agriculture?

Jim Caflisch: There is a definite need to protect agricultural resources. There is only so much land, once it disappears you don't get it back.

Don McCord: Getting back to the question here, we are looking for a sense of direction the Board wants to take in terms of protection. It is not an easy question to answer. Take Dennis for example, the farmer has to look at his property and determine whether it is going to be profitable or not. That's a part of this Farmland Protection Plan, we have to make sure the farms we have are profitable enough to stay in business. On the other hand, the comment made here is that there is a limited amount of quality farmland. It's a balance point. What we're asking is if there are areas in Chautauqua County that we should focus on protecting. Let's take grapes, for example. I know with the grape market, you need to have a critical mass of grapes. At some point, if that diminishes, it may not be efficient for that grape grower any longer. A little bit of solar isn't a big deal. Over time though, where do you draw that line? We don't want to give too much up of one thing for another. Can the Board work toward some balance point?

Fred Crosut: I've worked the ground in South Ripley and think that if we don't have any farmers, objecting to this, do we really have a leg to stand on by not approving these projects? Are we going to deny them that income? That's a hard thing to come to terms with.

Dennis Rak: These projects are incrementally bringing in revenue to the County. Some of it is going to the landowners, some of it is going to the taxing jurisdictions. In the end, it's an increase over what we'd have without these developments. Sure, you don't want to strip out the gravelly loam on the lake shores and put in solar farms. There are reasons to restrict it to certain areas.

Fred Crosut: There is a lot of marginal land in the County. Jim is right as well, land is a agriculture land finite resource.

Steve Kimball: When you look at the transmission lines, it looks like the pressure is going to be along the lake shore where the grapes grow.

<p>Large Scale Solar Installations (continued)</p>	<p>Don McCord: If this Board thought it was a good idea to look at specific soil types and protect them, then that is something we would work toward.</p> <p>Dan Steward: The property owner should have the right to grow what they want on their land, that's up to them as long as it doesn't impact other people. If it wasn't profitable to grow whatever they were growing, they'd use the land for something else.</p> <p>Dennis Rak: There have been a lot of solar people out there, I have a lot of parcels and have many approach me. Quite frankly, when they want to take the best soil I have and I'm already making more on farming than they would pay me in rent, it doesn't make any sense for me to do that. When I have land that sits there, and I'm not making as much as they're offering on it, I'm going to take that. It diversifies my income and helps me to have a more stable business.</p> <p>Jim Caflisch: I'm thinking we're going to see more of the prime land come under more pressure. I want to make sure we protect that.</p> <p>Dan Steward: Presumably, if you were going to let them build on your best ground, they would have to pay you more than you're already making on it. The landowner should be able to make that decision, not us.</p> <p>Don McCord: When we talk about soil classes and agricultural community as a whole, land rights say you should be able to do whatever you want as long as you're not impacting others. Some other farmers may not be doing as well as Dennis. They might have prime farmland but be thinking that they need to sell it, perhaps because of their age or maybe because they're just in a bad financial position. We, as a larger community, end up giving up one of these prime pieces of land – not because of profitability, but because of circumstance.</p> <p>Lisa Kempisty: If I could just add, I've probably had about five calls about solar at the Extension – mostly about the legalities of it. However, three of those five calls were individuals in their 70's who did not have individuals in their families working in the business. They want to stay on the land and are looking at these opportunities.</p> <p>Don McCord: This is a tough one, because you don't want to limit anyone in those situations, but there is a desire to protect the prime lands.</p> <p>Dan Steward: I don't know how long these leases are, but what happens after the company that puts them walks away from them?</p> <p>Dennis Rak: They have a decommissioning plan and bond. It's set up at the time of installation. As a landowner, you want it in the contract.</p> <p>Brian Aldrich: Theoretically, we could suggest to restrict this to certain soil types or land classes?</p>
---	--

<p>Large Scale Solar Installations (continued)</p>	<p>Don McCord: We could. As the Farmland Protection Board, you can make that recommendation.</p> <p>Brian Aldrich: I'm not sure how many projects of this scale we'll be looking at, my opinion is that we could deal with a dozen projects a year. We'd understand where it is and what the competition is and make a recommendation. If it becomes eighty a year, we will need some sort of standards.</p> <p>Don McCord: We're starting to see more because of the State's green energy initiatives. With the Article 10 process, it takes a long time to move through all of the steps. Some of the solar developers may be trying to avoid the Article 10 process by going with these smaller projects.</p> <p>Brian Aldrich: If this committee is going to be looking at a dozen projects a year, we would need to have some sort of policy in place so that it doesn't seem subjective. We've got to have standards, but that's not easy.</p> <p>Don McCord: Yes, we need some kind of framework and a reasoning behind the framework.</p> <p>Jim Cafilisch: I don't think we'll be denying economic opportunity to anyone who has really good farmland. It will be valuable enough to sell and to continue using as farmland.</p> <p>Dennis Rak: I think we're all in agreement that we want to protect the prime lands. We just need to define what that is.</p>
---	---

New Business

<p>Notice of Intent - Solar Array, Town of Sheridan</p>	<p>Don McCord: With the Town of Sheridan project, we've drafted a letter with our recommendations. I'll let Matt talk about that.</p> <p>Matt Bourke: It's a 5MW solar project in Sheridan on 2444 Chapin Road. It's going to use about 40 acres of farmland that's currently hayfields with some vineyards as well. There's going to be some electrical lines, access roads, and some fencing as well. The maximum ground disturbance will not exceed four feet. The pillars that will hold the panels will be installed at a depth of eight to ten feet. The soils are all prime if drained. The soil types are primarily Barcelona Silt Loam, and Darien Silt Loam.</p> <p>Brian Aldrich: It might be prime if drained, but it is not drained. It's swampy there.</p> <p>Matt Bourke: It sounds like this is not particularly great farmland then.</p> <p>Dennis Rak: No, I would not use this to grow grapes on – or anything else really.</p> <p>Matt Bourke: We'll correct the letter to reflect the thoughts of the board. The other thing we've addressed in the letter is construction. The applicant has indicated that</p>
--	---

	<p>they'll follow the guidelines put out by the Department of Agriculture and Markets. They weren't specific about what action they'd take, but we've written in our letter that the Board strongly recommends that they follow the construction mitigation guidelines put out by Agriculture and Markets.</p> <p>Steve Kimball: I'll take a motion to approve the letter with modifications.</p> <p>Fred Crosut made a motion to approve the letter with amendments. The motion was seconded by Jim Cafilisch and passed unanimously.</p>
<p>NEPA – Shorewood Water District, Town of Dunkirk</p>	<p>Melissa Keller: Clark-Patterson-Lee is going through the NEPA process for two water districts right now and we thought we would review the projects now as though they were Notices of Intent so that we're able to get ahead on these projects. The first is for the Shorewood Water District. It's an existing water district that is looking to make upgrades to outdated water mains. The water service area will consist of about 13,000 linear feet of eight inch water main and serve about 227 residential, agricultural and commercial properties. The letter that you have in your packet is virtually the same for each of the remaining projects we'll be reviewing. It is that standard letter that has been sent out in the past for the water district notices of intent.</p> <p>Steve Kimball: Do we know of any specific issues? It looks like it drops a little into the Agricultural district.</p> <p>Dennis Rak: There's not a lot there. I think the standard items that we've included in the past would be sufficient.</p> <p>Steve Kimball: I'll take a motion to approve the letter for the Shorewood Water District.</p> <p>Dan Steward made the motion. The motion was seconded by Jim Cafilisch and passed unanimously.</p>
<p>NEPA – VanBuren Water District, Town of Pomfret</p>	<p>Melissa Keller: This is in Pomfret, it's the VanBuren Water District.</p> <p>Dan Steward: I'll make a motion to approve that letter too.</p> <p>Brian Aldrich seconded the motion and it was passed unanimously.</p>
<p>Notice of Intent – NCCWD Water Main Improvement</p>	<p>Melissa Keller: This last one we have received a full Notice of Intent for. This includes a replacement of old infrastructure and the addition of new infrastructure for the purpose of creating a regional water district in the North County. It will include the installation of water mains and a pre-fabricated pump station at the location of the existing pump station along County Route 82. The pump station will boost water pressure south to the Town of Sheridan and fill a new 500,000 gallon storage tank. The project also includes the construction of a 500,000 gallon pre-cast concrete water storage tank in the Town of Sheridan. The purpose is to correct any safety and health issues that currently exist.</p>

<p>Notice of Intent – NCCWD Water Main Improvement (Continued)</p>	<p>It is anticipated that no agricultural lands within the agricultural district will be acquired.</p> <p>Steve Kimball: It’s confined to the right of way, it probably won’t have an impact on vineyards.</p> <p>Dan Steward: I’ll make a motion to approve the letter.</p> <p>Jim Caflisch seconded the motion. The motion was approved unanimously.</p>
<p><i>Adjournment</i></p>	
	<p>Steve Kimball: I’ll take a motion to adjourn.</p> <p>Fred Crosut: I’ll motion.</p> <p>Jim Caflisch: I’ll second.</p> <p>Steve Kimball: All in favor?</p> <p>Approved by unanimous consent. Meeting adjourned.</p>

DRAFT