

**ST. LAWRENCE COUNTY
AGRICULTURAL AND FARMLAND PROTECTION BOARD**

Public Safety Complex, 2nd Floor, 48 Court Street

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MEETING MINUTES

Thursday, December 2, 2021

Zoom Meeting ID: 814 2869 0391

Passcode: 419354

I. Call to Order

A. Members present: P. Ames, R. Andrews, L. Denesha, M. Finen, D. Fisher, B. Green, J. Greenwood, J. Pfothenauer and J. TeRiele. **Members absent:** S. McKnight. **Staff present:** M. Larson. **Others present:** Raeanne Dulanski, Soil and Water Conservation District Manager; Bob Beckstead, Watertown Daily Times; Patrick Kelly, St. Lawrence County Industrial Development Agency.

Roll Call and Determination of a Quorum. Andrews called the meeting to order at 6:01 pm. Larson did a roll call for attendance; a quorum was established.

B. Adoption of the Agenda. Larson reviewed agenda items. Andrews asked if there were any additions to the agenda. Hearing none, the meeting agenda was accepted by consensus.

C. Approval of the Minutes. The October 7, 2021 meeting minutes were unanimously adopted (Pfothenauer/TeRiele).

II. New Business

A. Summary of AFT Solar Siting Roundtable. Larson delivered a summary of an October 28th presentation by American Farmland Trust regarding a stakeholder survey on the siting large scale solar arrays on farmland.

B. Summary of New Valuation Model for Renewable Energy Systems. Green reported the State has standardized the valuation of wind and solar energy facilities beginning in 2022. Green said each year, assessors will revalue solar facilities greater than 1 MW, and PILOT payments will be based on a new valuation formula that lowers current assessment values. Based on Green's conversations with assessors elsewhere in the state, the new formula favors solar developers, and less on the host community. Green added that additional changes to the new formula may occur before it goes into effect. Andrews said having uniformity to set the assessed value of solar facilities will help clear up confusion at the town level. Kelly clarified

the State is seeking to create a consistent means of setting the assessed value for these kinds projects. The process will apply a discounted cash value model that takes the facility's size, location in the state, power output and ISO zone. Kelly also explained the differences between a facility's assessed value and PILOTs; some PILOTs are based on an abatement from a fixed value, other PILOTs are based on other factors such as production capacity. Kelly said the abatements that will be provided by the new assessment formula creates certainty for the developers and can result in modest PILOTs. Kelly added the new formula will need to play out before the real impact is fully understood, and said it is too early to determine how it will affect future PILOT negotiations. Kelly said the standard formula with help the IDA with their analysis for abatements to provide. Green asked if any developers have approached the IDA to renegotiate PILOTs as the result of this new formula. Kelly replied no, and said the negotiations involve seeking approval from local taxing jurisdictions. Green said renegotiations have been requested around the Albany area. Kelly said the IDA strives to provide fair PILOTs that are acceptable to the developers and host communities.

C. Processing Land Removal Requests During 2023 Eight-Year Review for Ag District 2.

Larson said the review process will begin in March to add land to Ag District 1 and 2, and to remove land from Ag District 2. Larson described the Ag District 2's location, and said it will host two of the largest proposed arrays in Canton, Brasher, Massena and Norfolk. Larson explained the NYS Department of Agriculture and Markets hasn't received an inquiry from local jurisdictions on how they should proceed when a large land owner submits a petition to remove agricultural land that will host a large scale solar array. Larson expressed a concern about whether the Department's mitigation guidelines for solar arrays on farmland would continue to apply if those lands are no longer in an ag district, and whether the Department's role is diminished with regards to minimizing impacts to farmland that are in an ag district. Larson said she was seeking guidance from the Board on how staff should proceed if petitions are received to remove land that will be used to host large arrays.

Andrews asked for clarification on the County's role in the review process for solar arrays that are permitted through Article 10 and 94C. Larson explained 94C reduces the permit review process to no more than six months, and the Article 10 process is the original framework for reviewing large scale renewable energy projects. Larson said removing land from an ag district diminishes the mitigation and decommissioning requirements that can be put into place by the Department of Agriculture and Markets. Andrews referenced a previous solar project in Waddington that was proposed on Class 2A or 2B soils, and NYSERDA indicated that the developer invested too much into the project to walk away, and the project was sited anyway. Larson said that project served as a good example, and asked what type of recommendation the Ag and Farmland Protection Board would give to the County Board of Legislators on whether lands should be removed as requested by a property owner. Larson explained that once farmland is removed from an agricultural district, Ag and Markets role is eliminated from the review process, regardless of the types of soils that are present on the property.

Ames asked what guidance Ag and Markets has provided in the past for the removal of lands from an ag district. Larson said the Department does not know yet as they have not been posed with this question before. Larson said in the past, property owners can petition to remove land and the Ag and Farmland Protection Board can recommend which lands should be removed

by examining property classes and satellite imagery to determine whether the land is being used for farmland purposes. Larson said that in the last eight-year review, the process was used to exclude non-agricultural uses from an Ag District. Larson explained the County removed quarries, landfills and other parcels that were converted into non-farm uses, and determined those lands would not benefit from the protections offered under Ag and Markets Law. Larson said the one provision in Ag and Markets Law regarding the creation and continuation of an agricultural district is that at least 51% of the lands in the district comprise of viable agricultural lands.

Andrews asked whether these actions are in compliance with the provisions of the County's Agricultural Development Plan. Larson replied in her opinion, the removal of agricultural lands with the best soils to site a large scale solar array would not be consistent with the intent of the Plan. Andrews recommended the response to these requests should be consistent with the guidelines in the County's Plan. Finen said she was unsure what guidance to give to staff; Fisher said this circumstance will not be easy to answer. Fisher added that it depends on an appetite for private property rights, and said he was certain farmlands leased for solar arrays will ever be farmland again, and based on his observation of three solar installations, he was certain it would never be affordable to reclaim those sites for farmland production. Fisher added the country has less farmland than ever before, but is continuing to produce more foods with the help of technology. Larson said the Department's current mitigation guidelines have been watered down compared to its prior iterations, and said developers now have the opportunity to contest the guidelines and suggest alternatives.

Larson clarified for Ames that property owners can qualify for exemptions, but it is not contingent upon being located in an ag district. Larson said the lookback timeframes for lands in or out of an ag district are different. Finen asked about how mitigation guidelines are enforced. Larson said the responsibility for enforcing tighter guidelines has transitioned from the State to local municipalities, and explained by the time a solar project is filed at the local level for review, a developer is not inclined to incorporate any additional changes. Finen asked about the financial impact of the conversion on property owners; Larson said developers often help offset that expense as a part of a lease arrangement. Fisher said the footprints of projects can also be wasteful, and takes viable farmland out of production when it doesn't need to. Andrews recommended staff review the County's Farmland Protection Plan and examine how it can be applied if the County receives requests to remove land. Larson confirmed for Pfothenauer that the County's annual review schedule has been used for previous eight-year reviews and is acceptable to the Department of Ag and Markets.

III. Old Business

- A. Update on Article 10 Application by North Side Energy Center.** Larson delivered a PowerPoint presentation that highlights content from three documents the applicant submitted to the Administrative Law Judge regarding the project: Proposed certificate conditions; the proposed site, engineering and environmental plan; and highlights from Ag and Markets guidelines that would apply to this project. Larson said the applicant's proposed certificate of conditions lists seven provisions in local land use regulations they feel are unreasonably burdensome and should not apply to the project. In Massena, they are: minimum setbacks from

property lines, road access width, requirements that apply to decommissioning bonds; and abandonment and removal requirements. In Brasher: Abandonment and decommissioning requirements, and in Norfolk: Vegetation offsets for removal, and the bond escalator for the life of the project. Larson said the applicant's documentation states it will follow the Department of Agriculture and Markets' guidelines for siting solar arrays on farmland to the greatest extent possible, unless the applicant finds those guidelines are not practical. In those instances, the applicant states it will attempt to work out an alternative with Ag and Markets. Larson then reviewed highlights from the Department of Ag and Markets guidelines for siting solar arrays.

Pfotenhauer reported a virtual public hearing was held by the Administrative Law Judge in October, and said a handful of attendees spoke in support of the project. Pfotenhauer also reviewed written testimony from the DEC with regard to the extent of wetlands that are present on the property, and said the Department did not sign off on the project as the Department believes the applicant has not successfully demonstrated satisfaction with regards to wetland mitigation. Pfotenhauer said the applicant requested additional time to address the DEC's concerns. Finen asked who owns the land that is leased for the facility. Pfotenhauer said the land is all privately owned. Finen asked whether or not the host communities will receive funds for hosting the facility. Pfotenhauer said the towns are anticipated to receive funds through negotiated PILOTs. Larson said some municipalities wrote community host agreement language in their wind energy regulations, but was unsure whether or not that language existed in Massena, Brasher or Norfolk's solar energy regulations.

Finen wondered how much information stakeholders have reviewed before agreeing to this project. Pfotenhauer said local officials have been engaged in the development of the project, and listed the local municipalities and agencies that have signed off on the proposed certificate of conditions. Finen asked how other Ag and Farmland Protection Board members felt about the proposed project. Ames said the Board's role is advisory in nature to the County Board of Legislators, and agreed with Andrews' suggestion that the Board review guidance from the County's Ag Development Plan in this process. Andrews said there is 1.7 million acres present in the county, and there are no Class 1 soils present. Andrews said the Board has emphasized the siting of renewable energy systems on marginal lands, instead of on prime farmlands, even though it yields higher construction costs for the developer. Denesha said renewable energy systems established in the North Country are used to support activities in urban areas downstate, and the permanent displacement of prime soils impacts the local economy. Finen said she would appreciate learning more about the taxes or PILOTs that will be paid by the developer. TeRiele said the siting of solar arrays wouldn't be an issue if farming was more profitable. Green said most solar projects are occurring in the North Country because land values are affordable, and he would prefer the project to follow all application requirements.

IV. Reports

- A. Updates from AFPB Members.** Denesha said as of today, St. Lawrence County has 167 new COVID19 cases, which is the highest new daily total since the pandemic began. Denesha reviewed number of persons hospitalized and died, the county's vaccination and positivity rates, and an anticipated spike in cases during the holiday season. The 2022 budget was passed

by the Finance Committee, and is anticipated to pass at the Full Board meeting next Monday. Denesha said the total tax rate will decline by .17 cents, and achieve an overall reduction in taxes compared to 2021. Kelly said the IDA received inquiries regarding biodigesters and connecting to the natural gas pipeline, and is coordinating with project stakeholders to find out what role the IDA may play in this process. Kelly said the USDA issued grant and loan guarantee program funding notices for energy efficiencies and renewable energy systems for agricultural producers, and noted its March 2022 deadline. Kelly said the IDA provided bridge financing to CCE for investments to their certified kitchen, and funding awarded to GardenShare for a local foods marketing program, and approved a loan to an egg producer based in Brasher. Kelly said the IDA continues to work with partners to meet the needs of the business community during the ongoing presence of the pandemic.

Ames said Cooperative Extension continues to operate its robust Farm to School program, and secured bridge funding from the IDA to purchase equipment to offer frozen product lines to participating school districts. Ames said CCE intends to apply for a third round of funding, and intends to pursue Federal support to gain production efficiencies in the kitchen. Dulanski said the SWCD office continues to operate with reduced staffing and recommended the public call ahead to ensure the appropriate staff person is present to assist them. Dulanski listed the number of property owners they assisted with the completion of the ag valuation process, and said they closed their 2nd grant for ag waste storage facility, and their EAB project continues with the removal of traps and sentinel trees throughout the county, and completed 220 miles of a roadside assessment on the presence of EAB in select towns. Dulanski also said the Grange is looking for a new representative to serve on the SWCD board. Greens said Real Property is in the process of creating municipal tax bills that will be mailed to property owners in the beginning of January, and will begin preparing and mailing bills in Ogdensburg.

VI. Other Items

- A. 2022 Meeting Calendar.** Larson reviewed the proposed dates which would model the meeting schedule of prior years: February 3rd, April 7th, October 6th and December 1st. The 2022 meeting schedule was adopted by consensus (Pfothenauer/Finen).
- B. Correspondence.** Larson said the Office received correspondence from the Department of Agriculture and Markets that concurred with the Town of Canton's intent to serve as lead agent in the environmental review process for a proposed solar array on the Meade Road. The Office also received correspondence appointing Larson to a State Farmland Preservation Working Group to preserve farmland when siting solar arrays. Larson said the first meeting will be held virtually on December 8th.
- C. Announcements.** Larson said the Office was contacted by the Department of Agriculture and Markets about an aggrieved property owner in the Town of Norfolk whose property is trespassed by livestock that is owned by a farm operator down the Lacombe Road. Larson said the farm operators land is not fenced in, and his livestock has been trespassing onto adjacent land for the past three years. Larson said the Office is working with the Town of Norfolk and the Department on animal control regulations to help resolve the issue.

D. Next Meeting Date. The next Agricultural and Farmland Protection Board meeting will be held on Thursday, February 3, 2022 at 6:00 pm. Pfothenauer wanted to recognize Larson for all the work Larson put together for tonight's meeting.

VII. Adjourn

The meeting adjourned by consensus (Finen/Pfothenauer). Members of the Board wished one another a happy holidays.

Respectfully submitted,

Matilda Larson