

SUMMARY OF MEETING January 26, 2009
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Town of Bethlehem
Agricultural and Farmland Protection Plan
Study Advisory Committee Meeting



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Bethlehem Town Hall Room 101 – 7:00 PM

Attendance

Members:

Paul Kleinke, George Leveille, Nancy Neff, Timothy Stanton, Robert Verstandig, Jr., Giles Wagoner

Staff/Consultants:

Robert Leslie (Town), Deborah Kitchen (Town), Liz Brock (AFT)

Meeting Summary

Mr. Leslie noted that the materials distributed for January 26, 2009 include an agenda, written summary of the November 17, 2008 meeting, draft recommendations for the Plan's goals, dated January 23, 2009, and a written summary of landowner/renter interviews conducted by American Farmland Trust.

The November 17, 2008 meeting summary was discussed and approved as amended. It will be posted on the Town's website.

Agricultural Landowners Interview Summary

Mr. Leslie referred to the written landowner/renter interview summary that was submitted by AFT and asked the members to provide comments. The committee members agreed that the interview summary should include a disclosure, which qualifies the content, stating that the document reflects the interpretation of the interviewer. The committee also questioned why paragraph #1 included the words "agricultural service providers" when there are none in the Town. AFT will amend the summary in accordance with the committee's comments. The document will be incorporated into the Plan. Additional comments concerning the document can be forwarded to Ms. Brock. Staff will distribute the interview summary to the interviewees.

Discuss potential recommendations that support the Plan's draft goals

The committee commented on the draft recommendations for the plan, dated 01/23/2009, based on the six goals identified at the November meeting. Comments provided by the committee were as follows:

Goal #1 is written to assist and support in resolving issues causing adverse impacts on agriculture and farmland. It was suggested the goal be re-written to include a statement that identifies the issues raised, such as: improving the interaction between the agricultural community and the Town staff with regard to vehicle traffic law and trespassing/encroachment/dumping issues; infrastructure needs; and remediation of past practices where road maintenance and drainage problems have negatively impacted farmland.

Mr. Leveille noted that the Town would need to be proactive if it is going to consider agriculture as a land use and an economic development activity. One of the recommendations for this goal was to create a dispute resolution system. Mr. Leslie noted that instituting a dispute resolution system would require either, establishing a committee to address landowners concerns, or utilizing Town staff to address issues such as encroachment. Mr. Stanton stated that he is in agreement with establishing a dispute resolution system but it should not be limited to encroachment. The standard for addressing landowner issues must be evaluated. A dispute related to agriculture needs to be evaluated by individuals who are familiar with and/or knowledgeable about agriculture.

According to Ms. Brock, adopting a local Right to Farm Law (RTFL) would enable the Town to hold a hearing when property owner issues are brought forward. Mr. Messina noted that adopting a local RTFL, would enable the Town to step in and play a role or provide assistance. Typically, the statute provides that when a local body makes the effort to draft a law, as long as it is as stringent as the higher body (Albany County), it would be accepted at the local level. With a local RTFL in place, individuals who

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purchase property may be required to sign a statement of acknowledgement if they are purchasing a parcel that is adjacent to or within a specified distance from an agricultural property.

Goal #2 is written to encourage flexible town policies and regulations that are supportive of agriculture. It was suggested the goal be further developed to discuss the issues that have been raised. The Committee discussed the following: improving landowner perceptions concerning the Town's land use regulations; land division regulations; types of agri-tourism uses allowed; restrictions on properties in agriculture production that may not be in an agricultural district; and whether or not a building permit is required when constructing an agricultural building regardless of whether or not it is located in an agricultural district.

Mr. Leslie stated that he believes all agricultural structures are exempt. He will provide the members with the section of the NYS DAM Guidelines pertaining to Review of Local Zoning and Planning Laws as well as the NYS Building Code as it relates to agricultural buildings. Mr. Leveille noted that an existing agriculture use in a Residence A zone is a by-right permitted use. For new agricultural uses site plan approval is required.

Goal #3 is written to support economic opportunities for farms and businesses that complement agriculture. It was suggested the goal be re-written to include a statement that identifies the issues raised, such as: allowing businesses that compliment/support agriculture; and enabling the landowner to tap into resources on their property by allowing land use options that are supportive of agriculture.

The Town's current definition for agriculture does not include support services, i.e., farm equipment rentals/sales/repair, food processing, grain storage/processing/distribution, slaughter plants, communication utilities. The zoning law also restricts the type of activities allowed at a Bed-and-Breakfast facility.

Mr. Leslie noted that approximately 30% of the agricultural properties are located in the RA district, approximately 27% are in the RLI, and approximately 29% are in the Rural district. The remaining properties are mostly located in the Rural Hamlet and Rural Riverfront districts. One such use, not currently allowed in an RA zone, is an animal hospital/animal clinic. It was noted that operation of an animal hospital/clinic should, at least, be considered as site plan or special use permit in the RA zone because 30% of the agricultural properties are located in that zone and large animal veterinarians are needed.

Ms. Brock suggested that the committee review the Schedule of Uses, found in Chapter 128-99 of the Town's Zoning Law to determine what other types of uses that are complement agriculture the committee would like to see as permitted on agriculture uses. It was suggested the zoning law definition for B & B to be modified to allow for weddings and gatherings.

Goal #4 is written to give farmers a voice; include members of the agriculture community on town boards and committees.

One recommendation being considered is establishing a committee, comprised of members from the agricultural community, to review proposed planning board projects that are adjacent to or near an agricultural properties. The committee would meet on an as needed basis and/or whenever a notice of intent was submitted to the NYS DAM. The committee was in favor of having a representative body review the proposed project rather than waiting until the public hearing to comment. Mr. Leveille suggested that there might be an opportunity to get input from the agricultural community through the Town's Develop Planning Committee review process.

With regard to agricultural representation on Town boards and committees, the recommendation will be re-written as follows: "Encourage the Town Board to include farmer representation on town boards and committees such as the Planning Board and Zoning Board of Appeals". Mr. Messina noted that this recommendation is found in the NYS Dept of State Laws for Towns. Mr. Leslie stated Section 271-11 of NYS Town law reads as follows: "...a town board may, if an agricultural district created pursuant to section three hundred three of article twenty-five-AA of the agriculture and markets law exists wholly or partly within the boundaries of such town, include on the planning board one or more members each of whom derives ten thousand dollars or more annual gross income from agricultural pursuits in said town.....". Mr. Leveille indicated that a Planning Board law would need to be adopted. Ms. Neff noted that agricultural representation on the Planning Board could possibly negate the need for a separate dispute resolution committee.

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Goal #5 is written to provide voluntary incentives for landowners to continue agricultural activities. It was suggested the goal be re-written to include a statement that identifies the issues raised, such as: developing ways for property owners to preserve or hold onto their land.

One recommendation would be for the Town to provide assistance to property owners who are interested in preservation. Assistance could be provided in the form of education and personnel to assist property owners that are interested in a Purchase of Development Rights (PDR) program or Transfer of Development Rights (TDR) programs. Ms. Neff stated that she does not believe the agricultural community is really interested in PDR or TDR programs at this time. It would be more beneficial to develop incentive zoning that helps to fund the preservation of farming and agricultural lands than focus on PDR or TDR programs.

Goal #6 is written to encourage education opportunities to enable the public to better understand the benefits of and need for agriculture.

Mr. Leveille stated that he would like to see a goal that suggests the Town is looking at Agriculture as a business and doing everything in its power to ensure livelihoods and encourage new business.

The committee is in favor of the Town being proactive in assisting with promotion of existing farms, either by helping to develop and print informational brochures that would be used by residents to locate farms operations and participate in the "Buy Local" program; or placing information about existing farms on the Town's website. Mr. Messina stated that the Bethlehem IDA might be able to explore ways to invest in agricultural businesses. The committee is also in favor of seeking ways to promote agricultural education in the classroom.

With regard to establishing a "Community Farm Day", several committee members raised concern about the insurance risks that are associated when inviting the public to attend such an event. The committee also expressed some reservations about the Town supporting a Farmer's market because they did not feel it is in the best interests of the agricultural community. The committee discussed Community Supported Agriculture (CSA) and felt that CSAs would be a difficult sell for the farmer even though it might be widely accepted by the community. Ms. Neff noted that there is nothing prohibiting anyone from participating in such an activity at this time. Mr. Stanton suggested that CSAs have become a "trendy" term, and suggested that the IDA could explore types of strategies in which the community might undertake a financial stake in a farming operation; an example might be a CSA.

Action Items:

- Ms. Neff requested that Town staff investigate the educational opportunity that was previously mentioned regarding agriculture in the classroom – NY Farm Bureau. Are written materials being sent to public schools in the county?
- Ms. Neff stated she feels the committee would benefit from receiving the CACC materials that are related to open space because they may affect agriculture. Ms. Neff specially referred to Green Infrastructure recommendations. She also suggested that the recommendations be discussed at an AFPP meeting to make sure the wording is consistent in both plans. The committee should have an opportunity to review the materials to see if the recommendations are doing anything to impede or promote agriculture.
- The committee will refer to the NYS Dept. of Agriculture and Markets (NYS DAM) definition of Agri-tourism before developing a definition that would be added to the Town's Zoning Law.
- The committee will also refer to the Federal Farmers Market definition of Agri-tourism before developing a definition that would be added to the Town's Zoning Law.
- Comments regarding the interview summary should be submitted to Ms. Brock.
- The committee will receive a copy of the section of the NYS DAM Guidelines pertaining to Review of Local Zoning and Planning Laws as well as the NYS Building Code as it relates to agricultural buildings.

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- The committee will review the Town's Schedule of Use Chart found in Chapter 128-99 of the Zoning Law and make recommendations about agricultural uses that should or should not be allowed in various zones.
- Town staff will investigate whether or not the Town has ever had a land density requirement for livestock? And whether or not any regulations apply to parcels that are not in the agricultural district.
- Staff will forward interview summary to the people who were interviewed.
- Review Erie County Right-to-Farm Law.
- Obtain information/literature from NYS DAM re: Traffic Laws affecting Agriculture

Topics for the next meeting (March 16, 2009) are as follows:

- Review revised recommendations

Respectfully submitted: Deborah Kitchen