

# Massachusetts Association of Agricultural Commissions

## Ag Commission Newsletter #5 / January 2014

This is the 5th AgCom Newsletter, focusing on activities of Agricultural Commissions around the state. We send these newsletters out periodically to keep AgComs up-to-date on current AgCom issues, upcoming events, ideas and projects of AgComs in western Mass, grant programs and deadlines, and other related items. Please let us know (at [westover03@comcast.net](mailto:westover03@comcast.net) or [clekstrom@mac.com](mailto:clekstrom@mac.com)) if your email address has changed or if you can provide email addresses for others on your AgCom. Thanks for your assistance. Note that resources in this newsletter are for informational purposes and do not constitute an endorsement of specific programs by MAAC.

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### **1. Mass Association of Agricultural Commissions (MAAC) Update**

MAAC was organized in 2010 to support Massachusetts Agricultural Commissions (AgComs). With help from local AgComs, MAAC strives to provide AgComs with services and education to bolster and advance their agricultural support work at the local level. MAAC builds support for agriculture in communities through effective relations with federal and state agencies, elected and appointed officials, private and nonprofit organizations and the public.

So far, 62 AgComs have joined MAAC. Ideally, every AgCom in the commonwealth will join in the effort to make the MAAC an effective force in promoting local agriculture. MAAC sponsors regional AgCom conferences each year, and will hold its **2014 Annual Meeting, March 15 at the Old Mill Restaurant, 69 State Road East, Westminster, MA**. The charge to attend the conference, which includes workshops and lunch, is \$30 for early registration, \$35 after March 1. To register, please send your name, address, email, town of residence, and AgCom affiliation together with a check for the above amount made out to MAAC to Laura Grabski, c/o Brookview Farm, 2 Brookview Rd, Boxford, MA 01921.

All Massachusetts AgComs may become members of MAAC - no dues payment is required. Please take the time to discuss MAAC membership at your next meeting and vote on whether you choose to be a member. For more information on MAAC, Bylaws, and Board of Directors please visit <http://www.massagcom.org/about/maac.html> or contact Dick Ward at 781-361-5425 or [info@massagcom.org](mailto:info@massagcom.org). A form included on the MAAC website will tell you what information to send to join the association. For more information on MAAC, please visit: [www.massagcom.org/AboutMAAC.php](http://www.massagcom.org/AboutMAAC.php).

MAAC Board members are:

Dick Ward, Carver AgCom, Plymouth County, President  
Laura Sapienza-Grabski, Boxford AgCom, Essex County, Vice President  
Laura Abrams, Sudbury AgCom, Middlesex County, Secretary,  
Steve Damon, Gill AgCom, Franklin County  
Mike Hogan, Ludlow AgCom, Hampden County  
Jaime Wagner, Amherst AgCom, Hampshire County  
Kathy Orlando, Sheffield AgCom, Berkshire County  
Sue Guiducci, Dartmouth AgCom, Bristol County  
Ed Lawton, Foxborough AgCom, Norfolk County  
Mike Pineo, Sterling AgCom, Worcester County  
Leslie Spencer, Barnstable AgCom, Barnstable County  
Dwight Sipler, Mass Farm Bureau Federation  
Stephen Herbert, UMass Stockbridge School of Agriculture  
Greg Watson, Commissioner, Mass Dept of Agricultural Resources

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### **MAAC Membership Application**

The Massachusetts Association of Agricultural Commissions, Inc. (MAAC) was organized in 2010 to support local AgComs. With your input MAAC will strive to provide you with the necessary services and education to bolster and advance your work at the local level. All MA AgComs may become members of MAAC and no dues payment is required. Please take the time to discuss MAAC membership at your next meeting and vote on whether you choose to be a member. We look forward to your response.

On \_\_\_\_\_ the \_\_\_\_\_ Agricultural Commission voted:  
(date) (town/city)  
\_\_\_ In favor of becoming a MAAC member \_\_\_ Not in favor of becoming a MAAC member

Email Dick Ward at [info@massagcom.org](mailto:info@massagcom.org) with any questions or other topics of importance to you. Please drop this information in the mail after your vote: Dick Ward, PO Box 74, Carver, MA 02330. Thank you!

### **Farm Bureau Membership Application**

**Have Your Agricultural Commission vote to be a member of Farm Bureau and designate a contact.** The Massachusetts Farm Bureau Federation supports Agricultural Commissions and encourages farmers to be active on their local town AgComs. Farm Bureau has valuable resources to offer AgComs which include: access to staff, technical assistance for issues such as Chapter 61 land tax valuation, animal health and welfare, regulatory assistance, farm exemptions, food safety, forestry resources, trespass, wildlife, letters of support for grant applications, alternative energy, energy discounts, zoning, education, intervention, and speaking points on local issues and so much more. AgComs may join at no charge. Visit [www.mfbf.net](http://www.mfbf.net), or <http://mfbf.net/Portals/0/pdf/AgCom%20Membership%20Brochure.pdf> for an application to take to your next meeting.

## 2. Results of Winter AgCom Conferences 2013-14 at Hancock and Northampton

At least 15 AgComs were represented at the Hancock AgCom conference on December 7 and another 25 or more sent members to the January 11 conference hosted by the Northampton AgCom at Smith Vocational School in Northampton. Following are some of the main issues, comments, and AgCom achievements brought up at the conference roundtable discussions.

\* **Williamsburg AgCom** has a new life.. It now has 7 commission members made up of older/younger, male/female, commercial and recreational farmers and foresters representing dairy, maple sugaring, fiber, eggs, vegetable CSA, and Christmas trees/wreaths. It has established an impressive AgCom website (<http://burgyag.weebly.com>) with tabs entitled Who We Are, What We Do, Current Projects, Right to Farm, Farm Products List, Calendar of Events, Farm Photos, Resources for Farmers, and Contact information. The website also invites donations for Right to Farm road signs and lets people know that the AgCom is here to support agricultural practices and other farming activities in the Town of Williamsburg. The AgCom has also created a brochure with general information about the purpose and duties of the AgCom. The brochure is available at key locations throughout town and recently invited all commercial and recreational farmers and foresters in town to an informal Farmer Coffee event to discuss current issues, needs and projects.

\* Under the theme, “**The AgCom is there for them,**” many AgComs have worked to train other town boards to call on them for assistance with farm-related issues and refer complaints and other needs to them.

\* **Pittsfield AgCom** is involved with the countywide Keep Berkshires Farming effort, has a brochure in the printing stage, and emphasizes sustainable food production.

\* In **Lanesborough**, 29 people signed up to help the AgCom teach school kids of grades 1 to 6 how to raise crops at the school garden. Lanesborough also has a webmaster and a program on the local cable TV station. Lanesborough also sponsors a farm potluck and helps farmers connect with the community and with Williams College and Mass College of Liberal Arts (MCLA).

\* **Egremont AgCom** has Right to Farm signs on all main highways and has sponsored visits to farms in town, including the remaining dairy. The AgCom has also facilitated communication between complainers and farmers to cool things off and prevent larger problems.

\* **Plainfield AgCom** has worked with the Cummington and Savoy AgComs to set up mini-regional meetings and a brochure for upper hilltown AgComs. Plainfield continues to debate the AgCom’s role in solving ongoing friction between organic and conventional farmers and GMO and non-GMC producers. MAAC reminds AgComs that their role should be that of discussion facilitator and that they should routinely support all types of farming rather than just those that some members favor. (Note – see below for a description of the mediation service sponsored by the Mass Office of Public Collaboration.)

\* **Belchertown AgCom** has promoted a community agricultural vision and may participate in Glynwood’s Keep Farming program. It is also dealing with the future of the Belchertown State School farm property.

\* **Easthampton AgCom** has helped move the town farmers market to a new location and is dealing with town water issues.

\* **Whately AgCom** participated in the creation of an agricultural overlay zoning district and is working to complete a brochure featuring 28 Whately farms. Whately counts nearly 500 farm jobs and some \$20 million in gross farm revenue.

\* **North Brookfield AgCom** is new, and is dealing with a water superintendent who has been telling farmers how to pasture and fertilize.

- \* **Amherst AgCom** is dealing with farmers market politics.
- \* **Northampton AgCom** has been part of a major Keep Farming Northampton effort in cooperation with Glynwood and has been mediating community discussions about the use and management of the Meadows section of Northampton, especially questions around private vs public roads. Northampton's AgCom members represent a wide variety of agricultural types.
- \* **Montague AgCom** has been working on energizing the town Farmers Market.
- \* **Huntington AgCom** is working to assure residents that there actually is farming on Huntington. It hopes to find a way to replace town Right to Farm road signs, all of which were recently stolen.
- \* **Hatfield AgCom** sponsors a 5K race and farm murals on local barns and is involved with the school lunch program. It also has been given a formal subdivision review role by the town.
- \* **Gill AgCom** practices "in your face" politics thanks to chair Steve Damon, with signs at all intersections, annual cheese nights, and projects that get young people involved in agriculture.
- \* **Granby AgCom** published a farm brochure in its early years but has lately been in limbo. It has recently helped maple producers with the Commonwealth Quality certification program.
- \* **Heath AgCom** is concerned with preserving farming as well its farmland that "has a little dirt between the rocks," according to chair Dave Freeman.
- \* **Nantucket AgCom** is creating a work plan and working on a survey of farmers.
- \* **Boxford AgCom** has worked to bridge the gap between commercial and "recreational" farmers.
- \* **Howden Farm in Sheffield** has joined many other farms that have established Facebook pages, using experts in the community to help involve the younger generation in farm workshops.
- \* **The Green Agers program** in south Berkshire County trains students for summer farm internships.
- \* Not every AgCom has been able to stay active. Many are hampered by time constraints or have trouble finding new members. **Greenfield AgCom** has addressed these issues by enlisting an entirely new membership headed by chair Bob Sagor. The AgCom has gotten a Right to Farm Bylaw passed and is working on a town farm brochure. **Wilbraham AgCom** is reconstituting its membership to include more non-farmers who can help engage more "regular folks" in town, inviting people to its meetings for particular subjects.
- \* **Keep Berkshires Farming** ([www.keepberkshiresfarming.org](http://www.keepberkshiresfarming.org)) is a regional initiative started by the Great Barrington Agricultural Commission in 2010 and modeled after the [Glynwood Keep Farming](#) program. It operates in partnership with the Berkshire Regional Planning Commission. Started by the Great Barrington AgCom, its missions are (1) To promote an agricultural community with a viable farming industry, (2) To ensure fresh, delicious and nutritious food for Berkshire County residents, (3) To support the preservation of our beautiful open spaces through agriculture, and (4) and to assist the development of a local foods infrastructure to increase regional food security. Its final report includes the following preliminary findings:
  - Farmers in Berkshire County tend to be isolated.
  - Aggregation of farm products can help get local produce out to the market.
  - Connections with Farm to School Project, UMass Extension, and other organizations are critical to farm success.
- \* **Williams College** is currently surveying land in Williamstown that could be put into agriculture.
- \* Under the theme, "**The AgCom is there for them,**" many AgComs have worked to train other town boards to call on them for assistance with farm-related issues and refer complaints and other needs to them. Williamsburg AgCom has sent a brochure entitled "This is the Agricultural Commission" to every town resident.

\* **Land For Good**, as discussed by Executive Director Kathy Ruhf ([kathy@landforgood.org](mailto:kathy@landforgood.org)) and Deputy Director Jim Hafner ([jim@landforgood.org](mailto:jim@landforgood.org)), offers farmers and AgComs assistance with land access and transfer. Kathy and Jim made the following points:

- Inventorying land at the community level is important to making land available.
- Small parcels are important to start-up farmers.
- To be used by farmers, land must be available, secure, affordable, appropriate to their needs, and findable.
- Non-farming landowners who can make land available to farmers include institutional owners, municipal boards and officials including AgComs, and land trusts.
- It's never too early to do succession planning – better at age 45 than at age 70.
- AgComs can conduct workshops on land access and transfer, arrange for technical assistance, and advocate for succession planning.
- Land For Good has a series of guides and resources on land leasing and succession planning on its website, [www.landforgood.org](http://www.landforgood.org).
- Farm succession and transfer prospects influence farm business decisions throughout the farm lifecycle, not just when a farmer is contemplating retirement.
- Having a farm transfer plan in place earlier in the cycle leads to greater investment in the farm and contributes positively to farm viability.

\* **Rick Chandler of MDAR** ([rick.chandler@state.ma.us](mailto:rick.chandler@state.ma.us)) discussed the APR program, which has protected some 900 farms and 68,000 acres of farmland across the state. It's important to preserve active farmland now, as we have about a 20-year window before a major generational transfer of unprotected farmland occurs in the Commonwealth, causing land to be broken up among multiple non-farming heirs. In addition, investor groups are buying both protected and unprotected farmland and leasing it out for 5-10 years to farmers who will keep it in good condition, often with no equity interest and no option to acquire. Some non-farming investors, as they have done on forested tracts around the world, expect to recover holding costs from the lessees and then to cash in profits at market rates by reselling to the highest bidder (a well funded farmer if protected) as ag use values continue to rise. AgComs are important in getting the word to farmers about protection possibilities, as well as about the importance of transfer planning and exit strategies that compensate heirs while keeping the land in farming.

\* **Melissa Adams of MDAR and Keep Berkshire Farming** discussed three MDAR programs that can all be found on the MDAR website: Farm Viability, APR Improvement (AIP), and MEGA (Matching Enterprise Grants for Agriculture). For more information, Melissa can be reached at [melissaadams4@comcast.net](mailto:melissaadams4@comcast.net). The Ag Environmental Enhancement Program (AEEP) is also described on the MDAR website. For wetland issues, Katherine Skiba (413-755-2119) at DEP is the agricultural liaison.

\* **Lisa Damon of the Farm to School Project** ([lisa.massfarmtoschool@gmail.com](mailto:lisa.massfarmtoschool@gmail.com)) discussed the program's availability to help establish one-on-one food procurement relationships between farmers and institutions. Farm to School has published a helpful flier on preferential purchasing ordinances.

\* **Bob Ritchie, former MDAR General Counsel** ([bob.ritchie@comcast.net](mailto:bob.ritchie@comcast.net)) discussed the need for understanding between AgComs and Boards of Health, which often speak different languages. Boards of Health have been known to go too far in promulgating regulations affecting farm animals. They can issue orders to abate nuisances, but cannot tell farmers how to fix the problem.

\* **Frank DiLuna of Murtha Cullina** ([fdiluna@murthalaw.com](mailto:fdiluna@murthalaw.com)) elaborated on the definition of "nuisance." A farm practice cannot be deemed a nuisance if it is a generally accepted farming procedure. Boards of Health can jump in on *public* but not *private* nuisance situations. They can act to protect *public* health.

**Brad Mitchell of Mass Farm Bureau** ([brad@mfbf.net](mailto:brad@mfbf.net)) discussed the difference between generally accepted or normal ag practices and "best management practices" (BMPs). The former are the way things actually are, the latter are the way we might wish them to be. BMPs may be a worthy goal but should not be *required* by regulators unless the regulators are also prepared to provide financial and technical assistance.

\* **Kristin DeBoer of Kestrel Land Trust** ([Kristin@kestreltrust.org](mailto:Kristin@kestreltrust.org)) reported that the Forever Farmland Initiative has grant funding to do estate planning workshops with farmland owners and that land trusts remain ready to work with Ag Coms to help facilitate farmland conservation of prime farmland, hilltown farms, and floodplain farms. Kestrel also has Forever Farmland Initiative posters for towns who are interested.

\* **Rich Hubbard of Franklin Land Trust** ([rkhubbard@verizon.net](mailto:rkhubbard@verizon.net)) discussed the many farmland protection projects that Franklin Land Trust is involved with, and provided extensive advice about negotiating with landowners to solidify Agricultural Preservation Restrictions and in some cases Conservation Restrictions. Here are Rich's suggestions for negotiating with farmland owners:

### **WORKING WITH LANDOWNERS TOWARD FARMLAND PROTECTION:**

**Richard K. Hubbard, Executive Director, Franklin Land Trust**

- Take advantage of “the professionals”. FLT and other land trusts are here to help!!
- Plan and prioritize! What are the most important properties to conserve?
  - Resource values.
  - Location in relation to other conserved lands.
  - Community character.
  - Age of owners.
  - Threat of conversion.
- Whenever possible, be proactive. Having a conversation with a landowner (or developer) with 30 days left in a 120-day Ch.61 ROFR isn't pleasant or easy.
- Offer to have a, “no cost or obligation conversation” - let's just talk about your needs and options.
- If you plant a seed today, it may germinate years from now.
- Be prepared. Before you meet with a landowner, research their property and the surrounding area. Do a drive-by. Look at the assessors' maps. Who owns land around them? Is there other protected land in the area? Go into the conversation with as much information as possible. This helps you to begin to formulate a conservation strategy.
- Let the landowner tell you about their land. Most people love their land, and it helps them to get excited about the conversation.
- Bring a map of the area. It helps to encourage conversation and can add context to the importance of a property.
- With the exception of projects involving lots of \$\$ and multiple partners (e.g. APRs with state), this work is not rocket science. It's about building a relationship based on mutual trust.
- Every landowner requires a different approach; you have to play it by ear.
- When things get really tough, even if you come across a landowner that you truly dislike, keep your eyes on the prize: “It's the land, stupid.”
- Listen carefully to a landowner's needs & concerns. Not every funding source or conservation outcome fits those needs and concerns.
- Sometimes negotiations require multiple meetings before you see progress. It may take years for a project to come together. Sometimes when you think all is lost, a project will come alive again. Don't get discouraged!
- You should be prepared to meet at any time and any place.
- “No” doesn't always mean “no”.
- It is good to know the basic ideas behind tax/financial tools, but never give financial advice without qualifying it with - “you should check with your financial advisor.”
- Depending upon the circumstance, you may want to go into the first meeting with a confirmed, appraised value (situations where a landowner is selling their land and could care less about conservation) – land trusts can sometimes assist with this.

- Often times, once a landowner starts to think about \$\$, you have them engaged and it becomes harder for them to break-off the conversation.
- Family dynamics are often the wildcard. Listen carefully. Who is calling the shots? Who is supportive? Who is not?
- Make sure that you are speaking with everyone who ultimately has a say.
- It is often much easier to deal with this generation than the next (children):
  - The next generation often cares less about the land and more about \$\$.
  - If you have children that support the preservation goals of their parents, negotiations are likely to be much easier.
  - The more owners, the more difficult the negotiations.
- Sometimes you have to call a landowner's bluff or practice "tough love".
- Don't assume that \$\$ is always primary – gifts of restrictions are not uncommon.
- No matter how long you do this work, you learn something new every day.
- Have fun! It's God's work!!!

### **Land Conservation Options for Region Covered by Franklin Land Trust**

#### **1. Gift of "fee interest" (full ownership) in land to Franklin Land Trust.**

FLT would own and manage land as a conservation area.

##### Advantages:

- land is permanently protected from development;
- knowledge that the land will be well taken care of and managed by FLT, in perpetuity, according to its natural resource values;
- possible income/estate tax advantages due to gift of land to FLT;
- relatively fast and inexpensive process.

##### Disadvantages:

- owner receives no \$\$;
- owner no longer owns or controls land.

#### **2. Gift of Conservation Restriction (CR) to FLT**

FLT assumes the responsibility of monitoring the land and, if necessary, defending the CR in perpetuity.

##### Advantages:

- land is permanently protected from development;
- knowledge that the land will be stewarded by FLT, in perpetuity, according to the terms of the CR;
- owner continues to own and control land;
- possible income/estate tax advantages due to gift of CR to FLT;
- no public access required;
- relatively fast and inexpensive process.

##### Disadvantages:

- owner receives no \$\$;
- future owners have to manage land according to the requirements of the CR.

#### **3. Executive Office of Energy & Environmental Affairs' "Landscape Partnership Grant Program"**

Requires a minimum of 500 acres of land, in a single or multiple ownerships, that is contiguous (not split by roads), or that is connected through conserved land. Non-contiguous properties can then be added to the application. State will pay up to 50% of total appraised value for a "fee interest" or a restriction (APR or CR). Remaining 50% of funding can be through a "bargain sale", gift, or local funding. Requires a state or town, and nonprofit partner. Access by the general public is required.

#### Advantages:

- land is permanently protected from development;
- owner receives \$\$;
- knowledge that the land will be stewarded by FLT and/or state, in perpetuity, according to the terms of the CR;
- if a CR is involved, owner continues to own and control land;
- possible income tax advantages if a “bargain sale” is involved.

#### Disadvantages:

- if a “fee interest” is involved, owner no longer owns land;
- if a CR is involved, future owners have to manage land according to the requirements of the CR;
- public access is required;
- relatively long and complicated process.

#### **4. Executive Office of Energy & Environmental Affairs’ “Land Conservation Tax Credit Program”**

Landowners who conserve their land, through a gift or “bargain sale” of “fee” or a restriction (APR or CR) - to the state, town, or land trust - receive a check for 50% of appraised donative value or \$50,000, whichever is less. Land has to have been deemed to have significant conservation values by the Executive Office of Energy & Environmental Affairs.

#### Advantages:

- land is permanently protected from development;
- owner receives \$\$;
- knowledge that the land will be stewarded by FLT and/or state, in perpetuity, according to the terms of the CR;
- if a CR is involved, owner continues to own and control land;
- possible income tax advantages due to the gift or “bargain sale”;
- no public access is required if CR or fee is held by FLT.

#### Disadvantages:

- if a “fee interest” is involved, owner no longer owns land;
- if a CR is involved, future owners have to manage land according to the requirements of the CR;
- relatively long process.

#### **5. MA Department of Fish & Game’s “Land Protection Program”**

Seeks to acquire land to protect and perpetuate ecosystems that contain significant fishing or hunting resources and to conserve the biological diversity of the state, including those sites which support rare species and exemplary natural communities. Access by the general public is required.

#### Advantages:

- land is permanently protected from development;
- owner receives \$\$;
- knowledge that the land will be stewarded by FLT and/or state, in perpetuity, according to the terms of the CR;
- if a CR is involved, owner continues to own and control land;
- possible income tax advantages due to the gift or “bargain sale”;
- no public access is required if CR or fee is held by FLT.

#### Disadvantages:

- if a “fee interest” is involved, owner no longer owns land;
- if a CR is involved, future owners have to manage land according to the requirements of the CR.



### **3. New Pro Bono Legal Services Program for Farmers**

The Conservation Law Foundation (CLF), a regional New England environmental advocacy organization, is launching a pro bono legal services network for farmers, food entrepreneurs, and food-related organizations and community groups. Through the New England Farm & Food Legal Assistance Hub (NEFFLAH), CLF will match eligible participants with skilled attorneys who are willing to provide their legal services for free. The program will pilot in Massachusetts for the first year, beginning in Spring 2014, and then expand throughout the region. We hope that AgComs will be willing to recommend potential farmer clients for the program.

**Why?** CLF believes that a thriving New England means a thriving local food system—the region’s environment, climate, and economy depend on it. There is a robust movement afoot to sustain New England’s communities with locally grown food, but many farmers and food entrepreneurs struggle to overcome the high legal fees associated with starting a farm or business, acquiring land, entering into contracts, transferring land to family members, or other essential business matters. Legal services can be so costly that some farmers and food entrepreneurs either go without, or pay more than they can afford, harming other aspects of their businesses’ economic viability. In the worst-case scenario, farmers or food entrepreneurs lose their businesses or exit the field due to these and other financial hurdles.

**What?** CLF seeks to help address this problem by launching the New England Farm & Food Legal Assistance Hub (NEFFLAH). CLF will recruit attorneys to participate in the network and serve as the managing entity, running an intake hotline and email address to enlist participants. After assessing each participant’s case for eligibility, CLF will reach out to the NEFFLAH attorney network and match the participant with a skilled lawyer who will provide pro bono legal services. The NEFFLAH network will be composed of experienced attorneys that CLF has pre-screened. In addition, CLF is partnering with the Harvard Law School Food Law and Policy Clinic to create a legal manual on issues specific to farmers and food entrepreneurs to help guide attorneys who join our network. CLF will conduct routine periodic check-ins with attorneys and participants to ensure the representation is going well.

**Who?** Eligible NEFFLAH participants include: farmers, food entrepreneurs, 501(c)(3) organizations whose primary constituency or membership base is farmers or food entrepreneurs, or community groups whose mission is to address social justice issues related to the food system. To ensure we are directing our resources to the people who are most in need of assistance, participation in NEFFLAH will be based on an income cap. CLF will pilot NEFFLAH with an initial focus on cases involving transactional issues, such as land acquisition/transfer, estate issues, taxes, contracts, and corporate formation, among others. CLF will evaluate whether other issues, such as regulatory matters, should be added in the future.

**For More Information.** Contact Jenny Rushlow, Director of CLF’s Farm & Food Initiative, at [jrushlow@clf.org](mailto:jrushlow@clf.org) or 617-850-1763.

## 4. Mass Office of Public Collaboration's Agricultural Mediation Program

The Mass Office of Public Collaboration still offers the following services for AgComs and others, and invites any AgComs who are interested in mediation assistance to be in touch with Courtney Breese, Program Manager, at (617) 287-4040 or Toll Free at (888) 869-1898.

### **Agricultural Mediation Program**

The Massachusetts Agricultural Mediation "AgMed" Program, created by the Massachusetts Office of Public Collaboration (MOPC), provides professional mediation, facilitation, conflict prevention and training services to individuals and organizations engaged in agriculture as a way of supporting sustainable agriculture throughout the Commonwealth.

Some of the services that are offered by the AgMed Program are:

- Mediation
- Facilitation
- Training

#### **Mediation**

Mediation is a voluntary, confidential and flexible process in which a neutral third party mediator assists negotiations between two or more disputing parties. Parties in mediation are able to devise creative solutions, often in **less time** at **less cost** and with **greater satisfaction** than through litigation. Equally important benefits of mediation lie in the high quality of settlements and the durability of agreements, which result from the process.

MOPC has assembled a small panel of highly trained mediators who have education/background in substantive areas such as **agriculture, land use, zoning, and environmental issues**. MOPC also has mediators available through the Program who have expertise in resolving **family and interpersonal disputes** which can arise in the context of the "family farm."

An example of some of the issues that can be mediated through the AgMed Program are:

- Agricultural loan and credit disputes
- Land use and zoning disputes
- Nuisance disputes with neighbors (noise, smell, traffic, etc.)
- Environmental issues
- Other issues involving farmers or those engaged in agriculture which, if not resolved, threaten the economic viability of the farm

MOPC's AgMed mediators are chosen through a vigorous selection process and are held to the highest ethical standards of practice.

**Mediators have no decision-making authority.** Therefore, if all of the parties do not voluntarily and cooperatively reach an agreement, the mediation is closed and all parties remain free to pursue other legal actions.

There are several benefits to mediation including:

- Mediation is an opportunity for the parties themselves, not a judge to determine the outcome;
- Mediation is an opportunity for the parties to come together to clarify issues and explore options for possible settlement;
- Mediation can usually be done at low or no cost to the parties ;
- Mediation can often help to mend personal and professional relationships;
- Mediation is informal and confidential

#### **Facilitation**

Group facilitation is a process in which a person who is acceptable to all members of the group, substantively neutral, and has no decision-making authority intervenes to help a group improve the way this group identifies and solves the problem and makes decisions, in order to increase the group's effectiveness. The facilitator builds an agenda and procedures of meetings so that members, responsible for the decision making, can focus on the content. It is extremely useful when important meetings involving numerous participants are held.

MOPC can provide trained, professional facilitators who can work with groups, such as an Agricultural Commission or other town boards, to help plan and organize their work in a collaborative and efficient way. A facilitator can also be utilized to make public meetings and decision making processes go more smoothly. MOPC Facilitators are well trained in helping groups set an effective agenda, define problems, resolve these problems through brain-storming, and make final decisions by consensus or other agreed upon process.

#### **Training**

MOPC and the AgMed Program also have the ability to provide training and skill-building workshops for the agricultural community on a variety of topics including:

- Conflict Resolution & Prevention
- Collaborative Governance
- Effective Meeting Management

- Negotiation
- Consensus Building

MOPC is fortunate to have a cadre of very experienced dispute resolution professionals and trainers who have particular context area expertise. They can teach farmers and members of the agricultural community how to prevent conflict in their everyday life and how to effectively manage and resolve conflict once it has occurred. Our workshops will help participants to learn how to understand conflict, how to listen effectively, deal with anger and emotions, and how to negotiate and craft durable agreement settlements.

Participants have an opportunity to learn real skills that will help them handle conflicts and are able to practice these newly learned skills through role-plays that mirror the conflict situations they face in their daily work. Skill building can focus on a variety of areas, from conflict analysis and prevention, to creative problem solving, to negotiating with challenging personalities.

#### How to access AgMed Program Services

To access services through MOPC's AgMed Program or to refer a matter, please contact:

Courtney Breese, Program Manager at: (617) 287-4040 or Toll Free at (888) 869-1898

You may also mail requests to: AgMed Program, MOPC UMass Boston, 100 Morrissey Boulevard, M-1-627, Boston, MA 02125 or fax requests to (617) 287-4049.

Examples of MOPC's Work:

- **Mediation re Family-owned Orchard** - Farm Viability experts discovered that the financial situation of farm that had applied for their program was much more complicated than previously understood, and that the family, who owned the farm, had to make a strategic decision as to how the farm will be managed. Family mediation, requested by Farm Viability, was completed in three sessions. The family agreed to sell the farm, thereby saving their houses from foreclosure.
- **Mediation re Farm-Neighbor Dispute** – A farm and its abutting neighbors were in dispute over the use and type of pest deterrent systems. Through a large group mediation process, all were able to communicate their needs and desires and come to agreement on a new approach for communicating concerns and addressing deterrent needs.
- **Mediation re Farm Management** – A pair of family members were in disagreement about how to manage the farm they jointly operated, and grew concerned about the farm's future. Through a mediation process, the two were able to develop a plan for managing the farm and communicating about issues when they arise.
- **Workshops on Conflict Resolution and Effective Meeting Management** for Agricultural Commissions in southeastern and western Massachusetts

#### AGRICULTURAL LINKS

Coalition of Agricultural Mediation Programs: [agecon.nmsu.edu/mediation/camp.htm](http://agecon.nmsu.edu/mediation/camp.htm)

USDA Farm Service Agency, Agricultural Mediation: <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=oued&topic=ops-am> (under construction)

## 5. The Mass Zoning Reform Act and its Impact on Farmers

The proposed Mass Zoning Reform Act, otherwise known as H. 1859, “An Act promoting the planning and development of sustainable communities,” sponsored by Rep Stephen Kulik (D-Worthington) and Sen. Daniel Wolf (D–Harwich), includes a number of substantial changes to the Commonwealth’s Zoning Act, Subdivision Control Law, and local master planning statutes. One of them, the option for a town to replace ANR (Approval Not Required) lots with a “Minor Subdivision Approval” process, could, in the view of some, potentially affect the appraised value of an Agricultural Preservation Restriction (APR) or Conservation Restriction (CR) by making it harder to build lots with existing frontage. That issue now being actively addressed by proponents of the bill.

Following is a description of the proposed zoning changes provided by Jeff Lacy of DCR ([jeff.lacy@state.ma.us](mailto:jeff.lacy@state.ma.us)), and Bob Ritchie, formerly general counsel for MDAR, for this newsletter:

Massachusetts is listed by the American Planning Association as one of the states with the weakest and most outdated state land-use laws; and since 1999 a concerted effort has been underway to reform and modernize the statutes that govern local planning, zoning, and subdivision. This legislative session, all of the previous supporters of zoning reform – municipal officials, planners, regional planning agencies, and

environmental, smart growth, housing, and public health advocates – have convened to create a consensus bill. **House Bill #1859, An Act Promoting the Planning and Development of Sustainable Communities**, blends aspects of previous zoning reform legislative proposals in the first major updating of the Commonwealth's land use statutes in almost 40 years. The bill encourages communities to adopt or update their local master plans, provides them the tools necessary to implement effective land use regulations, and eliminates many statutory impediments to the achievement of “smarter growth” in Massachusetts so that communities and citizens may better plan for growth and shape their futures. The bill’s principal sponsors are Representative Stephen Kulik and Senator Daniel Wolf, with 56 co-sponsors.

Many of the proposed permitting reforms will be useful to the average landowner. In this area the emphasis is on prompt, predictable, and flexible local permitting. Several examples include:

**Special Permits:** A zoning special permit now requires a super-majority vote to be approved and lasts no longer than two years. It is not surprising landowners dread them. House 1859 reduces the default vote majority to approve down to a simple majority. It also extends the duration of a special permit to a minimum of three years instead of the current maximum of two years, and establishes a clear lapse and extension process.

- **Building Permits:** House 1859 extends the maximum zoning life of a building permit from 6 months to two years before construction must begin. This better reflects today’s construction schedules, affording builders more breathing room so that details, such as financing, may be attended to prior to actual start of construction.

- **Vested Rights:** Securing the rights to proceed with development under a building or special permit is now extremely difficult. House 1859 standardizes the vesting provisions for building and special permits. In so doing it becomes much easier to vest rights for building and special permits applied for prior to the first notice of a public hearing on a zoning change, a significant liberalization for those applicants.

- **Zoning Variances:** The state's current eligibility criteria are so strict that many cities and towns grant almost no zoning variances. House 1859 rewrites the current variance statute in its entirety, expanding landowner eligibility to apply for a lawful variance; setting reasonable procedures and criteria; extending the effective duration of a variance from one to two years before lapse if not used; and increasing the permissible extension interval from 6 months to one year. A workable zoning variance statute provides the intended flexibility to municipalities and property owners.

- **Minor Subdivision:** Reform of the so-called “ANR” provision in the Subdivision Control Law is needed because effortless approval of roadside lots makes even the worst, unpaved roads in the most remote places just as easy to develop as those in a town center – a prescription for residential sprawl and its potential conflicts with agriculture and forestry. House 1859 adds a local option to replace ANR with a “minor subdivision” process. This in no way prohibits the development of such lots, but may require a developer to make reasonable upgrades to substandard roads. However, the value added to such lots from the roadway improvements and improved vested zoning rights protections may be sufficient to offset some of the costs of the work.

Minor subdivision applies to more than just former ANR lots; it governs smaller residential subdivisions built on new roads that today are regulated as full subdivisions. Under minor subdivision there is a shorter review period – 95 days instead of 135; a public hearing becomes optional; reductions of requirements otherwise applicable to subdivisions are allowed; and limits of no greater than 22 feet are

placed upon road width requirements. Minor subdivision, as applied to a new road, is expected to reduce development costs.

## **6. Ag Day March 26!**

**Mass Ag Day this year is on Wednesday, March 26, at the State House in Boston. This is a chance to meet with your legislators about farm and AgCom issues. MAAC will have a table at the gathering and can help organize those who want to join together to see their state senators and representatives.**

Each year on Ag Day, farmers and agricultural groups bring a *Taste of Massachusetts* agriculture to the State House. Coordinated by the Massachusetts Agricultural Promotion Board, the day is an opportunity for farmers to meet with their representatives to discuss issues important to the agricultural community. The Ag Promo Board works hard to survey the agricultural community through commodity groups to come up with pertinent priority issues that everyone is in agreement on such as: funding for a strong Massachusetts Department of Agricultural Resources, Buy Locals, and UMass Extension. Last year's priorities included support for local meat processing operations to meet the increasing demand. These priorities are known as the "White Paper." There is usually a morning briefing so that everyone can be on the same page when they speak to their representatives individually or in coordinated groups. A number of awards and recognitions are made in a speaking program. Then the feasting begins with a "Taste of Massachusetts". This is a "taste", not a "meal". Ingredients are sourced through farmers across the state with coordination provided by CISA, Northeast Harvest and a variety of volunteers. To find out more, contact the Massachusetts Farm Bureau Federation at 508-481-4766 or [agpromoboard@mfbf.net](mailto:agpromoboard@mfbf.net). To be part of the MAAC exhibit at Ag Day, Contact Dick Ward at [rjward7@comcast.net](mailto:rjward7@comcast.net).