

**Agricultural and Farmland Protection Board Meeting
September 15, 2021
Meeting Minutes**

Ag Board members present: L. DeBuck, E. Ruscher, M. Simpson, D. Smith, S. Soons, A. Sorensen, M. Ullrich, J. Wright.

Ag Board members excused via email: J. Hoeffner, P. Ruszkiewicz.

Guests present: K. Apostolides – OC Farm Market Coordinator, Z. Coleman – OC Planning, M. Decker (via TEAMS) – (OCLT), J. Dehner (via TEAMS) – OCLT, J. MacLeod – OC Planning, J. Richmond – OC Planning.

Call to order – 7:11 pm.

July Minutes

J. Wright moved to accept the July minutes as presented, M. Simpson seconded, unanimously approved.

Summary of Accounts

There are no changes to the summary of accounts. J. Wright moved to accept the summary of accounts as presented, M. Simpson seconded, unanimously approved.

Inquiries & Correspondence

J. MacLeod stated that the Ag Board received a letter from New York State Department of Ag & Markets certifying the inclusion of the parcels the County proposed to adding to the County Agricultural District through the Orange County Legislature’s Resolution No. 169 of 2021. General discussion ensued. No action taken at this time.

J. MacLeod stated that she received an email from Rick Minkus describing what kind of farming he does. She had a phone conversation and Rick sounds interested in being on the Ag Board. However, the email he sent did not clearly state his interest. She will follow up on this. M. Ullrich moved to forward the e-mail to the County Legislature and ask to appoint Rick Minkus to the Ag Board, S. Soons seconded, unanimously approved.

J. MacLeod stated that the Ag Board received two letters from the residents of Onion Avenue regarding the proposed Highland Cemetery project in Wawayanda. The two letters were addressed to Jack Hoeffner and Len DeBuck, but the letters were otherwise identical. These letters expressed concern about toxins, like embalming fluid, running off into the surface water and groundwater systems. The nearby homeowners indicated that they are concerned about the impacts on their drinking water and asked the Ag Board to help stop this project. M. Ullrich stated that cemeteries are highly regulated to limit their impacts on nearby properties. E. Ruscher stated that he will reach out to the Town of Wawayanda to get more information about this project and report back to the Board. L. DeBuck indicated that the Ag Board could move at a later Board meeting, if it deems it necessary. No further action taken at this time.

Old Business

Open Space Plan

Discussion ensued about the Orange County Open Space Plan Update. The Orange County Planning Department is in the process of updating the County Open Space Plan and is attending this meeting to interview the Ag Board members since the County identified the Ag Board as a stakeholder. This plan update is being done in-house. The core working group includes the Orange County Planning Department, the Orange County Planning Board and the Orange County Land Trust (OCLT). The stakeholders include organizations and boards that are consulted through stakeholder interviews. The insight they provide during the stakeholder interviews will be key in developing the updated plan. The Ag Board is one such board. Finally, the interested parties (i.e. NYS Ag & Markets) will have indirect involvement with the plan. These parties will receive a copy of the final drafts of the updated plan and be allowed to comment on the plan at that time.

The County is currently collecting data for the plan update. It is working on the base mapping for the plan and gathering information from the stakeholders through the stakeholder interviews. It has already evaluated other plans that are relevant to the Open Space Plan Update. Currently, the County has six themes or topics for the Open Space Plan, including agriculture, biodiversity and natural resources, built environment, historical and cultural resources, recreation, and water resources. The County may be reconsidering the location of the Priority Growth Areas (PGAs) while updating the plan to ensure that development will not negatively impact drinking water.

The final product of this plan will be an ESRI webpage containing dynamic maps. This website will also have links to written documents that will be available for organizations that need to refer to the Open Space Plan for their projects and funding opportunities. The plan will also have a financial strategy to help ensure that the recommendations requiring funding are able to get implemented.

The interview with the Ag Board started with J. Richmond asking the Board what its priorities are. M. Ullrich stated that the County could reach out to the towns to ensure consistency with laws across the towns. She stated that she knows New York is a home rule state, but the municipalities have very different laws and rules that impact agriculture. These laws include how many chickens or other livestock animals a farm can have, how to keep agricultural land open, and how to address the use of agricultural land for solar installations. M. Ullrich stated that it would be helpful if the plan had some pointers for leaving out or not prioritizing agricultural land for use, including residential and commercial development. The Ag Board also said it would help if the County could recommend the cities to allow chickens. S. Soons said that sometimes there are different responses between different building inspectors in the same town. Some towns are very liberal with the farms and other towns hit the farms with every little thing. For example, rules about cutting down trees can be very different between towns. In Goshen permits are needed for cutting down trees with a 12" diameter or more, while in Warwick permits are needed for any tree clearing for more than ¼ acre. The Ag Board asked how you measure ¼ acre when you are cutting down trees along a fence line. A. Sorensen said that the plan needs to speak to what the farmers need. The County might have to write model laws to address the issues about the different responses from the towns.

L. DeBuck stated that the Ag Board has asked the towns to keep large scale solar installations off of the prime agricultural soils. However, the Ag Board has not always been listened to. The solar installations should be installed on top of industrial and large-scale retail building (i.e. Walmart). M. Ullrich stated that this is a guidance issue. A. Sorensen stated that the County Planning Department has required modifications of large-scale solar installations in the GML239 review process by directing towns to put solar arrays on top of large warehouses. The towns could also have requirements to place solar arrays above the buildings or parking lots. M. Simpson said that solar battery sites are an

issue, too. He has had a company approaching him for several months to try to get him to have a solar battery storage site on his farm that would only take up about three acres. The storage of energy is a shortcoming of solar and wind energy. The energy is produced in one location but is stored in another location. L. DeBuck asked why solar panels couldn't be placed under the Marcy South power lines since this land is already cleared. The Ag Board indicated that this would not work because structures are not allowed to be placed under the power lines.

The Ag Board members also indicated that some farmers have to deal with neighbors that complain about things. Warwick is farmer friendly, depending on who you are or what you want to do.

The next question was how the Ag Plan is going to interact with the Open Space Plan since it seems like a lot of the recommendations that we will have in the Open Space Plan are already captured in the Ag Plan. A. Sorensen said that the County will look at both plans side-by-side with an eye for other things that can be added to the Open Space Plan to enhance the recommendations of the Ag Plan. M. Ullrich said that the Ag Plan said that towns should be more farm friendly and not use agricultural land. She thought the Open Space Plan could have more teeth to it. J. Richmond stated that the County could include this but noticed that a lot of the recommendations related to the municipalities were not implemented from the 2004 plan. She stated that as a County Plan, the County can provide model ordinances and make recommendations on farm-friendly land use policies.

The County is looking to the Ag Board for implementation ideas and how to get the implementation on the municipal level. M. Ullrich stated that the successes have been when towns have a particular problem that are a teaching moment for the towns. This is when the Ag Board or Cornell Cooperative Extension (CCE) are asked to educate the towns about the issue. The Planning Federation meetings also help educate the municipal board members and supervisors about agricultural topics. The County could be reaching out to the supervisors and board members to inform them about training or it could make little videos that focus on one topic or issue. This information could be brought to the municipal meetings. M. Ullrich stated that there are implementation efforts that are almost always farmer initiated. When a farmer has a problem, he/she comes to the Ag Board, Cornell Cooperative Extension, or the Planning Department for help.

K. Apostolides stated that being on a Planning Board, there is a lack of communication between the town employees and the board members. For example, she was not given a copy of the code when she joined the board. She had to ask for it. The board members are also not given a list of resources that they can tap into. She said that she does not think that any of the other members on her board, other than maybe the chairman, know about these resources. She had let the other board members know about available online training for them. M. Ullrich stated that she knows that Cornell is always offering training, too.

The Ag Board indicated that educating new board members used to be a bigger deal. In November and December there would be training across the state for all new politicians and board members. The state would let these officials know where to get the training. Unfortunately, these trainings are far and few between now. This is a role that the County and the County Planning Department might be able to take up. They have been having annual right-to-farm and farm-friendly venues addressing law theories and they can work with municipalities to implement this.

The Ag Board was then asked if there are specific land regulations that make it harder to farm, according to members of the farm community. The Ag Board indicated that it would be helpful if farmers could be more cautious with their farm practices when they are near their neighbors. For example, when the farmers are spreading manure on their fields, they could try to spread the manure on Monday or Tuesday and not on the weekend when everyone is home. This is particularly true for

farms that are surrounded by residential properties. However, most of the farmers try to be as respectful to their neighbors as they can be.

Next, the Ag Board was asked what its concerns are about climate change. M. Ullrich said that flooding is becoming a regular issue for agricultural production. Rainfall patterns have changed significantly during the last 20 years. Overall, we might not be getting more rain. However, we are getting fewer rain events with heavier rainfall. Now we have mini-droughts followed by flooding. Therefore, flooding is more of an issue. Temperature changes and other changes are changing the dynamics a little bit. There are minor advantages to climate change, such as a longer growing season, new varieties of produce since we are in a different growing zone, and a later frost. However, these are small advantages compared to the flooding and other issues. We need to plan better for flooding and drainage. We also need to address development because it can impact flooding and agriculture. The Ag Board members agree that downstream flooding is becoming a bigger problem.

The Ag Board also stated that the towns could look at some agricultural sites (i.e. produce packers) as “light commercial uses” or “agricultural commercial uses” and use slightly different regulations than other commercial uses. For example, M. Ullrich stated that one onion farmer in Wawayanda was forced to put macadam down for his parking lot because the town decided that his operation was commercial. This was despite the fact that there were only a few tractor trailers coming to this site per day. However, the farmer had to provide a stormwater management plan, which cost a lot of money. M. Ullrich stated that this site should have just had a porous parking area, based on the actual use of this site.

Furthermore, the Ag Board members stated that if farmers can manage their soils, maybe they could get carbon credits and get paid for these credits.

Furthermore, M. Ullrich stated that building inspectors could follow up on water movement on and off of property to minimize property damage. The County could give out rain barrels to collect rainwater off of roofs to reduce stormwater. This stormwater could be used to irrigate gardens.

J. Richmond stated that what she got out of this is that the County needs to look at where active farms are already and be mindful about the impacts on the farms. A. Sorensen said that another way to think about this is that in the working landscape farms are a critical piece of the open space system. So, if you look over the last twenty years, there is a significant amount of farmland that has been converted to other uses (i.e. warehouses and solar facilities). Therefore, there is an ongoing threat of the continued loss of farmland.

Next, the Ag Board was asked what are some of the measures that the County can put in place to protect farmland. A. Sorensen stated that the 2004 Open Space Plan listed the PDR program as a way to protect farmland. Looking back over time, this program has been effective in keeping large tracks of farmland from being otherwise developed. The availability of PDR funding has been sporadic because sometimes the State or USDA has a lot of money for this program and sometimes they do not. However, perhaps having more predictability and availability of PDR funding would be advantageous. A. Sorensen said that on the flip side, the 2004 Open Space Plan recommended the use of transfer of development rights. However, this is not very practical and was not pursued very much. One of the Ag Board members said that the County needs to protect local farmland because we are having foreign countries control our food supply. To counteract that, we need to grow our food locally.

The Ag Board then commented on the need for a slaughterhouse. M. Ullrich said that maybe the Open Space Plan could support a meat processing plant. She noted that nobody wants this in their backyard, but we need it because several meat processing facilities have closed. The County could

also encourage allowing the states to certify meat, not just the USDA. This would help in the development of a slaughterhouse and these meats could be sold in grocery stores and farm stands.

The Ag Board also commented on farmland preservation. The Ag Board members indicated that the farmland preservation program has an equalization using prime farmland ground and a state list of farmland that the State wants to protect. However, farmland in Warwick costs more than in other parts of the County. Therefore, it is harder to preserve farmland in areas of the County with lower land costs. L. DeBuck stated that we don't want these farms lost because if we lose one farm, then we could lose more farms. The County needs to keep as many farms as possible to maintain the needed services for the farms. If the County loses too many farms, then it impacts the viability of the remaining farms. L. DeBuck stated that the County also needs to find a funding source to make it easier to erase the development rights on farms. He said if the County wants to have smart growth, then it needs to lay out the incentives to have smart growth to take place. He also stated that part of smart growth might be to have a green-belt area or a no growth zone so that communities can continue to have a sense of identity.

Next, the Ag Board commented on funding for farmland preservation. L. DeBuck stated that he thinks having a dedicated source of funding would be beneficial and it could be led by the government and the transfer tax. He said maybe there should be a bond issue as a starter to show everyone in the Town how this program works. This is what Warwick did and then the people decided to tax themselves because they realized how important it was to protect agricultural land. M. Ullrich asked if having reduced taxes for farm services and companies. L. DeBuck stated that this would be helpful. Another Ag Board member questioned reducing taxes on farm services and companies because they serve a lot more than just the farming community now. He asked where we draw the line. M. Ullrich stated that she doubts that these businesses do hundreds of thousands of dollars in non-farm business. Most of their income comes from farmers.

The Ag Board then commented on the transfer tax. The County offered blanket-support to allow each municipality in Orange County to have a ballot about whether or not they should have a transfer tax. Although the County Legislature was in support of this, it was not approved in Albany. However, M. Decker stated that the Town of Blooming Grove did get its transfer tax approved by the State Legislature and is waiting for the Governor's signature. There are other towns watching what is happening in Blooming Grove and Chester while they are thinking about having a transfer tax like Warwick's. M. Decker stated that the Town of Blooming Grove has made farmland a priority in its community preservation fund. L. DeBuck stated that Blooming Grove is reacting, not planning, since it only has three farms left. He said that their plan was not good if there are only three farms left. M. Decker said that on the flip side of that, the more land transfers there are the more money that can be collected to protect open space and farms.

The Ag Board was then asked if having a community preservation fund on a town-by-town or a countywide basis a good idea. The Ag Board was asked if there is any reason to not have towns put that question to their voters if this fund is the right tool for that town. The Ag Board members indicated that the Board has already voted to recommend to support this effort and forwarded its recommendation to the County Legislature. The County Legislature then voted to support this measure and sent its recommendation to the State. Therefore, the Ag Board is already on record for supporting this effort. The Board members agreed that if the Open Space Plan indicates that it supports this fund, it will have a little more weight with the State.

Next, the Ag Board was asked what parameters of farmland make a farm the most worthy of protection. Looking at the soils map the County has, the state and federal grants are tied to the prime soils and soils of statewide importance. The Ag Board was asked if the Group 1-4 mineral soil groups are more important than the other soils classifications in determining what are good soils. The Ag

Board members agreed that the Group 1-4 soils are more important than the prime soils and soils of statewide importance for farm protection. M. Ullrich stated that other things, like infrastructure, needs to be considered. For example, if there is a 10-acre field that does not have any infrastructure (i.e. farm buildings, water, electricity, etc.), regardless of soil type, it is not as viable as an independent farm as a parcel that is the same size with all of this infrastructure. If the parcel does not have the infrastructure, can that parcel be successfully farmed by itself? M/ Ullrich stated that the County also needs to consider what is going on with the neighbors. For example, the Jones Farm is an apple farm that is completely surrounded by houses and development. They have a great location that a lot of people would want to buy the land for houses. It is also a great location for an apple farm. The Ag Board agreed that the soil type determines about 60-75% of what makes a farm viable. If a farm has good soil that gives a better product, then the farmer is at an advantage right off.

The Ag Board was then asked if the size of the farm should be taken into account when determining which farms to protect. L. DeBuck stated that there is a market for a smaller farm and a market for a larger farm. He stated that some farms need more acreage. If there is a larger farm, then there are probably more farms around that farm. He also noted that some farms get sold little by little, and what is left is a "left-over." However, sometimes it is hard to find a small piece of farmland when new people from more urban or suburban areas come into town. If the land is the remaining land from a subdivided farm, then it probably will be a little bit less viable. A. Sorensen stated that there needs to be a critical mass of farmland. M. Ullrich mentioned the example of Nick FitzPatrick's farm. He was new to the neighborhood and in a couple of years he obtained a lot of land and created a good business. However, a farmer could take a five-acre Black Dirt farm and grow just as much produce. Therefore, this Black Dirt farm could have the same value as an upland farm with more acreage. M. Ullrich said that part of the income of the farm involves the value of the product that is planted. She does not think that the size of the farm matters. Another Ag Board member stated that some agricultural lands are too steep or wet to use. Years ago, the soggy land was used for livestock, such as cows. Now those areas are all brushland. M. Ullrich stated that if the County could get a slaughterhouse in the area, then there would be more cows, sheep and pigs that could be on that land.

Next, the Ag Board commented on cluster subdivisions. L. DeBuck said that cluster subdivisions are good. He stated that it is better than dividing a 50-acre farm into 10 equal sized, 5-acre lots. He stated that it is hard for most people to take care of the 5-acre lots. This is unsightly and the residents have to drive to get anywhere. Maybe cluster developments should be incentivized to protect 40 acres of the 50-acre farm and not put the houses on the best land. However, he noted that it is hard to get developers to work with the engineers that are capable of designing cluster subdivisions. He stated that a simpler way to deal with this is to erase the development potential through PDR.

The Ag Board then commented about succession plans and the right of first refusal for neighboring farmers. The Ag Board stated that it is important to have a succession plan to help the farm continue into the next generation. Each family's succession plan will be completely different but will keep the farms going. The Ag Board members also stated that it would be good to allow neighboring farmers the right of first refusal if a farm will not remain in the family and is being sold. There is also a program that could match beginner-farmers with farms that do not have a successor. This program helps new farmers get started.

The Ag Board members were then asked what they think about the pre-emptive purchase right as a tool to protect agricultural land. With this program, a house cannot be built on the farm and the land has to be sold to another farmer for the farmland value. J. Wright said that not all landowners will sell under the constraints of a pre-emptive purchase right tool because the farmer will lose a lot of money. M. Decker said that the easement is worth a lot more at the time of the closing than the PDR program. J. Wright said that if the farmer cannot make money on the land, then the land will be bought by

someone from New York City, North New Jersey or Westchester County that wants a lot of land. He stated that this is what happened to the farm next to him, although he can still cut the hay there.

Next, the Ag Board commented on ag assessments. M. Ullrich said that ag assessments have had a crackdown over the past few years. There were a few times that a farmer did not get to hay a field and the farmer is not getting the ag assessment for those fields now. She said that the County could recommend the Towns look at the past four out of five years for agricultural activity or something like that. A lot of the farmland in the county is rented to farmers. For example, 1/3 of the cropland in dairy farms is rented. If the property owner loses the ag assessment tax break, they are more likely to sell the land for development. She stated that a lot of the time the problem is that the farmers do not get the paperwork in on time. Some assessors will give the farmers a pass for a year or so. However, they have been cracking down more in the areas that are getting more congested. Part of the issue is the labor to hay the fields because it is hard to get the needed labor sometimes. It is also hard for some farmers to afford the labor.

Finally, the Ag Board commented on the need for a clear definition of agriculture. The Board said the County could include a definition of agriculture in the Open Space Plan. The State and Federal definitions of agriculture are two different things, which is a problem. If the County wants to make the definition broad, it could say if you file a Schedule F for taxes, then you are a farm. This might not protect the farm, but it would offer a clear definition. M. Ullrich stated that a property owner cannot just have a barn and hold events to be a farm.

J. Richmond stated that the Planning Department will keep in touch with the Ag Board as it works on the plan. She stated that the Planning Department can come back to talk if the Ag Board wants it back. No further action taken at this time.

Public Officials Meeting

Discussion turned to the public officials meeting. K. Apostolides stated that the annual public officials meeting is scheduled for September 23, at 11:30 am, at the 4-H fairgrounds in Otisville. She stated that she has a statement of issues for the meeting. This meeting will focus on how the present food system broke during COVID and how to fix it. The meeting will address food production, climate change, the processing issues for dairy and meat processing, food distribution, and food access. A moderator is still needed for the meeting at this time. The meeting will be at lunchtime and a lunch will be provided at the end of the meeting that can be eaten at the event location or taken off site. Cornell Cooperative Extension will pay for the lunch. General discussion ensued. No further action taken at this time.

Other Business

Wallkill River Maintenance

J. Wright stated that Kevin Sumner is still working on the Wallkill River maintenance efforts. He noted that Goshen is still a problem. E. Ruscher stated that the County has the deeds of the properties along the river, showing the history of this stretch of the river. General discussion ensued. No action taken at this time.

Meeting adjourned: 9:14 pm.