

# MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT

Constitution Hall  
Atrium Level, Con-Con Conference Room  
525 West Allegan Street  
Lansing, Michigan 48933

## MEETING MINUTES OCTOBER 31, 2012

### **PRESENT:**

Velmar Green, Chairperson, Michigan Commission of Agriculture and Rural Development  
Bob Kennedy, Vice Chairperson, Michigan Commission of Agriculture and Rural Development  
Diane Hanson, Secretary, Michigan Commission of Agriculture and Rural Development  
Don Coe, Michigan Commission of Agriculture and Rural Development  
Trevor Meachum, Michigan Commission of Agriculture and Rural Development  
Jamie Clover Adams, Director, Michigan Department of Agriculture and Rural Development

### **CALL TO ORDER AND ROLL CALL**

Chairperson Green called the meeting of the Commission of Agriculture and Rural Development to order at 9:02 a.m. on October 31, 2012. Commissioner Hanson called the roll with Commissioners Coe, Green, Hanson, Kennedy, and Meachum, and Director Clover Adams present.

### **APPROVAL OF AGENDA**

**MOTION: COMMISSIONER COE MOVED TO APPROVE THE MEETING AGENDA FOR OCTOBER 31, 2012. SECONDED BY COMMISSIONER MEACHUM. MOTION CARRIED.**

### **APPROVAL OF SEPTEMBER 12, 2012, MEETING MINUTES**

**MOTION: COMMISSIONER COE MOVED TO APPROVE THE SEPTEMBER 12, 2012, MEETING MINUTES. SECONDED BY COMMISSIONER HANSON. MOTION CARRIED.**

### **NEXT SCHEDULED MEETING**

The next scheduled meeting will be held on December 12, 2012, at GreenStone Farm Credit Services, East Lansing, Michigan.

### **PROPOSED 2013 MEETING SCHEDULE**

The proposed dates for next year's meetings were discussed. Commissioner Green noted the schedule is always subject to change as needed.

**MOTION: COMMISSIONER COE MOVED TO APPROVE THE PROPOSED 2013 MEETING SCHEDULE AS PRESENTED. SECONDED BY COMMISSIONER HANSON. MOTION CARRIED.**

## **COMMISSIONER COMMENTS AND TRAVEL**

**Commissioner Coe** advised he attended a Food Network meeting September 18 in Traverse City. On September 25, he was requested by the Local Heritage Route organization to present on agriculture tourism; also day, he attended a Michigan Turnaround Plan presentation in Traverse City. He participated in the September 28 capitalization meeting in Traverse City for agriculture and agricultural processing businesses, and the September 29 Michigan Equine Foundation free clinic at the Fair Grounds in Traverse City, where they were able to provide services for horse owners in distress.

He traveled to Lansing on October 2 to attend the Michigan Culinary Tourism Alliance chaired by Linda Jones of the department. On October 4, he attended a meeting in Traverse City during which the Consul General of Canada made a presentation on the importance of the new bridge to Canada. He hosted the October 10 Michigan State University (MSU) Extension Council meeting for their presentation on the new Food Hub project. On October 16, he attended a second Food Network meeting to work on the local food alliance's goal of 20 percent local food by 2020. He traveled to Grand Rapids on October 18 to attend the Michigan Farm Bureau (MFB) Labor Advisory Committee meeting to discuss provisions for a Congressional agriculture labor bill. On October 22, he traveled to Lansing to participate in the Statewide Michigan Food Hub Learning and Innovation Network meeting that was jointly sponsored by the Michigan Department of Agriculture and Rural Development (MDARD) and MSU.

**Commissioner Meachum** advised he attended the annual VanBuren County Farm Bureau meeting, which featured Senator Debbie Stabenow as guest speaker. She is very sympathetic to agriculture and is working diligently toward passage of the new Farm Bill. Commissioner Meachum has met on several occasions with blueberry growers in his area. The Directors of MDARD and the Michigan Department of Environmental Quality (MDEQ), along with their departmental staff, joined one of those meetings for a very productive discussion about how to potentially assist the blueberry industry move forward with expansion projects in areas that might be questionable for growth, even though blueberries are a native crop to wetlands. He thanked Directors Wyant and Clover Adams for facilitating that meeting. He traveled to Illinois and Minnesota on personal business attempting to convince customers that Michigan would have an apple crop next year.

Wheat planting is nearly complete in his area, soybeans are almost harvested, and corn harvest is about half complete. Yields are very much dependent upon hybrids, with as much as a 50 bushel advantage with hybrid varieties. Corn yields have varied from 30 to 150 bushels an acre, with irrigated fields yielding from 220 to 280 bushels per acre.

**Commissioner Kennedy** reported the Saginaw Valley area enjoyed above average crop yields, to which hybrids definitely contributed. Corn was above average and soybeans were well above average, which has been a pleasant surprise. Corn harvest is about half complete, while soybean harvest is at 80 percent. They are waiting to see if hurricane Sandy affects rail transportation of crops to the southeast part of the country.

He attended the MSU Career Fair recently at which there was considerable excitement around agriculture, with companies as far away as California searching for skilled young people interested in agricultural careers. Communication of the educational needs and the future opportunities available in the agriculture industry definitely should continue. Representatives from his company have been participating in a working group with MSU, other colleges, and stakeholders to bring an agriculture curriculum into local and community colleges. They are very close to accomplishing that in the Saginaw Valley region, and from there, will be moving the effort across the state.

**Commissioner Hanson** reported the hay crop in the Upper Peninsula (UP) never recovered from the dry weather this year. Corn harvest is nearly complete. Potato harvest is finished, for which yields were up from irrigated fields, otherwise, yields were poor. Having been in Indiana recently, she learned a friend yielded only seven to 80 bushels of corn per acre from fields that normally yield over 200 bushels an acre. The impact of this year's decreased harvest will be overwhelming.

The AgBioResearch Center in Chatham received positive word recently from MSU regarding their future direction. One of their key focus areas involves an educational component, which is needed in the area.

She attended the Hiawatha Farm Bureau Annual meeting and was encouraged to see many new attendees.

**Commissioner Green** advised the harvest in their area has been much better than anticipated. Sugar beet harvest is about 25 percent complete. The dairy business is improving and this afternoon he will be traveling to California to review the industry in that state – dairy businessmen will be protesting at the Capitol in Sacramento because of ramifications of their current state order, which is approximately one dollar lower than the federal order pricing.

He attended the recent MSU purebred Herford cattle sale, which represents the end of a long legacy of some of the finest cattle in the U.S. That same day, MSU Extension was promoting "Meatless Mondays" on their website. He expressed concern about the direction that animal agriculture seems to be taking at MSU.

Last evening, he joined a fundraising event with Senate Majority Leader, Senator Richardville. They discussed several agricultural topics and the Senator seemed very aware of current events within the industry.

In addition to travel previously mentioned, Commissioners Coe, Hanson, Kennedy, and Meachum traveled to attend today's meeting. There was no other travel submitted for approval.

**MOTION: COMMISSIONER MEACHUM MOVED TO APPROVE THE COMMISSIONERS' TRAVEL. SECONDED BY COMMISSIONER KENNEDY. MOTION CARRIED.**

## **DIRECTOR'S REPORT**

Director Clover Adams reported the Quality of Life (QOL) group held a retreat with executive staff from each of the three agencies. It was a beneficial meeting that identified program overlap and potential friction points between the agencies. The QOL group made a commitment to work together toward efficiencies and improved effectiveness, as well as communicating with one another before outside interest groups can create concerns. In response to question from Commissioner Coe, the Director advised that in an attempt to bring QOL collaboration to a staff level, a QOL regional meeting is being piloted in the Bay City/Saginaw area.

MDARD is convening a meeting with MDEQ, MFB, and the blueberry growers to discuss how best to move forward on wetlands. Her and Director Wyant's recent blueberry tour and meeting in southeast Michigan was productive and beneficial for all involved.

She joined Pesticide and Plant Pest Management staff on a field tour that included various visits, including a pesticide dealer and an ADM facility. It was a wonderful opportunity to observe staff on the job, as well as meet with facility managers.

The Governor's Office conducted a state-wide survey of employees to ascertain the level of engagement of employees. MDARD had an 81 percent participation rate and will be conducting smaller surveys to clarify some of the comments received in order to move forward with improvements. MDARD is only three points from the industry benchmark for high performing organizations and her goal is to reach that benchmark.

The department is taking legal action against AMMEX Corporation. They were not in compliance with the Motor Fuels Quality Act, which has occurred on previous occasions. MDARD worked with AMMEX throughout the summer in an attempt to bring them into compliance; however, because they chose not to respond to the "Stop Sale" order or the imposed fine, she had no other recourse. There are 1,952 other gas stations in the same area that are in compliance, and AMMEX needs to comply as well.

Her recent trip with the Governor to China was an outstanding opportunity. The agricultural market potential in Shanghai is amazing, including shelf-stable products, because they don't trust their own food supply. As they traveled into the interior of the country, it was very apparent that logistics and transportation create a huge issue. Over 50 percent of the agricultural products arriving in China's ports are shipped west; however, 70 percent of them spoil before they reach their destination. Numerous agriculture marketing opportunities exist for fruits, bakery ingredients, and self-stable dairy products.

## **DIRECTOR'S TRAVEL**

Director Clover Adams has no out-of-state travel planned in the near future.

## **PUBLIC COMMENT (AGENDA ITEMS ONLY)**

**Jennifer L. Jewett of Sterling Heights**, advised she is concerned about how the Generally Accepted Agriculture Management Practices (GAAMPs) affect her and her family. Having recently attempted to begin a small egg business from her backyard, she is being prosecuted by her city because their ordinance requires eight acres for chicken

farming. She thought she was protected by Michigan law. Her concern is that the language in the 2012 Preface to the GAAMPs states in a city greater than 100,000 people, that city may have their own ordinances, and there is no agricultural zoning available in Sterling Heights. This removes her ability to teach her children about agriculture and they cannot participate in 4-H. She has a farm product to offer to her community, yet she is being prosecuted.

**Mary Simpson of Belding**, advised she lives in an agricultural area on 12 acres. The proposed 2013 GAAMPs could very easily affect her because the quarter-mile restriction will limit many small farms as more land is sold and homes are built. She is hoping there is a way the small pleasure farmer could be separated from the large-scale agricultural rules. Individual freedoms are being taken away by well-meaning government officials, who seem more concerned with the larger operations.

**Randy Zeilinger of Garden City**, noted he understands the purpose of the GAAMPs and the reason to review them annually to keep up with current science and technology in agricultural development. Therefore, he questions why the proposed changes to the 2013 GAAMPs place so much emphasis on local zoning and local control. He doubts that very few communities have the expertise to address agricultural and environmental developments when considering a backyard farm. As discussed at a previous meeting, there may be a need for an urban farming GAAMP. He feels a closer look at the 2013 GAAMPs is warranted, with inclusion on the committee of an urban development specialist to incorporate scientific evidence into the revisions, as well as not allowing every county in Michigan to create their own rules. The way the GAAMPs were written in 1999 to support the Right to Farm (RTF) Act codifies all of that under one umbrella, which is a good thing. He feels there can be uniformity for the backyard, as well as learning lessons from the large farms.

**Wendy Banka of Ann Arbor**, advised she enjoys her backyard operation with two heritage breed hens and a rooster and her commercial operation will soon be selling those birds, which are well adapted for backyard farming. Unfortunately, in Ann Arbor where hens are allowed, the rooster is not. She has not had a single complaint and has gone to extensive efforts to ensure her neighbors would not be disturbed. She is concerned that there has been no urban/residential farming representation on the GAAMPs committees, or on the Commission. There is a large faction of citizens who want to see this work for themselves and their neighbors. She presented the following questions: 1) what is the underlying problem that prompted changes to the 2013 Site Selection GAAMPs; 2) from MDARD's perspective, how are the proposed changes to the 2013 Site Selection GAAMPs consistent with the mission of MDARD; 3) do the proposed changes to the 2013 Site Selection GAAMPs essentially reverse the effects of the 1999 RTF Act for residents of urban and residential areas of the state, while maintaining RTF protection for traditional farmers; 4) by what rationale does MDARD justify disabling the key provision of the 1999 RTF amendment by returning control of commercial agriculture activity to local units of government; 5) how does MDARD view the future of the RTF Act in a situation where language of the law conflicts with language of the GAAMPs; and 6) if the proposed 2013 Site Selection GAAMPs are approved, will Michigan's RTF Act still deserve the distinction of being the strongest in the nation?

**Brian Rookard of Woodhaven**, advised he is an attorney and this summer began raising chickens in his backyard as part of an effort to help sustain himself and help his son learn to grow and raise his own food. Many limited income people today need the ability to provide for themselves. He feels the Site Selection GAAMP is problematic because it would cause a wide variety of different local zoning ordinances. This would greatly impact the ability of people to raise their own food. There also is a potential problem with the legality of actually reverting to the ability of cities to zone out people who are trying to farm on their own land, which goes to certain court cases dealing with the regulatory ability of agencies to go beyond legislative intent. He noted for the RTF Act, the legislative intent clearly states that zoning ordinances are preempted, which is substantiated by court cases that determined any regulation that goes beyond the legislative intent is void.

**Michelle Deatruck of Ann Arbor**, advised she owns an 80-acre farm zoned agricultural. She applauded last year's inclusion in the Pesticide GAAMP of alternative pest control methods and strongly supports the inclusion of controlled burning in that GAAMP, which is vital to certain organic farming practices. Relative to the Site Selection GAAMP, she is concerned with the tables, because they do not distinguish between a facility with ten chickens and one with 5,000 chickens. Treating these very different farming operations as if they were the same penalizes for no good reason smaller mixed production farms, such as what she is trying to develop on her 80 acres. She shared a category map of her farm depicting how the Site Selection GAAMP would limit her capabilities. She is concerned the GAAMPs seem to be going beyond legislative intent and feels there needs to be a legislative solution to balance between the Zoning and Enabling Act and the RTF Act.

**REVIEW OF PROPOSED 2013 GENERALLY ACCEPTED AGRICULTURE MANAGEMENT PRACTICES: Jim Johnson, Director, and Wayne Whitman, Right to Farm Program Manager, Environmental Stewardship Division**

Mr. Johnson noted the RTF Act was passed in 1982 in response to the movement of people from urban settings into the rural countryside to address lawsuits against farm operations as public nuisances and to allow farming operations to continue as long as they met a certain set of standards, which are called Generally Accepted Agriculture Management Practices (GAAMPs). GAAMPs, according to the law, say those practices are as defined by the Michigan Commission of Agriculture and Rural Development, and the GAAMPs shall be reviewed annually by the Commission. He noted the proposed versions of the eight 2013 GAAMPs are being presented today.

There is a committee for each of the eight GAAMPs who begin their review process early each year, culminating with proposed drafts that are posted on MDARD's website in mid-summer for a period of time to allow for public comment. In addition, the department each year conducts a public input meeting to further gather comments. Those comments are sent back to the GAAMPs committees for their consideration for adjustment to the GAAMPs. Final drafts are posted on the website and presented to the Commission during their October/November meeting for review prior to their decision during their December meeting.

Mr. Whitman reviewed changes being proposed to the GAAMPs for 2013. There were no proposed changes for the Manure Management and Utilization, the Nutrient Utilization, the Cranberry Production, or the Pesticide Utilization and Pest Control GAAMPs.

Since much of the background information in the Irrigation GAAMP is no longer necessary due to the new comprehensive website providing that information, it is recommended text in the background section be removed.

A few changes are proposed for the Care of Farm Animals GAAMP, including updating of euthanasia for animals.

The Farm Market GAAMP committee proposed to clarify the definition of an affiliated farm and marketing characteristics of farm markets.

For the Site Selection for New and Expanding Livestock Production Facilities GAAMP, the committee proposed changes to clarify the definitions and how this applies in reference to land use zoning in terms of one of the qualifications for a site to be suitable. Consistent with that, and in reference to expanding livestock production facilities, there is an addition to the holding capacity for animals. Similarly, there is clarifying text for a new livestock production facility. Changes would further be made to the corresponding tables later in the GAAMP to clarify application to all sizes of facilities for any number of farm animals. One other change is when the department provides a site selection suitability determination (the farm will typically provide a manure management or comprehensive nutrient management plan, construction standards, and results of the odor model to predict a suitable site and proper setbacks for non-farm neighbors) that suitability determination now would designate that construction must begin within three years, although a two-year extension could be requested.

Commissioner Coe confirmed the next few weeks offer an opportunity for the Commission to suggest changes for the department and the GAAMPs committees to consider. He suggested adding "Farm Breweries" to the "On-Farm Activity" table contained in the Farm Market GAAMP.

Relative to the Siting GAAMP, Commissioner Coe suggested scalability should be recognized – perhaps inclusion of a statement that the GAAMP, which clearly applies to commercial operations, does not apply to an operation that is below a certain threshold; and thereby, neither the GAAMPs nor the RTF Act would apply. He believes local units of government should have jurisdiction over non-agricultural land.

In response to question from Commissioner Kennedy regarding the feasibility of developing an Urban GAAMP, Mr. Johnson advised the GAAMPs unify the standards within an agriculturally zoned area for expectations to receive RTF protection. The Siting GAAMP is actually the only one required within the RTF Act and that is the portion where they added language referencing zoning requirements. The challenge with establishing a GAAMP that deals with urban agriculture is how to determine what that standard looks like – what might work for Bark River in the UP may be completely unacceptable in Grosse Point. Creating a GAAMP that covers all of the possibilities

across the entire State of Michigan regarding farming in areas that are not zoned for agricultural use is extremely challenging. Because of that wide diversity, MDARD believes that decision best lies with each unit of local government and the department is available to assist communities to make those decisions in a meaningful way. The department hopes the document they assisted the City of Detroit to develop will become a model to share with other communities across the state.

In response to question from Commissioner Green, Mr. Johnson advised the RTF Act does not state anything specific about the application of the Act with regard to zoning. Therefore, MDARD's interpretation has been that the RTF Act itself applies across the entire state, including cities. The Site Selection GAAMP is the only GAAMP that makes reference to zoning and it specifically states that the land for livestock operations must be zoned for agricultural use. Therefore, livestock use in Detroit is one the department would not see as acceptable. And, Detroit is also concerned about people who are producing fruits and vegetables within the City of Detroit and is working to bring that under some type of control. That is the context in which they came to the department and asked for assistance that led to including language in the Preface of the GAAMPs that states, "This GAAMP does not apply in municipalities with a population of 100,000 or more in which a zoning ordinance has been enacted to allow for agriculture provided that the ordinance designates existing agricultural operations present prior to the ordinance's adoption as legal non-conforming uses as identified by the Right to Farm Act for purposes of scale and type of agricultural use."

Commissioner Green asked about changing of the animal unit references in the Site Selection GAAMP. Mr. Johnson advised language added to the definitions further clarifies the department's interpretation of how the GAAMP applies. The Site Verification Process refers to the siting process itself. The expectation was if you have less than 50 animal units, you must meet certain criteria, but the siting process would not be required. The committee's first chair felt that in rural settings zoned agricultural, there would be no significant odor nuisance with having three-four 4-H hogs in a backyard in rural Michigan and the department should not waste time siting these small operations, but simply require standards be met.

Mr. Whitman advised through some of the original meetings on the Siting GAAMP, it was clear from the legislation that suitable sites need to be identified. Three categories were subsequently created: Category I, rural areas with very few homes and typically the best sites; Category II, where there has been more urban encroachment into rural areas and again where zoning allows agriculture; and Category III, where zoning does not allow agriculture within 1,500 feet of residential zones or sensitive land use areas. This concept has been a part of these GAAMPs since 2000. As questions have evolved in the last few years about bringing even small numbers of farm animals back into urban settings and residentially zoned areas, it was clear this GAAMP does not apply, it was about siting in agricultural areas. If people meet the standards and local ordinance allows, that is a community-based decision.

Mr. Johnson clarified that 50 animal units for hogs equates to 124 animals and in the case of chickens, that would be 4,999. The committee did not intend for that to be applied to backyard farming. Commissioner Green noted the definition of the GAAMPs

was accepted, but at some point in time, others believed it applied to anyone having an animal being covered. Mr. Johnson concurred and noted the RTF Act clearly states that it applies to commercial agricultural operations. There is no definition of the standard for commercial, but it does require commercial operations. Therefore, those things raised for personal use are not covered under RTF, as was confirmed by a recent court case. Commissioner Hanson noted a very simple definition for commercial use would be anyone required to file a Schedule F Profit or Loss from Farming form with their income tax return. Mr. Johnson agreed that a combination of that and other definitions that include a statement about specific gross sales would be a good solution.

Commissioner Coe noted RTF was enacted to protect those in rural agricultural areas where townships were beginning to impede upon their right to conduct agricultural activities and RTF applied to commercial agriculture in agricultural districts. We now have an emerging urban agriculture in non-agricultural districts issue that is evolving.

Following further discussion of the 2013 Site Selection GAAMP, the Commission recommended the department delay action on that GAAMP, remove any reference to local zoning, and over the course of one year, develop a solution through appointment of a special task force comprised of all interested parties to work toward a draft model zoning ordinance to provide for urban agriculture in areas not zoned agricultural. Commissioner Meachum suggested this Commission should be the starting point for that task force. The Director pointed out that if that decision is made, the current Siting GAAMP would continue to apply in the interim. Commissioners Kennedy and Meachum noted that this action might stay some of the current township actions in consideration of pending work being conducted on the GAAMP.

Mr. Johnson advised the department will have an internal discussion about how best to move forward in approaching the emerging issue of urban food production.

#### **CONSUMER PROTECTION STRATEGIC PLAN: Craig VanBuren, Director, Motor Fuel Quality/Weights and Measures, Laboratory Division**

Mr. VanBuren reported the Consumer Protection Section coordinates three major program areas – Motor Fuels Quality, Weights and Measures, and Metrology Laboratory. Thirty inspectors are located throughout the state, with seven of those being new to the department, to conduct the various required facility inspections.

The Motor Fuels Quality Program has responsibility for 4,756 licensed establishments located across the state. The program's 15 inspectors conduct inspection on both quality and quantity of motor fuels. For Fiscal Year 2012, 266 complaints were received with a 2.8 percent substantiation rate, both of which were down for the year. Of the 1,992 samples tested from 1,502 stations, 94.3 percent were compliant. A 98.9 percent audit compliance rate was found through the 760 vapor pressure audits conducted. In response to question from Commissioner Green, Mr. VanBuren advised the Weights and Measures program also inspects meters on fuel delivery trucks that service rural areas.

Over the year, several compliance actions were required, including 49 "Stop Sale" notices, 1,164 warning letters, three compliance meetings, and 131 administrative fines in the amount of \$63,395, all of which were down from the previous year. In response to

question from Commissioner Kennedy, Mr. VanBuren advised because of the increase in inspections over the last five years, gas stations have improved their maintenance programs.

The 15 Weights and Measures staff consists of 12 Weights and Measures Inspectors, who have the ability to check all weighing and measuring devices, and three field Metrologists, who conduct package checks, Registered Service Agency (RSA) Audits, and Shopping Reform and Modernization Act, P.A. 15, investigations. In Fiscal Year 2012, the department received 1,446 short weight/measure complaints, also down from last year. Of those, 1,372 were fuel measure complaints, with a 7.3 percent compliance substantiation. The 74 other complaints involved scales, packages, and other meters.

Weights and Measures Inspectors conduct both complaint and random inspections. Tests were conducted on 45,592 fuel devices and 2,211 other devices, with a 96.8 percent compliance rate in each category. This summer, staff checked over 100 scrap yard scales and a relatively high compliance rate was reported. Staff also inspected 11,606 packages and reported a 59.1 percent compliance rate. As inspectors have a good idea of package problem areas, this is largely targeted testing, which results in a lower compliance rate.

Other Weights and Measures work included complaint-only investigation of 130 complaints on Act 15, on which any administrative action remains with the Attorney General. The Registered Service Program included monitoring, testing, and auditing of the Registered Service Agencies.

Compliance actions imposed included 94 detentions for packages, 54 warning letters, and 49 administrative fines. Those fines totaled \$275,700, which is an increase of \$125,728 over the same period last year. Recent cases include \$160,000 of refrigerant from IDQ Holdings, \$21,000 of paver sand from Bonsal, and \$14,500 of mulch from Profile Products. Device re-inspections resulted in \$137,000 in re-inspection fees.

The Consumer Protection Section attends and participates in yearly trade shows for the Associated Food and Petroleum Dealers, Michigan Petroleum Association, Michigan Association of Convenience Stores, and Michigan Green Industry Association. Also, staff conducted a two-day seminar for all registered service companies and any interested parties to cover changes to the Weights and Measures Act, P.A. 283, common problems found in the marketplace, and ensuring proper testing of weighing and measuring devices.

The Metrology Laboratory holds ISO/IEC 17025 Accreditation, which is a National Voluntary Laboratory Accreditation Program that is recognized by the National Institute of Standards and Technology. This allows the laboratory to check weights and standards for industry and for other states. The laboratory supports both the industry and the State of Michigan through calibration of 6,436 standards and has over 350 active customers.

Future goals for the section include utilizing the 15 Motor Fuels Quality inspectors as efficiently as possible by conducting both Motor Fuels Quality and Weights and

Measures fuel complaint investigations, setting a schedule for obtaining fuel samples, and working from an aging list of fuel stations. Plans for the 12 Weights and Measures inspectors provide that five will primarily conduct Weights and Measures inspections at fuel stations, five will focus on weighing devices, and two will float between weighing and measuring devices and “odd” situations. For the three Field Metrologists, one will focus on package checking, one will devote 75 percent to package checking and 25 percent laboratory assistance, and the third person will focus 50 percent of their time on package checking and 50 percent on the registration program. All positions in both programs will be flexible and will be moved around as needed to mitigate trending risks. The main goal of the program will be to keep compliance rates above 97 percent for all devices, with a secondary goal of discovering packages that are shorting Michigan consumers.

As a section, he would like to increase the visibility of its programs through a communications plan, provide more education to both consumers and retailers, and meet more frequently with trade association groups to discuss their members’ concerns and issues. In response to inquiry from Commissioner Coe, Mr. VanBuren advised the related associated groups have been very supportive of the department’s communication efforts.

#### **RECESS AND RECONVENE**

Chairperson Green recessed the meeting at 11:05 a.m. for a brief break. He reconvened the meeting at 11:10 a.m.

#### **INTRODUCTION OF OFFICE OF AGRICULTURE DEVELOPMENT NEW STAFF: Mike DiBernardo, Grants/Economic Development Specialist, Office Agriculture Development**

Mike DiBernardo introduced Jodi Gruner and Scott Corrin who are the new Agriculture Economic Development Specialists for the department. Mr. DiBernardo shared a map indicating how coverage for the state is now distributed. Their focus will be meeting with businesses and partnering with the locals and the Michigan Economic Development Corporation (MEDC) staff as they support the regional development concept. They will work with those groups to discover agri-businesses and determine what they can do to assist growth in those companies.

International Marketing Program Manager, Jamie Zmitko-Somers introduced Joanne Jansz, who is the new full-time person dedicated to international marketing and exports. She had been working with the department in a non-career part-time position working in domestic marketing and the department is delighted to bring her into this new position that will assist in reaching the Governor’s goal of doubling agriculture exports.

In response to question from Commissioner Coe, Mr. DiBernardo advised as needs present themselves in each of the regions, collaborative discussions between MDARD, MEDC, and local partners will drive initiatives in that area. The Director shared a document indicating what is expected of each agency’s staff relative to food and agriculture companies. She emphasized there would not be any duplication of efforts, noting the business development effort will be managed by a new computer database.

The Director introduced Isaiah Wunsch, an agriculture specialist at MEDC who is being 50 percent funded by MDARD and provides the physical link between the agencies. In

response to question from Commissioner Coe, Mr. DiBernardo introduced Penny Launstein, who is his partner at MEDC. As appropriate, MDARD will provide assistance and expertise for those companies with whom MEDC is already working. MDARD's goal is to find additional companies within agri-business opportunities and include MEDC and the local partners in planning discussions.

**SPECIALTY CROP BLOCK GRANT AND VALUE ADDED/REGIONAL FOOD SYSTEM GRANT PROGRAMS UPDATE: Mike DiBernardo, Grants/Economic Development Specialist, and Nancy Nyquist, Market Development Specialist, Office of Agriculture Development**

Ms. Nyquist provided an update on two grant projects administered by the department. The Specialty Crop Block Grant (SCBG) proposals were finalized by the U.S. Department of Agriculture (USDA) last month. The Joint Evaluation Committee reviewed 38 eligible proposals totaling \$2.1 million, with 21 proposals recommended to receive \$1.1 million in grant funding. She shared a summary of the granted proposals, some of which were continuations of previous proposals. Through project outreach, the department continues to improve the process and the goals which the specialty crop industry has for this program. On December 5 at the Fruit, Vegetable, and Farm Market EXPO in Grand Rapids, she and Mr. DiBernardo will be presenting a grant writing session specifically targeted toward the competitive SCBG program.

Last week, the department announced the recipients of the \$1.9 million in Value Added/Regional Food Systems Grant funding. This also was a competitive grant program reviewed by a Joint Evaluation Committee, and she shared a list of the grant awards. The department received 63 proposals, requesting \$7.8 million in grant funding. The grant funding provided to MDARD in the Fiscal Year 2013 budget was \$1.9 million; and therefore, there were many disappointed applicants.

In response to inquiry from Commissioner Coe, Ms. Nyquist advised the evaluation process is as open as possible and all applicants have an opportunity to review grading sheets and comments. Going forward, the department will be providing guidance to applicants as this new program process is refined.

Mr. DiBernardo recognized the efforts of Nancy Nyquist and Amy Bearss of his office in coordinating the project within a very short timeframe, as well as Michelle Crook who chaired both of the Joint Evaluation Committees. There is a considerable amount of effort dedicated to creating an equitable and effective review process.

Based on the number of applications received, Commissioner Coe suggested the department work toward increasing program funding for next year and recommended Ms. Nyquist's presentation be given to the Agriculture Appropriations Committees.

**AGRICULTURAL PROCESSING RENAISSANCE ZONE UPDATE: Mike DiBernardo, Grants/Economic Development Specialist, Office of Agriculture Development**

Mr. DiBernardo advised the department received an Agricultural Processing Renaissance Zone (APRZ) application from Shoreline Fruit, L.L.C. Shoreline received an APRZ last year for their project in Yuba, Michigan. Because of the short cherry crop for the second year in a row, Shoreline needed to reevaluate the project. Over the last

nine months, MEDC, MDARD, and the locals renegotiated the project. Because of a technical issue within the legislation that does not allow for renegotiation of the actual physical location of an APRZ, another APRZ must be used.

The department is excited that Shoreline will employ long-term more people than originally proposed with additional investment. Shoreline is committing to 40-60 new jobs over the next five years, with an investment of \$12.8 million. Redesign of their facility within this project would allow them to expand into drying and processing of other fruits to augment the cherry business.

MDARD recommends the Commission approve the Resolution supporting this APRZ designation for Shoreline Fruit, L.L.C. Acme Township has approved the APRZ and tonight, it is anticipated the Grand Traverse County Board will add their approval.

**MOTION: COMMISSIONER COE MOVED THE RESOLUTION IN SUPPORT OF AN AGRICULTURAL PROCESSING RENAISSANCE ZONE FOR SHORELINE FRUIT, L.C.C., BE ADOPTED. COMMISSIONER KENNEDY SECONDED. MOTION CARRIED.**

**MICHIGAN ECONOMIC DEVELOPMENT CORPORATION/MICHIGAN DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT MEMORANDUM OF UNDERSTANDING: Mike DiBernardo, Grants/Economic Development Specialist, Office of Agriculture Development; and Penny Launstein, Managing Director, Michigan Retention and Growth, and Isaiah Wunsch, Agri-Business Specialist, Michigan Economic Development Corporation**

Mr. DiBernardo reported that as a result of the department's regional economic development collaboration with MEDC, a Memorandum of Understanding (MOU) was implemented to outline how the agencies would partner in this effort. Part of that MOU resulted in the agencies working collectively to hire Mr. Wunsch, a jointly funded agri-business position. That MOU also is the basis for how Mr. DiBernardo and Ms. Launstein are working together on creating and connecting MDARD's team with the team at MEDC. Ms. Launstein added they have had a great relationship with the department in the past and she looks forward to taking advantage of opportunities as the partnership works together in the future.

In response to request from Commissioner Coe, the MOU document will be forwarded to the Commissioners. Mr. DiBernardo will also forward contact information for Ms. Launstein and Mr. Wunsch.

**NURSERY INSPECTION FEES: Jeff Zimmer, Deputy Director, Pesticide and Plant Pest Management Division**

Mr. Zimmer advised the PPPM Division conducts inspections of plants and plant products and certifies they meet the phytosanitary requirements of Michigan and destination states and countries. For this service, the division charges per-acre or per-hour inspection fees. The department is requesting the Commission approve some slight increases in those fees.

The clients affected by a fee increase are nursery stock growers, nursery stock dealers, exporters of plants and plant products, importers of foreign-source nursery stock, and other special circumstance inspections as requested.

The Insect Pest and Plant Disease Act, P.A. 189, authorizes the division to conduct the inspections, charge inspection fees, annually evaluate the cost of conducting inspections, and propose new inspections fees as necessary to cover those costs. Proposed fee increases are subject to Commission approval.

Act 189 was amended in 2012 to increase inspection fees by no more than an amount determined by the State Treasurer to reflect the annual percentage change in the Detroit-Ann Arbor-Flint Consumer Price Index (CPI). It further limits inspection fee increases to no more than five percent in a one-year period. The Michigan Nursery and Landscape Association (MNLA) and MFB supported those amendments to Act 189.

The State Treasurer notified MDARD that the CPI rose 2.5 percent in fiscal year 2012 compared to the previous year. Based on results of the evaluation of costs to conduct inspections which revealed an inspection cost of \$74 hour, the division recommends a 2.5 percent adjustment, which equates to the following inspection fee increases: from \$55/hour to \$56/hour, from \$50/acre to \$51/first acre; and from \$30/acre to \$31/per additional acre.

To avoid adjusting fees during peak inspection periods and to provide adequate notification time, it is proposed the adjusted fee schedule, if approved, be implemented January 1, 2013. It would remain in effect until December 31, 2013.

**MOTION: COMMISSIONER MEACHUM MOVED THE NURSERY INSPECTION FEE ADJUSTMENTS BE APPROVED AS PRESENTED. COMMISSIONER HANSON SECONDED. MOTION CARRIED.**

Commissioner Coe requested a sentence be added to the bottom of the fee increase notices stating: "Any specific concern will be forwarded to the Commission of Agriculture and Rural Development for review." This will provide for public input into the process. Mr. Zimmer advised they can certainly do that. He advised the department worked very closely with MNLA on amendment of Act 189 and actually proposed the change in inspection fee increase assessments to align with that used by other MDARD divisions. The industry representatives agreed it provides for a more predictable process.

**LEGISLATIVE UPDATE: Derek Bajema, Legislative Liaison**

Mr. Bajema advised there has already been interest from both chambers regarding the Value Added/Regional Food Systems Grant Program from members who represent applicants who perhaps did not receive funding. The department looks forward to working with the Legislature to schedule discussions with the Appropriations chairs.

The department is working with MDEQ, Senator Moolenaar, and the Michigan Chamber of Commerce on Senate Bill 1008 to implement the Water Withdrawal Dispute Resolution Program in an attempt to bring it as close to the previous form as possible and to ensure MDARD's costs would now be covered.

Senate Bills 1057-62 represent the Private Forestry Management Program on which there has been movement in recent weeks. The funding issue is close to agreement and the department is attempting to ensure it is not reliant on General Fund dollars.

House Bills 5581 and 5584, which extend pesticide applicator regulatory fees and livestock dealer fees, have been amended to exempt veterans, while still minimizing the department's risk against financial loss.

There are other items MDARD would like to see through the legislative process during what is anticipated to be a relatively short and healthy lame duck session. House Bill 5296 makes changes to the program that replaced the Brownfield Program to ensure that non-profits, such as Eastern Market that were never meant to be excluded from the program, are now included. The Director was very instrumental in writing that replacement.

A Supplemental was passed recently that included \$15 million in funding for the Agriculture Disaster Loan Program. The department appreciates of the Legislature and MFB, in particular Bob Boehm. This demonstrates the commitment to agriculture by the Governor and the Legislature.

The department continues work toward a severance tax on mining and hopes bills can be introduced and through the process during the lame duck session. Also, Mr. Bajema is meeting individually with each MDARD division to discuss their legislative priorities for 2013.

In response to question from Commissioner Green, Mr. Bajema confirmed the legislative process begins fresh on January 1, 2013, and any bills not enacted will have to be reintroduced as new legislation.

### **COMMISSIONER ISSUES**

Commissioner Green reviewed a resolution before the Commission in support of expanding resources for Connect Michigan.

**MOTION: COMMISSIONER COE MOVED THE RESOLUTION IN SUPPORT OF EXPANDING RESOURCES FOR CONNECT MICHIGAN BE ADOPTED. COMMISSIONER MEACHUM SECONDED. MOTION CARRIED.**

To assist with crop expansion in wetland areas and the related permitting and regulation concerns, Commissioner Meachum requested the department draft a Commission resolution to assist the collaborative effort between MDARD and MDEQ, requesting that they develop a proposal to be directed to the U.S. Environmental Protection Agency encouraging them to create more equitable rules for expansion of wetlands to allow for production of blueberry and other appropriate crops in our region.

### **PUBLIC COMMENT**

**Wendy Banka of Ann Arbor**, advised she has been interested in Right to Farm for quite some time and has reviewed the law, court cases, and academic documents. She

believes the 1999 GAAMPs provided protection for residential farmers against township rulings and that the 2012 and 2013 GAAMPs represent an extreme, unusual step that restricts agricultural opportunity in Michigan.

For the record, she believes the 2012 GAAMPs were not passed with the normal process. The Preface to the 2012 GAAMPs was not in the draft GAAMPs available to the public last year, she missed her opportunity to speak to the Commission before they voted, and the Commission approved a resolution that took away her RTF protection.

She again encouraged the Commission to reconsider the 2012 and the 2013 GAAMPs through the correct process. She believes that, if approved, the 2013 GAAMPs will be in opposition to the law, because the law states that any commercial agricultural farming activity in Michigan is protected by Right to Farm, regardless of zoning; and the GAAMPs will be saying it is dependent upon zoning. This will cause great confusion and harm to people simply trying to participate in a very innocent undertaking.

**Brian Rookard of Woodhaven**, concurred with Ms. Banka in feeling the 2013 GAAMPs conflict with what the law says about preempting zoning ordinances. Townships have the ability to submit regulatory proposals to the department to circumvent the RTF Act and perhaps that route is more appropriate. There are court cases that clearly address the amount of commercial activity that is required to fall within the RTF Act, stating that any amount would qualify, with no limitation as to acreage. Whether or not an operation is a nuisance is not dependent upon the type or number of animals and there are other ways for townships to deal with these issues outside of the context of the RTF Act for non-commercial aspects.

**Belinda Fitzpatrick of Lansing**, advised she is a member of the State Bar of Michigan and advised she likes Commissioner Coe's proposal regarding creation of a special task force. She advised the State Bar of Michigan is implementing a new agriculture section in January and she believes urban agriculture would be an excellent issue to bring in front of that section. She pointed out that RTF only applies to commercial operations because of the language in the RTF Act. However, there was a case under which they held that commercial use is personal use, because it is part of the overall commercial/commerce picture. Having studied the situation for years, what really concerns her is that local units of government are trying to impose a lifestyle of landscaping with lawns everywhere that is non-ecological and there is no legitimate government interest. She feels everyone has a constitutional right to grow their own food. She agrees other solutions need to be developed.

**Michelle Deatrick of Ann Arbor**, also expressed support for Commissioner Coe's proposal to form a special task force. She emphasized the proposed redlined changes and additions to the tables in the Site Selection GAAMP also affect other farmers. Lumped together in the tables are operations having anywhere from one chicken to 4,999. Considering mixed production small farms together with large farms in terms of where they can locate livestock does not seem to be necessary – you don't need a quarter-mile radius circle around 20 chickens. If smaller numbers are considered, with appropriate smaller distance requirements, that would help promote sustainable local agriculture and help family farms.

**Randy Zeilinger of Garden City**, advised he holds a Nursery Inspection License, which states his site has been visually inspected and found to be in compliance. However, in the three years he has paid for the license, he has never been inspected. Commissioner Coe noted the license fee is simply a fee for the license and is separate from the Nursery Inspection Fee.

Mr. Zeilinger requested consideration of the urban farming issues in the context of agri-tourism aspects. Other states have a thriving business in chicken coop tours and festivals around these types of activities, which bring revenue to local communities. He offered his volunteer services toward the effort of a special task force that will address some of the issues impacting the small urban resident who may be involved in activities touched by MDARD.

### **COMMISSIONER ISSUES, CONTINUED**

Commissioner Coe advised conflict between the Zoning and Enabling Act and the RTF Act has always existed. He feels having the State Bar conduct a review of the Zoning and Enabling Act, which deals with health, welfare, and safety, to determine how many times ordinances have interjected themselves beyond those considerations into agricultural practices would be very helpful to the department. Commissioner Green and the other Commissioners confirmed even large producers are concerned about zoning and this definitely should be investigated.

### **ADJOURN**

**MOTION: COMMISSIONER COE MOVED TO ADJOURN THE MEETING.  
COMMISSIONER KENNEDY SECONDED. MOTION CARRIED.**

The meeting was adjourned at 12:20 p.m.

#### Attachments:

- A) *Agenda*
- B) *Agriculture and Rural Development Commission Meeting Minutes September 12, 2012*
- C) *Proposed 2013 Meeting Schedule*
- D) *Director Jamie Clover Adams – Issues of Interest Report*
- E) *Wendy Banka Questions on the Proposed 2013 GAAMPs*
- F) *Michelle Deatruck Category Map of Farm*
- G) *Ashli Melick Letter to Commission for Public Comment*
- H) *Proposed 2013 Generally Accepted Agriculture Management Practices (GAAMPs)*
- I) *Public Input Meeting Report – Proposed 2013 GAAMPs*
- J) *Consumer Protection Section Program Update*
- K) *Agriculture Development Specialists Map*
- L) *Economic Impact – Food and Agriculture Industry*
- M) *Specialty Crop Block Grants Memo*
- N) *Value Added/Regional Food Systems Grants Memo*
- O) *Request for APRZ for Shoreline Fruit, L.L.C.*
- P) *Resolution in Support of APRZ for Shoreline Fruit, L.L.C.*
- Q) *Request for Approval to Increase Nursery Inspection Fees*
- R) *Legislative Status – October 2012*
- S) *Resolution Encouraging Additional Funding and Resources for Connected Nation and Connect Michigan*