

**MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT  
SPECIAL MEETING**

**Michigan Municipal League  
First Floor Training Room  
208 North Capitol Avenue  
Lansing, MI 48933**

**MEETING MINUTES  
APRIL 28, 2014**

**PRESENT:**

Diane Hanson, Chairperson, Michigan Commission of Agriculture and Rural Development  
Trevor Meachum, Vice Chair, Michigan Commission of Agriculture and Rural Development  
Fred Walcott, Secretary, Michigan Commission of Agriculture and Rural Development  
Bob Kennedy, Past Chair, Michigan Commission of Agriculture and Rural Development  
Dru Montri, Member, 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 Hanson called the meeting of the Commission of Agriculture and Rural Development to order at 2:01 p.m. on Monday, April 28, 2014. Commissioner Walcott called the roll with Commissioners Hanson, Kennedy, Meachum, Walcott, and Montri, and Director Clover Adams present.

**APPROVAL OF AGENDA**

**MOTION: COMMISSIONER MEACHUM MOVED TO APPROVE THE MEETING AGENDA FOR APRIL 28, 2014. SECONDED BY COMMISSIONER KENNEDY. MOTION CARRIED.**

**APPROVAL OF MARCH 20, 2014, MEETING MINUTES**

**MOTION: COMMISSIONER WALCOTT MOVED TO APPROVE THE MARCH 20, 2014, MEETING MINUTES. SECONDED BY COMMISSIONER KENNEDY MOTION CARRIED.**

**APPROVAL OF COMMISSIONERS' TRAVEL**

Commissioner Montri advised she will be unable to attend the May 28 Commission meeting. She has been invited to Washington, D.C., by the United States Department of Agriculture (USDA) and the Centers for Disease Control and Prevention to present on the Michigan Farmers Market Association's efforts toward healthy food incentives.

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

### **APPROVAL OF DIRECTOR'S TRAVEL**

Director Clover Adams requested approval for travel to Silver Spring, Maryland, on May 9 for a meeting with the Food and Drug Administration. She also will be traveling to South Carolina on May 22 for a tour with the Quality of Life Directors, which is at no cost to the department.

**MOTION: COMMISSIONER KENNEDY MOVED APPROVAL OF THE DIRECTOR'S TRAVEL. SECONDED BY COMMISSIONER WALCOTT. MOTION CARRIED.**

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

Commissioner Hanson thanked everyone for participating in today's meeting, noting that public input is important to the Commission and is one of the many factors taken into consideration as they make their decisions.

As a reminder regarding the review of the Generally Accepted Agricultural and Management Practices (GAAMPs), this is something the Commission does every year and the Commission does review all comments received in writing. The Commission will be taking a vote on the Draft 2014 Site Selection GAAMP today and is accepting public comments, just as it does at every Commission meeting.

To be fair to all members of the public wishing to speak today, each person will be held close to the three-minute limit during the public comment period. Commissioner Walcott will serve as timekeeper and will give a warning by raising his hand when 30 seconds remain in the three-minute time frame and then again when the three minutes have expired. The Commission also accepts written comments during their meeting and if there are individuals who would prefer to offer comments in writing rather than standing up to speak, they will be accepted at this time and will be made part of the official meeting record.

**Kathy Johnson, Stockbridge**, shared an aerial view of her property to illustrate her situation. Although it has been a farm for many years, she has been unable to find a reliable source advising they are grandfathered in, and therefore, asks that the Commission not change the Site Selection GAAMP. To date, she has had no complaints from her 17 neighbors regarding their operation. If changes are made, it is unknown what her neighbors may decide to do and feels her future protection is in the hands of the Commission. She asked they consider how this will affect people.

**Gail Philbin, Michigan Sierra Club**, advised the Michigan Sierra Club (Club) strongly urges the Commission to modify or drop three proposed changes to the Site Selection GAAMP, those being 1) the creation of a new category of livestock facility that expands the Siting GAAMP to include any number of animals, which will encompass small urban and suburban farmers like folks with a flock of backyard chickens in the city; 2) a new definition for areas not covered by the Siting GAAMP – primarily residential areas not zoned agricultural – that will exclude many of these same backyard farmers from protection; and 3) an allowance for producers in agriculturally zoned areas building

facilities that house less than 500 animal units to self-assess to determine if they meet the applicable standards in the GAAMP.

The Club feels the changes are counter-intuitive because they oppose the acknowledgement in the GAAMP that there is public demand for access to more local, healthy, sustainable food. Also, it feels the reasoning contradicts logic used by the state in 1999 when it amended the Right to Farm (RTF) Act to remove the power of local units of government to restrict farm expansion. Yet, on the other hand, the GAAMP is saying a local unit of government is qualified to determine what goes on within its borders regarding a dozen birds in a backyard. These proposed changes would make it harder for citizens to have a choice in the kind of food they have access to and is essentially taking sides in favor of factory farms.

**Kim White, Leslie**, quoted John Adams, "We are soldiers so our children can be farmers and our children's children can be artists." She feels that some basic environmental facts are being ignored in the proposed changes. A higher concentration of animals in a given area has a greater impact on the environment than small flocks or herds. She made reference to a large farm in the Alma area whose odor is always detectible from US-127. In Mecosta County, they want to raise their own food in order to know its origin and make a decent living instead of being on welfare. Her Amish neighbor who raises pigs is also in danger from the changes because he has less than 10 acres. If the changes are approved, she suggested the small farmers will become soldiers and target the Governor's Office, Farm Bureau, and Legislators, noting her current mission of boycotting Farm Bureau.

**Dr. Sandra Nordmaric, Ceresco**, advised she farms fruits and vegetables in southwestern Calhoun County. Although not affected, she has a strong interest in the issue. Having reviewed various documents, she shared her conclusions. USDA, who plans to extend support for small and beginning farmers, states it does not deem a smaller operator to be less important than a large operator, and views it as being a multi-billion dollar market opportunity. Local food hubs will also be supported by USDA. There is recognition that small farms are the most rapidly growing segment of agriculture and farmers markets, Community Supportive Agriculture (CSA) operations, and other direct marketing opportunities are the fastest growing urban food production and distribution interface. This proposal is full of risks of unintended consequences, not just for producers, but for consumers.

She feels problems with the language in the proposed draft are articulated in an analysis by Michelle Dietrick, which was sent to Commissioner Kennedy, and the remarks made today by the Sierra Club. She reemphasized the conflict created by P.A. 261 of 1999, the amendment to the 1981 RTF Act, which states, "This Act preempts any local ordinance, regulation, or resolution that purports to extend over in any manner the provisions of this Act or GAAMPs developed under this Act. A local unit of government should not enact, mandate, or enforce an ordinance, regulation, or resolution that conflicts in any manner with this Act. An ordinance enacted under the subsection shall not be enforced by a local unit of government until approved by the Commission of Agriculture." Because the revised draft proposes to do the opposite for small and mid-sized urban interface farms, this appears to be an intentional act of discrimination and

barrier to potential economic development and a direct threat to individuals. She recommended the vote be tabled today and a working group of stakeholders be convened to recommend a proposal with workable standards and revisions to RTF.

**Daniel Poon, Ann Arbor**, advised he is a policy analyst with the Washtenaw Food Policy Council. Their Council has been working toward promoting fresh food for all the county's residents and developing a local food system. In his view, the proposed revisions to the GAAMP seem to affect far more people than needed to promote urban agriculture effectively. He feels a regulatory impact assessment would have been helpful in this case or a cost benefit analysis for compliance, and he encouraged the Commission to request such documentation.

**Nichole Lux, Mount Clemens**, advised she opposes the changes which would define all Category 3 and 4 sites as generally not or not acceptable for livestock production facilities regardless of number. Those rulings would be too vast to accurately champion the rights of Michigan's 10 million residents. To categorically apply that to everyone eliminates far too many from RTF protection who simply want to produce their own food.

**Randy Zeilinger, Garden City, Michigan Small Farm Council**, advised regarding Categories 3 and 4 and the proposal to allow local governments to set their own set of guidelines for housing of livestock, in his case, they have already said "no." In fact, he has been criminally charged, which was an end run around the RTF ordinance issue. He sells eggs and honey, which meets one of the RTF requirements – to have a commercial operation. He also sells his composted chicken manure to organic growing operations and chicken feathers to a jewelry artist. He has a commercial operation in a suburban city, which that city has determined he can no longer operate. He is currently in the appeal process. The personal consequences of his criminal charges are yet to be seen. He has complied with all rules set forth according to current regulations and he feels should be able to continue that same right to operate, or become a ward of the state – he would like to continue to feed himself.

In response to question from Commissioner Montri, Mr. Zeilinger advised his original charges were amended from an ordinance violation to a criminal complaint after another operator in Garden City was charged with an ordinance violation and whose case was subsequently dismissed by the court.

**Sarah Schillio, Representative Jeff Irwin's office**, advised Representative Irwin, who represents the City of Ann Arbor, encourages the Commission to take additional time to craft these rules and to do so in a way that does not go beyond the intended original goals, nor create unintended consequences that would snuff out any small scale urban farming. It seems the Commission has concerns that RTF protection is being too expansively applied to urban agriculture. But the Representative feels creating these regulations goes beyond what is appropriate and the Commission should fine tune the GAAMP to narrowly tailor regulations that ensure public safety and nuisance concerns are addressed, rather than eliminate the protection for small scale farmers. In addition, most local units of government have part-time elected officials and it is reasonable to note that many communities would likely choose a ban simply because they lack the expertise. Instead, he feels the Commission should take the time to develop a more

refined instrument that addresses this sector of farming and one that shows what appropriate agricultural management practices look like in a residential setting. This is a more difficult approach, but it will help to protect the many ways in which we respect farming in this state and uphold the long-standing protection for farms in Michigan.

The Director asked if Representative Irwin believes actions of the Ann Arbor City Council were inappropriate in placing a limit on the number of chickens within its city. Ms. Schillio advised the Representative feels the Council was incorrect and that people should be protected under the RTF Act. He is interested in narrowly tailoring the animal unit limits for the proposed Category 4.

**Alisha Lesko, Sterling Heights**, advised she drove 112 miles after a 24-hour urban ambulance shift to be here today, as she feels it is an issue important to all of Michigan's citizens. Even though it does not affect her directly, she would like see RTF protection for small farms remain in place. She feels people should be allowed to use their land as appropriate and this change could be detrimental to many people. Some are faced with combating outdated ordinances and this shouldn't go from difficult to impossible. In today's society, people are turning to food produced on a local level for reasons from origin to complexities of allergens, and she feels this change should not be made without more research and thought to each of Michigan's residents.

**Wendy Banka, Ann Arbor, Michigan Small Farm Council**, advised she has five hens and a rooster. In yesterday's *Midland Daily News*, an article stated the proposed changes to livestock facilities rules would remove legal protections for farmers if they are within residential zoning – and this is her situation. Before the 2012 Preface was added to the GAAMPs, she understood RTF was a statewide law that protected her and if the proposed changes to the Site Selection GAAMP are approved, she is no longer protected and her rights will be removed. She feels the Commission does not have that authority and any changes to the RTF Act should be made through that law. Many people have expressed why this protection is so important to them. She brings something positive to her neighborhood and most others engaging in urban farming do the same. She encouraged the Commission to not take her right away; or at least pursue changes through the Legislature. There has been a huge outpouring of comments which should not be ignored.

In response to questions from Commissioner Montri, Ms. Banka advised her city ordinance permits chickens, but not roosters. Because of her rare heritage breed, a rooster was needed to maintain her flock in lieu of acquiring birds from Canada. There have been no complaints lodged against her operation. Many farmers come to Michigan because of its wide agricultural diversity and small farmers make meaningful contributions to the industry within the state.

**Connie Christian, Lansing**, advised her mother has hypersensitivity pneumonitis, which is a bird dander allergy that has ruined her lungs. She asked the Commission to consider people living in confined neighborhoods. They have only 33 feet of frontage, yet her neighbors have chickens which will force her to sell her home and move to ensure her mother is safe. She asked for any suggestions to help her situation, as she doesn't know where to turn at this point. The specialist at Mayo Clinic who diagnosed

her mother advised that 15 percent of the population will develop this condition if living around bird dander. She asked the Commission to please take into consideration people living very closely to one another.

**Dean Cross, Lansing**, advised he is a beekeeper residing on 10 acres and questions the reason for these proposed changes. The GAAMPs provide guidelines for properly operating a small farm and if one is following those and talking with neighbors, there should be no problem. He questioned if townships who want control were behind this, as those officials often have personal interests and a small farm may not fit within their image for the township. Citizens and small operations need protection from local politicians who can remove their rights. A small farm can provide food and an educational experience, and the law as is provides protection for those operations.

**Linda Kaluza, Warren**, advised she has 13 chickens that produce designer eggs and their coop is near her bedroom window, so she is well aware of any potential nuisance. She mixes her own feed that is soy and gluten free, providing healthy eggs for those with allergies to those substances – something they are unable to purchase at any store. She manages a high quality operation. Her city allows chickens, bees, and farm animals within 300 feet of any other building or structure; however, that is a condition which basically does not exist. If the proposed changes are approved, she will be out of business and her customers will no longer be able to eat eggs.

In response to questions from Commissioners Montri and Meachum, Ms. Kaluza advised she has received no complaints about her facility and all of her neighbors purchase her eggs. The changes would put her out of business because, even though she has five acres, her chicken coop is not 300 feet away from any building or structure. Although she does not comply with the City of Warren's ordinance, she believes her operation is protected under RTF because she has a registered commercial business.

**Michelle Regalado Deatrick, Ann Arbor**, advised she has an 80-acre agricultural farm in Washtenaw County. She is troubled by the proposed document, noting it is incredibly complicated. It has been stated to the media that the proposed GAAMP changes are about closing a loophole regarding residential and urban farming. But in fact, the GAAMP would implement public policy changes that profoundly affect land use and potentially negatively affect land values for rural and what is termed transitional agricultural land. After hours of review, she and her husband are still unsure if livestock production is allowed and where it would be allowed on their farm. Future salability of their land to someone interested in a CSA or a mixed production farm is questionable when a buyer could not be certain of RTF protection. The proposed GAAMP is completely without evidence of projected consequences or a policy impact report – there are no benchmarks for MDARD to access if it has been successful. One of the many serious problems in the document lies under Category 3. In the January 2012 GAAMP, Category 3 permitted livestock farming involving fewer than 50 animal units with retention of RTF protection. But the draft 2014 GAAMP states that Category 3 land may be suitable for livestock facilities with less than 50 animals. This is a huge change. But, worse, it leaves people with Category 3 land in complete regulatory limbo because it does not state by whom, how, or by what standards any method of appeal for determination of suitability would be made for Category 3 land. She reviewed an

illustration of land in her township depicting land that would suddenly have no RTF protection, noting that would be close to 23 percent of the township and over 35 percent of its agricultural land. Even if you agree with the goals behind the policy, it is not a well written document.

**Val Cochran Toops, Leoni Township**, shared a copy of her comments. She currently serves as Ex-Officio for the Human Relations Commission in Jackson and is the director of the Tecumseh Band of Metis of Southern Michigan, an association of non-status, non-tribally affiliated people living within local communities who engage in traditional spiritual religious observances directly related to their respective cultural heritage. She is concerned about the Commission's control over creating difficulty to hinder people of aboriginal descent from being able to engage in traditional personal cultural observances. She advised those personal practices follow local ordinances and regulations and may be harmed by the GAAMP amendments. The ability to produce one's own food and ceremonial items on a small scale in close proximity to another residence has been a standard historically in European and Native communities. Creation of confusing and complicated laws would only promote ignorance of heritage and turning away of educational opportunities for young people. We need to keep our community and traditions and families close to us, and not as something to be given to the control of others. In conclusion, she offered a prayer.

**Mark W. Fosdick, Fowlerville**, advised he is an attorney and he and his wife have a small dairy goat herd. It appears the intent of the draft Site Selection GAAMP is to exclude less than 50 animal units. Local governments and neighbors would be given a great amount of authority to initiate legal actions against small farmers. A significant revision is being made by changing the definition from livestock production facility to also include livestock facility. An expanded facility is defined for production facilities, yet not for livestock facilities. If an operator has a few sheep and wants to expand to add goats, local governments could perhaps interpret that as an expansion and deny the operation. He questioned what the GAAMP Review Committee was trying to correct through the changes proposed. He recommended a more thorough review of the document and that small farmers should be represented on the Review Committee. Even though all land around him is agricultural and he is zoned agricultural/residential, because there are more than five residences nearby, he would fall into Category 2. The RTF Act is working and he feels it should not be changed.

In response to questions from the Director and Commissioners Montri and Hanson, Mr. Fosdick advised he currently has 26 goats and a few chickens, sells the goat milk for animal consumption and the eggs, and they are considering engaging in some type of food safety audit process.

Although Mr. Fosdick was under the assumption that no members of the Site Selection GAAMP Review Committee were in attendance today, Commission Meachum confirmed there were three members of the committee present at the meeting.

**Belinda Fitzpatrick, Lansing**, noted because urban areas are continually expanding, areas that would have been covered by RTF could lose their right to protection. Nuisance becomes the primary issue. Over the years, her family's 35-acre property in

Washtenaw County has gradually been surrounded by residential homes. The clash between urban and rural is evidenced every day. She believes the rule making process should not be used to do an end run around the legislative mandate. One of the easiest solutions to the situation is for the department to conduct compliance assistance for the small farmers, helping them to comply and address any problems.

**Jenny Lowe, Midland**, noted she agrees something needs to change because in the 25 years the RTF Act has been in place, it keeps going to court. Some reconciliation between the law and what is happening at the local level needs to occur. She urged the Commission to reject the proposed changes until more information is gathered to prevent unintended consequences. She lives in Lincoln Township, which is completely zoned residential and as such, as she understands, no grandfather clause would apply to her and she would have no protection in the proposed GAAMP. There must be many other families in the same situation where their area is surrounded by farmland and properly used agriculturally, but never zoned as such. She urged this is not a matter needing quick action, noting all can work together to ensure unintended consequences are not experienced for small farms and areas not viewed instinctively as agricultural.

Commissioner Hanson advised that **Matt Kapp** from **Michigan Farm Bureau** (MFB) is here today and wishes to confirm MFB fully supports the 2014 Site Selection GAAMP.

#### **RECESS AND RECONVENE**

Chairperson Hanson recessed the meeting at 3:15 p.m. for a brief break. She reconvened the meeting at 3:22 p.m.

#### **DRAFT 2014 SITE SELECTION AND ODOR CONTROL FOR NEW AND EXPANDING LIVESTOCK PRODUCTION FACILITIES GENERALLY ACCEPTED AGRICULTURAL MANAGEMENT PRACTICES (GAAMP): Jim Johnson, Division Director, Environmental Stewardship Division**

Mr. Johnson advised that based on comments from the Commission and the public, the department has been working to more clearly and accurately define primarily residential and the implementation of Category 4 sites.

The four categories in the GAAMP are determined by how many non-farm residences are located within a certain distance of a proposed livestock or livestock production facility. Category 1 sites are in agriculturally zoned areas and allow up to six non-farm residences within a certain distance and these are the ideal locations for livestock production facilities because the potential for impact on non-farm residences is very low. Category 2 are also rural areas zoned agricultural, however there are up to 13 non-farm residences within a certain distance of the livestock facility. Some other mitigating practices might be required to be in place as part of the approval process for a site in those locations.

Category 3 represents mixed-use areas where environmental concerns exist or other neighboring land uses are located within the vicinity of the livestock facility. There are a number of different land use situations that could be considered, such as a school, migrant labor housing, or groundwater recharge for a municipality.

Above Category 2 are areas where more non-farm residences are near a proposed site. The upper level of Category 2 was used to help define primarily residential. MDARD is recommending the following addition to the definitions section of the GAAMP (page 4-5): “Primarily Residential: Sites are primarily residential if there are more than 13 homes within one-quarter mile of the site or any home within 250 feet of the proposed site property line.” This would actually consider land use within the neighborhood of the proposed site. If a home is in close proximity, a livestock operation would infringe on that home’s ability to enjoy their property. Or, a livestock operation could have an impact on a large number of homes within a certain area. In response to question from Commissioner Walcott, Mr. Johnson advised the 250 foot distance is measured from the edge of the property line and several examples will be reviewed.

Mr. Johnson reiterated the purpose of the RTF Act is to provide farming operations protection from nuisance law suits. The potential nuisances associated with livestock facilities must be considered. The nuisance protection comes at a cost – is there an opportunity for the site to impact the non-farm individuals that live within your area?

If the changes are approved, they would then apply in the following ways: (1) if the proposed site is zoned to allow agriculture as a use by right, then the Site Selection GAAMP applies and a determination would be made if the site is Category 1, 2, or 3 and nothing changes for these categories; and (2) for sites that are zoned residential and do not allow agriculture as a use by right, the primarily residential definition then applies and a determination would be made if the site is Category 3 or 4. Several visual examples were reviewed to illustrate how various residential siting situations would be considered and whether or not they would be acceptable for a livestock facility with less than 50 animal units.

Acceptability for livestock facilities is a very site specific situation. Some operations would have nuisance protection under RTF because they are on agricultural land that has been used for that purpose all along, and even if those locations are rezoned as residential, qualify as a non-conforming use under that zoning. However, considering grandfathering protection under RTF must be considered on an individual basis for each facility.

In response to inquiry from Commissioner Kennedy relative to the 250 foot distance, Mr. Johnson advised for Category 1 or 2 sites, this is the distance from the edge of sources of odor and most likely, the same would be used in the primarily residential cases – 250 feet from where the animals are being kept. Commissioner Montri inquired if the origin of a complaint is considered. Mr. Johnson confirmed complainants must identify themselves when making a RTF complaint because the law requires the department to notify the complainant of the resolution. The Director pointed out RTF is a presumption that a facility is not a nuisance; however, this may not be the finding in a court of law. Mr. Johnson advised the cost for that protection is conformance with the GAAMPs and the issue is not considered until there is a complaint.

In the case of larger parcels of property, the 250 foot distance can often be achieved within the boundary of the land owned by the proposed site. For example, if animals are kept within a twenty by twenty foot area and the property is square, this could be

achieved with five acres. In response to question from Commissioner Kennedy, Mr. Johnson advised this is how it functionally works within other categories and the proposed primarily residential language could be adjusted to more clearly reflect that setback practice.

Commissioner Montri noted a recent Michigan Farm Bureau article states, "The Site Selection GAAMP only applies to operations where animals are confined, such as feedlots or large dairy operations." She asked where in the GAAMP that definition of confined is stated and how it relates to someone on a small scale farm. Mr. Johnson advised if animals are enclosed within a specific area that is a confined arrangement; if they roam on pasture land or are simply confined to one's property, measurement would be from the edge of the fields. Pasture land has appropriate feed cover, does not erode, and provides for even distribution of manure, whereas confining animals usually results in a dirt lot.

In response to question from Commissioner Montri regarding animal units and setbacks, Mr. Johnson advised the GAAMP was first written to address the expansion of animal agriculture in the countryside of Michigan. The originators never imagined farm animals moving into a more urban setting. Less than 50 animal units in the very rural areas of the state offered very little chance of being a source of nuisance; therefore, the Committee at that point decided not to address that level as part of the Site Selection GAAMP and this is how the 50 animal units began. The Committee now realizes the tolerance for a community to have a number of animals and what type of animals will vary as much as the number of communities existing in the state and that number of variances could never be addressed on a statewide level. It makes sense for each community to make the decision themselves as to what is acceptable in their residentially zoned areas that do not allow for agricultural uses. However, no matter where the line is drawn, someone will feel they have been left out.

Commissioner Montri inquired about a regulatory impact assessment or policy impact report. Mr. Johnson, advised nothing of that nature has been completed. The Director pointed out these are not regulations, but generally accepted agricultural practices.

In response to comment by the Director, Mr. Johnson confirmed the statute states that a condition for RTF protection is a requirement the operation is commercial in nature. The RTF Act did not affect anyone raising animals or eggs for their own consumption and the proposed revisions do not change that. Commissioner Hanson noted individual farm operations file a Schedule F Income Tax Form, or other appropriate forms if an LLC, to declare income from their commercial activities. Commissioner Meachum noted the federal government's definition of a farm operation designates a minimum of \$1,000 of agricultural products produced and sold during the year.

In response to question from Commissioner Walcott, Mr. Johnson confirmed the proposed changes do not affect Categories 1 and 2 farming operations. And, without the proposed changes, concentrated livestock operations could occur in residential areas. This is the gap missed by the originators of the Site Selection GAAMP; they never anticipated the possibility of less than 50 animal units moving into an urban setting. The Director advised she has had conversations with legislators who were

present at the time of drafting the original GAAMP and urban agriculture is not what they were thinking about – they were considering urban people moving into the countryside and encroaching upon existing agriculture.

Commissioner Kennedy asked if there were any urgency in approving the proposed changes. Mr. Johnson advised this already has been a lengthy process. The initial conversation around the challenges of urban agriculture as applied to RTF and the Site Selection GAAMP occurred with the City of Detroit in 2008. There has been a considerable growth in the interest of people growing and purchasing food closer to urban areas and there is significant opportunity for that to continue to grow in the future. The question is whether or not we are going to actually consider community-based decisions about where and what kinds of things are being grown. This will not be a part of any of the other GAAMPs, so it does not affect fruits and vegetables – it is an animal agriculture issue because that is the source of nuisance. As evidenced by many situations, court cases, and input from attorneys and local officials, there is a wide variety of tolerance across the state for agriculture in local communities, which makes creating state-level guidelines that would make sense for every community impossible.

In response to question from Commissioner Montri, the Director confirmed there are only two RTF staff on the department's team and any increase in staffing would have to be weighed against multiple other resource demands.

Based on public comments received, Commissioner Meachum asked if passage of the changes would actually put someone out of business if their operation is currently legal. Mr. Johnson advised if they are currently operating legally within their community's guidelines, the changes will not affect that. It is not an issue in many communities because there are no complaints and none of that will change as a result of the changes to the GAAMP. Clearly, there are people who are doing things contrary to what the local community finds acceptable and those individuals will need to conform, or get rid of their animals if that is the case. It is possible for some people to be impacted. However, no matter what we do, decisions still need to be made about what is acceptable.

In response to questions from Commissioner Hanson, Mr. Johnson advised that legislative action to create an urban GAAMP would be contrary to the normal process. GAAMPs are typically initiated within the industry. One option could be rules and guidelines specific to urban agriculture. There are various potential options and again, the challenge on a statewide basis is the "one size fits all" application in light of the large continuum of acceptability across the state.

Commissioner Montri noted that although we are trying very hard for a win-win solution, her concern is not being aware of the potential impacts. Commissioner Kennedy asked how that might be measured and monitored. Mr. Johnson advised monitoring would be difficult and he is not aware of a system that accumulates that type of information on a local level. However, feedback would be received very quickly and it would become obvious if something were missed.

In response to question from Commissioner Walcott, Mr. Johnson advised that sites under Category 2 could have between 50 to 499 animal units with a setback distance of

250 feet and 6-13 non-farm residences within the designated distance. This illustrates how the designation of primarily residential has basis in the original GAAMP.

Commissioner Montri asked about the basis for the reduction to only one animal unit. Mr. Johnson advised this refers back to the original writers of the GAAMP who stated in rural Michigan, having 50 animals units presents a very small chance of a nuisance condition. Therefore, they exempted less than 50 animal units from the Site Selection GAAMP process. Without specifics in the RTF Act about zoning, you could have animals anywhere regardless of zoning. This is why definition of a livestock facility was changed to any sized facility and a production facility becomes one with 50 or more animal units. The Director added some communities would be willing to tolerate more than others, therefore, the barometer of nuisance may be different depending upon the community. Commissioner Montri agreed and noted she also heard during public comment that in many local units of government there are part-time authorities that would not have the time to invest in working through those types of ordinances and may make the decision to simply ban livestock not necessarily based on potential nuisance. Mr. Johnson advised that even the City of Detroit looked to the department for that expertise. MDARD's divisions have been and will continue to spend considerable time in providing various resources to Detroit in their effort to establish an ordinance for livestock. It is hoped that ordinance will then serve as a model for other interested communities to use as a starting place for tailoring it to fit their particular needs.

Commissioner Montri asked if the department would have adequate resources to assist local units of government. Mr. Johnson advised it will be a challenge; however, since it will likely take the City of Detroit several more months to finalize their animal ordinance, it will provide an opportunity to consider resources within various MDARD divisions to help those communities. Resources could very appropriately also come from Michigan State University (MSU), who has a very active group working on urban development efforts. And because urban agriculture actually becomes part of the placemaking effort for communities, it offers opportunities for the Michigan Economic Development Corporation (MEDC), MSU, and MDARD to be working with communities on a number of different fronts.

In response to question from Commissioner Walcott, Mr. Johnson advised Detroit is not currently using the number of homes as referenced in the primarily residential definition because they are not yet aware of this conceptual definition. Detroit is using the exemption language in the Preface to the GAAMP which refers to communities of 100,000 or more in establishing their own ordinance for agriculture.

Discussion ensued regarding the circle area created by the 250 foot distance, the potential number of animals, and concern about small farms within residentially zoned areas. Mr. Johnson explained the one-quarter mile distance is at the top end of the 50 animal unit range and because that had standing within the siting process, it was applied to the proposed definition. Commissioner Kennedy suggested lowering the animal units number or dropping to one-eighth of a mile distance. Mr. Johnson advised it could be revised, but the question is what will be used as a basis to make that siting decision. Commissioner Montri offered there should be research already available to provide information about recommended setbacks according to a specific type of livestock.

Commissioner Meachum advised in his specific rural area of the state, there is a myriad of different definitions for residential zoning with various categories and numerous uses. As much as he would like to say one has the right to raise what wanted and where, he realizes this is not fair to one's neighbors. Zoning protects you and your neighbors. He concurs there needs to be a definition which creates "a line in the sand," and reminded everyone the GAAMPs are fluid and can be changed when needed to ensure decisions will not negatively impact agriculture of all sizes. Guidance and direction must be given for all farmers and to local zoning officials and townships, so they can begin to make decisions. The Site Selection GAAMP Committee works almost year around. There is some opportunity for an urban working group in the future to help bring concrete solutions to the table, rather than simply asking the Commission to vote 'no.'

Commissioner Kennedy asked if there had been consideration to help that process. Mr. Johnson advised there are agriculture organizations interested in moving in that direction. The department will continue to work with the City of Detroit which will provide a tremendous amount of information on urban agriculture and what is acceptable in the more urbanized areas. Although it is developing quickly, communities are just beginning to address urban agriculture issues.

The Director reported she has discussed urban agriculture with various legislators and it was encouraging that Representative Irwin's staff was here today. She believes the elective Legislature needs to debate what is acceptable and what is not and how the framework is established for communities to make those decisions. She continues to encourage that action.

Mr. Johnson advised because it is not simply about zoning, but about land use in the area of residential zoning, in order to create consistency regarding reference to zoning in the Site Selection GAAMP, the department is suggesting a change to Section VI: Site Review and Verification Process. Under item 2: Siting Request Review (page 18), the second sentence should be changed to "If the site is primarily residential and zoning does not allow for agricultural uses ...". Previously, the GAAMP stated if the site is zoned residential and that zoning does not allow agriculture as a use by right, that would be a Category 4 site and inappropriate for livestock. The changes provide that primarily residential would constitute a two-step process for the review, 1) zoning and 2) use – if zoning does not permit agriculture as a use by right, then the land use in that area is reviewed. This provides for consistency in the review process.

**MOTION: COMMISSIONER MEACHUM MOVED TO APPROVE THE ADDITION TO THE 2014 SITE SELECTION AND ODOR CONTROL FOR NEW AND EXPANDING LIVESTOCK PRODUCTION FACILITIES GENERALLY ACCEPTED AGRICULTURAL MANAGEMENT PRACTICES TO THE DEFINITIONS SECTION ON PAGES FOUR AND FIVE OF LANGUAGE TO NOTE THAT THE DEFINITION OF PRIMARILY RESIDENTIAL IS: SITES ARE PRIMARILY RESIDENTIAL IF THERE ARE MORE THAN 13 HOMES WITHIN ONE- QUARTER MILE OF THE SITE OR HAVE ANY HOME WITHIN 250 FEET OF THE PROPOSED FACILITY LOCATION.**

Commissioner Meachum advised his revision from “site property line” to “facility location” in the definition would equate to the source of potential nuisance. This change could help in the determination of where best to actually locate livestock on the property to mitigate odors and environmental concerns. Discussion of that change ensued.

The Director suggested if adopted as moved and the Commission were amiable, staff be given the ability to use wording in the definition that is consistent with the remainder of the GAAMP. The Commission agreed.

Commissioner Kennedy expressed concern about the quarter-mile distance and suggested that be reduced to one-eighth of mile to help avoid unintended issues with some of the small growers located close to urban areas. If that doesn't work, the Commission could always change that in the future. Commissioner Walcott suggested also increasing the number of homes in the definition. Commissioner Montri advised the basis of the origination of these numbers needs to be considered, noting the current GAAMP does not make sense in high density areas and changes need to protect and enhance the viability of the agriculture system in a way that also considers nuisance risks. She also noted the lines being considered are number of animal units, density, and setback. Mr. Johnson advised density in a typically urban setting was reflected in the proposals. Discussion of these proposed changes ensued.

The Director pointed out that detailed discussions of this nature typically occur at a committee level, and there is a committee that addresses those issues. Those details were discussed by the Site Selection GAAMP Committee and she strongly suggested the Commission could certainly make some common-sense adjustments, but when specific data is considered, this is something the GAAMP Committee should be deliberating with those having access to that data. In determining how to implement the 2014 Site Selection GAAMP, the department created the primarily residential definition based on how it operationalized the rest of the GAAMP according to the Committee's direction.

#### **COMMISSIONER WALCOTT SECONDED THE MOTION ON THE FLOOR.**

Commissioner Meachum reconfirmed that the Commission has the flexibility to make any additional revisions to the Site Selection GAAMP that it deems necessary at any point in time. In addition, thought should be given to initiating an urban agriculture working group to help provide direction for individuals to either approach the Legislature or provide assistance to the legislators themselves. The Director equated this to the type of expertise the department provided to the City of Detroit and noted that approaching the Legislature provides for all voices being at the table. Commissioner Hanson emphasized the Commission is here to promote agriculture in Michigan.

#### **RECESS AND RECONVENE**

Chairperson Hanson recessed the meeting at 4:45 p.m. for a brief break. She reconvened the meeting at 4:51 p.m.

Based on previous discussion, Commissioner Kennedy offered an amended motion.

**MOTION: COMMISSIONER KENNEDY MOVED TO AMMEND THE DEFINITION IN THE PREVIOUS MOTION TO READ: SITES ARE PRIMARILY RESIDENTIAL IF THERE ARE MORE THAN 13 HOMES WITHIN ONE-EIGHTH MILE OF THE SITE OR HAVE ANY HOME WITHIN 250 FEET OF THE PROPOSED FACILITY LOCATION. COMMISSIONER WALCOTT SECONDED THE MOTION.**

NOTE: The Commission previously granted authority to the department to use wording in the definition that would be consistent with the remainder of the GAAMP.

Commissioner Montri expressed the impacts are still unknown and Commissioner Kennedy emphasized if an impact monitoring mechanism could be established, it would assist in moving forward. Commissioner Walcott noted these changes do address the liability of proper use issue which was a concern. In response to inquiry from Commissioner Meachum, Mr. Johnson confirmed this would be applicable for up to 50 animal units.

Commissioner Kennedy asked if the Michigan Municipal League (MML) would be able to provide regular reports on impacts of the GAAMP as reported to their members. Ms. Nikki Brown advised MML would be happy to assist in this manner.

Commissioner Hanson called for a vote on Commissioner Kennedy's amendment to the motion:

**THE MOTION TO AMEND THE MOTION CARRIED.**

Commissioner Hanson called for a vote on Commissioner Meauchum's original motion:

**THE ORIGINAL MOTION CARRIED.**

Commissioner Meachum requested the department provide a monthly report on comments received relative to the Site Selection GAAMP changes, as well as any nuisance complaints received. Also, to create consistency in the GAAMP reference to zoning, he suggested a change to Section VI.

**MOTION: COMMISSIONER MEACHUM MOVED THE 2014 SITE SELECTION AND ODOR CONTROL FOR NEW AND EXPANDING LIVESTOCK PRODUCTION FACILITIES GENERALLY ACCEPTED AGRICULTURAL MANAGEMENT PRACTICES SECTION VI: SITE REVIEW AND VERIFICATION PROCESS UNDER ITEM TWO ON PAGE 18: SITING REQUEST REVIEW, THE SECOND SENTENCE BE CHANGED TO READ, "IF THE SITE IS PRIMARILY RESIDENTIAL AND ZONING DOES NOT ALLOW FOR AGRICULTURAL USES..." COMMISSIONER WALCOTT SECONDED. MOTION CARRIED.**

**MOTION: COMMISSIONER WALCOTT MOVED TO APPROVE THE 2014 SITE SELECTION AND ODOR CONTROL FOR NEW AND EXPANDING**

**LIVESTOCK PRODUCTION FACILITIES GENERALLY ACCEPTED  
AGRICULTURAL MANAGEMENT PRACTICES WITH CHANGES AS  
PRESENTED. COMMISSIONER KENNEDY SECONDED. MOTION CARRIED.**

Commissioner Montri suggested representation from small scale livestock producers should be added to the Site Selection GAAMP Committee. Mr. Johnson advised the committee members are determined by the committee chair and any membership recommendations can be made directly to the chair, Dr. Wendy Powers-Schilling.

**ADJOURN**

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

The meeting was adjourned at 5:05 p.m.

Attachments:

- A) *Agenda*
- B) *Agriculture and Rural Development Commission Meeting Minutes March 20, 2014*
- C) *Draft 2014 Site Selection GAAMP*
- D) *Siting GAAMP Presentation with Visuals*
- E) *Public Comment Illustration-Kathy Johnson*
- F) *Public Comment Letter-Sierra Club*
- G) *Public Comment Letter-Alisha Lesko*
- H) *Public Comment Letter-Valerie Cochran Toop*