

MICHIGAN COMMISSION OF AGRICULTURE AND RURAL DEVELOPMENT

Lansing Community College West Campus
Michigan Technical Education Center, Room M119-120
5708 Cornerstone Drive, Lansing, MI 48917

MEETING MINUTES May 28, 2014

PRESENT:

Diane Hanson, Chairperson, Michigan Commission of Agriculture and Rural Development
Trevor Meachum, Vice Chair, Michigan Commission of Agriculture and Rural Development
Bob Kennedy, Past Chair, Michigan Commission of Agriculture and Rural Development
Jamie Clover Adams, Director, Michigan Department of Agriculture and Rural Development

ABSENT AND EXCUSED:

Fred Walcott, Secretary, Michigan Commission of Agriculture and Rural Development
Dru Montri, Member, Michigan Commission 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 9:00 a.m. on May 28, 2014. Commissioner Meachum called the roll with Commissioners Hanson, Kennedy, and Meachum, and Chief Deputy Director Wenk present. Director Clover Adams joined the meeting at 9:11 a.m. Commissioner Walcott was excused for a family funeral and Commissioner Montri was excused to allow for her presenting at the Healthy Food Incentives Workshop in Washington, D.C., sponsored by the United States Department of Agriculture (USDA) and the Centers for Disease Control (CDC).

APPROVAL OF AGENDA

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

APPROVAL OF APRIL 28, 2014, MEETING MINUTES

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

NEXT SCHEDULED MEETING

The next scheduled meeting will be held on Tuesday, July 22, 2014, at the Michigan Department of Agriculture and Rural Development (MDARD) Geagley Laboratory, East Lansing. The meeting coincides with the Ag Expo breakfast being held that morning on the Michigan State University campus.

COMMISSIONER COMMENTS AND TRAVEL

Commissioner Kennedy advised his only travel was to attend today's meeting. Planting activity in his area is in full swing, with corn being 60 percent complete and approximately 50 percent of the soybeans. Because of the cool, wet weather, planting is behind schedule; however, with modern hybrid seeds, the time lost should easily be recovered. The hope is for no more rain in the near future.

Commissioner Meachum reported to attend today's meeting was his only travel. Corn in his area is from 70-80 percent planted and, in spite of the harsh winter, they do have a fruit crop. Their operations are making a concentrated effort to ensure health of the bees because pollination activity has been less than optimal due to sunny and windy weather conditions, which drives them to dandelions on the ground, and cloudy, windy days that leave them in the hives. The bees have now traveled north to blueberry crops near Muskegon and they will then go to the Traverse City area for apples and cherries.

Commissioner Hanson advised her only travel was for today's meeting. With the weather finally breaking in the Upper Peninsula (UP), farmers are working extremely long days to plant their crops. Most of the grain crop is planted, corn is in progress, and they hope to have their potatoes planted by the end of this week.

In April, she attended a Growing U.P. Agricultural Association meeting and also met with Congressman Benishek during his visit of the DeBakers' family dairy operation.

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

INTRODUCTIONS

Chief Deputy Director Wenk welcomed participants of the Quality of Life (QOL) Leadership Academy who were attending today's meeting: Emily Freeman, with the Michigan Department of Environmental Quality (MDEQ) Waste Management and Radiological Protection office; Jennifer Dickson, with MDEQ Air Quality Division; Jackie Merchant, with MDEQ Drinking Water and Disposal Systems office; and Robyn Schmidt, Director of MDEQ Water Resources Division, from the Cadillac office.

PUBLIC COMMENT (AGENDA ITEMS ONLY)

Randy Zeilinger, Michigan Small Farm Council, commented regarding the Public Comment portion of the meeting agenda. He feels over the past year much of the discourse between the public and the Commission has been lost due to time limitations placed on speakers. There is a perception that the wants and needs of the general public have been ignored by the Commission and the department. He hopes the Commission will actually consider that, along with all of the petitions and correspondence submitted.

BUDGET UPDATE: Maria Tyszkiewicz, Budget Officer

Ms. Tyszkiewicz reported May revenue estimates were revised for the Fiscal Years (FY) 2014 and 2015. The FY 2014 general fund/general purpose (GF/GP) revenue is projected to be lower than 2013 by about \$243 million and the estimated FY 2015

GF/GP is projected to be above 2014 by about \$506 million. The budget bills have passed both houses, target negotiations are currently underway, and the Conference Committees are expected to meet next week to finalize the budget.

The Governor's recommended budget included enhancements of \$1.8 million for the Food and Dairy Safety Initiative; full funding for the Qualified Forest Program; funding to maintain the Pesticide and Plant Pest Management programs and the Food and Agriculture Industry Growth Initiative; and other economic increases.

The Senate version included \$4 million additional funding for MDARD, the bulk of which is actually a fund shift, not an increase in the department's budget. Under the current bill, MDARD receives Refined Petroleum Fund revenue from MDEQ to support the Laboratory and other programs in the budget. The Senate's preference is to maintain the entire Refined Petroleum Fund within MDEQ; and therefore, replaced that funding with GF/GP dollars. They also shifted \$190,000 from the Consumer Protection Program to create a line item for a new oil change business inspection program. Another new line item was added for a Commercial Forest Audit Program, which would include a statewide analysis of best management practices on public and private forestland for water quality and related forest ecosystems. They also added two earmarks, one of \$200,000 from the Value Added Grants line item for the Eastern Michigan Food Bank; and the second of \$390,000 from the Food and Agriculture Industry Growth Initiative for a regional public/private partnership with Michigan Technical University and a pulp and paper manufacturing company.

The House Bill reduced the department's GF/GP funding from the Governor's recommendation by \$2.0 million. They reduced the Food and Dairy Safety Initiative by \$300,000 and the request for FTEs (full-time equivalents) from 8.0 to 6.0. They eliminated all funding requested for dairy inspection enhancement. They reduced the Environmental Stewardship Division line, specifically from the Michigan Agriculture Environmental Assurance Program (MAEAP) by \$300,000 and the Qualified Forest Program by \$600,000. Also reduced by \$250,000 was the line item for the Food and Agriculture Industry Growth Initiative. A new line item of \$50,000 was added for Shows and Expositions, as well as a fund shift from the Michigan Gaming Control Board budget to MDARD's Horse Racing line item.

Two MDARD items are included in the budgets of other agencies. One is the Information Technology Initiative, the funds for which are contained within the budget for the Department of Technology, Management, and Budget (DTMB) and both the House and Senate reduced that line item. With no specifics as to which project was reduced, the department will be waiting to see how they categorize project requests from all agencies. The second item is the Invasive Species Initiative, with the Senate adding a small amount and the House reducing it by \$1 million. This is a QOL initiative included in the Michigan Department of Natural Resources' (MDNR) budget.

In response in questions from Commissioner Meachum, Ms. Tyszkiewicz confirmed the Consumer Protection Program shift would provide for inspection of oil change businesses, with a reduction in funds for gas pump inspections. Even with a goal of

increasing the number of MAEAP verified farms, the reduction in that funding was a result of the House attempting to maintain current level funding.

DIRECTOR'S REPORT

Director Clover Adams reported the department is convening a Farm Bill Conservation Coalition group meeting next week with stakeholders of agriculture, conservation, non-profits, foundations, and land conservancies to discuss the USDA Regional Conservation Partnership Program. U.S. Secretary of Agriculture Tom Vilsack was in Bay City yesterday to announce the Great Lakes will be one of the areas included in this new conservation initiative. The discussion with stakeholders will identify Michigan's priorities, outline plans for the future, and determine where state government can be helpful in the process. The QOL agencies have a team, led by MDARD that will champion this effort. Over \$1.2 billion from the Farm Bill has been allocated over five years for this program that will be available for conservation practices. During the announcement, there was no recognition of producers, who actually are the most important partner in the effort; therefore, the department will monitor the program as it moves forward and offer suggestions for action by the Commission if necessary. The competitive process will involve pre-proposals due by July 14, full proposals in September, and announcement of awards in October. Michigan has accomplished this type of conservation for years through its various holistic conservation programs and the federal government now sees the value in that, for which Michigan has many good ideas to offer.

The Director announced that Ken McFarlane will assume duties as Director of Strategy and Business Performance, the position previously held by Scott Staelgraeve. In this role, Mr. McFarlane will facilitate the department's measures and metrics, as well as business process improvements and various special projects.

As will be detailed later in the meeting, an agriculture workforce group has been organized amongst the industry and the department to determine how to move forward on various agriculture labor issues to ensure Michigan has the workforce needed.

State Senator Joe Hune held two hearings on recent changes to the Site Selection Generally Accepted Agricultural Management Practices. At the hearing on Thursday, May 22, the Senator asked the department to create a workgroup to continue the discussion of urban livestock issues. A press release from Senator Hune is expected in the near future, following which members will be selected. In response to question from Commissioner Hanson, the Director confirmed that Senator Hune requested the Commission have a representative on that workgroup. Commissioner Hanson noted, as discussed last month, the Commission would ask Commissioner Montri if she is interested in serving in that capacity.

Relative to the budget, the Director noted the bulk of recommendations are typical of the give and take of the process. She expressed concern over the earmark for the paper and pulp project because Verso Paper applied for a grant, was not chosen, and decided to circumvent the competitive process to request double that amount from the Legislature. Although it is a good project, for the health of the competitive system, the

department will not be supporting that earmark. Commissioner Hanson noted that, although previously announced, Verso has not yet purchased the New Page Mill.

DIRECTOR'S TRAVEL

Director Clover Adams requested approval for travel June 1-2 for the annual Northeastern Association of State Departments of Agriculture (NEASDA) meeting in Boston.

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

HANTZ FARMS DETROIT REPORT: Michael Score, President, Hantz Farms

Based on conversation prior to the meeting, Mr. Score acknowledged all of the important agricultural activity being accomplished in the UP.

Mr. Score reported Hantz Farms Detroit is a larger-scale, for-profit urban agriculture initiative designed to invest in communities that have struggled with chronic blight and poverty using agriculture as a tool to make neighborhoods more livable and recovering costs over time. CEO John Hantz began working toward this initiative about six years ago. Initial work was spent in negotiations with the City of Detroit, helping city leaders grasp the concept of agriculture revitalizing urban communities. It involved breaking the mold and reinventing urban landscape gaps into beautiful green space and weaving natural conservation management into the urban fabric. Cities would then become more desirable and Detroit could be the first urban center to accomplish this vision of redeploying surplus city-owned property with no particular purpose and no budget for maintenance.

CEO John Hantz is a successful businessman who has lived in Detroit for twenty years. The Hantz Group is a collection of companies, primarily in financial services. In all of his business ventures, there is no debt. Any new venture is not undertaken until it can be adequately funded to achieve its outcome. Hantz Farms is one of those ventures.

Looking at Detroit before you consider Hantz Farms, you see incredible landmarks from the Riverwalk to the Joe Lewis Fist sculpture. Although many people define Detroit by the blight, there are many middle to upper income pocket neighborhoods surrounded by unmanaged space that is a dominate feature in the landscape. The concept that Detroit's citizens don't care is a myth. It is a daily experience to find the Detroit's residents working with whatever tools they have to make their neighborhoods better.

The Hantz proposal to the City of Detroit includes paying cash to purchase the city's liabilities, strengthening the city's tax base, reducing the city's operating costs, and helping reshape Detroit's image in the global market. Because this was a hard sell to the city, Hantz Farms proposed to demonstrate the potential of their idea if they would sell them the city-owned blight next to their office, which was three and one-half acres in a five-acre pocket neighborhood. Brush was removed, grass mowed every seven to ten days, concrete from basements became a fieldstone wall, hardwoods were planted, and the area has improved significantly. With this success, Hantz Farms returned to the

City of Detroit with their proposal, their concept was approved, and they began negotiating details. Hantz Farms agreed to purchase several hundred to several thousand acres, mow vegetation regularly, demolish at least 50 dangerous structures, properly dispose of debris, and plant at least 15,000 mixed hardwoods in the first two years. The timeline began in January 2014 and Hantz Farms expects to complete that commitment by the end of this year. Their first proposal was to establish a U-pick orchard and U-cut Christmas tree farm; however, the hardwoods were more compatible with Detroit's zoning ordinances and neighbors were more comfortable with that choice.

Hantz Farms has purchased approximately 25 percent of the neighborhood landscape (150 acres of surplus city properties), manages land around remaining residents, and plans to expand purchase over time to prevent blight from re-emerging, select enterprises acceptable to neighbors, hire from the local community, and support other community improvement initiatives. Phase II would expand investment through the purchase of an additional 180 acres, diversify production, and continue growing by demand over time.

The work of Hantz Farms is supported by a broad cross-section of the population, including nearby residents, city officials, business leaders, and churches. As an example, on May 17 over 1,400 volunteers came out to help Hantz Farms plant and mulch 15,000 trees in just two hours. This was a strong show of support for this approach to making Detroit a better place to live.

As a member of Michigan Farm Bureau and its platform for research, education, and tourism, Hantz Farms clearly is a part of Michigan's larger-scale agriculture industry. They are trying to use Hantz Farms as a platform to discover how to build a new sector in Michigan's economy that becomes known as larger-scale urban agriculture. In order to determine specifically what techniques will work, they are partnering with different companies and using their farm for research, education, and eventually for tourism.

He expressed appreciation to the Commission and department for their assistance during early negotiations with the Detroit City Council, because the Right to Farm Act interfered with their local ordinance. Work with Detroit leaders provided room to maneuver, allowing the concept to move forward.

In response to question from Commissioner Kennedy, Mr. Score advised their trees were selected based on tolerance for the extremely varied soil conditions, and include sugar maple, white oak, swamp oak, and white birch. A few other species were added to monitor their progress for future consideration. As a timber crop, harvest would be in sixty years. In the meantime, selective harvesting could be accomplished, as well as selling the view to a conservancy.

Commissioner Meachum asked as a for-profit organization, were other crops considered for cash flow. Mr. Score advised that as their reputation builds, the U-pick orchard and U-cut Christmas tree concepts will be accepted and other revenue ideas include a nursery business through removing 10-15 foot trees and incorporating edible mushrooms, hostas, and ferns. And, because of media exposure, enough new financial business has come to the parent company to pay for this venture.

In response to inquiry from Commissioner Hanson, Mr. Score advised they receive no tax incentives on the properties purchased. Because the large downtown projects in Detroit's business core receive all of those incentives, there is no money left for neighborhood economic development incentives. However, other successful business families have taken an interest in what Mr. Hantz has accomplished and are ready to invest similarly in other areas in Detroit.

Commissioner Kennedy mentioned other Michigan cities with significant blight areas and asked if there were interest in those areas. Mr. Score advised they have received invitations from numerous cities and although interested, they have not initiated any because of their basic operating rules of making a promise and then exceeding it, and of not starting the next venture until the previous one is complete.

Commissioner Hanson mentioned the news recently stated 40,000 properties in Detroit need to be demolished immediately and the city's plans to move forward with that. Mr. Score noted the city's plan is perhaps realistically too aggressive, but he is sure they will do whatever is possible in today's economy.

In response to Commissioner Hanson, Mr. Score confirmed there are many individual and community gardens, as well as small farms within the City of Detroit. And while technically illegal, they were embraced by the city and they have been operating for 10-20 years.

Commissioner Kennedy asked if the Commission or department could be of assistance to the Hantz Farms project. Mr. Score advised it would be great to have Michigan agriculture partner with them to try new practice ideas – to use Hantz Farms as a research and development center to explore the possibilities for Michigan's cities.

The Director asked how uses will complement one another as people begin to move back into the cities and competition for the land results. Mr. Score noted Hantz Farms has participated in that dialogue for some time. In Detroit, people are paying 81 mills in taxes and property values are declining, which actually has created an undesirable atmosphere for housing development. With improvements in the blighted areas, property values will begin to increase. In the future, the question will become one of how to sustain urban infrastructure under dense population structures.

In response to question from the Director, Mr. Score reported they worked with their neighbors by visiting with them one-on-one to build a meaningful dialogue, explaining realistically how they wanted to make an investment in their neighborhood. In addition, they attended meetings with block clubs, churches, and other organizations in the area. A community agreement was negotiated that addressed neighborhood needs and care has been taken to exceed every promise of that agreement. Hantz Farms began maintaining property well before they had received deeds to the properties and neighbors were both impressed and very appreciative.

Mr. Score encouraged the Commission to build a dialogue with Hantz Farms, invited them to take a tour of their project in Detroit, and to imagine how it can be used as a platform to develop for the future.

RECESS AND RECONVENE

Chairperson Hanson recessed the meeting at 10:23 a.m. for a brief break. She reconvened the meeting at 10:37 a.m.

LEGISLATIVE UPDATE: Derek Bajema, Legislative Liaison

Mr. Bajema reported House Bill 4335 would allow dogs on patios in restaurants. The department supports the bill because the changes requested in congruence with the local health departments had been incorporated. It should be moving through the process within the next few weeks.

The budget has been the recent key focus legislatively for the department. The Director, Chief Deputy Director, and Ms. Tyszkiewicz have been involved in numerous discussions with the House and Senate leadership regarding the department's priorities.

The beneficial use bills, House Bills 5400-5402, are on the Senate Floor. They would allow certain waste streams to be used in various components, which would include farm fields. There are specific parameters and check points by both MDARD and MDNR and the department will be monitoring progress of the legislation.

House Bills 5439-5440 deal with industrial hemp. The latest Farm Bill allows funding to be granted to those states that allow for industrial hemp, in particular those with research universities.

Senate Bill 59 would allow property owners additional time to transfer property from the Commercial Forest Program to the Qualified Forest Program. The program has had significant success during its infancy under MDARD.

Senate Bill 685 would adopt the latest NIST (National Institute of Standards and Technology) handbook and would require inspections or standards for oil change facilities. This would require the department to respond to complaints.

Senate Bill 791 makes important changes to the Refined Petroleum Fund, returning to the original intent of the legislation regarding underground storage tank clean-up. A portion of that money is currently appropriated for gas station inspections by MDARD. The department has been working with Senator Green on timing of the legislation to provide for more definitive budget figures. If the department needs to convert to GF/GP funds to cover gas station inspections, it must ensure those funds are available. Consideration of a specific revenue source for those inspections is being discussed.

Senate Bill 730 would place a minor requirement on restaurants to alert patrons as to their obligation to advise wait staff of any allergies they may have when ordering. MDARD looks forward to continue working on this legislation.

Senate Bills 786-786 are important bills that would change the way hydroponic facilities are taxed. Michigan is well positioned to take advantage of its climate in welcoming some large-scale hydroponic operations. However, the current tax system does not properly contemplate these facilities. The department continues to work toward approval of the legislation as this industry becomes a positive part of Michigan's future.

AGRICULTURE LABOR/WORKFORCE/IMMRATION OVERVIEW AND AGRICULTURE LABOR WORKFORCE COALITION: Mark Swartz, Deputy Division Director, Environmental Stewardship Division; and Mike DiBernardo, Economic Development Specialist

Mr. Swartz reported Michigan agriculture has 38 crops dependent upon migrant labor and an estimated 90,000 workers and their families come to the state every year to work in the agriculture industry. Exit information from Arkansas indicates the diversity of Michigan's cropping season, the quality of our housing, and the quality of overall conditions in the state help draw workers and their families to Michigan.

Through the department's Migrant Labor Housing (MLH) Program, staff became aware of a number of issues. Crew leaders were bringing workers with them and many times providing off-farm housing, and there is not much oversight for that type of housing. Issues also exist with housing provided for five or fewer workers that would potentially fall under MIOSHA (Michigan Occupational Safety and Health Administration) jurisdiction and operate on a complaint-type basis. Lately, some of the anti-migrant rhetoric and border security have caused situations where workers who used to be in the migrant stream are now living permanently in housing designed for migrant labor. The department has a long history of participation in housing issues and has also assisted on the immigration side with the Workforce Development Agency and the Agricultural Referral System for H-2A and Interstate Clearance Orders. The department conducts the inspections of housing on behalf of players entering into those systems.

Much time has been spent over the last ten years working with the Interagency Migrant Services Committee to gain a better understanding of issues faced by migrant seasonal farm workers. In 2010, the Department of Civil Rights Commission published their Report on Migrant and Seasonal Farmworkers that generated 15 recommendations which delineate areas that could be addressed to help make Michigan more inviting for migrant seasonal farm workers. During that same time, the department held discussions with the Commodity Executives group to identify issues they are seeing in agriculture dealing with availability, verification, drivers licenses, validation, and etc. That has coincided with the National Association of State Directors of Agriculture and their policy on immigration reform. Those efforts were subsequently incorporated into the state's Interdepartmental Collaboration Committee and a special workgroup was formed to address immigration and related issues.

Since then, the department has been working more directly on promotional issues. Two years ago, John Bakker, with the Michigan Asparagus Committee, had specific issues with asparagus production and some public service announcements were implemented to spread the word that Michigan was open for business and encouraging workers to contact previous employers, friends, and family in the state as a way of promoting Michigan agriculture. Through the Civil Rights Commission report, the Interdepartmental

Collaboration Committee-Immigration Workgroup being active, and the Governor's creation of the Office of New Americans, we have a good history on the topic, an excellent partnership, and a Governor's Administration that is interested in moving forward.

The department has created a white paper detailing a formal "To Do List" for attracting seasonal migrant laborers to Michigan. It outlines desired policy discussions and various potential action items. Mr. DiBernardo will share details of that effort.

Mr. DiBernardo reported from an economic development standpoint, staff have met with businesses, producers, and processors across the state. The one common denominator is the labor issue. In considering that, one of the two sectors established was training requirements and funds were granted to the International Food Protection Training Institute in Battle Creek to develop an outline of the required curriculum for that training and how it needs to move forward in a skill-set modular approach. The other sector presenting a huge challenge is the migrant labor category, especially when you consider how much asparagus was mowed down last year, how many apples were not picked, and how much product is being left in the field or unprocessed because of the lack of talented workers. The department determined something different needed to be done in considering migrant labor for Michigan.

In response, MDARD is facilitating an industry workgroup to develop a comprehensive workforce capacity-building plan for Michigan's food and agriculture industry, named the Agriculture Labor Workforce Coalition. Their goal is to have a plan completed by the end of September that will be established by priorities. The "To Do List" white paper is the beginning of the effort; is a living document that will be revised as progress is made; and, as the Coalition meets monthly, will provide a way to concentrate discussions and actions.

Michigan is at a very crucial point with fruits and vegetables and other crops because decisions are being made to not plant additional crops, not expand fields, and not expand processing lines, because of the lack of labor. Therefore, labor is the key issue that will be addressed from an economic development perspective. One of the short-term recommendations is to request an exception allowing Michigan farmers to house H-2A workers in available Section 514 federal housing and the Governor has sent a letter to Jim Turner, State Director of USDA Rural Development, requesting that exception. Also, a different means of recruiting, scheduling, retaining, and moving of labor around the state, similar to successful models in other states, will be considered.

The Coalition has also committed to presenting a comprehensive workforce capacity plan through MDARD's Executive Office to the Governor's Office by September 2014. Mr. DiBernardo complimented Director Goei from the Office for New Americans, who is participating in the monthly Coalition meetings and helping to drive some of the actions.

In response to inquiry from Commissioner Meachum, Mr. DiBernardo advised they hope to receive the USDA 514 housing exception soon. At this point, the exception would be for the State of Michigan only through Mr. Turner's authority. Commissioner Meachum emphasized that it is a very important component.

Mr. DiBernardo advised the Coalition considers an all-encompassing labor force and emphasized labor will be considered and recruited locally, nationally, and internationally based on the opportunities to do so. There is a specific skill set with that labor force and it will be a challenge to recruit the amount of workers anticipated to be needed.

In response to question from Commissioner Kennedy, Mr. DiBernardo advised outdated federal programs are currently being utilized for moving labor through the Workforce Development Agency. The consideration is using those federally-funded programs and adopting them in a different way. Examples from other states are currently being studied by Michigan Farm Bureau and Varnum Law. The Director added that as private companies, growers can conduct their own recruiting. Mr. Swartz advised the vast majority of workers are here through informal communication channels. However, that flow needs enhancement to meet the increased needs and to fill the voids when that system breaks down.

Commissioner Meachum asked about the potential for the Secretary of State agreeing to the proposed "Restricted Drivers License" program. Mr. DiBernardo advised the concern is included in the Coalition's action items and it will be addressed as the process continues.

Mr. DiBernardo reiterated the plan is a living, action-oriented document, and if there are areas with which the Commission could assist, or items the Commission would like to add to the Coalition's "To Do" list, to please let them know. As progress is made, the document will be updated and shared with commodity groups, the Commission, and other stakeholders. The Coalition meetings dates will also be communicated for Commissioners' interest if they would like to participate. Commissioner Meachum emphasized solutions need to be implemented as soon as possible, especially with the USDA 514 housing issue.

In response to Commissioners Meachum and Kennedy, Mr. DiBernardo reported the Coalition will advise the Commission when and how they can be of assistance in the process.

MICHIGAN FARM BUREAU REPORT ON AGRICULTURE LABOR: Craig Anderson, Manager, Agriculture Labor and Safety Services, Michigan Farm Bureau

Mr. Anderson reported a significant challenge with agriculture labor certainly exists and the Michigan Farm Bureau (MFB) has studied the issue over the past two years. MFB's Commodity Advisory Committee, MACMA (Michigan Agricultural Cooperative Marketing Association) Study Committee, and annual Policy Resolutions have identified labor as a very significant issue to the continuation and expansion of Michigan agriculture and have stimulated the MFB Board to examine the issues, determine what can be done, and act upon those recommendations.

When you consider the reality of the situation, last year nearly one million pounds of asparagus were mowed under, numerous tomato/vegetable plantings were never touched, blueberry harvest was less than optimal because considerable machine harvest was required, the apple harvest was delayed causing out-of-condition fruit, and

many orchards were not harvested – all because of the lack of skilled labor. Due to late harvest, pack-out percentages for storage of apples also dropped precipitously for many operations. The losses incurred simply because of the labor situation were significant for Michigan's growers.

Recent conversations with asparagus growers indicate a 15-30 percent shortage of workers for the harvest of this year's crop and we are at the edge of having to again lose product. This same situation can be anticipated for the remainder of crops.

MFB sent postcards to farm labor contractors in the southern states to gather contact information; with limited success, work was initiated with the State Workforce Agency to convince the communities to work through the federal system; informational meetings were held to communicate recruiting options; work was expanded with the various agencies to minimize some of the hurdles that currently exist; and work continues nationally on immigration reform. Michigan has reduced the number of families that exist in its traveling worker stream due to perhaps one family member no longer being eligible and problems with transfer of credits between schools. While immigration reform stalled in 2013, many barriers were identified, including the Section 514 housing issue and the H-2A Guest Worker Program, and none have fully been resolved.

MFB began to consider options to the barriers. The H-2A Program is extremely complicated. Within our agriculture workforce, the current system specifically prohibits the communication of where workers are with where jobs are and very specific hurdles must be overcome, based on rules issued in the 50s and 60s. The Michigan State Workforce Agency is frustrated with the system and projections for 2014 indicate an average of only a 15-40 percent ability to fill the jobs that employers need. Changes need to be made to that system to alleviate this problem.

MFB is actively pursuing a new initiative. They are cooperating with an existing H-2A agency structure from the East Coast; attempting to reduce the H-2A learning curve; and considering on-farm assistance. Once an approvable application is created, the individual farm managers need to understand and follow the requirements. The H-2A Program provides very significant protections for workers, yet is demonized by a good portion of the advocacy group. In response to inquiry from the Director, Mr. Anderson advised the H-2B Program that the hospitality industry uses contains a significantly different set of rules and their challenges are much less difficult.

In 2013, there was an increase of H-2A certified workers to a U.S. level of 115,143 workers; however there were only 600 certified workers in Michigan. This is very revealing about the challenges the state faces in developing an active H-2A program. One of the challenges is how to actually conduct an H-2A program as there are individual applications, joint applications, H-2A contractor applications, and association applications. Each must be studied to determine what Michigan can do by virtue of how the rules impact each specifically. Various national models will be reviewed for implementation; recruitment strategies will be explored; and the public/private option will be reviewed. All efforts will be made to help ensure Michigan has a skilled labor force for our limited seasonal windows. MFB anticipates moving into 2015 with an active program.

In response to question by the Director relative to low number of Michigan H-2A workers, Mr. Anderson indicated the state has significant legal issues (regulatory reviews and complaints) that occur in Michigan, and because the state is one of the last of areas to be aggressively involved with a family recruiting structure, Michigan's time window has been reduced. Looking more at a single workforce makes it more difficult to attract the workers, because Michigan is then in direct competition with those other areas.

AGRICULTURE LABOR/WORKFORCE/IMMIGRATION ISSUES FROM A GROWER'S PERSPECTIVE: Don Gregory, Cherry Bay Orchards; and Kay Trevino, Cornerstone Ag Enterprises

Mr. Gregory advised he operates Cherry Bay Orchards in Suttons Bay, which grows about 3,000 acres of fruit, with 85 percent being cherries and currently about 300 acres of apples. Their current peak demand for seasonal labor is between 65-80 people.

September 12, 2012, is the day Cherry Bay Orchards changed the way they did business. That was their ICE (U.S. Immigration and Customs Enforcement) visit, which resulted in letters of "do not hire" on about three quarters of their migrant workers, some who had worked for them as long as 20 years. They knew changes were imminent and they chose to implement the H-2A program.

At one point, 60-70 percent of their workforce consisted of families; this year, only two families will be working, and 60-65 percent of the remaining single laborers will be H-2A workers. Suttons Bay and Leelanau County are not on the migrant trail, no one passes that area looking for work. Even prior to 2012, they struggled to find enough labor.

For H-2A, the cost of recruitment, government paperwork and record keeping, transportation to and from Mexico, and other costs were approximately \$1,500 per employee. In addition, significant housing upgrades were required, including furnishing all linens and cookware, as well as providing weekly shopping trips for workers.

Apples are picked piece rate and historically, the majority of their pickers are paid more than Michigan's prevailing wage of \$11.49 per hour. The issue becomes that all harvesters, both domestic and foreign, must make a minimum of \$11.49. Because some workers had no experience picking apples, they were able to make only the minimum wage and under H-2A, those workers must receive supplemental pay to bring them to the \$11.49 an hour. This created disincentive for the good pickers and forced Cherry Bay to increase their per box rate for harvesting apples.

With all of the increased costs, it is hastening their departure from the apple business. They removed 100 acres of apples this year alone. Although not his view, his younger partners feel staying in the apple business over the long haul can be profitable. He believes obtaining a sufficient workforce for hand harvest will continue to be more difficult and solving issues with domestic labor could assist with that problem.

He mentioned several areas in which he believes MDARD and the Commission could assist by becoming publically active and supporting changes that will keep labor intensive agri-business in Michigan: 1) support a National Guest Worker Program, as

those programs more friendly to the workers and growers; 2) make seasonal labor want to come to Michigan by helping to ensure guidelines for seasonal labor are being administered in a way that encourages speedy movement of labor from areas of excess labor to areas that need labor; 3) encourage the Attorney General to bring action to end discrimination of the use of agriculture labor housing built under the Section 514 Housing Program; and 4) support the Governor's proposal for "Restricted Drivers Licenses" for undocumented workers in Michigan, such as they have in California.

In response to questions from Commissioner Kennedy, Mr. Gregory advised the H-2A Program is extremely difficult, but they are making it work because it is their only current option. He confirmed the Department of Labor (DOL) does have individuals placed within the system to potentially discover any violation of rules and his operation takes care to ensure the entire vetting process is completed to avoid any such problems.

The Director asked what they are planting in place of the apples removed. Mr. Gregory advised because their soil presents limitations, if cherries cannot be grown, then the land will sit idle.

In response to inquiry from Commissioner Hanson, Mr. Gregory advised many of the families did not return because some individuals were on the "do not hire" list, and there are many issues workers face when traveling from Florida and Texas to arrive in the northern states. Commissioner Meachum noted the Hispanic workers have local networks of communication that affects where the workers move.

Ms. Trevino advised she and her brothers operate a farm in VanBuren and Allegan Counties, known as Cornerstone Ag Enterprises, that was founded by their parents in 1967. They have about 5,000 acres of blueberries and 3,000 acres of corn and soybeans. Today, she would like to focus on the labor-intensive blueberry operation for which they rely on a good deal of migrant labor. Cornerstone also has various partnerships in the states of Oregon and Washington farming blueberries. All of their blueberries are marketed by MBG Marketing under the Naturipe label.

The majority of their migrant stream comes from Florida and many originate from the Mexican state of Oaxaca. There is much speculation that the migrant stream will change over time because the Mexican economy is improving and their birth rate is dropping, resulting in fewer of their workers coming to the U.S. Commissioner Meachum noted Mexico itself needs more employees due to its own increase in agriculture production, which creates an additional issue for Michigan.

Cornerstone has licensed migrant labor housing for about 700 workers which varies from mobile homes to farm houses. They primarily employ families, although there is an efficiency to be gained with single workers because some costs and space are allocated to family members who are not laborers. Their housing efficiency is about 65 percent.

Several commodities produced in Michigan are dependent upon 90,000 migrant workers and their families that come into the state. Currently, there is housing for about 22,000 of those people. This presents both an issue and an opportunity. There is a balance that must be achieved between attracting workers and the economies for the farmer.

Identifying where the rest of the workers are housed would provide valuable information moving forward.

In 2010, DOL focused on the blueberry industry in Michigan and many changes resulted that are challenging for families. Some individuals are unable to make the minimum wage levels and Cornerstone now uses a three-stage process for supplementing those workers. After three occurrences, they must let that person go, and if that worker is part of a family unit, it can mean the entire family leaves.

In their West Coast operations, DOL issued a "hot goods" notice on their blueberries, whereby they contacted their marketer advising of potential violations that could prevent marketing that fruit. These are not actual orders until processed through the courts; however, their marketers chose to make no further purchases. Their Oregon operation actually sued DOL, the judge ruled in the grower's favor, and vacated the consent order to allow movement of product. DOL used a new strategy of a 'ghost' worker to calculate a worker's picking average and extrapolated that figure, which was at random resulting in an inaccurate calculation that assumed several workers were picking on the same ticket. Even though the suit was an extreme risk, they felt the regulatory overreach necessitated that action and their marketers are working with the buyers to help educate them on the actual issues. In a similar case last year, Costco destroyed \$120,000 worth of fruit for which the bill went back to the producer. Again, MBG Marketing is working with Costco to help them understand actual legalities of the situation.

Because migrant workers left Michigan around Labor Day last year, Cornerstone's late variety blueberries experienced the same fate as the apple industry. This year, they plan to try a few different things, primarily a combination of paying minimum wage plus an incentive for pounds and offering a minimum of 40 hours per week.

Housing is a definite advantage in Michigan, as well as the migrant resource councils where agency advocates share information on where migrants can obtain various types of assistance. Another attractant are wages and it is good that Michigan will be raising its minimum wage to help attract workers. But again, it is that balance between that and what is economically effective for the growers.

Another area being dealt with in Michigan is the wetlands issue. Blueberries grow in hydric soils, which is wetland. There is concern for the future of the blueberry industry in Michigan, which is number one in the nation. Cornerstone is committed to planting another 120 acres of blueberries in the state over the next three years and they would appreciate attention to the wetlands issue in the future to help that effort. In response to question from the Director, Ms. Trevino advised that most of their blueberries on the West Coast are of a different variety and grown in different types of soils.

They also are struggling with needed worker training in pesticide safety, heat stress, OSHA (Occupational Safety and Health Administration), and food safety. In their hiring process, they include training for their workers.

To gain a different perspective, she mentioned an eye-opening book which brings together the environmental aspects of border crossing, the political and social aspects,

and moral issues of people dying on the border. The book is titled, "The Death of Josseline," by Margaret Regan and explains what some of the workers have endured to reach U.S. employment.

Immigration is probably the most urgent issue faced nationwide. The Agriculture Workforce Coalition (AWC) provides a unified voice for agriculture and has developed a proposal for reform of guest worker programs. They are recommending a status change for workers, as well as "At-Will" guest worker and contract type programs. She suggested the department could further investigate that proposal.

Commissioner Meachum asked if there were practices used in their West Coast operations that could be incorporated in Michigan. Ms. Trevino advised there are three different employment models utilized there; it simply is what fits best in each specific area. They work very closely with a farm labor contractor for one operation and they rely heavily on drive-in help at another site. Neither state has much in the way of provided housing. Interestingly, Washington and Oregon have some of the highest minimum wages in the country. Otherwise, labor issues there are very similar to Michigan.

In response to inquiry from Commissioner Hanson, Ms. Trevino confirmed typically, their workforce is Hispanic because most domestic workers are not willing to do that work. This is part of the change over the years, as people improve their lot in life, they move to other things, including the Hispanic workers who settle out. One key thing needed is a guest worker type workforce for this skilled agriculture labor; but from where they will come in the future is unknown.

AGRICULTURE LABOR/WORKFORCE/IMMIGRATION LEGAL ISSUES: Kimberly Clarke, Partner, Varnum LLC

Ms. Clarke reported she grew up on a farm that had 200 migrant workers picking apples and tomatoes. In 1987, their farm was challenged by a class action lawsuit that continued for over ten years. She had very intensive training in migrant labor issues and has continued that in her practice, representing many growers in Michigan. She has also been working with the workforce agencies to develop a plan. Because her slides were actually a summary of what has already been discussed this morning, she advised she will help address the legal issues referred to by other speakers.

She referred to Mr. DiBernardo's comment about what the Agriculture Labor Workforce Coalition is addressing. H-2A has not been used to any extent in Michigan because those employers would be targeted by advocacy groups and the regulatory agencies. Michigan is now in a situation where producers need to try H-2A. The Coalition will be developing a proposal that has two models. The first is simply serving as an H-2A service agency to help producers process applications and address compliance issues. The next stage of the model is producers being able to share employees across the state and would require a complicated level of coordination among the growers.

Having been involved with the 2010 child labor news story that targeted the blueberry industry, she feels it was very slanted and not consistent with how normal farms operate. The industry did a nice job working with the different agencies and facilitating compliance seminars to ensure all growers were very aware of the issues to prevent the

opportunity for another story of this type to emerge. This is what needs to happen with H-2A – we need to focus on the compliance issues that concern producers and ensure the potential detractors of the program are comfortable that growers are doing things correctly. The Coalition will identify and develop various compliance resources, as well as means to ensure consistency between state and federal issues.

From a structural standpoint, the Coalition will be identifying what type of entity will work best – the public/private structure offers definite advantages, giving credibility to the program. They will explore the potential of the Attorney General's Office offering support in litigation situations. They will also explore Section 232 Commodity Groups and whether they have any restrictions, which may also offer an opportunity to partner with groups already established. However, it may come to the point that there needs simply to be a private entity to meet the demand.

Throughout the summer, these areas will be explored and a recommendation will be developed. The Coalition is definitely looking for solutions. Although there are many federal and state situations over which as individuals we have no control, the potential of an H-2A agency to be developed and become the employer entity is something the state could do to be more effective.

There are many unauthorized workers in the agriculture workforce and an ICE audit can identify anywhere from 70-90 percent of a producer's workforce as not authorized. Once identified for an immigration audit, that producer really does not have an opportunity to continue to use the domestic workforce in the way previously. It is unfortunate for those having been audited, because they then have a competitive disadvantage.

On the "hot goods" issue, she noted there has been a very aggressive interpretation of regulations over the Obama Administration. The way agriculture employers had been operating for years was then viewed as inappropriate. The production standards must now be handled through the three-step process and this creates an additional cost to the employer. An unrealistic disclosure requirement is that employers must disclose terms and conditions of employment at the time of recruitment and at the time of hire in written format and if no qualifiers are included, advocacy and complaint groups would state additional wages are owed. Her agency has completed templates to help identify these potential issues so individual employers clearly understand the system and can create a workable relationship with the labor force. This presents another opportunity, especially with H-2A, to work with DOL. In addition, some of the individual commodity groups are conducting their own seminars to address issues unique to their crops.

Commissioner Meachum recognized Ms. Clarke for the leadership she has given to the growers, noting she is renowned nationally for the work she has accomplished.

In response to question from Commissioner Hanson regarding the regulations established in the 50s and 60s, Ms. Clarke advised those are at the federal level and need to be addressed through our Congressional Delegation. The difference between how the regulations are written and how they are interpreted creates problems and the "hot goods" situation has brought this issue to light. The more we can coordinate and

demonstrate to the agencies that growers are included in our certification process, the better the opportunity to work together on the issues.

COMMISSION DISCUSSION ON AGRICULTURE LABOR/WORKFORCE/IMMIGRATION

The Director pointed out the federal government is encouraging Americans to eat more healthily, yet is making it more difficult to draw migrant labor to help produce the fresh fruit and vegetables that are primary to a healthy diet. In the end, those commodities could be purchased from other countries.

Commissioner Meachum advised the Commission needs to assist the Agriculture Labor Workforce Coalition in any way possible. Also as producers, they can provide feedback because the labor situation affects all aspects of the agriculture industry. Following discussion regarding labor/workforce/immigration issues in Michigan, it was determined the Commission will look forward to results of the exception request sent to USDA on the 514 housing, as well as recommendations from the Coalition before taking any formal action as a Commission.

COMMISSIONER ISSUES

Commissioner Hanson advised UP producers are concerned that Dr. Robinson will be filling the UP State Veterinarian position on a part-time basis and have sent a letter to MDARD expressing their concerns. The Director advised Dr. Robinson, after his daughter graduates from high school in two years, will be moving to the UP; and in the meantime, his workload was adjusted to provide for his spending a majority of his time in the UP and services will be provided. The Director will share that accordingly with the producers when their letter is received.

Another concern shared by Commissioner Hanson is that Vickie Mischeau from the UP State Fair Authority Board of Directors advised they are having issues finding a veterinarian to be on site during this year's UP State Fair. They are asking if the department can assist with that situation, perhaps hiring retired veterinarian Dr. Brunner. The Director will ask State Veterinarian, James Averill, to contact Ms. Mischeau in this regard. Commissioner Hanson advised Ms. Mischeau can be reached at the Delta County Chamber of Commerce.

PUBLIC COMMENT

No public comment on non-agenda items was requested.

ADJOURN

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

The meeting was adjourned at 12:37 p.m.

Attachments:

- A) *Agenda*
- B) *Agriculture and Rural Development Commission Meeting Minutes April 28, 2010*
- C) *Director Jamie Clover Adams – Issues of Interest Report*
- D) *Hantz Farms Presentation*

- E) *Legislative Status – May 2014*
- F) *“Michigan Needs to do More to Attract Seasonal Migrant Laborers” Whitepaper*
- G) *MFB Ag Labor Initiative*
- H) *Cherry Bay Orchards List of Actions*
- I) *Michigan Ag Labor Presentation by Kay Trevino*
- J) *Ag Employment, Workforce, and Immigration Issues – Varnum LLC Presentation*
- K) *Wendy Powers-Schiling E-mail to Wendy Banka*