

**Tioga County Agricultural and
Farmland Protection Board Meeting
February 21, 2024, 10:00 AM
Legislative Conference Room
Minutes**

I. **CALL TO ORDER** – Chairman Lawton called the meeting to order at 10:03 AM.

II. **ATTENDANCE**

A. Members Present: Tim Lawton, Howard Visscher, Steve Palinosky, Lisa Bloodnick, Barb Roberts, Pam Moore, Elaine Jardine. **Excused:** John Lacey, Ben Whittemore, Tracy Monell

B. Local Officials: None

C. Guests: Karen Gunther

D. Staff: Karen Warfle, ED&P

III. **APPROVAL OF AGENDA**

Motion to approve the agenda: H. Visscher, 2nd P. Moore, Carried

IV. **APPROVAL OF MINUTES – October 13, 2023**

P. Moore asked for clarification regarding a comment attributed to J. Lacey, who was not present at the October 13, 2023 meeting. E. Jardine will amend the minutes to clarify that the comment was made at the previous meeting in September and was simply referenced at the October meeting.

**Motion to approve the minutes as amended: H. Visscher, 2nd P. Moore,
Carried**

V. **ANNUAL AGRICULTURAL DISTRICT INCLUSIONS 2024**

E. Jardine distributed the report to Board Members in early February, and again at this meeting, for their review. She summarized each enrollment application and associated maps from these applicants: Gary Deming, Town of Tioga (Spencer Ag District); Jacob Reeves/Little Creek Farm, Town of Owego (Owego-Nichols Ag District). E. Jardine also noted that because Little Creek Farm Store sells general merchandise not produced in Tioga County, it is in violation of the Town of Owego Agricultural Zoning District requirements. She stated that JoAnn Lindstrom, Town of Owego Planning and Zoning Administrator, called the Agricultural Districts Program Manager at NYS AG & Markets to inquire what can be done. The Program Manager advised Ms. Lindstrom to suggest that the Reeves apply to enroll in the Agricultural District to protect the local agricultural products they sell at the store. The general merchandise not locally made would not be protected. E. Jardine said Reeves could apply for a Use Variance, but it is very difficult to obtain.

E. Jardine distributed the Annual Agricultural District Inclusions Chart, which illustrates the trends of inclusion requests since the inception of the program in 2004. T. Lawton asked for the number of total acres in the Ag District. E. Jardine will check the file and email that information, but stated the two districts discussed today are at approximately 77,000 acres. T. Lawton asked whether there were any requests to remove parcels from the ag district. E. Jardine stated that type of request can only be made, in writing by the landowner, during the 8-year review. The announcement of the 8-year review is distributed through social media and via press releases to the Tioga County Courier, The Owego Pennysaver, and the Sayre Times.

E. Jardine distributed Resolution #1 of 2024 to Recommend Adoption of the Plan to Revise the Existing Spencer Agricultural District #1 and Owego/Nichols Agricultural District #2 and summarized the content. T. Lawton reiterated and E. Jardine affirmed that the Little Creek Store violation of the Town of Owego Ag Zoning District requirements does not affect the inclusion request in this resolution. E. Jardine stated the parcel cannot be rezoned, as that would result in one small business parcel in the midst of an Ag Zoning District. This would be considered "spot zoning."

Motion to Recommend Adoption of Resolution #1 of 2024:

H. Visscher, 2nd L. Bloodnick, Carried

VI. ELECTION OF BOARD CHAIR

After many years, Tim Lawton would like to step down from Chair of this Board. Lisa Bloodnick has been considering the position and is willing to accept the responsibility if the Board nominates and elects her as Chair.

Motion to nominate and elect Lisa Bloodnick as Chair of the Tioga County Agricultural & Farmland Protection Board:

P. Moore, 2nd B. Roberts, Carried

VII. OTHER BUSINESS

- Status of updating Ag District codes in the real property data: S. Palinosky reviewed the issue of Agricultural Districts codes not showing in the Image Mate display of the county's real property and that the issue has been resolved. S. Palinosky also reviewed the problem of assigning Ag Districts codes when parcels are split or merged. Eleven parcels that were Ag District land were merged with non-Ag District parcels. The landowners of these parcels can apply to have the non-Ag District land added to the Ag District at the next Annual Inclusion period. The board discussed the need to inform the landowners of these eleven parcels, as they might not know part of their land is included in/excluded from the Ag District. S. Palinosky will compose a letter to inform each landowner. He will send the letters to the board for review and approval prior to mailing to the property owners. T. Lawton agreed this is the best way to inform the property

owners of the issue and advise them of the options and outcomes to consider. E. Jardine thanked S. Palinosky for his work on this matter.

P. Moore asked whether a tax parcel is all or nothing as far as the ag district is concerned, i.e. can a landowner have part of it in the ag district and part of it not included? E. Jardine replied: No. S. Palinosky stated that the parcel in its entirety is in the Ag District, but when the exemption is calculated, there will be land that is not farmable. An example would be a creek, a solar project, etc. P. Moore went on to ask what happens when “agrivoltaics” (farming under the solar panels, such as sheep grazing, bee hives) is occurring on the land. S. Palinosky noted this has been discussed but has not actually occurred yet. L. Bloodnick stated Cornell University might have data on this subject. S. Palinosky stated it is a legitimate point but does not have an answer at this point. L. Bloodnick asked for clarification regarding when the ag disenrollment occurs when a solar project is put in place on a parcel. E. Jardine stated it was up to the property owner. S. Palinosky stated it is when they “flip the switch” on the solar project and the property owner is supposed to notify the town. E. Jardine also noted that property owners be prepared and factor in the cost of the removed exemption when negotiating the lease with the solar companies.

S. Palinosky concluded his update by stating he will periodically clean up the lists and will provide a list with the new parcel numbers and it will show what parcels they came from.

- North Tioga Agricultural District 8-year Review – E. Jardine stated this will begin in September, the 8-year anniversary date is July 1, 2025. Once completed, Elaine will give the information to S. Palinosky and GIS to keep the digital records of the Ag district correct as well. T. Lawton stated the 8-year review will show Ag & Markets that the district is still relevant. E. Jardine agreed and stated the first thing the committee does is an announcement that the 30-day comment period is established, and the current Ag District map is posted in various places for the public to review. Then letters are sent to all 100 property tax codes agriculture and 900 wild and forested and rural vacant landowners that the review is occurring and that if the landowners want land included, they must notify this board; those who wish to remain in the district there is no action needed; those who wish to remove parcels from the district they must contact the board in writing. Elaine then reviewed the rest of the process and reiterated that tomorrow is the public hearing for the annual inclusion.
- Other - P. Moore requested to follow up on the Newark Valley solar project proposal that was discussed at the previous meeting. There have been more developments. After restating the details surrounding this proposed project, Pam reported that “this man” (the current landowner?) has threatened Town Board members and the farmers in that area. Karen Gunther, of the farming family that farmed the land in this proposed project for 40 years, noted her family made several attempts over the years to purchase this property, but the landowner would not sell it to them. So, the Gunthers rented the land to farm it. In 2023, the Gunthers leased the land, despite several restrictions in the lease. In November, the landowner’s lawyer issued a letter stating restitution for losses (due to

the proposed solar project not being approved) claimed by the landowner would be sought from the Gunthers. The Gunthers have retained their own lawyer who responded to the landowner's lawyer. In January, the landowner returned to pursue a solar project with another solar company. Ms. Gunther stated the community does not support this solar project.

T. Lawton noted the Town Board was diligent in getting input from Town residents and the owners of the neighboring properties. Ms. Gunther noted that she read the MRB Group report on Solar Best Practices, went to Cornell to review their studies on agrivoltaics and shared it with the Town and County Planning Boards for reference. She also stated that the property has flooded already this year. E. Jardine noted that it is not just this property, the County Planning Board recommended disapproval of two solar facilities in January because they were proposed, with little local economic benefit, in precious ag land. T. Lawton expressed appreciation that the County Planning Board is looking hard at proposed solar projects and recommending disapproval on the most valuable ag land. P. Moore stated there is a cumulative impact of solar projects to agriculture, businesses, and jobs; it is a net negative. B. Roberts noted NYS has \$2M in the budget to help residents with incomes of \$75,000 or less pay for electric because that's going up. E. Jardine said she will update the solar facilities map.

K. Gunther asked, "Can a state override the county?" E. Jardine said absolutely not, these are local land-use regulations, which are home rule policy. And the county only makes recommendations; it's the municipalities that have land-use power.

P. Moore noted the state has been weakening the home rule authority over projects like these. E. Jardine noted that projects that produce over 25 megawatts DO go to the state for determination.

Motion to adjourn the meeting: E. Jardine, 2nd H. Visscher, Carried. The meeting adjourned at 10:57 AM.

Respectfully submitted,
Elaine Jardine
Tioga County Economic Development and Planning