

Buffalo and Erie County Food Policy Council Meeting Minutes

This was a special meeting called to discuss the Urban Growers Market Garden Policy Proposal
May 24, 2017

Present:

Cheryl Thayer
Kelly Fletcher
Kelly Asher
Elias Reden
Connie Erwin
Mike Raleigh
Julie Barry
Caleb Graham
Matt Kauffman
Julie Levin
Beth Machina

The meeting was convened and the minutes were reviewed. Elias Reden made a motion to accept the minutes as written, Mike Raleigh seconded the motion. All were in favor and the minutes were approved as written.

Cheryl Thayer asked Kelly Fletcher to explain agenda considerations. Kelly went on to say that agenda considerations could be anything not on the actual agenda, but are topics that members want to be discussed. This would be the point in the meeting when topics could be brought up. If there is time at the end of the meeting they would be discussed. Kelly had two items to be discussed one is the People's Food Movement for 2018. They have asked us to co-sponsor the event; the other is having more youth seats on the council. Cheryl Thayer also brought up the prospect of having a senior seat on the council.

Operating Principles

Cheryl Thayer said that before voting is done on the operating procedures, there were some significant additions. Kelly Fletcher that there were some additions; as far as membership we are going to try our best efforts to attempt to represent everyone. If an appointment seat becomes vacant it is the responsibility of the agency whose seat it is to fill it and then let them know. The council chair will advise the Food Policy Council and the staff support coordinator at the time when a new representative will be filling it. Expectations of members: Kelly Fletcher broke some of the expectations up into the Food Policy Council Code of Conduct. There was some talk of expectations of members, but she pulled out the ones with the code of conduct. If you are representing the Food Policy Council you should avoid any situations involving conflict of your job related duties and your personal interest in the performance of the Food Policy Council. If a conflict is potential rather than actual you should seek advice on whether or not you should be voting on a matter etc. We also want to go over having a Food Policy Council member just making statements on behalf of the Council. If you are approached by media or anyone to make a public statement it is in the MOU with the Board of Health that this would constitute media

relations. Kelly asked to be made aware of such a situation. They changed the role of the primary secretary, as Marcia Crosby has agreed to take notes at the meeting, so that the goal of the primary secretary is now in lieu of the note taker to be taking notes. Also regarding the term of service with officers, this was proposed as a yearly tenure. We are coming up with a year in July, we are establishing roles and who is doing what. It was approached that perhaps we should extend the term. The stakeholder seats are two years so we thought about changing the term to eighteen months and trying this out. This might need to be changed to a two year term but it was felt that one year was not enough time especially in a chair role. This also includes standing committees; the chair would also be an eighteen month term. Kelly is attempting to keep this consistent in changing the terms of service.

Everything else remains the same until Policy Proposals. This section has the most changes to it. This is moving forward when we come up with policies. This concerns any working group that is working on a policy proposal or any coming forward with something that is a procedural outline, on how this should be accomplished. In line with the goals and how it relates to our goals as a council first and foremost, and doing due diligence in research and bringing it forward. Because we are an arm of the Board of Health we need to be cognizant of this that we make sure that the Board of Health is involved in this process. Whether it be for informational purposes we are bringing it forward so that the BOH is aware of our activities. Kelly Asher suggested that the Council keep the BOH updated. However if the council is supporting a policy we need to let them know and keep them informed. When Kelly Asher attended the BOH meeting on May 9th they were pleased with the progress of the Food Policy Council. They were apprised of the updated Operating Principles. The BOH meets on a quarterly basis, and it was thought that Kelly Asher should attend the meetings to represent the Council and keep the BOH informed on the Council endeavors. Kelly Fletcher asked the attendees to look closely at the Policy proposal section as this has the most changes to it.

Lastly is that the FPC meetings will be changed to bi-monthly meetings instead of quarterly meetings of the full council. This would include the break-outs to standing committees with the exception of tonight's meeting as this is a special consideration that we are working on. The FPC members looked over the changes. Connie Erwin asked that if the FPC were ever in conflict with the BOH's opinion on a matter how we would go about resolving this. Kelly Asher answered that the FPC would have to state their case to them. Truly because we are an arm of the BOH, if the BOH was against the issue we would have to accept their decision. Kelly Asher said that she did not foresee that happening as she thought that the BOH is not micro-managing. However if we clearly stated our case and demonstrated the reasons we would not have a problem. She thought that this would happen only if it was a law or other legal issue that would need to be discussed. Ms. Erwin thought that maybe there should be something in the policy in how to resolve such issues. Kelly Asher said that the FPC would have to do a formal presentation to appeal to the BOH. In the end she reiterated that the FPC would have to accept their decision. Ms. Erwin thought that we should make note that there is an appeal process that the FPC would undertake should there be a conflict. If there is disagreement or hesitation with the BOH we will conduct a formal presentation to them. The BOH would then vote on it.

Letters of Support were brought up and it seemed that they were easier to obtain. Cheryl Thayer said that at the first full council meeting there was a policy that the council was supporting at the

State level that was already in place. Kelly Asher said that the process of going to the Buffalo City Council brought up a lot of questions about putting the Council's name on a document, credibility must be maintained. Some of the items may not be in line with everyone on the Council as everyone comes from different areas and may see conflicts that the person bringing forward information does not. Kelly Fletcher went on with the working that if the BOH disagrees we will add in an appeal process involving a formal presentation of the issue causing question to the BOH and then the BOH will vote on it. Kelly Asher said that if they have more questions or are not in total support rather than disagree, as it may just be a question of further explanation. The BOH may request more information, then whatever member or people that may not be members may bring things to us, but this would occur through a member. So that particular member that would actually do the presentation as they would have the most knowledge of the topic. Cheryl Thayer asked if there were any more comments on the new section of policy proposals. There were none, so that the addition will be made by Connie Erwin suggested then it must be voted on. Kelly Asher made a motion that the Council accepts the operating principles as presented with the addition of the BOH procedures. The motion was seconded and all were in favor.

Urban Growers Market Garden Policy Proposals

Cheryl Thayer introduced the next part of the agenda she also thanked the members for attending this special meeting. The Urban Growers Market Garden Policy Proposals was distributed to the council members. The policy proposals are being made by a coalition of urban growers and market gardeners from around Buffalo. The Urban Production working group is recommending to the policy council that they write a letter of support of the policy proposals. In the operating principles it states our goals. Matt Kaufman went on to say that there are five goals in the policy proposals. The majority of the market gardens that are in Buffalo have started because of a desire for seeing more equitable, sustainable and a more just food system in Buffalo. In goal number 2 it states that we want to strengthen our whole food system including food production. We are attempting to accomplish this by reviewing and commenting on laws and policies, the green code as a great step forward. Also creating the use of marketing gardening and policies to go along with that actually support what we are doing as market gardener; and to keep building momentum off of this progress. Hopefully expanding and growing the ways that can help foster more local food production. This is definitely collaboration and it has been a very interesting process to be able to gather different growers throughout the City to be able to be learning from each other. As well as seeing challenges that we have in common and the innovative ways that people are coming up with for solutions to those challenges in policies and other ways. It is collaboration between growers who have not worked together. We are bringing our proposals to the FPC for approval and or recommendations on what is affecting the food system.

The policy proposal itself seems to be very much in line with the goals of who we are as the Food Policy Council. Urban Farming involves 800 million people involved in urban agriculture worldwide. In North America we have a lot of space where a food production system removed from our population centers is the reality. The term market gardens is borrowed from the European model of where they have been space crunched for a long time and on the techniques we are using are borrowed on theirs, including intensive space saving and resource saving.

Many FPC's around the country have been supporting urban food production. The collaborators on the document were listed on the back of it.

A questionnaire was put out last fall to urban growers for their input. The main areas that were affecting them across the board and solutions needed were user fees, water access, and land access. There were conversations with the City of Buffalo Common Council regarding these issues.

Specific Policies – Water Access

Mike Raleigh addressed water access as the biggest issue. Last year WNY experienced a historic drought. There are several different categories of access. Grass Roots Gardens had free hydrant access that has recently been cut off. If you are a market gardener you need to have some type of private access such as a house that is adjacent to the farm. No one can tap to the hydrants as there is a yearly fee that is a seasonal construction rate. This amounts to about \$3000.00 per year. Because of that set rate no one has taken advantage of that access to water. If you are using residential rates you are only spending a couple of hundred dollars a year. Kelly Asher asked what constitutes an urban farm, i.e. how big of a lot. In conversations with the City we have moved away from the term urban farm, as it conjures up a large amount of space. In North America the average farm is about 350 acres, worldwide the average farm is 10 acres. In Asia and Africa the average farm is less than 3 acres. What a farm is has a lot of different meanings. We feel that the term market garden actually paints a better picture of what we are talking about. They are not leveling whole blocks of the City doing large scale agriculture. Their vision is for the market gardens to be serving healthy foods to the underserved markets, creating jobs, and serving as cultural centers and innovation of the sustainable infrastructure that our cities of the future need. We are talking about neighborhood based, such as the Massachusetts Avenue Project scale, that include 10 to 20 lots in size; and that service basically a council district that comprises 10 to 20 blocks. Serving sources of healthy foods but are also educational resources as well as youth employment development. Different resources that are trying to not just grow healthy food but also to grow healthy communities. They want to be growing on a smaller or neighborhood scale, and are something in the neighborhood that can be a catalyst for future development.

Kelly Asher asked if there is a house on the market garden lot, how much of the lot would be used for growing purposes which would be considered a market garden. Someone could theoretically have their entire yard as a garden and then would be able to obtain less expensive rates. Mike Raleigh said that the market garden is defined in the green code. Anyone growing can sell food. They spoke with six out of the nine City Council members; most of them said that if the growers had water access they would be on board. There is construction hydrant access and gardeners either with their front yard, or a number of lots should have another tier where gardeners are allowed access at the residential rate or a flat rate. This could be based on numbers that we could gather from the market gardeners of Buffalo to determine what a reasonable rate would be.

Connie Erwin thought that what would strengthen the policy proposals is if the language speaks to exactly what we mentioned in a lower rate. She went on to say that she owns lots, and that she

would have to pay water bills on an empty lot, and the growers would get a reduced rate. She thought that her rates would be driven up as the growers are being reduced. Connie thought that the language could possibly be crafted differently to be clearer. Kelly Fletcher said that the research behind this could include that currently there are hydrant fees for contractors that are a certain amount and the user fees for individual houses are another amount. Mike Raleigh said that the document is not a resolution for this going before the common council. It is a set of policies that we are asking can be worked on. We will be working on specific resolutions with common council members for specific items. Some of the feedback that was returned was that the material was too overwhelming. They are attempting to get a starting point as these are the things that urban market gardeners want to work on and can we select some issues. There is more research that has and needs to be done and can be communicated as we hone in on the specific items.

Kelly Asher suggested that according to the green code the market garden is defined, this is what the construction rate is and what the residential rate is, and this is what we are asking. But this needs to be defined what the free access for non-profit farms, and for-profit farms should have access to. A non-profit farm is involving community, and then the more beneficial rate could be applied. A for-profit farm would be getting a rate that was not the construction fee. She thought that this could potentially be a paragraph or two defining this. You could refer to other documents that they already have, i.e. the green code. Kelly Asher thought that one or two things should be focused on that are the most important.

Elias Reden thought that as vague as the green code itself is being as detailed as possible would get the best results with the Common Council. Market Gardeners have participated in the process for a long time. All of the policies have been held up by the green code. The reality is that the green code took a long amount of time, and nothing else has happened since. That is why there are so many issues to address. The water access for example, Cleveland has instituted a policy that we are proposing. They began their process in 2009. What we are proposing has been in place since 2011. We are a sister city with them, we are on the same lake with the same resource. We recently reformatted to try to get categories and try to pool so that it does not look like a random list. These are all based on some key issues. Connie Erwin interjected that perhaps the explanation of the market needs to be maintained on top of the list. The green code is vague, market gardens of 10 to 20 lots makes sense to her. She has 5 lots if she decided to market to grow on them. Does that make her a market gardener? Mike said that there is another parallel question. They have been going to Buffalo Environmental Management Committee meetings because Kathy Petersen advised them that they are developing a permit for market gardens; which would have been an entire higher tier of scrutiny. However there does not seem as though a permit will be created. There are examples in every city that there is some type of criteria that has to do with being in business for a specific amount of time, i.e. 5 years or a season of experience to qualify for certain rates.

Criteria needs to be created to be able to qualify for certain rates. We should not leave water access up to whether or not there is a house next door there is a certain fee that is being used. Cheryl Thayer asked six of nine of the council members being on board, what about the other three, or whatever negative feedback is being received. They spoke with six out of nine in person, but have not heard any negative, just general statements. Some people have questions

regarding specific issues that need to be worked through. The more details that are given they would essentially have a completed product that they might not want. They will have many issues that come up and there is a reason why things cannot be done and they will have to come back numerous times to address those issues, or redo the entire approval process. That is the benefit to keeping things more general. The Common Council are the legislators that must decide how to spend resources. The document is merely a recommendation. If it is a not for profit community garden perhaps they should get the same rates as Grass Roots Gardens, they are selling but the money is being put back into the gardens and no profit is being made. If it is a for profit garden then maybe reduced rates should apply. Mike Raleigh said that is exactly what they are proposing. Kelly Asher said that when a letter of support is done we could mention this is what we are supporting. Mike Raleigh thought that everyone agreeing to the same document a letter of support can highlight the specifics that the FPC is supporting. Then a resolution can be drafted by the Common Council with the actual policies that the Common Council will be voting on. This is a way for us to start the conversation and highlight some of the issues that need to be worked on.

Kelly Asher mentioned the section on hooved animals that something she would not be in support of due to disease and sanitary issues. As a Food Policy Council we need to think about what is good for the food system and not necessarily what every neighbor on the block is happy with. Connie Erwin emphasized that everyone has rights, i.e. farmers, growers as well as home owners. An equitable solution needs to be attained. Also discussed was perhaps disseminating information to block clubs. Educating the block clubs on disseminating research and information. Connie Erwin said that the block clubs do come together to make recommendations on what is going on in the City.

Specific Policies - User Fees

User fees have been an ongoing issue in the city. This is the fee for garbage collection in the city. A law was passed in the 1990's that stated that a fee needs to be assessed on all vacant lots in addition to houses. The issue is that a lot of these market gardens pop up on scattered sites, so for each individual lot, if you could combine them and if they are adjacent then you can get your bill down to one user fee bill. For example, a large continuously shaped lot fees would be about \$170 yearly. If they cannot be combined because of the location, then you will get bills for all different lots. There is also a fee of \$131 a year for no service. If service is required you also get charged an additional charge for the tote. \$131 is a flat fee to not have garbage picked up. Kelly Asher asked that if you can demonstrate that the non-contiguous gardens are under one owner or one umbrella is what they are asking for; they would only be charged one fee. The context of this is that user fee relates to garbage, and the city has a campaign to increase their recycling rate to the national average, so that 34% of waste is recycled, which is also waste diversion. Market gardens provide a huge opportunity for waste diversion, from food waste, garden waste, lawn clippings, and wood chips. Every market garden in the city is saving them money and hundreds of tons yearly; thousands of tons collectively every year. Instead of this being acknowledged on top of this a couple of farms are paying over a thousand dollars a year on user fees because of scattered sites. There is a way of getting around user fees by combining lots then the highest you would pay is \$150. Some sites do not pay anything; this goes back to the water rates, as there are ways to get around the user fees, again by combining lots, then the highest amount you

pay is \$150. Market gardens can do more for the city if there is collaboration to the waste stream. One of the collaborators is compost and has a registered site with the DEC, as a waste facility. Every different site could demonstrate how much waste they reduce. There is opportunity for collaboration to save the city money. Cheryl Thayer asked if anyone was exempt from user fees. If you are using city land to run your farm you are not paying user fees. Connie Erwin reiterated that if you own an empty lot and you are required to pay user fees there will be opposition. They however say that there is an offset, as they are taking tons of the city's waste on to their site and disposing of it; so that they are providing a service. If nothing changes then everyone will be asked to continue to pay. This is a cost to everyone as the cost of the user fee is the cost of dealing with all of the city's garbage. Every ton that does not get sent is a ton that the city is not paying their waste haulers for.

A market garden is defined by selling their produce. To be selling produce you must have a vendor's permit that you must pay a fee for. There would be a process of applying to be a market garden. This needs to be clearly defined as it is very vague in the green code. Models should be looked at also. When the proposals are presented they will be more detailed so that there is no exploitation. Kelly Fletcher asked if the definition of market garden could be more clearly defined in the green code. Then some of the policy proposals might be easier to go forward with. Mike Raleigh said that the whole point was to legalize an activity that was already widely happening in the city. There are a couple of different models and sizes and organization, company and nonprofit; a cooperative or just one sole proprietor, or lease. So to define a market garden all it amounts to is growing food and selling it. Prior to the green code there was no use under which it would fit. The city does not want to get into permitting it so they probably do not want to get into more strictly defining it.

It was thought that land size should not determine a market garden but rather using some of the Ag & Market benchmarks could be utilized. Revenue will weed out people that are doing this to save money in fees, versus those that are legitimately attempting to market.

Specific Policies - Land Access

There are no specific policies that the Market Gardeners are calling for at this time. An application would be turned into the real estate department. Land is not readily available. There was mention made of homesteading among home owners. Transparency is an issue with land use plan. Instead of referring to reforming the process to buy vacant city owned land the meeting need to be public and there needs to be notice leading up the meeting date.

The FPC members were asked if they felt that the market gardeners should present the proposals to the Common Council. Would the role of the letter of support be more the next step? Cheryl Thayer asked if they are presenting the proposals as the urban growers are they asking for all five proposals or are you looking for one or two of them that are most important to the group. They would like to bring the entire list to the city to see which would be doable. They want to be open to different avenues. Kelly Asher though that the questions raised by the FPC to have in place would help with the process moving forward. Asking for specific things as opposed to reforming a process would be more viable. As a FPC there are some pieces of the document that we could support i.e. asking to adjust fees so that people that have non-contiguous lots are treated the same

as an owner who has contiguous lots, as well as open meetings. Cheryl Thayer asked if the FPC is moving forward with a vote in support of the proposals. She thought that we would have to move forward with pieces of it.

There was conversation regarding conflicts of interest among members. It was suggested that if you are unsure, that is reason to recuse oneself. Kathy Petersen recused herself from this vote due to her role with the Mayor's office. If there are four people that can vote, the quorum is based upon that. Cheryl Thayer said that if we cannot vote today, we could vote electronically so that the policy proposals could move forward. She went on to say that the EC Dept. of Health could have issues with the Animal section, and the EC Dept. of Environment and Planning can vote on any of it. Those are four people that might not be able to vote.

Connie Erwin thought that instead of taking each proposal individually, if we said that the FPC is in favor of a letter of support of any of the aspects of the policy that support specific market garden policy. She also asked if hydroponics were included. It is referred to as aquaponics in the green code. Some of the hydroponic growers were invited to participate. And they did not get any participation from them.

Cheryl Thayer suggested that if the people in County government were comfortable with voting she suggested moving forward. Kelly Asher was not with the document as is. She thought that the document needed to be reformulated. She asked if the document could be reformulated and sent out electronically after hearing all that was said, we will find out if the county employees could actually vote on the matter at hand.

All the Market Gardeners are looking for is to state that the FPC is aware of this effort and encourages the Common Council to engage in the process to work through the proposals. All accountability is then removed from certain policy proposals but say that the FPC supports the effort that is being undertaken by the Market Gardeners, we have vetted their proposal and have some question, but that there is a lot of merit to what they are proposing. We would like to see some type of diligence from the Common Council to see the process through. This leaves the process up to the Common Council that is the body that should be dictating the details.

In the letter of support we could state that other cities in the great lakes region have Food Policy Council's that have worked together with entities such as the urban growers and we would be willing to go into greater detail to explain how those council's contributed to the policy that we are actually referring to such as Cleveland and Philadelphia. The group was comfortable with a letter of support, not addressing any specific policy, but not negating any specific policy either. The group voted on this all were in favor.

Kelly Fletcher will send out the letter by the end of the week. An idea to invite local legislators to the market gardens was also brought up. Cheryl Thayer thanked Mike and Matt for preparing all the information and presenting it to the FPC. Kelly Asher made a motion to adjourn the meeting, and it was seconded by Julie Levin. The meeting was then adjourned.

/mac