

Record of Discussion, PEI ADAPT Council Forum:

Preserving P.E.I.'s Agricultural Land: *Investment Options, Trusts & Ownership Structures*

*Farm Centre, 420 University Avenue*

*Thursday, November 13<sup>th</sup>, 2008*

*9:30 a.m. – 2:45 p.m.*

### **Welcome - Elmer MacDonald, Chair PEI ADAPT Council**

Elmer MacDonald welcomed the audience on behalf of the PEI ADAPT Council and encouraged input from attendees throughout the day. He noted that the ADAPT Council is providing this information day as a response to emerging issues and to act as a catalyst to help find solutions. With approximately one in five jobs originating from agriculture and agri-food and with the number of farms on a steady decline, we have to ask ourselves: "Who will be able to farm in the future?"

Elmer then officially welcomed Honourable Wesley Sheridan, the representative from the Provincial government. Greetings from PEI Government -

### **Honourable Wesley J. Sheridan, Provincial Treasurer**

The Honourable Wesley Sheridan brought official greetings from the Provincial Government and the Department of Agriculture. He expressed that the turnout for this meeting (over 90 participants) shows that this is an important issue and that government is interested in the outcomes of the discussion in order to determine the best course(s) of action. Minister Sheridan reviewed some of the findings from the Commission on Agriculture; mentioning that the need to attract more youth into agriculture and that agriculture must be competitive, sustainable and collaborative. He encouraged that everyone have a successful and informative.

### **Prince Edward Island History Lesson on Land Tenure -**

#### **Boyde Beck, Island Historian, PEI Museum and Heritage Foundation**

In 1763, the all one and a half million acres of Prince Edward Island was divided into 67 estates which were given to proprietors whom were encouraged to bring in settlers. Thus, this was the beginning of the "lease hold" model for land on PEI. If you were a proprietor, you wanted to bring in settlers because the settlers would pay for the use of the land and make improvements (i.e. clearing, plowing building homes and barns). However, at that time North America was not a good place to be investing in land. Immigrants would be coming from Great Britain to other parts of North America such as Ontario where all that you needed was to settle on the land and to clear and work on the land to make it your own. Despite the leasehold model on PEI, it was still a very desirable location for settlement.

The rent on the land was not real high – a mere fraction that would be paid for land in Europe where land was still scarce. However, in the early 1800's, it became apparent that it was not the same here as in other provinces. Technically, all the improvements that you have made on the land that you leased provided no guarantee that you could pass this on to your children, in fact, it may just mean that your improvements caused for an increase in rent.

In the 1830's land ownership and rights became a political issue. Settlers formed the Sheet Party and lobbied government to revoke the previous agreements and redistribute land to the settlers.

Land Purchase Act - George Coles in 1851, equipped the government with the ability to purchase large parcels of land if they become available and then resell it to the local people allowing them to become the owners of the land.

When PEI did join Confederation in 1873, there was a land clause guaranteeing that Ottawa would give us the option to have a compulsory land purchase. Ottawa loaned PEI \$800,000 to buy back the land from the landholders. The land was then sold to the farmers/settlers.

Islanders are very unique in that they are the only province in Canada that had to take out a mortgage to buy itself!

Questions & Answer:

What was the average farm size once the land was sold to the farmers? The average size farm (14,000 farms) in 1880 was about 80 acres. What was the average size of the estates?

The average size of the original estates was 20,000 acres. One of the main reasons that we have a land protection act is that we have very little crown holdings and the second point is the settlement that was achieved here in PEI with the natives?

We are the only province that did not have a core of crown lands. Most of the crown land that we have today is a result of a failure to pay mortgage or other.

In 1767, no provision was made for any native presence. Every scrap was given to private investment; none was reserved for the natives.

## **Report on the Land Trust Alliance, 2008 Conference & Training Seminar**

**Phil Ferraro, Executive Director, PEI ADAPT Council**

Phil Ferraro attended The Land Trust Alliance Conference in Pittsburgh, September 18 -22 of this year. He noted that the mission of farmland trusts is to

Mission of Farmland Trusts

To protect and preserve farmlands and associated agricultural, natural and cultural features in the countryside for the benefit of both current and future generations.

Acquire farmland or interests in farmland.

Provide research and education about the value, management, use and protection of farmland.

Receive, manage and disburse funds, donations and bequests that will help protect farmland.

Foster cooperation with other individuals and groups who are interested in saving farmland for the benefit for both current and future generations.

There are various strategies used to provide protection for the land including:

- outright acquisition of the land by the trust,
- purchase a conservation easement on the property to prevent development,
- purchase mining, logging, drilling, or development rights on the land,
- assist like-minded private buyers or government organizations to purchase and protect land forever.

The Land Trust Alliance (LTA), formed in 1981, provides technical support to the growing network of land trusts (nearly 200) in the U.S.

Examples given of Land Trust included: Equity Trust and The Hollow Oak Land Trust. A new organization, The American Friends of Canadian Land Trusts, provides a tax relief and incentives to Americans who own land in Canada, which they wish to sell or donate to a Trust.

In closing, Phil alluded to a bumper sticker that read: "Farmland Lost is Farmland Lost Forever". It is not just important to save the land, but it is also important to save agriculture!

"The experience, he said, "Was remarkable for learning how to preserve land for future generations. Great ideas were initiated. Experienced trustees offered suggestions. Real life examples were shared and new acquaintances were made. I came away optimistic and enthused. I hope to put into practice what I learned. The challenges of today may also be our greatest opportunity. If we can successfully define our conservation goals for the broad public good, then new funding, tax incentives and public support for agriculture will soar."

**Greetings from Neil LeClair – Honourable Minister of Agriculture**

Honourable Minister LeClair is very interested in learning of the results of the discussions from today. He noted that he is really appreciative of the efforts of everyone today, and he realizes that the topic of land use is a very important issue for all Islanders.

**Attracting Investment capital for Island Farmers: Real Estate Income Trusts (REITs) -**

**Tim Carroll, Associate Professor, Business UPEI**

Mr. Carroll noted that the key conclusion of today's discussion is: "If we are to attract young people to the agriculture industry today, then it is going to be a question of financing." He mentioned that his thinking on REIT's has evolved over the past year and that today he is more concerned to address the issues of Agricultural Entrepreneurship and Farm Management.

He began with five key points:

Farming is like any other business; the key success factor is management. The human resources, the marketing, the financing, etc are all key, but the most important factor is management.

A better way to classify farm business is to classify the way that we classify other business, and there are three main strategies:

Specialized – large potato farm

Diversified – forward integration, consumer driven

Supplemental – others that are supplementing their income

Of all the changes in agriculture in the last one hundred years, the most dramatic change is the change of farm management.

The new generation of farmers will come from an urban background, not a rural background, a "rural – urban shift". There are no distinguishing features between rural and urban anymore. The new generation has no rural connection and they do not feel the need to have one.

Distinguishing Features of Agriculture:

It is the most highly productive industry; growing at 4%/year while the rest of the economy grows at 2%

The higher the technological content, the easier that it is to transfer the skills to that industry.

The main feature that distinguishes a farm business from any other business is the initial capital investment.

The Land Development Corporation aimed to create larger farms with an average of 1200 farms in PEI being the goal. The success of the PEI baby boom was comparable or better than those in other parts of Canada. These baby boomers have accumulated outstanding equity, but it is all tied-up in non-liquid assets and the dilemma on how these assets could be liquefied for a retirement plan.

The efforts for 2008 and onward should be all about de-consolidation. The landscape when you drive around is still dominated by the smaller farm. The disappearance of the small farm is a myth. Currently, there is a rise in farms less than 50 acres. It was noted that instead we should be concerned with the "disappearing middle".

### **Investing in Local Economic Development –**

#### **Chris Payne, Nova Scotia Economic Development Nova Scotia's Community Economic Development Investment Fund (CEDIF)**

CEDIF is a for-profit company, or co-operative, set up to raise capital (bringing investors together) to invest in a business or businesses. CEDIF is directed by a minimum of six directors. CEDIF is desirable as it allows access to patient equity capital since many businesses are debt-heavy and there are few available sources of equity. This allows a local investment opportunity. Most other investment options are not local.

Incentives to investors include:

- there is a N.S. tax credit based on the amount invested in CEDIF
- 30% tax credit (i.e. invest \$1000, get \$300 back)
- the investment has to be held for five years – if it is left there for the next five years there is an additional 20% tax credit and the next five years an additional 10% credit.
- credit may be carried back three years and forward seven years
- maximum annual tax credit is \$15,000 (investment of \$50,000)

The CEDIF have shown to be extremely popular. There are approximately 42 CEDIF's in Nova Scotia that have successfully closed at least one offering. More than 27 million dollars have been raised with approximately 4131 investors. The first investing occurred in 1999.

One model is Multiple Investment "Blind Pools" in which individuals invest in various businesses which are pre-picked and pooled. This is the model that was

expected to be the most popular for investors. Another format is a flow-through investment into a single business in which a number of companies have come forward looking for investors. Examples of such companies include: Just Us! Fair Trade Coffee, The Port Bistro, etc...

How can these be used to Protect Agricultural Lands in PEI and Elsewhere?

Blind Pool - The agricultural investment could be one of the investments in the blind pool.

Direct Investment

CEDIF as a Community Bank

CEDIF as an owner/leaser

CEDIF as a leaser of equipment and means of production

CEDIF as a marketing and or supply co-operative

Certainly, the ownership of the farm would be of key importance with local ownership being more desirable than ownership from away.

CEDIF's are unique to N.S., and the process offers cost share to local residents. This is usually only considered when there is financing gaps of \$100,000 to one million dollar range.

PEI may soon become the second province in Canada to create a Community Economic Development Investment Fund.

Contact Information:

Chris Payne, MBA, CMA

Investment Manager

Nova Scotia Economic Development

Ph: 902-424-1259

Cell: 902-430-6469

E-mail: [paynecj@gov.ns.ca](mailto:paynecj@gov.ns.ca)

CEDIF Web Site: [www.gov.ns.ca/econ/cedif](http://www.gov.ns.ca/econ/cedif)

### **Questions & Answers**

What was the history nine years ago when this all began? In the beginning, there needed to be a way to form a pool or a place where the money could be pooled and you did not necessarily need to be in contact with the business owner. It started with trying to keep the dollars local by

investing in local businesses so that these businesses would remain in the province and not move elsewhere where the investors are. What is the rate of investment?

You really do not know what the rate of return of your investment is until you cash the money out. When you put your money in, you need to hold it there for five years. Model for PEI? There is a grain storage facility in N.S. that is agriculture producer owned and operated, financed through CEDIF. The main thing is to keep things simple. If people do not understand what you are trying to sell them, then they will not buy it!

## **How Land Trusts and Agricultural Easements Can Protect Farmland -**

**Melissa Watkins, Executive Director Ontario Farmland Trust**

Why Protect Farmland?

economic contributions of agriculture

food production

food security

stewardship & amenity of the countryside

a resource for current and future generations

We need to think beyond the "business approach" and go broader to the idea that farmland has public benefit! We need to think as a community that farmland is not only an economic benefit, but think of the other benefits that it provides as well.

Land Statistics

Only 11% of Canada's land can support agricultural production.

Only 5% is prime agricultural land (Classes 1-3 under the Canada Land Inventory).

Only 0.5% of Canada's land area is Class 1 farmland.

Over half of the Class 1 farmland is in southern Ontario

Areas of Concern:

Urbanization/speculation

Industrial development

Rural non-farm development

Foreign land banking – i.e. investors from foreign countries buying land in North America to ensure a location for food production for their home country

Retiring marginal land

Aggregate extraction -

New farmers unable to access land

It is positive that the farmland is protected, but even with the protection, we still need farmers to grow the food. We tend to plan for everything else like housing, education, etc. but we do not plan for where our food is to be grown!

## Ontario Farmland Trust

A non-profit charity, designed to protect private land for the public benefit

Usually a grassroots, community response to threatened land

*Most*

land trust focus on land securement by accepting donations

Supported by key major farm organizations, with a Board of Directors

Began in 2002 – University of Guelph Farmland Preservation Research Project and also held a Ontario Farmland Conservation Forum

Incorporation in 2004

The mission is to protect and preserve farmland and associated agricultural and natural areas

Seek agricultural easements or outright ownership of farmland

## Agricultural Easement

This is a voluntary legal agreement tied to the title of your land, limiting its use for agricultural purposes

You still own the land and continue to farm the land but the land trust "holds" the easement, which means making sure that the conditions of the easement are being met (e.g. no subdivisions)

You can still sell your land but the easement stays on title and the buyer must abide by the restrictions you put on your land (the land trust monitors and enforces).

Protect farmland from development

But under the Income Tax Act you are deemed to have disposed of (i.e. sold) that part of your land's value, and are assessed capital gains on it.

This may eliminate the benefits of the tax receipt.



A farmer will actually get paid to put an agricultural easement on the land and thus be issued a tax receipt in the amount of the loss that would be incurred in the event that the land would be sold with the agricultural easement in place. Essentially, they are asking the farmer to donate the development rights of the farm. This process is using investors' money to protect the future land development.

Ecological Gifts are already in place for the donation of natural areas, and the Ontario Farmland Trust is seeking a similar "agri-gifts" program that could provide the same tax incentive to farmers choosing to donate agricultural easements on agriculturally significant farmland. Usually easements on wetlands, forest land, or rare species habitat are donated to land trusts. In rare cases they are purchased. U.S. farmland preservation programs are based on purchase easements.

### Do We Need New Approaches to Protect Farmland?

Agricultural easements (legislated under the Conservation Land Act) can now be used in critical areas to protect blocks of prime agricultural land, as they are now used to protect natural habitats

Tax policies that currently support the conservation of natural habitats by private landowners could also apply to farmers who voluntarily protect their farmland for the future of farming

### Challenges?

Lack of retirement options for farmers

Lack of new farmers to take over

Lack of supports for new farmers

Lack of public support – people ask "how is protecting a business asset in the public interest?"

Lack of farm community support. Most importantly, putting an easement on farmland does nothing to guarantee that the land will be farmed. Also, the long-term impact on land values is impossible to predict.

This program hopes to connect to ideas in the local food boom: "Local land, local food".

FarmLINK Ontario was developed to provide an on-line matchmaker for a way to match a farm owner with a possible farm buyer.

### Where Next?

Development of policy options and supportive programs to improve farmland protection and the economics of farming. A province-wide "farmland first" policy?

A retirement fund for farmers?

Provide fiscal incentives for farmers to protect their land. Tie these incentives to other support programs?

Programs like ALUS?

Value farmers as critical civil servants! Ensure farmers make a living wage.

## Conclusions

### Farmland preservation

Strong land use planning backed by strong political will, which only really results from widespread public support

Farm succession options that make economic sense

[www.ontariofarmlandtrust.ca](http://www.ontariofarmlandtrust.ca)

[www.farmlinkontario.ca](http://www.farmlinkontario.ca)

## Panel Discussion, Questions and Answers & Next Steps

The issue was raised that it is very difficult to determine which land is ecologically sensitive because all land should be considered that way.

Are there any easements in place to prevent land to be sold, leased, or bought by large agricultural corporations? Melissa noted: There is no clear answer to this. Maybe the easement could be tied to support the type of agriculture that provides the most support to the community.

### Other Comments:

The terms of the trusts will be dictated by the people that are contributing the money, and that will determine the direction. Land Trusts work for large and small farms. Given the fact that most of the Canada's and the world's population lives in urban areas that, for the foreseeable future cannot feed themselves, there will always be a need for commodity based agriculture, export agriculture. Farmland will not be protected unless there are farmers on the land farming it.

No matter where the investment comes from, the farm business has to be economically viable first or no one is going to invest in the

business.

PEI enjoys diversity and density, and is a perfect opportunity for the organic market. Economists think of food as a product that we buy and eat, but from a business sense, food is a package with multi-benefits.

The ingenuity and competitiveness of the farming community has excelled in the past and has enormous potential for the future.

The opportunity for profit is there if you do not burden the new generation of farmers in the beginning with debt.

We need to think about who the next generation of farmers and consumers will be

The new generation of farmers are out there, but we may not be aware of the numbers as they are not yet business owners.

There are many young women and men who are waiting for the opportunity to become farmers when the opportunity arises How are you going to entice a new farmer to come in and take over a farm that has taken years to build up, hours of hard work, and are still making not a lot of money?

There will be no people to get into agriculture unless we chose to take a different approach to agriculture.

We need food security, food sustainability, etc... We need to protect our agricultural land!

Perhaps PEI should reinstate the Small and Part-time farmer program that was in existence 25 years ago through the provincial government.

Students want to work in agriculture, but they need programs such as: 4-H, Young Farmers, etc. to foster their interests. There is a lack support for the generation that wants to begin farming.

PEI Agriculture Sector Council, with funding from PEI ADAPT is creating a new Farm Technician Apprenticeship Program.

There may be a new generation of farmers that want to start farming, but the farm children do not want to farm as there is simply not enough money in farming.

Where to From Here? Tim Carroll noted that an Agricultural Entrepreneurship Institute is a possibility for a new program at UPEI.

Melissa Watkins noted that three or four years ago that Ontario was in the same position, and she presented what they did. It may not have been the solution, but that is what they did, and hopefully, PEI could learn from their mistakes. Someone has to take the leadership to do something about this. For Ontario, the next step is farm succession.

Chris Payne noted that you we have a problem with farms that simply are not making any money. Something needs to be done with these farms – maybe it is a size issue, a crop issue, etc. The other side is the financial side – where is the money going to come from to finance these farms or to help finance the new generation to get into farming.

In Closing, Elmer MacDonald, reminded participants that the intent of this forum was to be a catalyst for further discussion. He encouraged anyone with comments or ideas on how to pursue this important issue to contact the PEI ADAPT office.