

**12th Meeting of the
Cass Clay Food Commission
January 11th, 2017
Fargo Commission Chambers**

Members Present:

Arland Rasmussen, Cass County Commission, Chair
Mike Thorstad, West Fargo City Commission
Jenny Mongeau, Clay County Commission
Jim Aasness, Dilworth City Council
Heidi Durand, Moorhead City Council
Jon Evert, At-Large Member
Mindy Grant, At-Large Member
Dana Rieth, At-Large Member

Members Absent:

Stephanie Reynolds, At-Large Member
John Strand, Fargo City Commission

Others Present:

Megan Myrdal, Project Coordinator
Kim Lipetzky, Fargo Cass Public Health
Nikki Johnson, Joint University of Minnesota/North Dakota State University Extension Educator
Rita Ussatis, North Dakota State University Extension Agent – Cass County
Abby Gold, Cass Clay Food Systems Initiative
Deb Haugen, Cass Clay Food Systems Initiative
Joleen Baker, Cass Clay Food Systems Initiative
Suzanne Driessen, University of Minnesota Extension Food Safety Educator (via WebEx)
Julie Garden-Robinson, North Dakota State University Food and Nutrition Extension Specialist
Adam Altenburg, Fargo-Moorhead Metropolitan Council of Governments

Chair Durand called the meeting to order at 10:30 AM.

1(a). Approve Order and Contents of the Overall Agenda

A motion to approve the order and contents of the overall agenda was made by Ms. Mongeau and seconded by Ms. Rieth. The motion was voted on and unanimously approved.

Abby Gold arrived at 10:31 AM.

1(b). Review and Action on Minutes from September 14, 2016

A motion to approve the minutes was made by Mr. Aasness and seconded by Mr. Thorstad. The motion was voted on and unanimously approved.

Nikki Johnson arrived at 10:32 AM.

2. Commission Check-In

Chair Durand informed the Commission that members would have an opportunity to give an update on any news or events happening in the community.

Ms. Gold stated she is working with the Minnesota Food Charter Network shared measurement team. She explained that the team was set up to help identify specific measures and assess impacts of different Minnesota Food Charter strategies across the state.

Ms. Lipetzky stated that Fargo Cass Public Health met with Fargo planning officials and the city attorney on January 10 to discuss a draft backyard chicken ordinance. She informed the Commission that the ordinance would be a topic of discussion at the next Brown Bag lunch before Fargo city staff as well as members of the City Council and Planning Commission on January 18. She stated that a draft of the ordinance would likely be posted on the *Let's Eat Local* website to solicit public input before going through the city review process necessary for adoption.

Mr. Rasmussen asked, in the case of an ordinance such as backyard chickens, whether the city ordinance or a covenant take precedent. Ms. Lipetzky answered that a covenant would supersede city ordinances if language regulating an activity were included in a covenant.

Chair Durand informed the Commission that Moorhead is moving forward with single-sort recycling beginning on July 1. She stated that all households will be given separate collection bins for recyclables, with larger receptacles for multifamily units.

3. Transition of Chair and Appreciation for Chair Durand and At-Large Member Jessica Arneson.

Chair Durand informed the Commission that the Chair would be rotating from herself to Arland Rasmussen of Cass County for 2017. Ms. Lipetzky thanked Ms. Durand for her service and presented her with a certificate of appreciation. Ms. Lipetzky stated that former at-large member Jessica Arneson could not be at the meeting but that a certificate of appreciation would be given to her as well.

Chair Rasmussen also thanked Ms. Durand for her service.

Ms. Durand stated that she needed to leave the meeting due to another commitment.

Ms. Durand left at 10:44 AM

4. Selection of New At-Large Commission Member

Chair Rasmussen explained that, with the added interest in the vacant at-large member slot, the Steering Committee had invited the top three candidates to come and provide brief remarks before the Commission. He stated that, following the presentations, Commission members would vote on whom they would like to appoint to serve.

4a. Chris Olson

Chris Olson, culinary manager for Concordia College, informed the Commission that he had worked as a professional chef for 18 years. He stated that while living in Minneapolis-St. Paul, he looked for ways and activities to be involved outside the restaurant. He explained that he co-founded Paired, an underground dining club that paired local artists with a tasting menu, with one event featuring a 100-course dinner over the course of six and a half hours. He stated that another event he hosted was 'The Evolution of Cooking' at the Bell Museum of Natural History on the campus of the University of Minnesota. He explained that this event featured a five-course meal from prehistoric times to sous vide, a method of cooking in which food is vacuum-sealed in a pouch before being placed in a temperature-controlled steam environment.

Mr. Olson stated that he is a recent graduate of the University of Minnesota with a degree in food systems, an interdisciplinary study of food production and distribution. He explained that he studied everything from food cycles, food access, and food insecurity for lower income individuals – and devoted time to the Minneapolis Public Schools summer lunch program. He stated that he also studied and worked on ways to monetize the non-cash value of urban agriculture.

Mr. Olson stated that he is new to the Fargo-Moorhead area and that a major task as culinary manager for Concordia College is to increase the sustainability of dining services. He explained that he has also been active in the Heart-n-Soul Community Café, a pop up café run by Leola Dahl. He concluded that he would like to bring institutional representation to the Commission and that a systemic approach can help solve food issues in communities and build upon an evolving foodscape.

4b. Kayla Pridmore

Kayla Pridmore, owner/operator of Woodchuck Community Farm, informed the Commission that, upon hearing Mr. Olson’s remarks, she supported his bid to become new at-large member and stated that she looked forward to another opportunity in the future.

4c. Mara Solberg

Mara Solberg, owner/operator of Solberg Farms, shared her thoughts and feelings about being a potential at-large member. She informed the Commission that she was raised on a farm, was married to a farmer, and had a lifelong interest in gardening, sustainability, and good, healthy food. She stated that she developed a passion for agriculture through reading, including the book *All Creatures Great and Small* by James Harriot and articles in *Parents* magazine that highlighted gardening and fresh, local foods. She explained that she helped raise sheep, chickens, geese, and ducks over the years and that she enjoyed watching animals grow and learning from them.

Ms. Solberg explained that she has been involved in the Cass Clay Food Systems Initiative since September 2011 with the *Discovering Local Food Solutions* kick-off event at the Hjemkomst Center. She stated that she would like to help bring greater attention food systems issues and promote activities of the Commission by speaking at area schools, senior centers, and other venues. She concluded by stating that she had been excited to see the progress of the local foods movement to date, including the Red River Market and the Little Free Garden project, and was looking forward to helping with the growing food movement in the area.

With the conclusion of Ms. Solberg’s presentation, Chair Rasmussen asked Commission members to vote for their first, second, and third choice for new at-large member on the tally sheets provided and to pass them to Mr. Altenburg to total up.

5. Municipal Composting Blueprint Discussion and Vote for Approval

Chair Rasmussen asked Ms. Baker if there were any updates or revisions made to the municipal composting blueprint. Ms. Baker informed the Commission that a few changes had been made to the blueprint since it was first brought forth to the Commission in November.

Ms. Baker stated that one change to the blueprint dealt with a better understanding of the economic value of composting. She explained that this was done to better understand the value of composting versus the value of methane capture used by the City of Fargo landfill. She stated that information included in the blueprint comes from a paper entitled *A Roadmap to Reduce U.S. Food Waste by 20 Percent*. She explained that the economic value per ton of compost is

approximately \$4.00 and that many of the costs have to do with transportation and facilities needed for composting.

Ms. Baker explained that, with the help of Ms. Reynolds, another addition to the blueprint included an appendix on what specifically can and cannot be composted in most composting systems.

Ms. Myrdal added that there is growing interest in developing a municipal composting site in Clay County in the near future.

A motion to approve the municipal composting blueprint was made by Ms. Mongeau and seconded by Mr. Aasness. The motion was voted on and unanimously approved.

6a. Education: Understanding North Dakota and Minnesota Cottage Food Laws and Food Safety Regulations

Chair Rasmussen informed the Commission and the audience that two presenters would be providing information on cottage food safety regulations: Suzanne Driessen for Minnesota and Julie Garden-Robinson for North Dakota.

Suzanne Driessen, extension food safety educator for the University of Minnesota, provided information to the Commission regarding Minnesota's Cottage Food Law. She explained that the law went into effect on July 1, 2015 and that oversight is provided by the Minnesota Department of Agriculture. She stated that the law identifies a cottage food producer as an individual who: 1) manufactures food that does not require time or temperature controls for safety in a private home or non-food establishment, 2) sells directly to the end consumer without inspection or a license and, 3) registers with Minnesota Department of Agriculture for sales up to \$18,000 per year per individual.

Ms. Driessen explained that examples of non-potentially hazardous foods include: acid or acidified home-canned and home-processed fruits, vegetables, vinegars, baked goods, candy and confections, items which are dried, dehydrated, or roasted, icings, frostings, sugar art, jams, jellies, preserves, and fruit butters. She explained that these items are basically shelf-stable foods and that foods which require refrigeration for safety are not allowed under the cottage food exemption.

Ms. Driessen stated that cottage foods are sold directly to consumers and that goods can be exchanged at a producer's home, dropped off with a consumer, sold at a farmers market, or sold over the internet. She explained that cottage foods cannot be donated to food shelves or sold commercially at cafes or grocery stores. She stated that cottage foods cannot be directly exchanged at church bazaars but that it would be allowable for consumers to purchase tickets for cottage foods being sold and then pick up goods at a producer's home.

Ms. Driessen explained that local jurisdictions have minimal impact on cottage food regulations as those regulations are governed by the Minnesota Department of Agriculture. She stated that producers may request on-site inspections which are facilitated through local health departments. She explained that local jurisdictions can also pass zoning restrictions against cottage foods and may enforce a definition of what a community event is.

Ms. Driessen informed the Commission that there are training and registration requirements for cottage food producers but that these vary based on total sales by an individual. She explained that Tier I producers have individual sales of less than \$5,000 per calendar year and must complete a registration training course and exam through the Minnesota Department of Agriculture. She stated that Tier II producers have individual sales from \$5,000 to \$18,000 and must complete an additional

eight-hour safe food-handling course every three years. She explained that a \$50 registration fee is waived for producers who sell less than \$5,000 a year. She concluded by stating that the number of cottage food producers grew from 464 producers in 2015 to 1,862 Tier I producers and 68 Tier II producers in 2016.

Mr. Evert asked a clarifying question on whether cottage food producers may sell their goods at church bazaars. Ms. Driessen reiterated that a producer may not directly sell or donate goods through a church bazaar or similar community event but they can sell goods as an individual.

Ms. Solberg asked what role food co-ops play with regard to canned businesses. Ms. Driessen explained that a cottage food exemption is for individuals only and that goods cannot be produced or marketed through a food co-op or similar venture.

Ms. Grant asked what the regulations would be for a cottage food producer who also has access to a commercial kitchen. Ms. Driessen that access to a commercial kitchen would entail a different licensing system.

Julie Garden-Robinson, food and nutrition extension specialist at North Dakota State University, provided general guidance for food sales in North Dakota. She explained that the North Dakota Department of Food and Lodging has produced a fact sheet with guidelines for certain home-processed, home-canned, and home-baked goods. She stated that the fact sheet outlines where cottage foods can be sold, what can and cannot be sold, how foods must be labeled, and the reason for cottage food rules and regulations.

Ms. Garden-Robinson informed the Commission that cottage foods may be sold in North Dakota at county fairs, nonprofit charitable events, public spirited and/or community celebrations, farmers markets, and roadside stands. She stated that products covered under the fact sheet include pickles, vegetables, or fruits having an equilibrium pH value of 4.6 or lower and non-temperature controlled baked goods that do not require refrigeration.

Ms. Garden Robinson explained that individuals may sell foods that have a natural pH of 4.6 or less including: sweet or dill pickles, tomatoes, salsa, apples, cherries, grapes, plums, peaches, flavored vinegars, and naturally fermented foods such as sauerkraut, pickles, and kimchi.

Ms. Garden-Robinson stated that home-baked foods that individuals may sell include: lefse, bread, rolls, fruit pies, candies and confectioneries, and cookies and bars. She explained that these goods have a low water content and that pH is not a concern for baked goods. She stated that home-baked goods which individuals are not allowed to sell include foods that require refrigeration and are high in moisture and protein such as custards, meringue-topped pies or pastries, kuchen, pumpkin pies, cream pies, or other pastries or baked goods requiring temperature control.

Ms. Garden-Robinson explained that certain food products cannot be sold including home-canned low acid foods such as peas, beets, green beans, and carrots. She stated that fresh-processed (not canned) foods that require refrigeration such as fresh salsa or pesto also may not be sold. She explained that home-canned fish, pickled eggs, meat are also not allowed in North Dakota, as well as any non-acidified foods processed by a boiling water bath or home pressure cooker.

Ms. Garden-Robinson stated that home-canned foods can be very dangerous if not processed correctly. She stated that heat-resistant clostridium botulinum spores create a toxin which causes the deadly disease botulism. She explained that these microorganisms cannot be killed by normal boiling water at 212°F and are killed only at temperatures above 240°F, a temperature only possible through pressure canning or pressure processing. She listed a number of low-acid canned foods linked to

botulism as well as luncheon meats, ham, sausage, stuffed eggplant, lobster, and smoked and salted fish.

Ms. Garden-Robinson stated that several foods are regulated under USDA and FDA guidelines and are not allowable for sale. She explained that these include fish, dairy, poultry, and meat products such as smoked fish, butter, raw milk, jerky, and potentially hazardous products such as garlic and oil mixtures or other flavored oils.

Ms. Garden-Robinson informed the Commission that there is required signage for all cottage food products sold in North Dakota that state that canned goods/baked goods are homemade and have not been produced under state inspection. She explained that further labeling requirements include name of product, name of producer and contact information, date product was made or canned, and list of ingredients. She stated that a nutrition facts label is not required for small businesses but can be developed with assistance from NDSU extension upon request.

Mr. Evert asked a clarifying question as to whether potatoes and cabbage, as seen in the list of foods not allowed, and sauerkraut, which was listed as allowed, were listed correctly in the fact sheet. Ms. Garden Robinson answered that canned potatoes are not allowed unless the pH has been reduced to 4.6 or less. She explained that sauerkraut is allowed because fermented foods are naturally acidic and there is no risk of botulinum.

Ms. Myrdal asked what the major differences were between cottage food laws in North Dakota and Minnesota. Ms. Garden-Robinson stated that Minnesota has training and registration requirements for cottage food producers and also requires a food processing authority to process reviews for acidified foods and other goods. Ms. Driessen added that a simple pH test is all that is needed for the majority of cottage foods rather than going through a food processing authority. Ms. Garden-Robinson stated that approximately 25 pH readers have been purchased for use by counties throughout the state of North Dakota.

Ms. Myrdal asked whether the dollar amount tied to Tier I (less than \$5,000) and Tier II (\$5,000 to \$18,000) producers in Minnesota refer to just sales in Minnesota or include out-of-state sales as well. Ms. Driessen responded that certain canned foods may only be produced and sold in Minnesota but that certain baked goods could be sold across state lines. She stated that any dollar amounts for Tier I and Tier II include total sales, including out-of-state sales.

Ms. Myrdal asked what the Commission could do to better provide information and resources for cottage food producers wishing to sell in both Minnesota and North Dakota. Ms. Grant and Ms. Gold asked for further clarification for requirements for cottage food producers in Clay County who may want to sell in Cass County. Ms. Garden-Robinson answered that this should not be too much of an issue for out-of-state producers to sell in North Dakota, as the state has no formal training or registration requirements. She stated that as long as out-of-state producers follow the North Dakota Department of Food and Lodging fact sheet, they should be fine to sell in the state.

Ms. Myrdal stated she had seen an interest in farmers market vendors selling kombucha, a fermented black or green tea drink, and wondered if it fell under cottage food laws. Ms. Garden-Robinson replied that kombucha should be fine as long as producers test the pH before selling.

6b. Cottage Food Laws Blueprint

Ms. Baker informed the Commission that the Steering Committee had developed a new urban agriculture blueprint examining cottage food laws. She iterated that cottage food laws are regulations applying to small-time producers including individuals that bake, pickle, can, or dry certain low-risk foods to sell directly to consumers in a non-commercial kitchen. She explained

that cottage food laws are clearly defined in Moorhead and Clay County because of Minnesota Cottage Food Law, but are not addressed in Fargo, West Fargo, or Cass County. She stated that North Dakota does provide guidance for cottage food goods as presented by Ms. Garden-Robinson in the prior presentation but that there are no specific city or county ordinances. Ms. Myrdal added that jurisdictions have the opportunity to be more strict than state guidelines but that all local and county jurisdictions follow state guidelines.

Ms. Baker explained the framework for evaluating cottage food laws including health, environment, social, and economic aspects. She explained several benefits of cottage foods include greater access to locally produced foods, a reduction in food mileage required to transport goods, a reduction in food waste, less nutrients lost in food transport due to the short transport time from farm to table, and the forging of closer relationships between producers and buyers. She explained that concerns include the risk of foodborne illnesses and the risk of incorrectly labeling products or allergens.

Ms. Baker stated that the blueprint outlines several risk prevention strategies for cottage foods including: inspection of home kitchens and licensing of cottage food producers, food safety training and hygiene training, vendor education of food allergens, labeling, and a provision of a pre-determined list of allowed 'not potentially hazardous' foods. She iterated several recommendations detailed in the blueprint including that cottage food laws be easily found and interpreted, amending the FDA Food Code, and developing laws that are lenient enough to remove barriers to producers while ensuring the safety of the consumer. She stated that both North Dakota and Minnesota have easily accessible information regarding cottage food requirements and preservation techniques.

Ms. Baker concluded by saying that she could add a table or appendix that clarifies the registration and training requirements in Minnesota and how there are no requirements in North Dakota. Chair Rasmussen stated this would be reasonable information to include before approval.

Ms. Grant asked a clarifying question about the blueprint that stated that cottage foods produced in either North Dakota or Minnesota cannot be sold out-of-state. Ms. Driessen stated that a producer in North Dakota may register with the State of Minnesota to sell goods in Minnesota so long as they are not acidified canned goods. She iterated that acidified canned goods can only be produced and sold in Minnesota but baked goods can be produced and sold out-of-state and vice versa so long as individuals are registered with the Minnesota Department of Agriculture.

Mr. Thorstad asked whether cottage food laws were an issue that cities or the counties should address as the City of West Fargo looks to Fargo Cass Public Health to provide its food inspection and safety services. Grant Larson, Director of Environmental Health at Fargo Cass Public Health, answered that they operate under a Memorandum of Understanding (MOU) with the North Dakota Department of Food and Lodging and that the county follows guidelines as laid out in the fact sheet presented earlier to the Commission. He explained that a state statute for cottage food laws would need to be passed first but stated that no such legislation had been presented to the legislature to date. He explained that if the Commission wanted to make a recommendation to a state legislator who could bring the issue to the attention of the legislature, it would need to be submitted by the end of January.

Ms. Gold asked a clarifying question that acidified canned goods produced in Minnesota cannot be sold out-of-state. Mr. Larson stated that this is correct but that Fargo Cass Public Health only looks at cottage foods sold at farmers markets. She stated that it was her belief that there may not be enough clarity around the issue and that cottage food producers from Minnesota may be selling restricted acidified canned goods to individuals in North Dakota on a regular basis.

Ms. Grant asked whether it was federal guidelines that restricted acidified canned goods from being sold out-of-state or state guidelines, such as Minnesota’s regulations. Chair Rasmussen stated this may be an issue requiring further research. Mr. Evert added that he wondered why Minnesota would object to acidified canned goods being sold across state lines. Ms. Baker said she would look into the issue.

Ms. Grant asked whether Ms. Baker had spoken to any cottage food producers about their perspectives or needs on the local level. Ms. Baker stated that she had not reached out to anyone but that she had personal experience on this issue. She stated that she would try to do a little more community outreach before the next Commission meeting.

Ms. Myrdal concluded that it may be helpful to lay out the direct differences between Minnesota and North Dakota to provide better guidance for cottage food producers in the area.

6c. Public Input

Chair Rasmussen informed the audience that time would be allotted for public comments on cottage food laws and the information presented by Ms. Driessen and Ms. Garden-Robinson.

No public comments were made.

6d. Commission Discussion

Chair Rasmussen asked if Commission members had any further comments or questions on cottage food laws or the information presented.

Chair Rasmussen iterated that a lot of important information was brought forward for consideration but that there should be further discussions to help clarify questions regarding cottage food issues at the next meeting.

7. Final Selection of At-Large Commission Member

Chair Rasmussen informed the Commission and the audience that Chris Olson had been selected as the next at-large member to the Cass Clay Food Commission. He congratulated and welcomed Mr. Olson to the Commission.

Chair Rasmussen explained that, due to a prior engagement, he would turn the meeting over to Ms. Myrdal to conclude.

Chair Rasmussen and Jenny Mongeau left at 11:40 AM.

8. Public Comment Opportunity

Ms. Myrdal informed the Commission that time would be allotted for public comments.

No public comments were made.

9. Commission and Steering Committee Roundtable

Ms. Myrdal asked for the Commission and the Steering Committee to share any additional updates.

Ms. Baker thanked the Commission and presenters for their assistance and feedback regarding the cottage food laws blueprint.

Ms. Haugen shared that the International Potluck – Growing and Sharing Together would be held on January 26 from 5:00 to 8:30 PM at Olivet Lutheran Church in Fargo. She stated that many people who assist with community gardens in the area would be there and that the event is open to the public.

Ms. Gold explained the University of Minnesota Northwest Regional Sustainable Development Partnership is looking for grant proposals for local foods projects which focus on sustainable farming techniques, pollinator health, season extenders, and other related projects. She stated that people may contact her or Linda Kingery, Executive Director, for more information.

Mr. Evert asked a clarifying question regarding an earlier discussion on restrictive covenants and local ordinances and stated that it was his thought that whichever is more restrictive would take precedence. Ms. Lipetzky stated that this is correct.

10. Commission Action Steps

Ms. Myrdal informed the Commission that, due to the growth, excitement, and interest in farmers markets in the region, there would be a planning and networking meeting for farmers markets on February 7 from 4:00 to 6:00 PM at Fargo Cass Public Health. She stated that the beginning of this meeting would be used to discuss food safety regulations and cottage food laws in Cass and Clay Counties. She explained that the meeting would also include speed sessions on topics such as how to safely sample food, how to merchandize booths to maximize sales, how to effectively use social media, and how to create a sense of place and community. She stated that farmers markets spokespersons would be there to provide brief updates for the season for local sellers and producers. She stated that the Great Plains Food Bank would also be on hand to provide an update on how they have worked with the Red River Market to distribute unsold produce to their partner agencies.

Ms. Myrdal stated that the next meeting would be held on March 8, 2017.

Ms. Myrdal adjourned the meeting at 11:48 AM.