

STATE AGRICULTURE DEVELOPMENT COMMITTEE
Department of Agriculture
Market and Warren Streets
1st Floor Auditorium
Trenton, NJ 08625

REGULAR MEETING

May 27, 2010

Acting Chairperson Fisher called the meeting to order at 9:15 a.m. In compliance with the "Open Public Meetings Notice", the following statement was read:

"Pursuant to N.J.S.A. 10:4-6 et seq., adequate public notice of this meeting has been provided by giving written notice of the time, date, location and, to the extent known, the agenda. At least 48 hours in advance, this notice has been posted on the public announcement board, third floor, Health/Agriculture building, John Fitch Plaza, Trenton, NJ, mailed and/or faxed to the Newark Star Ledger, the Times of Trenton, the Camden Courier Post, and filed with the Office of the Secretary of State."

Roll call indicated the following:

Members Present

Douglas H. Fisher, Chairperson
Fawn McGee (rep. DEP Commissioner Martin)
Ralph Siegel (rep. State Treasurer Andrew P. Sidamon-Eristoff)
Brian Schilling (rep. Executive Dean Goodman)
Donna Rendeiro (rep. DCA Acting Commissioner Grifa)
James Waltman
Torrey Reade
Stephen P. Dey
Denis C. Germano (Left meeting at 1:50 p.m.)

Members Absent

Jane Brodhecker
Alan Danser

Susan E. Craft, Executive Director
Jason Stypinski, Deputy Attorney General

Others present as recorded on the attendance sheet: Robert Baumley, Heidi Winzinger, Charles Roohr, Paul Burns, Edward Ireland, Ed Madsen, Timothy Brill, Steve Bruder, Cassandra McCloud, Daniel Knox, Bryan Lofberg, Dave Kimmel, Patricia Riccitello and Sandy Giambrone, SADC staff, Daniel Pace, Mercer County Agriculture Development Board, Thomas Hower, Governor's Authorities Unit, Amanda Brockwell, Monmouth County Agriculture Development Board, Nicki Goger, New Jersey Farm Bureau, Barbara Ernst, Cape May County Agriculture Development Board, Richard Allen, Landowner, Southampton Township, Burlington County, Brian Wilson and Dan Kennedy, Burlington County Agriculture Development Board, Glorianne Robbi, East Amwell Township, Hunterdon County, Bill Brooks, Landowner, Salem County, Amy Hansen, New Jersey Conservation Foundation.

Minutes

A. SADC Regular Meeting of April 23, 2010 (Open Session)

It was moved by Mr. Germano and seconded by Ms. Reade to approve the open session minutes of the SADC regular meeting of April 23, 2010. The motion was unanimously approved.

B. SADC Regular Meeting of April 23, 2010 (Closed Session)

It was moved by Mr. Germano and seconded by Ms. Reade to approve the closed session minutes of April 23, 2010. The motion was unanimously approved.

REPORT OF THE ACTING CHAIRPERSON

➤ Funding Status

Chairman Fisher stated that everyone has been wondering if funding is going to be available for the next round of applications. He stated that Ms. Craft would be addressing this during her report but it is good news for the Committee.

➤ Solar and Wind Law

Chairman Fisher stated that he continues to receive a lot of questions regarding the wind and solar law and how the guidelines are going to be created so that people can move forward with projects and receive the proper direction. He stated that everyone is working as hard as they can to get the answers to the many questions. This issue is one of the most pressing issues that landowners are

asking about. He stated that the issue is being taken very seriously. He stated that it is important to follow the green initiative but at the same time the SADC has to take responsibility for how it monitors all of this.

REPORT OF THE EXECUTIVE DIRECTOR

Ms. Craft discussed the following with the Committee:

➤ Funding Status

Ms. Craft stated that for the 2009 bond question the Governor's Office has indicated its support for making those funds available. She stated that the message has been that the people have spoken in the referendum and so the Governor's Office intends to respect that. She stated that the SADC has been given approval to begin allocation of funds for the next funding round. When these funds are actually available has not yet been determined. She felt it would not be anytime before next year and that is subject to discussion between the Treasurer and the Governor's Office. At this point in time they feel confident enough that those funds will be made available for the SADC to move forward and make funding commitments to its partners. She stated that staff has been in the process of reviewing everything financially internally and her goal would be at the next SADC meeting to make allocations to the counties, municipalities, nonprofits and state acquisitions so that staff can begin the process of green light approvals through final approvals. She stated that staff will probably at the same time announce the nonprofit program application round. She stated that the nonprofit organizations should begin gearing up to submit applications to the SADC.

➤ Procedural Changes – Court Reporter Services

Ms. Craft stated that at today's meeting the Committee will see a court reporter taking testimony and create a transcript for issues that are related to the interpretation of the deed of easement. She stated that the court reporter will swear in people who will be speaking on those issues. The reason being that if the SADC's decisions are appealed they are appealed directly to the Appellate Division so we would need a substantial record.

➤ Deed of Easement Guidance Documents

Ms. Craft stated that the SADC sent out its guidance documents for review and comments and did receive two requests for an extension for comments. She stated that she attended the State Board of Agriculture meeting yesterday and that

a request for an extension was reiterated by the State Board and the New Jersey Farm Bureau. She stated that staff understands that this is the growing season and many farmers are very busy at this time and some of the CADBs are not meeting regularly during the summer. She stated that she would recommend providing an extension period to the end of August, which would be 90 days.

It was moved by Mr. Germano and seconded by Mr. Schilling to approve a ninety (90) day extension period for review and comment on the SADC's General Guidance and Recreational Uses documents. The motion was unanimously approved.

COMMUNICATIONS

Ms. Craft reminded the Committee to take home the various articles provided in the meeting binders.

PUBLIC COMMENT

None

NEW BUSINESS

- A. FY 2011 Administrative budget**
1. Farmland Preservation Budget
 2. Right to Farm Budget

Ms. Craft referred the Committee to the Farmland Preservation FY 2010 and 2011 Administrative Budget and the Right to Farm FY 2010 and 2011 Administrative Budget Summary. She stated that what is listed are funds that have already been approved by the Administration and placed in the budget in terms of total numbers. She stated that staff will review with the Committee the administrative budget plan.

Mr. Lofberg reviewed the specifics of the farmland preservation administrative budget and the right to farm administrative budget with the Committee. He stated that the farmland preservation administrative budget shows for FY 2010 a total amount of \$2,782,000.00 and for FY 2011 there is a slight increase to \$2,799,000.00, which is a difference of \$73,000.00. He stated that under the salaries category there is a difference between FY 2010 and FY 2011 of \$110,000.00. He stated that the reason for that difference is because in FY 2010 there was supposed to be a salary increase for staff covered by the union, which was deferred until January 2011, which was to be a 3.5 percent increase.

However, there was a 3.5 percent increase scheduled for July 2010, which means that in FY2011 there are two increases of 3.5 percent each going to staff covered by the union. That means this would pertain to 24-25 staff in the SADC that would be covered by the union. If you take those increases along with the step increases that some staff receive, which would be approximately six staff, which would be an increase of about \$105,000.00. He stated that another slight difference would be under the category of Professional/Technical Services, which shows for this year it would be \$23,000.00 and next year it is only \$10,000.00. He stated that in FY 2010 the denHollander issue required additional soils testing work and staff feels that in FY 2011 the SADC shouldn't need as much set aside. He stated that the third area of difference would be the DAG/Legal Services listing that shows for FY 2010 the amount is \$220,000.00 and for FY 2011 it is \$190,000.00. He stated that for FY 2010 so far the SADC expended \$140,000.00 for DAG/legal services so the thinking was for next year we wouldn't need as much.

Mr. Lofberg reviewed the Right to Farm administrative budget with the Committee. He stated that the FY2011 budget is the same as it was for FY 2010. He noted that the FY2009 budget was reduced by \$5,000.00 as part of the Department of Agriculture's FY2009 procurement reduction plan and is carried forward in the FY 2010 and FY 2011 budget plans.

Mr. Schilling commented that as important as the Right to Farm program is it would be nice to find additional resources to support it. He wondered if Rutgers and the SADC could work together on some federal applications for these lean years. He stated that the USDA has changed how it is funding programs and one of its programs "A small and Medium Sized Dexterity Program" may provide an opportunity for funding. Ms. Craft stated that she would welcome a discussion on that.

Chairman Fisher stated that there is a bill being circulated about right to farm as it relates to fisheries and there is desire in the Legislature to expand right to farm for that issue. That may be an opportunity to apply to the program that Mr. Schilling mentioned.

No action needed on this agenda item.

B. Eight Year Farmland Preservation Program – New Enrollments

1. County Line Blueberry, Inc., Town of Hammonton, Atlantic County
2. Joseph A., Rosanne T., and Sandra G. Finocchiaro, Woolwich Township, Gloucester County

Ms. Winzinger referred the Committee to the New Enrollments Summary for the Eight Year Farmland Preservation Program. She stated that there are two requests for new enrollment. She reviewed the specifics with the Committee and stated that staff recommendation is to grant approval to the new eight year program enrollments as follows:

It was moved by Dr. Dey and seconded by Mr. Germano to approve Resolution FY2010R5(1) and Resolution Fy2010R5(2) granting certification of a new Eight Year Farmland Preservation Program for the following landowners as presented and discussed, subject to any conditions of said resolutions:

1. County Line Blueberry, Inc. (SADC #01-0132-8F)
Block 4801, Lots 11, 12, 13; Town of Hammonton, Atlantic County, 38.59 Acres
Soil and Water Conservation Cost Share Eligibility Amount (subject to available funding): \$3,859.00
2. Joseph A., Rosanne T. and Sandra G. Finocchiaro (SADC #08-0028-8F)
Block 46, Lot 9.01; Block 47, Lot 5.03, Township of Woolwich, Gloucester County, 28.950 Acres
Soil and Water conservation Cost Share Eligibility Amount (subject to available funding): \$17,370.00

The motion was unanimously approved. (A copy of Resolution FY2010R5(1) and Resolution FY2010R5(2) is attached to and is a part of these minutes.)

C. Eight Year Farmland Preservation Program: Renewals, Terminations and Withdrawals

Ms. Winzinger referred the Committee to the Eight Year Program Summary for FY2010 for renewals, terminations and withdrawals of eight year programs, listing five (5) renewals of eight year programs in Atlantic County and five (5) terminations of eight year programs, also in Atlantic County, three of which are now permanently preserved. Ms. Winzinger indicated that the summary was for informational purposes only and that no action is needed by the Committee.

D. Request for Final Approval - FY 2009 Municipal Planning Incentive Grant Program Application, Including The Comprehensive Farmland Preservation Program Plan and Project Area Summary

1. Holland Township, Hunterdon County

Mr. Brill referred the Committee to Resolution FY2010R5(3) for a request for final approval of the Holland Township, Hunterdon County comprehensive farmland preservation program plan and project area summary. He reviewed the specifics with the Committee and stated that staff recommendation is to grant final approval as presented and discussed.

It was moved by Ms. Rendeiro and seconded by Mr. Germano to approve Resolution FY2010R5(3) granting final approval to the Holland Township, Hunterdon County FY2009 Municipal Planning Incentive Grant Program Application, including the Comprehensive Farmland Preservation Program Plan and Project Area Summary, as presented and discussed, subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY2010R5(3) is attached to and is a part of these minutes.)

E. Request for Final Approval - FY 2010 Municipal Planning Incentive Grant Program Application, Including The Comprehensive Farmland Preservation Program Plan and Project Area Summaries

1. White Township, Warren County

Mr. Brill referred the Committee to Resolution FY2010R5(4) for a request for final approval of the White Township, Warren County comprehensive farmland preservation program plan and project area summaries. He reviewed the specifics with the Committee and stated that staff recommendation is to grant final approval as presented and discussed.

It was moved by Mr. Germano and seconded by Dr. Dey to approve Resolution FY2010R5(4) granting final approval to the White Township, Warren County FY2010 Municipal Planning Incentive Grant Program Application, including the Comprehensive Farmland Preservation Program Plan and Project Area Summaries, as presented and discussed, subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY2010R5(4) is attached to and is a part of these minutes.)

F. Request for Final Approval – Former Rule Planning Incentive Grant Program

1. Estate of Henry Boss, Holland Township, Warren County

Ms. Winzinger referred the Committee to Resolution FY2010R5(5) for a request for final approval for the Estate of Henry Boss farm, known as Block 15, Lot 7, Holland Township, Hunterdon County, comprising approximately 131 acres. She reviewed the specifics with the Committee. She stated that the first “Whereas” on the top of page two is incorrect in that Holland Township and Hunterdon County are not sharing twenty percent, they are paying half of what the SADC is not covering. Since the SADC is covering more than sixty percent the number needs to be adjusted slightly. Ms. Winzinger stated that staff would correct the resolution to reflect this. She stated that staff recommendation is to grant final approval as presented and discussed.

It was moved by Mr. Germano and seconded by Mr. Waltman to approve Resolution FY2010R5(5) granting final approval to the Estate of Henry Boss farm, Block 15, Lot 7, Holland Township, Warren County, at a State cost share of \$4,400.00 per acre for an estimated total of \$576,400.00 (62.86% of the certified market value and purchase price), subject to any conditions of said Resolution and with the amendment stated above to clarify the first “Whereas” on page two of said Resolution to reflect that Holland Township and Hunterdon County will be paying half of what the SADC does not cover in its cost share. The motion was unanimously approved. (A copy of Resolution FY2010R5(5) is attached to and is a part of these minutes.)

G. Request for Final Approval – State Acquisition

1. Ernest F. Tark and Maxine Rauch Farm, Mannington Township, Salem County
2. Melanie and John Richman Farm, Mannington Township, Salem County

Mr. Knox referred the Committee to two requests for final approval under the State Acquisition Program. He reviewed the specifics of each request with the Committee and stated that staff recommendation is to grant final approval as presented and discussed.

It was moved by Mr. Germano and seconded by Ms. Rendeiro to approve Resolution FY2010R5(6) and Resolution FY2010R6(7), granting final approval to the following landowners as presented and discussed, subject to any conditions of said Resolutions:

1. Ernest F. Tark and Maxine Rauch (Resolution FY2010R5(6))
Block 53, Lots 37 and 38, Mannington Township, Salem County
102 Net Acres
At a value of \$7,000.00 per acre for approximately \$714,000.00 based on 102 acres.
2. Melanie and John Richman (Resolution FY2010R5(7))
Block 20, Lots 2 and 2.02; Block 21, Lot 1, Mannington Township, Salem County, 97 Net Acres
At a value of \$7,600.00 per acre for approximately \$737,200.00 based on 97 acres.

The motion was unanimously approved. (A copy of Resolution FY2010R5(6) and Resolution FY2010R5(7) is attached to and is a part of these minutes.)

H. Request for Final Approval – Nonprofit Grant Program

1. Ridge and Valley Conservancy – Manak Farm, Fredon Township, Sussex County

Mr. Knox referred the Committee to Resolution FY2010R5(8) for a request for final approval of the Ridge and Valley Conservancy/Manak farm, known as Block 801, Lot 8, Fredon Township, Sussex County, comprising 61 acres. He reviewed the specifics of the request with the Committee and stated that staff recommendation is to grant final approval as presented and discussed.

It was moved by Dr. Dey and seconded by Ms. Rendeiro to approve Resolution FY2010R5(8) granting final approval to the Ridge and Valley Conservancy/Manak Farm, Block 801, Lot 8, Fredon Township, Sussex County, 61 acres at a cost share grant not to exceed \$3,250.00 per acre (total of approximately \$198,250.00 based on 61 acres), subject to the conditions of said Resolution. The motion was unanimously approved. (A copy of Resolution FY2010R5(8) is attached to and is a part of these minutes.)

I. Request for Preliminary Approval – Nonprofit Grant Program

1. Hunterdon Land Trust Alliance/Simon-Taylor Farm, Kingwood Township, Hunterdon County

Mr. Knox referred the Committee to Resolution FY2010R5(9) for a request for preliminary approval of Hunterdon Land Trust Alliance/Simon-Taylor farm, known as Block 25, Lot 8, Kingwood Township, Hunterdon County, comprising 23 acres. He reviewed the specifics of the request with the Committee and stated

that staff recommendation is to grant preliminary approval as presented and discussed.

It was moved by Mr. Germano and seconded by Mr. Waltman to approve Resolution FY2010R5(9) granting preliminary approval to the Hunterdon Land Trust Alliance/Simon-Taylor Farm, Block 25, Lot 8, Kingwood Township, Hunterdon County, 23 acres, subject to the conditions of said Resolution. The motion was unanimously approved. (A copy of Resolution FY2010R5(9) is attached to and is a part of these minutes.)

J. Farmland Stewardship

1. Division of the Premises Request
William and Diane Brooks, Upper Pittsgrove Township, Salem County

Mr. Roohr referred the Committee to Resolution FY2010R5(10) for a request by William and Diane Brooks, owners of Block 77, Lot 2, Block 72, Lot 11, Block 77, Lots 8 and 9, Block 81, Lot 1 and Block 82, Lot 1, Upper Pittsgrove Township, Salem County to divide the premises. He stated that the owners propose to divide the existing three farms along existing lot lines to reconfigure the farms but maintaining the farms as contiguous tracts that can be more efficiently utilized for agricultural production purposes. He stated that the owners intend to transfer ownership of one of the new farms to their son who is a full time farming partner in their business. Mr. Roohr stated that the owners are present today should the Committee have any questions. He stated that the resulting Parcel "A" would be a 219.7 acre property and would be improved with underground irrigation mains, center pivot irrigation, irrigation wells, a single family residence, an agricultural labor residence and several agricultural outbuildings. It would also include a three acre severable exception around an existing house. Mr. Roohr stated that the resulting Parcel "B" would be a 246.8 acre property and would be improved with underground irrigation mains, center pivot irrigation, an irrigation well, and an irrigation pond. It would include one RDSO and a 0.83 acre severable exception. He stated that the resulting Parcel "C" would comprise 144.9 acres and would be improved with underground irrigation mains and center pivot irrigation and an irrigation pond and would include three severable exceptions, each approximately three acres in size. He stated that Parcel "B" would be transferred to the owners' son, Michael Brooks, this year as part of their long-term business transfer strategy.

Mr. Roohr noted that Federal Farm and Ranch Land Protection Program funds were used in the acquisition of the development easement on the home farm and that regardless of any new configuration of SADC easement boundaries the

federal restrictions would remain in effect for the blocks and lots that were preserved with federal funding. He also noted that the farm met the test for agricultural viability and purpose for purposes of the division request. He stated that staff recommendation is to grant the division of the premises as presented and discussed, subject to the conditions of the resolution. Mr. Roohr stated that since all of the blocks and lots comprising the reconfigured Parcels A, B and C continue to be collectively subject to the restrictions of a deed of easement, individual blocks and lots within the new parcels cannot be sold separate and apart from the overall parcels of which they are a part without approval of the CADB and SADC.

It was moved by Mr. Siegel and seconded by Ms. Reade to approve Resolution FY2010R5(10) granting a request by William and Diane Brooks, owners of Block 77, Lot 2, Block 72, Lot 11, Block 77, Lots 8 and 9, Block 81, Lot 1 and Block 82, Lot 1, Upper Pittsgrove Township, Salem County to divide the premises as follows:

Parcel "A" – Block 77, Lots 2, 8, 9 and 14 (approximately 219.7 acres) to include a single family residence, an agricultural labor unit and a three-acre severable exception;

Parcel "B" – Block 72, Lots 11, 14 and 20.01 (approximately 246.8 acres) to include one RDSO and a 0.83 acre severable exception;

Parcel "C" – Block 81, Lot 1 and Block 82, Lot 1 (approximately 145 acres) to include three severable exceptions, each being three acres in size;

The RDSO associated with Parcel "B" may only be exercised within the area it was originally allocated to, currently described as Block 72, Lot 14;

Federal Farm and Ranch Land Protection Program restrictions shall apply to the following blocks and lots:

Parcel "A" – Block 77, Lots 2, 8 and 9;

Parcel "B" – Block 72, Lot 11;

Parcel "C" – Block 81, Lot 1 and Block 82, Lot 2.

Mr. Brooks was present and stated that the issue of the RDSO being retained with Block 72, Lot 11 is fine and he had no problem with that.

The motion was unanimously approved. (A copy of Resolution FY2010R5(10) is attached to and is a part of these minutes.)

2. Review of Activities on Preserve Farm
Jean Allen Farm, Southampton Township, Burlington County
 1. Private Airstrip

Note: A transcript of the discussion pertaining to this agenda item has been taken via a court reporting service.

Ms. Craft stated that because the discussion for this agenda items is being taken by a court reporter, everyone that speaks to it needs to come up to the table so that the court reporter can hear properly and needs to be sworn in.

Mr. Roohr was sworn in by the court reporter. Mr. Roohr referred the Committee to Resolution FY2010R5(11) dealing with activities occurring on a preserved farm. In July 2009 the SADC received a copy of a document from a preserved landowner alleging deed of easement violations on five preserved farms located in Burlington, Monmouth and Ocean Counties. The farm in question today is the John and Jean Allen, Sr. farm known as Block 902, Lot 2 and Block 903, Lot 5 in Southampton Township, Burlington County and Block 51, Lot 9, in Lumberton Township, Burlington County comprising approximately 220 acres. The property was preserved in April 1992. The alleged violations associated with this property is an annual consignment auction held on the premises two weekends per year and a private grass airstrip that is licensed and being operated on the property.

Mr. Roohr reviewed the specifics with the Committee. Mr. Allen is also present should the Committee have any questions. The Burlington CADB has determined that these activities are not considered violations for reasons stated in the resolution before the Committee.

Staff recommendation is that the use of the land dedicated to the airstrip for takeoff and landing personal aircraft is in violation with the terms of Paragraph 9 of the deed of easement because it interferes with the actual use of the land for agricultural activities. Staff further found that the consignment auction as described is considered to be a nonagricultural use of the premises and that the conducting of the auction is considered a violation of the deed of easement, specifically paragraph 3, which states that all nonagricultural uses not listed in Schedule "B" of the deed of easement are expressly prohibited. Staff is further recommending that the owner shall have ninety (90) days from the effective date of the resolution, if approved, to restore the property to a condition which is not in violation of the deed of easement.

The Committee discussed the matter. Ms. Craft referred the Committee to aerial photos of the Allen property. She stated that one photo showed plowing up to the edge of the airstrip. She stated that indicated that the landowner is not going to plow the airstrip because they want to use it as an airstrip.

Mr. Shilling stated that the test is using it as an airstrip versus specific language that says the activity would preclude the future agricultural use, in other words putting a permanent structure or something that would in some way limit the ability of that land to be used in the future.

Ms. Craft stated that if you look specifically at the language of this deed where it says...."as long as the activities do not interfere with the actual use of the land for agricultural activities." She stated that the Committee needs to decide whether it thinks that airstrip is interfering in agricultural activities on the farm.

Mr. Germano stated that the deed also has language to the effect that the property owner is not obligated to maintain the property in any particular condition. The interpretation of that language to him is that the property owner isn't obligated to farm the preserved property.

Mr. Waltman stated that there is an important distinction here. We are not precluding someone to be passive on their farm as long as they are maintaining it for agricultural use but we are precluding individuals from taking action on a farm that interferes with farming. If they are dedicating a piece of the farm to something that precludes it from being farmed that is in violation of the deed of easement. In looking at the slide that Ms. Craft referred to, he doesn't know what would be growing up on the left side of the slide but presumably it is a crop that will interfere with landing airplanes and the converse is also true...by maintaining that land actively to land airplanes on it is precluding that area. He stated that this landowner is doing something active on this farm that is precluding agricultural on that portion of the preserved farm.

Mr. Germano stated that you could look at it that way but he doesn't consider growing grass as particularly active and he doesn't think you would call that grass an improvement. He is not turning it into a paint ball field. If he stops landing airplanes on that strip tomorrow he could plow it up, plant something on it so he is not destroying its ability to be used for agriculture. It is not sod and it is not a crop. The activity is not doing anything to destroy the quality, the potential of the soil to be productive.

Mr. Schilling stated that if this was kept fallow this would not be an issue. What he is thinking through is whether or not there is a long-term detriment to the use of the land's agriculture. He is struggling with where some of our thinking is right now about long-term degradation of farmland. In his mind we have something where it is being used for something recreational in nature. Is it interfering with the actual use of the land. The point being raised is if it is being used for one thing it is not being used for agriculture. Also there is not a requirement for it to be actively cropped.

Ms. Craft stated that is the threshold issue that we are trying to get to. The question is did the deed and the program intend to allow people to use the property for something else besides agriculture because they don't feel like farming? She stated that the issue is, is it within the landowner's right to choose to do something else with this property because you cannot plant that area with corn, soybeans, etc. because you need it flat, compacted and grass covered to be an airstrip. The primary use of that area is for an airstrip. To her the deed did not mean just have this land lay around so that maybe someday down the road someone will farm it. She felt that this land is to be available for agriculture today. As soon as you allow and condone the use of the property for something other than agriculture we have then gone in a very different direction than keeping it available for agriculture. Ms. Craft stated that the other question is, what the limit is. If they can do one airstrip can they do five, maybe ten? At what point do we determine that there is interference. It doesn't say substantial or profound interference, the deed says interference. She wants the Committee to be aware if it goes in the direction creating a tolerance for "some" interference, it is a very slippery slope.

Mr. Siegel stated that he keeps struggling with the word recreational. The "interfere" language refers to the clause that this is a recreational activity. He stated that we are conflicting with other state policy. The Department of Transportation does not interpret air travel as recreational. It considers air travel as transportation and it regulates all of these air fields. This needed FAA engineering approval. He stated that he didn't know that we need to stay with the recreational activity standard that Burlington County relied on because we are a State agency with a state policy. We may need to table this and do research, but he is fairly certain that the state policy does not approach general aviation as a recreational activity but rather a transportation issue.

Ms. Craft stated that the property owner does not own the planes or fly them. Jean Allen is the owner of the farm. Mr. Allen is her son. Mr. Allen advised that he has power of attorney for his mother and that the land will be going to him in

the future.

Mr. Allen was sworn in by the court reporter. Mr. Allen addressed the Committee in support of having the airstrip and consignment auction. He stated that his mother does own the property. He stated that he feels it is recreation and the State of New Jersey, Department of Transportation does say it is recreation. He stated that the FAA has started a new division called Recreational Activities and Flying. Within the FAA and the Division of Aeronautics, there is a recreational part of flying. He stated that he personally owns the airplanes. He indicated that his father signed the contract back in the 90's. He stated that he flew a plane back in the 70's and his father knew that he had intentions of flying again. He had to quit because of financial reasons and raising his family. The deed indicated recreation was allowed and it was not limited to hunting, fishing or anything like that as the current language states in the deed. He does recreational flying and he has his friends come in. He makes no money at it and he doesn't charge them to land or take off. The reason the airstrip was extended was because of safety factors and because a "special use" license meant that he had to contact Trenton every time he wanted to land or have a friend land. Anyone could land in there but he had to call Trenton first to approve the landing. By extending it, he doesn't have to call Trenton every time. He stated that there is still the same amount of airplanes and his personal friends are invited to land. As far as bothering the land at all, he didn't read in his deed that he even had to farm the ground if he didn't want to. He maintains that and he does mow it and keeps it trimmed up and the sides are all trimmed. The farmer that farms it plants corn on both sides of the airstrip. He also plants soybeans once in a while there but he is mainly a sweet corn grower. The farmer irrigates and if he is lucky enough his irrigation goes on to his grass area but he is not interfering with any of the farming that goes on. Tomorrow if he went out there and wanted to farm, it could be plowed up. As far as he is concerned he didn't feel that he was hurting farmland preservation. His dad was the 100th farm to go into farmland preservation in the State of New Jersey. His pickup truck has "100th farm" on the license tag that is registered with the State. His father was proud to be in the program and Ms. Craft can tell you that his dad was 100% behind this but he never thought by signing that deed he would be taking the rights away from his family and his future generations to enjoy their own land. He is the 6th generation and he has grandkids that are the 8th generation and they do want to preserve the farm ground. Right now up and down his road all the farms are preserved and he is glad to see it. He didn't feel he was hurting anything by having the airstrip out there and just enjoying his own property.

Mr. Germano asked Mr. Allen to explain how he uses the airstrip. Mr. Allen stated he uses it just for fun. Mr. Germano asked how often does he use it. Mr. Allen responded as often as he can. If he gets up a couple times a week he does. Most of the time it is only a couple of times a month. He just bought an antique airplane, a 1943 trainer. That is sure not a commercial airplane and it is not being used for commercial reasons. He is into antiques. The auction business, his museum which you will hear about later, is already identified and we want to keep it that way. He doesn't make any money on the airstrip and if anything, it costs him money. Mr. Germano asked how many planes does he have. Mr. Allen responded right now he has three and he has to get rid of one of them because now he cannot afford three airplanes, he just replaced the one. Mr. Germano asked if they were all kept here. Mr. Allen responded yes. He stated he does have friends come over with their airplanes. They don't stay over night, but they will land there. Mr. Allen stated that if he read his deed right, it was a deed of development rights, where he couldn't build on the property for houses or anything. Mr. Germano stated that the deed also says that the land also covered by that deed is restricted to agricultural use with a few exceptions, one of those exceptions being recreational use. The question is whether this is a recreational use. Mr. Allen stated that it is an expensive recreational use. Mr. Germano asked if when the friends come over is this part of some sort of social network. Mr. Allen responded that he has guys that fly in and they might have breakfast together or something like that but they do fly into his place. It's all recreational and a social thing. Mr. Germano stated that he can take that as it is not used in any way to further an agricultural purpose, you don't dust crops, you don't go and get equipment. Mr. Allen responded no he does not. Ms. Craft asked if anyone uses the airstrip to land in connection with the auction. Mr. Allen responded no, but a friend of his came up during the last farm sale they were having but he didn't know whether his friend even went to the auction because he talked to him after the fact and his friend said he was surprised to see all the people around. He stated that he isn't going to say that a guy who has an airplane in New York wouldn't fly down, and that would be recreational on his part too, but it is not a business activity. He stated that even if you bought anything you wouldn't put it in the airplane anyway.

Chairman Fisher asked about the flyers that are put out for the auctions. He asked if there is any reference that welcomes pilots to fly in. Mr. Allen stated he didn't think it was ever on any of his flyers. He has a pancake breakfast once in a while and he advertises that his friends can fly in for the pancake breakfast but it is not a commercial use.

Mr. Waltman thanked Mr. Allen for his family's stewardship of the land over these many years. He stated that he is curious about the nature of the airstrip. He asked if the Department of Transportation inspects the airstrip. Mr. Allen responded yes. Mr. Waltman asked if they have some standards or guidelines on how the airstrip is maintained. Mr. Allen stated that the guidelines are that he couldn't have trees growing around the airstrip and that it must be maintained as a grass strip. He stated that he does mow it but it is not mandatory. He is not under any obligation to the State what-so-ever. It is inspected once a year. He stated that he gets an annual license. Mr. Germano asked if all the land around the airstrip is plowed and in production? Mr. Allen responded yes, except for the lot that he owns where the auction building is located that is not in farmland preservation.

Mr. Siegel asked about the former Floyd Evans farm that had an airstrip. Mr. Roohr stated that the SADC purchased the farm in fee simple and sold it with the airstrip identified as a pre-existing nonagricultural use. Mr. Waltman asked if the airstrip was identified as a nonagricultural use in the Allen deed. Mr. Roohr responded that when the farm was preserved in 1992 the airstrip did not exist so it would not have been identified in the deed. Ms. Craft stated that there was another case involving the Baitinger farm that was in an eight year program. There the land has to remain in agricultural production. The SADC denied the ability to construct an airstrip on a farm enrolled in an eight year program.

Daniel Kennedy for the Burlington CADB was sworn in by the court reporter and addressed the Committee as to the finding of the Burlington CADB on this issue.

Ms. Reade asked if there was any possibility that this airstrip could be construed as furthering the conservation of the agricultural land. She stated that people often put in grass strips in sensitive areas and she felt that was a positive. She stated that many vegetable farmers in her area will deliberately put in a rye strip to run equipment on and serve as cover. Mr. Allen stated that it benefits the farm in the winter time if you didn't get your cover crops down in time because it acts like a wind break.

Mr. Allen stated that he was willing to fence the area and put sheep out there. He stated he could do that if it would result in the SADC's approval.

2. Consignment Auction

Mr. Roohr stated that on the same property is the second alleged violation consisting of an area used for a consignment auction. Mr. Roohr referred the Committee to various aerial photos. The parking area is approximately three

acres and the auction area is approximately six to seven acres. This is an annual auction held two consecutive Saturdays each year at the end of March and the beginning of April. The items are lined up in the field area and there is a huge variety of items there but you would find tractors, farm equipment, machinery, trucks. Small items might include lawn mowers, recreational vehicles, lumber, household items and tools. He stated that Mr. Allen is a professional auctioneer and his main business is an auction mart, which is located on his four acre lot where he runs a year-round auction business. The barn and acreage around it is used in conjunction with the consignment auction.

Mr. Roohr stated there appears to be a survey error that occurred on the property at the time of preservation whereby the survey line and metes and bounds description include a portion of the adjacent parcel Block 902, Lot 2.01, which is not identified in the deed of easement as preserved land. Mr. Roohr stated that the resolution before the Committee reflects this discrepancy and that staff requests the Burlington CADB further evaluates the survey plat and related documents in order to correct the survey error that occurred at the time of acquisition so that only the area of the tax lots identified in the deed of easement are reflected in the survey and metes and bounds description. Mr. Allen's separate lot existed 30-40 years ago and Mr. Allen had owned it long before the preservation of the farm. Mr. Roohr stated that he has personally been to the auction, prior to this past year, and has personally purchased irrigation pumps, plows, cultivators, a no-till planter and various farm production related items. He can attest that it has benefited his part of the agricultural community.

Mr. Roohr stated that on the day that he was there to inspect the property there were two planes. Mr. Allen stated that one of the planes was his and the other belonged to his friend. He reviewed the items shown in the photos and stated that all of the items in the photos were on the preserved farm. Generally the items are lined up in rows according to category. He stated that on the day he was there for inspection the east end of the farm was in production. The whole farm is planted in cover crop or a crop they are going to harvest. Chairman Fisher asked if there was any area of non-farm equipment. Mr. Roohr referred the Committee to one of the photos. He stated that it depends on one's definition of farm equipment. One could argue that a farmer would need a lawn mower and lumber, others might argue that only tractors and manure spreaders and those types of items would be considered farm equipment. Mr. Roohr stated that it is all outside so there wouldn't be any type of electronics or anything that could be damaged due to the outside elements.

Mr. Allen stated that on farm sale day which he runs two times a year, it is primarily farmers and he feels that everything is farm related. He stated that he

runs a general merchandise operation once a week and if they bring in a lawn mower we sell them too but as far as refrigerators and stoves and that kind of merchandise, it gets sold in his general merchandise sales once a week in his auction barn. He stated that he had 800 bidders at the auction and most of them were farmers and it is only for two days with auctioneers. He stated that he cannot get involved with household items at that auction. This is strictly farm related as far as he is concerned. He stated that he realizes that the SADC has some pictures where his neighbor got upset and sent in pictures of a hot tub. He stated that what happened there was that someone was going through a divorce and he brought farm equipment in and also the hot tub. He advised the gentleman that farmers wouldn't buy a hot tub. The person suggested that possibly it could be used for a cow trough. He stated that there was a booklet sent out by his neighbor that showed bicycles and motorcycles. He stated that he does have a few of those but there isn't enough to even show up in the picture. If someone brings in a bunch of lawn mowers and garden tractors and farm related items, and they bring in a motorcycle, we'll sell it. Most items are kept on the other part of the farm because he doesn't want them to be stolen. They do sell some recreational vehicles. He stated that possibly five percent of what you see out there might not be farm equipment. If you look hard enough you may see a boat and they were all probably owned by farmers. He stated this is a way farmers get together once a year.

Ms. Craft stated that the Burlington CADB determined that a consignment auction including the sale of farm equipment and limited nonfarm items of which all or some are owned by the owner is a common farmsite activity and is subject to several conditions, one of which was that the nonfarm items offered for sale at the consignment auction must not exceed ten percent of the total items offered for sale. She asked Mr. Kennedy from the Burlington CADB if he was going to attend the auction for purposes of monitoring. She stated that the board thought that ten percent was the new cutoff so she wondered if the CADB would be attending to ensure compliance with that condition. Mr. Kennedy stated that staff did not attend this year because they knew that SADC staff would be there and the SADC had not taken a position on the issue so the county wanted to step back so that the SADC could make its determination. He stated that in the future, once they know where the line is, they would monitor the auction. Mr. Allen stated that he has been conducting the auction for forty years so this went way back before the farm was preserved and it was just not an issue that his father thought was anything to be brought up because he only does it once a year.

Ms. Craft stated that the CADB's decision is that the board sees this as a common farmsite activity and that is the context under which it finds the ability to approve this. She stated that she does not agree because you don't see ten or fifteen acres

of farms being dedicated to auctions auctioning other people's equipment on a regular basis. Mr. Allen stated he doesn't feel it is "dedicated" because first of all it is covered crop. He holds his auction and following that, the farmer goes back to farm that area. He stated he has a letter from the farmer that states that he does not interfere with his farming because the auction is done in March and April before the farmer's planting time. Mr. Allen stated that all of the land is in production, in cover crop and he goes out there and uses it and then the farmer plants it in corn afterwards.

Ms. Craft stated that the Committee needs to address the issue of "common farmsite activity". She didn't think that this is permitted because she doesn't believe it is a common farmsite activity and it really is not recreation. To her it is a nonagricultural use of the property. Nonagricultural uses of the property are expressly prohibited. The only question here is whether the Committee feels that this type of consignment auction is considered common. Is it common for a property owner to lease out their property to an auction company to have a farm sale on it once a year?

Ms. Reade stated that a lot of farms are not going to have this so it is not going to be common in the sense that every farm in the county has one. However, she does know a number of legitimate farms that have had them and for the most part they have abandoned the practice because of liability issues. She felt that it does serve a useful function. She stated that in that sense she is more inclined to be lenient than when she first read the material because it doesn't look obtrusive and the fact that they are planting corn does not actually interfere with agriculture. Ms. Craft stated that is not the test. It is either a common farmsite activity and permitted or it is a nonagricultural use and not permitted. She stated that if it is common she needs to understand what about it is common.

Mr. Kennedy asked if he could relate what the CADB had discussed. He stated that when farmers go out of business or pass on they have auctions on the farm where other farmers bring items to sell together. That happens on both preserved and nonpreserved farms all over the state. Mr. Allen's auction is very common. The ownership relationship is unique in that Mr. Allen is not having a private company conduct the auction. That was taken into consideration by the CADB. While Mr. Allen is not on the deed, everyone knows he is part of the ownership structure and he will more than likely inherit the property. He stated that the CADB reviewed and researched for the board other types and different scales of these types of consignment auctions around the state and found several that were done seasonally.

Mr. Siegel asked the question where does a once a year seasonal auction fall. Mr. Allen stated that his intent for farmland preservation is to keep agriculture in the State of New Jersey. As far as he is concerned the farmers have other activities besides their land that keep them in business. You can buy up all their land and do what you want but that is not going to keep them in business. He feels that having the auction is an advantage to farmers so they can buy, trade and sell their equipment and it is good for their farming operations. If you are trying to keep farming in New Jersey he feels this is an asset and it is only once a year. Ms. Craft stated there is no argument that auctions are important opportunities for farmers to access equipment in a more affordable manner and to sell items. The only question is whether it is a use permitted on a preserved property. Mr. Allen stated that you would never have had his farm in preservation if his father read the contract the way that this board reads it because he didn't know he was selling his sole. When he read recreation, he never thought he would be selling away his family's right to fly an airplane on their own property that they pay taxes for. He stated that his father never thought he would be stopping an auction that his son has been doing for forty years. He stated that he didn't think his father thought that was the intent.

Ms. Reade asked what if it was a livestock auction. Ms. Craft stated that staff's answer would also be no. She stated that is the threshold issue that we have been trying to wrestle with in this Committee. Are we going to allow every support industry that is good for the agricultural industry to be on preserved farmland or was the goal here to create a land base to grow agricultural products and to market those products.

Mr. Germano asked Mr. Kennedy why his board felt this was a common farmsite activity. Mr. Kennedy responded that the board based its determination on the scale of the operation, the seasonality of the operation, the product mix of the operation and the fact that other similar operations are held state-wide. He stated that the CADB feels that common means the region, not the county. Just by the nature of these operations there are efficiencies in consolidating auctions. He further stated that this is part of one of the best blocks of preserved farm ground and land for agriculture in the State of New Jersey. There is no false agricultural economy and the operators of that agricultural economy rely on this equipment so we are not talking about a pocket of preserved farms. This farm lies in the heartland of public investments of farmland.

Mr. Siegel stated he would like to hear from the Committee Members on the issues.

Dr. Dey stated that he sits on the deed of easement subcommittee and staff has stated that we need to consider all of the provisions of the Agriculture Retention and Development Act and the Garden State Preservation Trust Act and put them all together when you are looking at an individual farm for an individual purpose. He stated that we have an owner that has been doing exactly what he is doing right now over the last forty years. That was twenty-five years before this farm was put into the program. At that time they were not cognizant that if you are doing these types of activities you need to have exceptions when you put it into farmland preservation. That wasn't an item like it is today. Mr. Siegel stated that you have to articulate your nonagricultural uses at the time of application. Dr. Dey stated that he has also attended these auctions and has bought most of his equipment earlier from these auctions so that he didn't have to spend hundreds of thousands of dollars for a tractor. These auctions are essential to a farming community to keep it going. He stated that if he wanted to tomorrow he could spray that runway and in two days he could plant soybeans.

Mr. Germano felt that the airstrip is permissible in a large measure because the land is available for agriculture. The fact that the narrow strip of land is not in agriculture at the moment is not interfering with the agricultural activity. He doesn't believe that every square inch of a preserved farm has to be farmed. He stated that Mr. Siegel raises a very interesting question when he asked questions that elicited the fact that the deed speaks of recreation in terms of deriving income. He didn't think that the deed should be interpreted to mean you can only have recreational activities that do derive income. That is the farthest extent that the deed allows you to go. The deed, he believes, allows you to go to a lesser extent, having some portion of a preserved property being used for your own noneconomic recreational use. He stated that he would like to listen to others about the auction. He is on the fence on that issue.

Ms. Reade stated that in addition to Dr. Dey's comments, all of us farmers every winter are looking at our equipment to see what we want to get rid of as well as what we need. She stated that it's not just a good place to find something where you don't have to pay a premium for something new but it is also a place for you to get rid of equipment you are no longer using. She stated that the issue of determining whether it is a common farm site activity needs to be defined when you are talking about an aggregate or collective enterprise such as an auction. In that case, it needs to be defined more regionally. She didn't think the fact that there is only one auctioneer in Burlington County who is doing this is legitimate. She doesn't think that we should have to sell all of our equipment on the farm at auction in order to legitimize that auction. It does provide a convenience that she

feels everyone in the agricultural community needs. She felt there are some very gray areas and on the one hand she feels that preserved farms may not be the place for infrastructure devoted to supporting the agricultural community but something like this that is a temporary use and is something that is critical to agriculture in his immediate region is pretty defensible. As to the airstrip, she is troubled by airstrips on preserved farms for a lot of reasons. She looks at this airstrip and its configuration, the fact that you can spray the area and plant tomorrow and that it may also have legitimate conservation values as being supportive of the airstrip.

Ms. Rendeiro stated that she agrees with Ms. Reade that it is somewhat a gray area and when she looks at issues in relation to legislation in gray areas she looks at the intent of the legislation. She stated that if the intent here is to encourage agriculture it seems to her that it does encourage it but at the same time she is very concerned about the precedent we are setting. She is tending to think that both of these items are fine with a fair amount of conditions only because of the precedent. Is one good, is two good? It seems to her that the intent here is to encourage agriculture, possibly not so much on the airstrip but on the auction based on what the farmer members of this Committee have been saying.

Mr. Waltman stated he is having the opposite struggle. He has more trouble with the airstrip. What he is hearing is that this kind of consignment auction is very much a part of farming in this community, particularly if you have preserved all this ground and there is no place else for it to occur. He stated that if this auction is fine, he would have an absolute zero tolerance for nonfarm items being sold. He doesn't know where the CADB found room for a ten percent allowance but if you want to sell nonfarm items don't sell it on a preserved farm. He stated that the airstrip to him is dedicated at least a year at a time. If you have an airstrip you're going to have an annual certification from the Department of Transportation. He worries about where do you draw the line and what percentage of the preserved farm for this use is acceptable. He sees it as dedicating a part of the preserved farm for a nonagricultural use. How do you draw that line and unless this Committee gets to the position where it is comfortable drawing that line, which is hasn't been, he would be compelled to support staff's recommendation regarding the airstrip. Regarding the consignment auction, to him it is temporary, it is being farmed outside the period of when the auction is held, but he would draw a very bright line against nonagricultural items being sold at that consignment auction.

Mr. Siegel stated that the common farmsite activity issue still does not work for him on the interpretation on whether this auction is permissible. He cannot start selling John Deere equipment on his preserved farm 365 days a year. No one

would permit that. In that case, that is a common farm site activity, since we are selling farm equipment. Am I allowed to open a used farm equipment dealership on the preserved farm? The answer would be no. His understanding of that phrase in the easement is that common is customary. Is this something customary to be done on a farm? That is a factor in the decision. He does not feel that it fits here. You have to look at what you have before you. He covered seven acres but it is one day a year. It's a slippery slope.

Mr. Schilling stated that every case before the Committee has some sense of fact sensitivity. Mr. Kennedy testified that the CADB's consideration of this reflected issues like product mix, scale of operation, seasonality and efficiency of consolidation. He was wondering about the common farmsite activity but he felt there was a compelling argument that there is not a lot of this type of activity in Burlington County, so he would emphasize that whatever decision is made will be fact sensitive. We are not making any broad determinations about permissibility of landing strips.

Chairman Fisher stated that for him regarding the airstrip, he expected to hear about thirty or more planes all over the place coming in for an auction sale. He did not see that. Only two planes were there on the day of the sale. Mr. Allen stated he uses it for recreational purposes. For him, he is convinced that one's recreational use is allowed and that is what he saw. He didn't know if you need to go any further because it has always been that way and there has always been that understanding. As to the airstrip, he cannot find the problems that he thought there was going to be in that it was used for his business and it gives the appearance to him that it is for his recreational use. As to the consignment auction, once again, he thought he was going to see non farm items but from the pictures he saw it was mostly farming implements and when he was told that there was a complaint regarding the hot tub, he felt that Mr. Allen gave a great explanation as to how that item ended up there. He stated that this is a farm implement, a farm machinery operation that we all know in every state of the union that is what takes place generally on a farm. He stated that every time he hears farmers talking they are always talking about agricultural use and production and they can't wait until that time of year to go to these auctions so they can get these pieces of equipment to run their farming operations. As to legislative intent, I'm sure that the legislative intent is just that and he thinks the public perception of what land would be used for and continue to be in production would also be their perception. You have this public trust that you are entrusted with and he thinks that the public would allow auctions.

Chairman Fisher commented that this is two weekends a year for which everything is removed, the land stays in production, and soil disturbance is not the

case because it can be farmed.

Chairman Fisher called for a motion to accept staff's recommendation as presented in Resolution FY2010R5(11). There was no motion made.

Mr. Germano stated that he would offer a separate resolution finding that both of these activities are permissible under the deed of easement and the Committee requests staff to incorporate findings of fact based on the testimony that supports that. He stated that no matter how great a stretch it is, he felt that the CADB hit on the only permissible way to authorize this auction, which is by finding it a common farm site activity. Mr. Siegel stated that there is a resolution here that states there is a violation. If the Committee finds that there is no violation do we have to have a resolution that states there is no violation? There is a summons here for the Committee to issue a penalty. The Committee can just say no, it doesn't have to then find an affirmative finding.

Mr. Germano stated that Ms. Craft is correct when she reminds us that down the road, what the Committee did here will be referred to when you talk about a slippery slope. What the resolution does is set out why it was acceptable and why the next one might not be. Ms. Rendeiro stated that the resolution would set perimeters around the affirmative vote but it also responds to the complaint. She stated that the resolution should be a response to the complaint stating why the Committee has voted the way it will be voting. It is a statement of fact, putting some perimeters around why it is acceptable so that when the next one comes before the Committee and it does not meet that criteria we have it on record. Mr. Siegel stated that he would second that motion.

Chairman Fisher stated that if the Committee is saying that there is no violation he suggested that the Committee take action at the next meeting rather than to get a response that we are not exactly sure that we can categorically list why we are making that motion and have staff draft a new resolution. He stated that the Committee will not take any action today on the complaint and at the next meeting the Committee will formalize a resolution to adopt as it relates to the complaint and what the reasons were and why the vote was taken to consider there was no violation of the deed of easement.

Mr. Waltman stated that the one point he made that no one else spoke to was the tolerance level on a consignment auction. He would be much more comfortable if we said a zero tolerance. Chairman Fisher stated he would want to say possibly a five percent tolerance to cover an oversight. Mr. Siegel stated that he is still struggling with the common farmsite activity argument on this case. He would like that to be addressed in the resolution as well. Chairman Fisher suggested and

it was the consensus of the Committee that staff prepare the revised resolution for presentation at the next meeting.

3. Review of Activities on a Preserved Farm
 1. Elms Near LLC Farm (John and Patricia Allen), Southampton Township, Burlington County

Mr. Roohr referred the Committee to Resolution FY2010R5(12) regarding the John and Patricia Allen Farm, known as Block 903, Lot 5.02 in Southampton Township, Burlington County. He stated that the deed of easement for this property lists a nonagricultural use as follows:

“The dairy barn serves as museum for antique farm tools and equipment and items of related historical or local interest, said museum being presently managed by John E. Allen, Sr. In the past, the museum has been used to give frequent public tours to groups such as schools, antique clubs and agricultural related groups. Currently, public access to the museum is limited to occasional tours. Additional related exhibits may be added to the museum within the confines of the existing building. No other nonagricultural use (other than the aforesaid museum) is currently identified”.

Mr. Roohr stated that in July 2009 the SADC received a copy of a document from a preserved landowner alleging deed of easement violations on preserved farms in three counties, including this property. The alleged violation listed for this property was that the nonagricultural use had been moved from the original barn listed in Schedule “B” of the deed of easement to a different barn on the property. He stated that staff requested the Burlington CADB review the matter for potential violations, which it did in October 2009. It stated that the relocation of the museum from its original location within the former dairy barn to the former riding barn was approved by the CADB because the CADB staff calculated the original area occupied by the museum within the former dairy barn, which consisted of 17,984 square feet and the new area occupied by the museum is 15,960 square feet. Therefore there was no net increase in the overall area dedicated to the museum.

It was moved by Mr. Siegel and seconded by Dr. Dey to approve Resolution FY 2010R5(12) approving the movement of the Jack Allen Memorial Agricultural Museum from its original location within the dairy barn to the new location within the former riding barn on the Premises and that the area utilized for the museum in the new location shall not exceed the area originally dedicated to the

museum in the former dairy barn, as presented and discussed and subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY2010R5(12) is attached to and is a part of these minutes.)

K. Proposed Appraisal Handbook Amendments

Mr. Burns referred the Committee to the Summary of changes to the SADC Appraisal Handbook-2010. He stated that the summary of changes to the handbook was sent out to the county agriculture development boards, the municipalities, and nonprofit partners for comment. The only comment that was received was from the SADC's staff person, Stefanie Miller, suggesting that we make a change to the appraisal order checklist, which is part of the handbook. Mr. Burns stated that the checklist is being changed to add impervious cover limitation information under section III – Federal Farm and Ranch Land Protection Funding, under item “A” to address the shift in FRPP policy requiring all appraisals in that program to be done according to UASFLA (Yellow book) standards to allow USPAP standards, and under the Appraisal Instructions section to address the current policy regarding the treatment of the dual appraisal provision of the Highlands Act.

It was moved by Mr. Germano and seconded by Dr. Dey to accept staff's summary of changes to the SADC Appraisal Handbook-2010 and to send it out for public comment. The motion was unanimously approved. (A copy of the Summary of Changes to the SADC Appraisal handbook-2010 is attached to and is a part of these minutes.)

PUBLIC COMMENT

Nicki Goger from the New Jersey Farm Bureau thanked the Committee for its more recent interpretation of the deed of easement on the Allen Farm. She stated that her board recently discussed that it had some concerns with the interpretation documents and the direction they are taking to be completely black and white and they seem to preclude anything except all agriculture on every square inch of a farm. She stated that they will be submitting comments and she appreciated today's discussion by the Committee and the recent conclusion it came to. She hopes that direction continues because farmers didn't sign their soles away when they signed those deeds and they expect some amount of flexibility on what they can do on their own private property.

Mr. Brooks addressed the Committee regarding green energy on preserved farms. He asked if it was true that you cannot put in green energy for your own use. He understood that with the legislative change you could not put a wind mill, for instance, for your own use plus ten percent. Ms. Craft stated that what changed in the statute says the

construction of any kind of these energy facilities has to be approved by the Committee. Prior to that we assumed along the years that someone building solar or wind facilities to support their agricultural operation was an agricultural use. Therefore we never specifically required state approval. The statute now says specifically that any construction has to have SADC approval. Mr. Brooks asked if you will then need to have rules about everything. He asked would the rules be different for that part. Chairman Fisher stated that the Committee is waiting for a few responses from the Office of the Attorney General so that we can move forward.

Ms. Goger asked if Ms. Craft could provide her with a brief summary of what was just related to Mr. Brooks so that they can get the word out that it is not the SADC holding this up and why there is a delay. If there is a way that the community could influence the Attorney General's Office that possibly you could let people know. Chairman Fisher stated that he is part of the Administration and the Governor has been talking about wind and solar and that he would make every effort to make sure that this gets moving forward.

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: Thursday, June 24, 2010, beginning at 9:00 a.m. Location: **Health/Agriculture Building, First Floor Auditorium.**

Note: Mr. Germano left the meeting at this point.

CLOSED SESSION

At 1:50 p.m. Dr. Dey moved the following resolution to go into Closed Session. The motion was seconded by Ms. Rendeiro and unanimously approved.

“Be it resolved, in order to protect the public interest in matters involving minutes, real estate, attorney-client matters and personnel, pursuant to N.J.S.A. 10:4-12, the NJ State Agriculture Development Committee declares the next one hour to be private to discuss these matters. The minutes will be available one year from the date of this meeting.”

Action as a Result of Closed Session

A. Real Estate Matters – Certification of Values County Planning Incentive Grant Program

It was moved by Dr. Dey and seconded by Ms. Reade to certify the development easement values on the following farm as presented and discussed in closed session:

1. Campusome, Inc. (Horzepa and Cooper)
Block 16, Lot 13.01, Upper Freehold Township, Monmouth County, 55 Acres
Certification of value is conditioned upon the applicant providing written verification that the NJ DEP stream encroachment permit has been extended to December 31, 2012.

The motion was approved. (Mr. Germano was absent for the vote). (A copy of the Certification of Value Report is attached to and is a part of the closed session minutes.)

2009 Municipal Planning Incentive Grant Program

It was moved by Dr. Dey and seconded by Ms. Reade to certify the development easement values on the following farms as presented and discussed in closed session:

1. Patricia and Willard Eastlack
Block 47, Lot 4; Block 55, Lots 4 and 4.01, Woolwich Township, Gloucester County, 49 Acres
2. Vito and Melissa Genna
Block 5602, Lots 41 and 41.02, Franklin Township, Gloucester County, 49 Acres
3. David Perlman (Perl Acres Realty)
Block 54, Lot 5.01, Millstone Township, Monmouth County, 41 Acres
4. Norman J. Lenchitz
Block 2003, Lot 16, Pittsgrove Township, Salem County, 18 Acres

The motion was approved. (Mr. Germano was absent for the vote). (A copy of the Certification of Value Reports is attached to and is a part of the closed session minutes.)

Direct Easement Purchase Program

It was moved by Dr. Dey and seconded by Ms. Reade to certify the development easement values on the following farms as presented and discussed in closed session:

1. Jesse Nelson, Sr. and Vernetta Nelson
Block 46, Lot 7 and Block 49, Lot 3, Upper Pittsgrove Township, Salem County, 168 Acres

2. Josephine Bonaccorso
Block 3, Lots 36 and 37, Block 10, Lots 10 and 13, Quinton Township,
Salem County, 111 Acres
3. Harry and Barbara Vance (Pochuck Valley Farm)
Block 22, Lot 1, Block 30, Lot 1 and block 31, Lot 1, Vernon Township,
Sussex County, 180 Acres

The motion was approved. (Mr. Germano was absent for the vote). (A copy of the Certification of Value Reports is attached to and is a part of the closed session minutes.)

B. ATTORNEY/CLIENT MATTERS

None

ADJOURNMENT

There being no further business, it was moved by Dr. Dey and seconded by Ms. Reade and unanimously approved to adjourn the meeting at 2:15 p.m.

Respectfully Submitted,

Susan E. Craft, Executive Director
State Agriculture Development Committee

Attachments

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