

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

REGULAR MEETING

July 22, 2010

Chairman Fisher called the meeting to order at 9:08 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 (Left at 4:00 p.m.)
Richard Boornazian (rep. DEP Commissioner Martin)
Ralph Siegel (rep. State Treasurer Andrew P. Sidamon-Eristoff)
Brian Schilling (rep. Executive Dean Goodman)
Donna Rendeiro (rep. DCA Commissioner Grifa) (Left at 12:45 p.m.)
Denis C. Germano, Esq. (Left at 1:49 p.m.)
Torrey Reade
Stephen P. Dey
Jane Brodhecker
Alan Danser

Members Absent

James Waltman

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, Ed Ireland, Timothy Brill, Steve Bruder, Cassandra McCloud, Daniel Knox, Bryan Lofberg, Dave Kimmel, Patricia Riccitello and Cathy Sinibaldi, SADC staff, Daniel Pace, Mercer County Agriculture Development Board, Thomas Hower, Governor's Authorities Unit, Harriet Honigfeld, Monmouth County Agriculture Development Board, Barbara Ernst, Cape May County Agriculture Development Board, Dan Kennedy, Burlington County Agriculture Development Board, Jennifer McCulloch, Morris County Agriculture Development Board, Robert Resker, Warren County Agriculture Development Board, Kevin Coakley, Counsel for Riamede Farm, Morris County, Ben Sorbello, GSI Solar, Salem County, Deborah Post, Riamede Farm, Morris County, Sam Akin, Chairman, Washington Township Municipal Utilities Authority, Morris County, David J. Egarian, P.E., Engineer, D.J. Egarian & Associates, Inc., Morris County, James Gregory, Esquire, Gregory & Reed, Morris County, Tom Beaver, NJ Farm Bureau, Monmouth County, Amy Hansen, New Jersey Conservation Foundation.

Minutes

- A. SADC Regular Meeting of June 24, 2010 (Open Session and Closed Session)

It was moved by Dr. Dey and seconded by Mr. Danser to approve the open session minutes and the closed session minutes of the SADC regular meeting of June 24, 2010. The motion was approved (Mr. Germano abstained.)

REPORT OF THE ACTING CHAIRPERSON

Chairman Fisher stated that the budget was concluded on June 30th and the Governor is working very hard to help ensure that we stay on the path of streamlining government, making sure that it works better and is as responsive as it can be but at the same time understanding that the taxpayers are still burdened by the effects of high property tax and other forms of taxation. He stated that every area of government needs to look at itself to make sure that it is doing what the public expects, which is to be efficient and as responsive as it can be.

Chairman Fisher stated that the solar and wind guidance document is at the Governor's Office for review. He stated that there is a great rush for people who want to do these solar projects but there is also a great demand to make sure there are regulations that are fully understood and that dealing with large amounts of money and capital that it takes and the effects that it has on landowners, we want

to make sure they have the instruments that they need and the proper understanding. He stated that the legislation has some areas that are being worked on as quickly as possible to get cleared up. He stated that as Secretary of Agriculture and as Chair of the SADC this is one of his highest priorities so everyone knows what needs to be done and what can and cannot be done on preserved and nonpreserved farms.

Dr. Dey asked if Secretary Fisher saw any major changes within the Department of Agriculture as a result of the on-going directive to streamline government. Chairman Fisher stated that speaking for the Department of Agriculture we are always looking to be efficient. However he does not see any major changes at this juncture but that doesn't mean it cannot happen.

REPORT OF THE EXECUTIVE DIRECTOR

Ms. Craft discussed the following with the Committee:

➤ Dual Appraisal Statute

Ms. Craft stated that the dual appraisal statute that allows the extension of the dual appraisal provisions in the Highlands passed the legislature and is awaiting the signature of the governor to become law.

➤ Financial Disclosure Forms

Ms. Craft reminded the Committee that financial disclosure forms are due by August 25th. She advised the Committee members that if they have not already done so to please file their forms.

➤ FY 2010 Fiscal Report

Ms. Craft stated that due to the full agenda she will defer the FY 2010 Fiscal Report until the September meeting.

COMMUNICATIONS

Ms. Craft reminded the Committee to take home the various articles provided in the meeting binders. There are a lot of articles on wind/solar projects throughout the country. She referred the Committee to a letter addressed to Pittsgrove Township Mayor Linda DuBois from the SADC. She stated that all of the counties and funding partners received a similar letter. The SADC has gotten some understanding that some property owners and some municipalities are

thinking that in light of the solar/wind statute it was necessary for anyone seeking to construct solar/wind/biomass facilities on farms had to go the county agriculture development board (CADB) for right to farm protection. The letter dated July 7th from Secretary Fisher to Ms. DuBois was intended to clarify the fact that there is nothing in the statute that requires a property owner to get right to farm protection and the letter goes on to briefly explain what right to farm protection is. The NJ Farm Bureau and Stated Board of Agriculture also received a similar letter.

PUBLIC COMMENT

Dan Kennedy from the Burlington County Agriculture Development Board asked if the Committee commented on the FY 2011 funding allocation that is an agenda item on today's agenda. He stated that the goal of transitioning from the county Planning Incentive Grant Program into the new program with competitive funds is that we are trying to provide incentives to counties that spend money quickly. He finds in the FY 2011 appropriation that staff is recommending having a lower grant fund than last year, including counties that have neither encumbered nor expended any funds from their last year's funds. He feels that it is somewhat inconsistent with the goals of this program. He asked the Committee to consider that as it moves forward. One of the goals was to give incentives to counties to not only get applications approved but to get them to final approval and to spend those funds. The commitment was that if the counties did that there would be a benefit on the back end. The baseline fund is being reduced to \$1.5 million from \$2 million and every county seems to be getting that baseline funding whether they merit it or not. He feels that the SADC should keep the funding at \$2 million and reconsider giving base funds to counties that have not expended or encumbered funds.

Ms. Craft stated that staff recommendation is consistent with the regulations for the new planning incentive grant program that requires looking back to assess performance of the two previous fiscal years. There has only been one round of funding for this program to date. Therefore, the rules clearly contemplated giving grants for two years and then in the third year the SADC will start to look back. The regulations have performance measures stipulated in them so if you haven't spent "x" amount you get less of a base grant and if you haven't spent "y" amount you get even a smaller base grant. Staff is trying to make sure that every county had the opportunity to maximize its performance consistent with the rule. Next year, when the SADC allocates funds it will absolutely be looking at 2009 and 2010 fiscal year expenditures. She stated that there will be further discussion during the presentation of that agenda item today.

NEW BUSINESS

A. Reorganization

1. Appointment of Vice Chairperson

It was moved by Mr. Germano to nominate Alan Danser to be re-appointed as Vice Chairperson of the SADC. There were no other nominations. Ms. Reade seconded the nomination. The motion was unanimously approved.

It was moved by Dr. Dey and seconded by Mr. Germano to approve Alan Danser to be re-appointed as Vice Chairperson of the SADC. The motion was unanimously approved.

2. August 2010 through July 2011 SADC Meeting Dates

Ms. Craft referred the Committee to the Regular Meeting Dates for the SADC from August 2010 through July 2011. She stated the list indicates a meeting date for the month of August. That date is being reserved in the event the SADC needs to call a meeting; however, she does not anticipate having an August meeting. She stated that the months of October and November are combined and that the Committee will meet the first Thursday of the month in November due to the holiday season and that the Committee will meet the second Thursday in December, also due to the holiday season.

It was moved by Dr. Dey and seconded by Mr. Danser to accept the August 2010 through July 2011 meeting dates for the State Agriculture Development Committee as presented and discussed. The motion was unanimously approved (A copy of the August 2010 through July 2011 meeting dates is attached to and is a part of these minutes.)

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

Ms. Craft referred the Committee to the Eight Year Program Summary for FY2011 for renewals, terminations and withdrawals of eight year programs, listing three (3) terminations of eight year programs, the first being the Henry, Roy and Scott Daum Farm in Manalapan Township, Monmouth County, which was permanently preserved on November 17, 2006 (SADC # 1328-02F-01/ #13-0299-PG). That farm had \$13,944.61 in soil and water conservation cost share eligibility at the time the eight-year program terminated. The second termination was the Harold P. and Cynthia M. Sagar Farm, located in Pemberton Boro, Burlington County (SADC # 0329-13F-01/03-0012-8F). That farm was not permanently preserved and had \$38,218.00 in soil and water conservation cost share eligibility at the time of termination. The third termination was

for the Louis Cyktor IV farm in Delaware Township, Hunterdon County (SADC #1007-06M-01/10-0003-8M) and had \$5,268.00 in soil and water conservation cost share eligibility at the time of termination and was not permanently preserved. There was one renewal of an eight year program for the Frank, Michael and William DiMeo farm, located in the Town of Hammonton, Atlantic County (SADC # 0113-14F-03/01-8876-8F) and has a soil and water conservation cost share eligibility amount of \$1,998.00. It is noted that this landowner is enrolled in three other eight year programs with acreage totaling 109.9 acres with a total soil and water conservation cost share eligibility of \$40,990.00. With the inclusion of this eight year program (09-086-8F) to the other three programs the total eligibility of \$42,988.00 is based on 129.88 acres. There are no withdrawals of eight year programs this month.

Ms. Craft indicated that the summary was for informational purposes only and that no action is needed by the Committee.

C. Soil and Water conservation cost Share Grant Requests

Mr. Lofberg referred the Committee to the Status of FY 2009, FY 2010 and FY 2011 Funds for the Soil and Water conservation Project Grants Program. He stated that there is \$306,805.43 available for soil and water conservation cost share grant projects as outlined on the Status Report. He referred the Committee to Projects for Funding Summary showing nine (9) requests for soil and water costs share grants under Priority # 1 and three (3) requests under Priority # 2 for a total of twelve grant requests before the Committee today and one request for extension of a soil and water cost share grant. He indicated that if the Committee approves today's grant requests the remaining balance will be \$21,444.97.

Mr. Lofberg reviewed the soil and water cost share grant requests with the Committee and stated that staff recommendation is to grant approval to the twelve cost share grant requests as presented and discussed. Ms. Reade stated that she would be recusing from the discussion and vote for the Cumberland and Salem County cost share requests. Ms. Reade is a supervisor for the Cumberland and Salem Soil Conservation Districts.

It was moved by Mr. Siegel and seconded by Dr. Dey to approve Resolutions (FY2011R7(1) through FY2011R7(3), Resolution FY2011R7(5) through FY2011R7(7), and Resolution FY2011R7(10) through FY2011R7(12), granting a soil and water conservation cost share grant to the following landowners, as presented and discussed and subject to any conditions of said Resolutions:

PRIORITY # 1

ATLANTIC COUNTY

1. Columbia Fruit Farm (Resolution FY2011R7(1))
SADC #01-0002-PN/01-0118-8F/01-0110-8F/01-0088-8F/01-0087-8F/01-0019-8F/01-0119-8F/01-0103-8F/01-0018-8F
Town of Hammonton, Atlantic County, 323 Total Acres
Cost Share Grant Amount: \$23,520.00 under Obligation # 1 *

* Note: The soil and water conservation cost share project is associated with SADC # 01-0002-PN)

BURLINGTON COUNTY

1. Dah Wah Farm, LLC (Resolution FY2011R7(2))
SADC #03-0003-EP
Chesterfield Township, Burlington County, 100.400 Acres
Cost Share Grant Amount: \$33,042.50 under Obligation # 1
2. Eleanor Kirkbride (Resolution FY2011R7(3))
SADC #03-0049-PN
Southampton Township, Burlington County, 152.538 Acres
Cost Share Grant Amount: \$42,350.00 under Obligation # 1

GLOUCESTER COUNTY

1. Herman Wagner (Agent - David Duffield) (Resolution FY2011R7(5))
SADC #08-0038-EP
Elk Township, Gloucester County, 130.620 Acres
Cost Share Grant Amount: \$16,590.00 under Obligation # 1

HUNTERDON COUNTY

1. Melick Clinton LLC (Resolution FY2011R7(6))
SADC # 10-0078-FS
Clinton Township/Lebanon Boro, Hunterdon County, 128.838 Acres
Cost Share Grant Amount: \$37,087.50 under Obligation # 1

OCEAN COUNTY

1. South Land Farms, Inc. (Eng & Huie) (Resolution FY2011R7(7))
SADC #15-0005-DE
Plumsted Township, Ocean County, 179.768 Acres
Cost Share Grant Amount: \$26,554.23 under Obligation # 1

PRIORITY # 2

BURLINGTON COUNTY

1. Estate of Patricia Kahoun c/o Kris Kahoun (Resolution FY2011R7(10))
SADC #03-0010-8F
Woodland Township, Burlington County, 47 Acres
Cost Share Grant Amount: \$2,400.00 under Obligation # 1 *

*Note: Approval of the Kahoun soil and water conservation cost share grant is conditioned upon the completion of the project prior to the expiration of the eight year program, which is May 9, 2011.

2. Peter and Ethel Brower (Resolution FY2011R7(11))
SADC #03-0027-8F
Woodland Township, Burlington County, 95 Acres
Cost Share Grant Amount: \$11,250.00 under Obligation # 2 *

* Note: Approval of the Brower soil and water conservation cost share grant is conditioned upon the completion of the project prior to the expiration of the eight year program, which is October 16, 2011.

GLOUCESTER COUNTY

1. Joseph A., Rosanne T. and Sandra G. Finocchiaro (Resolution FY2011R7(12))
SADC #08-0028-8F
Woolwich Township, Gloucester County, 28.950 Acres
Cost Share Grant Amount: \$17,370.00 under Obligation # 1

Dr. Dey inquired regarding the three projects that will be installing irrigation wells. He asked if they already have written approvals from the NJ Department of Environmental Protection (NJDEP) Water Allocation Unit that water is available so that when they drill

the wells will they be able to get a certification. Mr. Lofberg stated it was his assumption that they received that and that the landowners would not be digging a well if they could not get water. Dr. Dey replied that there have been many wells that have been dug because they could get a permit to dig the well but then they could not use the water because they were not able to get a certification. Ms. Craft stated that these projects have been approved by the State Soil Conservation Committee but she is not sure if a certification was received. Mr. Lofberg stated that the request has gone through the Soil Conservation District, the NRCS and the State Soil Conservation Committee. Dr. Dey stated that there is very little new water supply and so the Committee could be approving funding that will not be expended. Ms. Craft stated that staff can check on the status of all of the well applications to make sure they are viable projects and if they are not staff will come back to the Committee and unencumber funding for those, if necessary.

The motion was unanimously approved. (A copy of Resolutions FY2011R7(1) through FY2011R7(3), Resolutions FY2011R7(5) through FY2011R7(7), and Resolutions FY2011R7(10) through FY2011R7(12) is attached to and is a part of these minutes.)

Ms. Reade recused herself from any discussion and action pertaining to the soil and water conservation cost share grant requests for Cumberland and Salem Counties to avoid the appearance of a conflict of interest. Ms. Reade is a supervisor for the Cumberland/Salem Soil Conservation District.

It was moved by Mr. Danser and seconded by Dr. Dey to approve Resolution (FY2011R7(4), Resolution FY2011R7(8) and Resolution FY2011R7(9) granting a soil and water conservation cost share grant to the following landowners, as presented and discussed and subject to any conditions of said Resolutions:

PRIORITY # 1

CUMBERLAND COUNTY

1. Sikking Farms, LLC (Resolution FY2011R7(4))
SADC #06-0183-EP
City of Vineland, Cumberland County, 32.200 Acres
Cost Share Grant Amount: \$8,748.00 under Obligation # 1

SALEM COUNTY

1. Rosemary Yetneck (Agent-Maugeri Farms, LLC Agent) (Resolution FY2011R7(8))
SADC # 17-0012-NP
Carney's Point Township, Salem County, 78.200 Acres

Cost Share Grant Amount: \$35,640.00 under Obligation # 1

2. William N. & Diane Brooks (Agent-Dusty Lane Farms, LLC) (Resolution FY2011R7(9))
SADC #17-0016-EP
Upper Pittsgrove Township, Salem County, 377.786 Acres
Cost Share Grant Amount: \$30,808.23 under Obligation # 4

The motion was approved. (Ms. Reade recused herself from the vote.) (A copy of Resolutions FY2011R7(4), FY2011R7(8) and FY2011R7(9) is attached to and is a part of these minutes.)

SOIL AND WATER CONSERVATION COST SHARE GRANT EXTENSION REQUEST

Mr. Lofberg reviewed the specifics of the request for an extension of a soil and water conservation cost share grant as presented to the Committee on the Extension of Project Approvals Summary for Randal and Laura Peck. The landowner has indicated that the reason for the extension request is that his property has about one (1) mile of frontage along the New Jersey Turnpike. As part of the Turnpike road widening project, the Turnpike has placed a temporary construction easement on the northwest corner of the property, which is in the location of the irrigation wells to be installed. The easement expires at the beginning of calendar year 2011. The irrigation wells were planned for this area of the farm and installation of the wells cannot be done until the temporary construction easement is lifted. Staff recommendation is to approve the request for extension.

It was moved by Mr. Germano and seconded by Mr. Danser to approve Resolution FY2011R7(13) granting an extension of a soil and water conservation cost share grant to Randal and Laura Peck, SADC # 11-0025-EP, East Windsor Township, Mercer County, in the amount of \$24,400.00, for a twelve month (12) period, which will expire on July 26, 2011, as presented and discussed and subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY2011R7(13) is attached to and is a part of these minutes.)

D. Right to Farm – Agricultural Mediation Program FY 2010 Update

Mr. Kimmel referred the Committee to the FY 2010 Update Summary for the Right to Farm program and the Agricultural Mediation Program. He also referred the Committee to Resolution FY2011R7(14) for the recertification of the roster of mediators. Mr. Kimmel reviewed the specifics with the Committee on both programs and he indicated

that staff recommendation is to recertify the list of mediators for the Agricultural Mediation Program as presented and discussed.

Mr. Schilling stated that these are vital programs that are under-resourced. He stated that the summary report shows 21 right to farm cases that dealt with farm markets, 11 related to agritourism and some related to wineries. He felt that there should be some discussion regarding securing USDA funding consistent with some of the priorities that the SADC has to help farmers manage liability.

It was moved by Dr. Dey and seconded by Mr. Germano to approve Resolution FY2011R7(14) recertifying the list of Agricultural Mediation Program Mediators, as presented and discussed and subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY2011R7(14) is attached to and is a part of these minutes.)

E. Request for Final Approval – New Rule Municipal Planning Incentive Grant Program

1. Sara & Goren Farm, Pittsgrove Township, Salem County

Ms. Winzinger referred the Committee to Resolution FY2011R7(15) for a request for final approval on the LilaMae Sara and Shirley Goren farm, located in Pittsgrove Township, Salem County, comprising 38 acres. She reviewed the specifics with the Committee and stated that staff recommendation is to grant final approval.

It was moved by Dr. Dey and seconded by Ms. Rendeiro to approve Resolution FY2011R7(15) granting final approval to the following landowners:

1. LilaMae Sara and Shirley Goren
Block 2001, Lots 9, 10, 11; Block 2003, Lot 21, Pittsgrove Township, Salem County, 38 Acres
State cost share grant at \$4,800.00 per acre for an estimated total of \$182,400.00 (61.54% of the certified market value and purchase price.)

The motion was unanimously approved. (A copy of Resolution FY2011R7(15) is attached to and is a part of these minutes.)

F. Request for Final Approval – State Acquisition Program (Easement)

1. Nelson Farm, Upper Pittsgrove Township, Salem County

Mr. Knox stated that there are two requests for final approval under the State Acquisition Program. He reviewed the specifics of each applicant and stated that staff recommendation is to grant final approval. He noted that the Bonaccorso farm was scheduled as an agenda item for this month but has been removed due to staff still being in negotiations with the landowners. It is his hope to have it before the Committee at the September meeting.

It was moved by Mr. Danser and seconded by Dr. Dey to approve Resolution FY2011R7(16) granting final approval to the Jesse and Vernetta Nelson farm, Block 46, Lot 7; Block 49, Lot 3, Upper Pittsgrove Township, Salem County, totaling approximately 168 net acres at a value of \$6,200.00 per acre for approximately \$1,041,600.00, as presented and discussed and subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY2011R7(16) is attached to and is a part of these minutes.)

2. Pochuck Valley Farm, Vernon Township, Sussex County

Note: Ms. Brodhecker recused herself from any discussion or action pertaining to the Pochuck Valley farm located in Sussex County to avoid the appearance of a conflict of interest. Ms. Brodhecker is the Chairperson of the Sussex County Agriculture Development Board.

It was moved by Mr. Germano and seconded by Mr. Danser to approve Resolution FY2011R7(17) granting final approval to the Harry and Barbara Vance farm, Block 22, Lot 1; Block 30, Lot 1; Block 31, Lot 1, Vernon Township, Sussex County, totaling approximately 177 net acres, at a value of \$3,500.00 per acre for approximately \$619,500.00, as presented and discussed and subject to any conditions of said resolution. The SADC approves the use of funding pursuant to SADC F2006 Highlands Preservation Appropriation Expenditure Policy – Amended, which authorizes the use of Highlands funds to support additional applications in all farmland preservation programs where demand for funding has outstripped otherwise approved SADC funding. The motion was approved. (Ms. Brodhecker recused herself from the vote.) (A copy of Resolution FY2011R7(17) is attached to and is a part of these minutes.)

G. Farmland Stewardship

1. Pre-Closing Division of the Premises
 - a. Fenwick Manor/Thompson Farm, Pemberton Township, Burlington County

Mr. Roohr referred the Committee to Resolution FY2011R7(18) regarding the Fenwick Manor Farm F.L.P. & Stephen Thomas, known as Block 846, Lot 6 and Block 848, Lots 32.01 and 32.02 in Pemberton Township, Burlington County. The request is for a pre-closing division of the premises. This property received final approval in January. Since the initial application, the Fenwick Manor Farm F.L.P. has transferred ownership of the three blocks and lots (referred to as Parcel "B" to Stephen Thompson, one of the original partners of Fenwick Manor Farm F.L.P., individually. The owners propose to divide the premises to market Parcel "A" for sale. Stephen Thompson would retain ownership of Parcel "B" to continue his existing alpaca operation. Parcel "A" is currently managed by Stephen Thompson as an equine boarding and grain farm. The owners find it necessary to divest themselves of Parcel "A" to resolve financial issues resulting from a divorce settlement agreement. The Burlington CADB approved the pre-closing division of premises on May 13th. He stated that there are seven (7) criteria that must be met in order to approve a pre-closing division, five are more technical criteria and two are the same as any other request for a division of the premises where the division must meet the agricultural viability and purpose test. He stated that the five technical tests would likely be met. He referred the Committee to the draft resolution.

Mr. Roohr stated that the resulting Parcel "A" would result in approximately 62.5 acres and would include several barns, outbuildings and fenced paddocks and an 18-acre field currently in grain production. It would also include a 1.5 acre nonseverable exception for a future residence. Parcel "B" would result in approximately 32.4 acres and would include a single family residence and severable barns on a 2-acre nonseverable exception and a barn and fenced paddock on the preserved portion of the farm. It consists of approximately 12.5 acres of pasture used for pasturing the alpacas.

Mr. Roohr stated that in July staff visited the site and found that the premises is being managed as two distinct operations, each with its own utilities and infrastructure and physically separated by a stream and railroad bed.

SADC staff finds that the agricultural viability of Parcel "B", consisting of 32.4 total acres, containing 13.8 tillable acres and 20.4 acres of prime soils is insufficient in size to sustain a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from its agricultural output. Regarding agricultural purpose, staff finds that 1) Stephan Thompson intends to retain ownership of Parcel "B" and will continue to raise, breed, and sell alpaca and their fiber; 2) Parcel "A" is being put on the market for resale and currently lacks a ready buyer; and 3) the transfer of Parcel "A" is being prompted by the need of the Owners to divest themselves of that parcel, which is not an agricultural purpose. Staff concern was that the small amount of tillable acres on Parcel "B" would not meet the SADC's viability test. He stated that the SADC has not approved a division that small in the past unless it was permanently attached to an adjacent preserved farm.

Mr. Roohr stated that based on the lack of agricultural viability, staff did not engage in an extensive review of the agricultural purpose or other requirements for a pre-closing division of premises and therefore is not making a determination on those aspects of the request. He stated that staff is recommending that the owners have not demonstrated that the division of the Premises will result in agriculturally viable parcels pursuant to N.J.A.C 2:76-6.14A and Policy P-30-A and recommends denial of the application for a pre-closing division of the Premises.

Mr. Siegel asked if Parcel "B" came in on its own would it meet the minimum standards. Mr. Roohr stated that it may be very close. There is some acreage on the back of the parcel that is wetter and it might be able to be cleared, but there are some portions of it that is not being preserved.

Dan Kennedy addressed the Committee in support of the request. He stated that the county has a survey that was done and it states 28 acres under easement, when you take out the road right-of-way. The title clouded issue in the rear of this parcel will not be resolved before closing. From the Burlington CADB's perspective they are adjusting the denominator in that calculation from 32 acres from the SADC staff's perspective to 28 acres based on the survey. Both owners made their primary income from agriculture, even prior to their divorce. When the application first came to the county the offer and the acceptance of the offer was made without any knowledge of the pending divorce. This issue came to the county after contracting with the landowners. The county's position is that it moves forward or it loses the opportunity to preserve this farm and then they would have to deal with a whole new round of appraisals, which the county did not want to do. Besides the divorce situation these have historically been stand along farm operations. One is an equine operation and the other is an alpaca operation. According to the landowners' tax forms most of the nontillable acres, according to Burlington County's maps, is land that attributes or benefits the farm, such as lumber or fencing for

on the farm use, protection from wind and erosion, water conservation or buffer areas for neighbors. Therefore, the wooded piece of the property may not be tillable but it does support the agricultural operation. He asked that the Committee consider all this in its deliberations. He stated that based on its history it has demonstrated that it is a viable farm as a separate farm. Given the nature of the soils, Burlington County believes that a grass pasture regime, whether it supports alpacas, horses, dairy or beef cattle, would present a number of options for the owner or another farmer down the road. This sector of agriculture does not require a large tract of land to achieve the economy and scale that are required for areas like grain farming and dairy farming. It is a great farm and Burlington County has been trying to preserve this farm for the last ten years, if not longer. He felt that the precedent is less because this is not a post-closing division but a pre-closing one with different regulations and different standards.

Mr. Siegel asked if the owners were grazing their animals in the woods. Mr. Kennedy stated yes on the edge of the woods. He stated that the shade of the woods has value to the animals also. Mr. Siegel stated that livestock operations do stabilize the woods. He asked if the owners have considered preserving only Parcel "A" and then re-apply later with Parcel "B". Mr. Kennedy stated that this property is in the Pinelands and the values are predicated on Pineland Development Credits (PDCs) so the other lot would have to be reappraised, which would be like starting all over. He felt that the value of having both of these pieces preserved would be better.

Ms. Craft stated that she understands completely the desire to fill in the gaps in the Pinelands and achieve permanent land protection and equity protection but the question beyond the targeting and the need to preserve the property is one of precedent in Burlington County's program in terms of subdividing preserved farms. That is the weight of the decision, which is what does it mean to every other farm that is preserved in Burlington County and their ability to come in and carve off thirty acres, only half of which is tillable. Mr. Kennedy stated that if they had any sort of standards to point to from the State they would apply them but as right now there isn't any. He stated that they have asked previously for more guidance for passing these tests. He stated that when the SADC says that thirteen acres isn't considered viable, then what would be. He stated that they are taking it farm by farm and his board and freeholders found that this particular one made sense.

Mr. Kennedy stated that an action of the Committee could be not to take action on Burlington County's request and direct staff to do a revised final approval, where Burlington County would receive a cost share on Parcel "A" and does not cost share on Parcel "B" but the SADC's name appears on the deed of easement. Mr. Siegel stated that you should then file a new application for Parcel "B" and let it stand on its own. Mr. Kennedy stated that Burlington County will proceed with preserving these properties and it would like to have its partners at the table. He stated that he thinks that they will stay

the course and preserve it this way and hopefully have the state's support for this good project, and if that means scaling back the payable acres to just Parcel "A" under the current grant agreement they would be amenable to that to avoid this division request. Ms. Craft stated that if the county is suggesting that either 1) the SADC act on the resolution as it is and then it explores what other alternatives there are in terms of configuring an application that may be entertained by the Committee as an option and 2) if the county is withdrawing this request that is a different action. She stated that what is before the Committee is a request for a pre-closing subdivision.

Mr. Siegel stated that he was willing to support this but he was interested in making sure that the whole deal didn't go away because it seems that they can proceed with only Parcel "A". He stated he would move the resolution to support staff's recommendation with the information that they can adjust the application and limit it to Parcel "A" only. He stated that his suggestion is not part of the resolution as drafted and that Burlington County would have to be amenable to that.

It was moved by Mr. Siegel and seconded by Mr. Danser to approve Resolution FY2011R7(18) accepting SADC staff recommendation to deny a request by Fenwick Manor Farm F.L.P., owner of Block 846, Lot 2.01, Pemberton Township, Burlington County, 62.5 acres, and Stephan Thompson, owner of Block 846, Lot 6, Block 848, Lots 32.01 and 32.02, Pemberton Township, Burlington County, approximately 32.4 acres, for a pre-closing division of the Premises on the basis that the division does not result in agriculturally viable parcels pursuant to N.J.A.C. 2:76-6.14A and Policy P-30-A, as presented and discussed. A roll call vote was taken as follows:

Douglas H. Fisher, Chairperson	OPPOSE
Richard Boornazian (rep. DEP Commissioner Martin)	OPPOSE
Donna Rendeiro (rep. DCA Commissioner Grifa)	YES
Ralph Siegel (rep. State Treasurer Sidamon-Erstoff)	YES
Brian Schilling (rep. Executive Dean Goodman)	ABSTAIN
Jane R. Brodhecker	YES
Alan A. Danser	YES
James Waltman	ABSENT
Denis C. Germano	ABSTAIN
Torrey Reade	YES
Stephen P. Dey	OPPOSE

The motion carries: 5 Yes Votes; 3 Oppose Votes, 2 Abstain Votes, 1 Member Absent.
(A copy of Resolution FY2011R7(18) is attached to and is a part of these minutes.)

Mr. Schilling stated that if you look at the structure of American and New Jersey agriculture the USDA has a farm topology. The dominant characteristic of agriculture is small, low-revenue farms and they persist and have for decades. He understands the variety of agricultural uses and month after month goes by and we are struggling with understanding what the motivation for farming is and that is going to dictate how much viability can be drawn from the property. He is having trouble applying the SADC's test and he doesn't know if you can even put a quantitative standard on what is viability. Mr. Danser stated that it is difficult to establish a quantitative standard. He would be perfectly happy to consider that last item as an individual application. He commented that staff indicated that since they reached their viability conclusion they didn't even look at agricultural purpose. Clearly given the way the Committee has looked at all the other divisions for agricultural purpose, he felt that this would not be approved. One of his objections is that he felt it affects the value and he felt it should be reappraised if it is going to be two parcels. However, he is perfectly happy with Mr. Siegel's idea and he thinks it is great to have Parcel "B" as a severable exception, close on Parcel "A" and have Parcel "B" reapply and if the county wants to take care of that on its own, it would be up to them.

Mr. Siegel stated that regarding Mr. Schillings's point the position that laypeople who sit on this Committee is that we have to rely on staff judgment on viability. He stated that what Mr. Schilling is suggesting is that there should be a staff conference with him and perhaps others but not directly involving the Committee for which that question can be addressed. Possibly staff is being too conservative in its viability recommendations. However, from where he sits you have to lean on those professional recommendations because the Committee is not here to replace staff's professional judgment. He felt that this meeting would be a good idea because he hears about this issue outside of the Committee as well. Ms. Craft stated that if the Committee wants to get into a discussion about what is a better way to evaluate viability, in her mind we have to balance what may be prevalent out there in terms of small farms and low profitability, because that makes up much of the farmland landscape, with what makes up most of the agricultural industry. Those are not necessarily small, boutique kinds of farms. The contribution of the agricultural industry is typically from very large, contiguous operations. Her thinking is that we are protecting this land base for the future of the agricultural industry and if we are very liberal in chopping it up into little boutique farms we are going to lose that agricultural industry. Once it is chopped up it doesn't come back. Mr. Schilling stated that is a very good distinction. Is it that this parcel and this decision is going to perpetuate viability of the industry or is it going to result in a piece of land that would support a business and operation. Presuming viability means sustainability, the fact is that you've had small farms perpetuate for years and in many ways are more sustainable than larger farms. He stated that he had this debate with mid-west farmer friends often. He felt that an important distinction is, is it a parcel by parcel determination or is it a

determination that the parcel is going to contribute to the viability of the overall industry.

2. House Replacement Request
Deerbrook Farm, Franklin Township, Warren County

Mr. Roohr referred the Committee to Resolution FY2011R7(19) for a request to replace a single family residence on the Deerbrook Farm LLC, known as Block 61, Lots 3 and 4 in Franklin Township, Warren County and Block 28, Lot 6, Greenwich Township, Warren County, comprising 185.79 total acres. The owner proposes to replace the existing residence on the premises with a new residence for the property manager, James Lyon. The proposed new house will be built in a partially wooded area behind the current farmstead complex in an area where a pole barn type shed exists now and the new house will utilize the existing farm lane as the driveway. The new house is proposed to be 3,400 square feet of heated living space to replace the original house which was approximately 2,000 square feet of living space and 900 square feet of attached smokehouse/butcher area. Staff has verified that the existing house is not included on the NJ Register of Historic Places. The existing home sits within a floodplain and has been flooded by the river on several occasions and the house is in disrepair with structural problems related to a fractured foundation and other problems. The Warren CADB has approved the replacement request. Staff recommendation is to approve the request as presented and discussed with an approval period for three years from the date of the resolution.

It was moved by Dr. Dey and seconded by Ms. Brodhecker to approve Resolution FY2011R7(19) granting a request by Deerbrook Farm, LLC, owner of Block 61, Lots 3 and 4, Franklin Township, and Block 28, Lot 6, Greenwich Township, Warren county, 185.79 total acres, to replace an existing single-family residence with a new single family residence, consisting of approximately 3,400 square feet of heated living space, in the located as presented and discussed and that this approval is valid for a period of three years from the date of this resolution.

Mr. Danser inquired if the resolution stated that the old residence has to be taken down in a given amount of time, and if not he felt that it should. Mr. Roohr stated that it does not and typically these resolutions do state that and he would add that language to the resolution. Typically the resolutions say within thirty to sixty days of receipt of a certificate of occupancy the old residence has to come down. Chairman Fisher suggested sixty days. Dr. Dey and Ms. Brodhecker amended their motions to reflect this.

The above motion and second is amended to reflect that the landowner will have sixty days to remove the existing residence from the date he receives a certificate of occupancy for the new residence. The motion was unanimously approved. (A copy of Resolution FY2011R7(19) is attached to and is a part of these minutes.)

3. Review of Activities on Preserved Farm - Residential Encroachment
Schnetzer Farm, Franklin Township, Warren County

Chairman Fisher recused himself from any discussion or action pertaining to this agenda item to avoid the appearance of a conflict of interest. Nancy Schnetzer Trivette is a party to this action against the SADC and she is an employee of the Department of Agriculture. Vice Chairman Danser presided over the meeting at this point. A court reporter was also present to take a transcript of this agenda item.

Mr. Baumley referred the Committee to a staff memorandum dated July 16th regarding an encroachment on a preserved farm involving the Joel and Ann Schnetzer farm, located in Franklin Township, Warren County. The Schnetzers were former dairy farmers in Warren County and also own and farm various tracts of land in the area. They were nearing the completion of their new home on the 7 ½ acre property in the spring of 2009 when the encroachment on the adjacent 21-acre preserved farm was realized. Mr. Schnetzer and his sister Nancy Trivette had inherited the farm from their uncle upon his death in 2008. Mr. Schnetzer has acknowledged the encroachment as being his error. It was not known that there was an encroachment until the house was fully constructed. The Warren CADB is the holder of the easement on the preserved farm and it has been involved in this process. The Schnetzers have filed a civil action against the SADC and the Warren CADB requesting relief from the deed of easement restrictions.

Mr. Baumley stated that this issue poses a problem not only from an encroachment standpoint but there are also lot line differences and a boundary line issue of two townships. In addition, he cannot get any certificate of occupancy locally because of the encroachment. The Committee's concern here is that you have an encroachment of a property that is not preserved adjacent to a preserved farm, where the encroachment is located. The Schnetzers are present today to present their comments.

Mr. Baumley reviewed the background information with the Committee as outlined in the July 16th memorandum. He stated that the encroachment includes a portion of the house of approximately nineteen feet, a septic tank and a concrete retaining wall. He stated that staff had the opportunity to meet with the Schnetzers, their attorney, the Warren County counsel and the State Deputy Attorney General a few weeks ago to discuss alternatives. Staff asked that the Schnetzers provide an appraisal of the new house along with certified cost estimates for relocation of the dwelling, including the construction of a new basement, relocation of the septic tank, removal of a concrete retaining wall and filling of the current basement. The estimates that the Schnetzers provided totaled almost \$275,000.00. He stated that the appraised value of the new home was estimated at

\$350,000.00. This issue is in the Court and Mr. Stypinski, the SADC's Deputy Attorney General has already attended some sessions with the Judge. Mr. Stypinsky stated there is another hearing on August 20th to discuss what direction the Committee has given. The Schnetzers initially suggested resolution of the encroachment through a lot line adjustment but later felt it would not be a viable option due to estate planning, which includes the transfer of ownership of the 21-acre preserved farm to their daughter who lives on another adjacent unreserved lot. They felt that encumbering the premises with the new house would create a problem for that plan. The preserved farm is owned by Mr. and Mrs. Schnetzer and Mr. Schnetzer's sister, Nancy Trivette.

Mr. Danser reminded the Committee that there is a court reporter present to take a transcript of this agenda item and since this is a legal matter and is going to go into closed session he asked that if anyone had a specific question that would be fine but do not make comments or conclusions or offer any suggestions. Mr. Stypinski stated that if the Committee had any legal questions they should present them in closed session. Should the Committee entertain a discussion regarding settlement it should be done in closed session.

Mr. Schnetzer was sworn in by the court reporter and he addressed the Committee. He stated that Mr. Baumley did an excellent job in letting the Committee know that the responsibility for this mistake lies with him. He grew up on this farm. He reviewed aerial maps with the Committee. He stated that the new home was constructed in the "D" area shown on the map. There are two conservation terraces that were constructed before he was born. The way he made the mistake was that he assumed that the lower bow shown on the map was the property line. He gave a brief overview of how his farm was preserved, which he feels will help in what he is trying to accomplish. Section A, which is Schnetzer Farms, is the corporation farm. It was preserved in 1992 and that is where the farm buildings are and it has changed from a dairy farm to a grain farm. Farm B is the area that he encroached on. That was preserved in 1994 and consists of 20 acres. Farm C is an important part of this whole process. The home that he grew up in, which sits on its own lot and has nothing to do with any farm holdings is where his daughter lives. Farm E is now owned by himself and his wife, which he inherited from his mother. Farm F is sixty-six acres and would be the last part of the group to be preserved and the closing on that is pending. He stated that they purchased and paid for all of their farmland through the years with the money generated from their farm being dairy farmers. They carved off no lots to lower the mortgage so they did it with on farm income. He didn't want to be a farmer in Warren County without paying for the farm. He just finished paying the mortgage on Farm F the year they started the house. He wanted to give the Committee a sense of what type of people they are. Farm viability, it is refreshing to hear all of the discussion today and it means more to him and his wife more than anything because with 328 acres of contiguous property was the goal of his family predecessors. His concern is, after he made the encroachment mistake, that he and

his wife are looking to the future, as they always have. They have just settled his uncle's estate and he made it clear at the meeting with SADC staff and Mr. Stypinski that his family sent the State of New Jersey 315,000.00 in inheritance taxes. That is not the Committee's fault but he and his wife are committed to not sending the State any more inheritance taxes. He doesn't mind paying his liability but he doesn't want to do it again. His plan was, even prior to building the home, was to begin selling parcels off to his daughter, who wants to continue to farm. She is getting married in September and her future husband has an interest. He wanted to start off with selling her Parcel "B" so that they have something they can hold on to and borrow against to give them incentive and to start an enterprise on their own so that they can be viable. Their plan was to continue to keep the farm as it is with parcels like this that his daughter can continue to buy into. At the June 30th meeting there was some conversation that possibly one of the ways that this encroachment may be fixed would be to merge Lot "D" and Lot "B". He stated that for his estate planning goal, plus the sting of just going through the inheritance tax issue, that would be the last situation he would want to see happen. This 20 acre parcel, Parcel "B" now would be connected to a 7 ½-acre lot with a \$350,000.00 house on it. It would basically take his daughter and future son-in-law out of the picture to purchase it. It goes against the viability of agriculture and their goal to continue to have Schnetzer farms as a viable farm unit. His proposal was a lot line adjustment and, if needed, he and his wife would convey an easement on the rest of their nonpreserved house lot with no compensation. He stated he doesn't expect to get something for nothing. There was a mistake made and they are willing to pay the price, whatever that may be. Their main goal is the future of Schnetzer Farms and to be able to let the next generation to start their enterprise on a piece of property without severely restricting them if those two lots were to get merged. The other more important issue is that should Parcels "D" and "B" become merged there is a possibility in the future that someone may own that lot other than the Schnetzer family. There is no legal access through Farm "B" to get to Farm "E" or Farm "F". What concerns him the most regarding the talk of a merger is that, they know what it is like to buy and pay for farms with what gets generated off the farm so if there was a merger it would restrict his daughter from securing any financing to purchase Farm "B" with the house.

Ms. Reade asked if anyone had suggested merging Parcel "D" with a parcel other than Parcel "B". She was thinking that that if what they are offering is to preserve Parcel "D" by itself it wouldn't meet the minimum standards because it is only seven acres so that might not even be an acceptable solution.

Mr. Danser thanked Mr. Schnetzer and stated that this issue would be discussed further during the closed session portion of the meeting.

Chairman Fisher presided over the meeting at this point.

**H. Review of Non-Agricultural Development Projects in an Agricultural Development Area
Smith Farm and Searles Farm, Washington Township, Morris County**

Mr. Brill referred the Committee to Resolution FYFY2011R7(20) involving a review of a nonagricultural project on Morris County's agricultural development area (ADA) in Washington Township. It involves the Washington Township Municipal Utilities Authority and in its search for new water production in the Schooley's Mountain water service area they have identified well locations on two farms that are located in Morris County's ADA. It has been an 11-month process to obtain a significant amount of information pertinent to the discussion. Some of the supplemental reports have been posted on the SADC Member website for the Committee's review prior to today's meeting.

Mr. Brill stated that this issue involves public bodies and public utilities intending to exercise the power of eminent domain or advance grants, loans, inter-subsidiaries or other funds within an ADA for the construction of nonagricultural projects, including water and sewer facilities to serve nonfarm structures. The requirement involves a notice of intent (NOI). The regulations specify exactly the level of detail required within the NOI. That presentation is made to both the county agriculture development board (CADB) and the SADC at least 30 days prior to the initiation of action and there is some sequencing in that process, which was not followed properly. The NOI must contain a statement of the reasons for the acquisition and the evaluation of alternatives, which would not include action in the ADA. That is an important focus of the efforts. The real intent of the statute with relation to the SADC's responsibility along with the CADB is to determine the effect of the proposed action upon the preservation and enhancement of agriculture in the ADA and involving municipally approved program participants, and overall state agriculture preservation development policies. Therefore this requires a two-part test 1) impact on the ADA and 2) effect on the state agriculture preservation development policies.

Mr. Brill noted that almost half of the farmland preservation activity in Morris County is concentrated in Washington Township. Morris County, in its comprehensive planning process, has chosen to identify parcel specific ADAs, unlike some parts of the state where the designation involves very broad general areas. Morris County has focused on individual tax lots comprising the majority of the active agricultural lands within its county. Mr. Brill reviewed various aerial maps of Washington Township and Long Valley, along with the location of the two farms in question and their proximity to other preserved farms. The county's comprehensive plan also shows some interesting statistics

with respect to state planning areas and clearly this is intended to remain a rural area. It also provides some statistics on irrigation characteristics, which are also involved in the implications of this action. There are a growing number of farms that are involved in irrigation activities with respect to agriculture and a growing number of acres are impacted. The Smith farm, comprising a little over 100 acres and the Searles farm, comprising 56.72 acres, are significantly higher than the county average farm size for 2007, that is down to 40 acres and the median farm size has continued to drop to 13 acres in Morris County, so these are relatively large farms.

Mr. Brill stated that mostly all of Washington Township falls within the Highlands Preservation Area. The Smith farm spills over into Mount Olive Township and is part of an area that has been identified as a high priority area for agriculture. The Searles farm is just adjacent and is a little too isolated to be included in another concentration of agriculture lands with a mix of high, medium and low priority activity but is not far away from other preserved farms. Mr. Brill reviewed the aerial map for Schooley's Mountain, which is largely a plateau between a couple of streams. Both of these watersheds involving the Smith and Searles farms are headwater tributaries for the South Branch of the Raritan River and in the Highlands Plan it has been identified as a deficit sub-watershed in terms of water access issues. It is a critical issue even though much of agricultural activities in this part of Morris County do not necessarily involve irrigation at the moment.

Mr. Brill reviewed the specifics of the issue with the Committee as outlined in the resolution. He stated that the Morris CADB reviewed the issue and found that the proposed action would cause unreasonably adverse effects upon the preservation and enhancement of agriculture in the ADA and upon the overall State agriculture preservation and development policies. It held a public hearing and then the Morris CADB approved a resolution confirming that the proposed action would cause unreasonably adverse effects upon the overall State agriculture preservation and development policies and recommended that the WTMUA withdraw its condemnation action and recommended alternatives as outlined in the resolution.

WTMUA Chairperson Sam Akin, James Gregory, attorney for WTMUA and David Egarian, engineer for W TMUA addressed the Committee in support of the condemnation of the Smith and Searles farms.

Note: Ms. Rendeiro left the meeting at this point.

Mr. Gregory stated that he wasn't sure if the SADC's process or procedures would allow for it but he felt it would be beneficial if there could be a substantive discussion about the well and about the well that is going to be implemented, along with the SADC's concerns and WTMUA's concerns. He felt there were areas, such as the buffers where they could

make commitments, the sharing of capacity, the design of the well, the size/location of the easement, where the pump house is going to be located, how it is going to be constructed, and whether the farmer can farm the area or not. He further stated that they are willing to discuss that and are willing to satisfy some of the SADC's concerns. They have not had that forum. He would be more than willing to sit and discuss these issues.

Mr. Brill stated that the staff finds that the condemnation action would cause unreasonably adverse effects on the ADA and State agricultural preservation and development policies for reasons listed in the resolution and directs the WTMUA to take no further action on the condemnation of these two farms for sixty days, during which time a public hearing shall be held by the SADC and a written report containing the recommendations of the Committee be made public.

Ms. Craft stated that a lot of this issue boils down to the fact that the statute required the government agencies and the utilities who are proposing to condemn land to have a thoughtful conversation about all the issues that Mr. Gregory just offered to talk about prior to condemning the land. Her biggest problem with the entire issue is that money was spent, decisions were made, and wells were drilled before there was even notification of that to the county or to the SADC. Furthermore, this is in the preservation area of the Highlands. There are 400,000 acres that have been substantially devalued because of that act and that whole act is centered on the preservation of water supply. There should have been a thorough discussion about the alternatives before any drilling and money was spent and should have happened well over a year ago. So now we are in court and the SADC is trying to get the WTMUA to postpone condemnation action so that there can be a thoughtful conversation. That is clearly not the procedure that the Act contemplates. If WTMUA's previous director interpreted it improperly and falsified documents it is not the fault of the SADC. There has been no concrete representation about the impacts to the ability of farmers in this area to use water because we don't know yet. There has been no concrete representation about what that ultimate buffer size will be. The county has not painted a broad area in the ADA and it has been highly strategic in identifying properties that are still substantially contributing to the agricultural industry in Morris County.

Mr. Gregory stated that the WTMUA filed a NOI a year ago and it didn't get a formal object to those NOIs for six months. The statute requires thirty days. There were some discussions about providing the SADC with a little more information but the first letter that these NOIs were deficient came in January of the next year and they had already filed by then. If that letter came within thirty days the course of this issue would have gone somewhat different. He is not saying that they are to blame or that the well permits were not signed improperly. He stated that they were here today and if there is something they can do to make these wells better and to make the SADC feel more comfortable, He asked if they can have a substantive discussion.

Morris County CADB Administrator Jennifer McCullough stated that the Morris CADB was notified at the end of June by the Searles family attorney that they were going to court over the WTMUA's action on their property and their attorney contacted the Morris CADB and asked if an NOI had been filed with Morris County. She stated that they were not aware of these actions on the Searles and Smith farms so they contacted the Executive Director of the WTMUA and said that Morris County needed an NOI from them, which they then received six to eight weeks later in August. The NOI was initiated from a phone call by the Morris CADB. It is also noteworthy on the Searles farm that a consent order has been executed in court that only allows noninvasive testing on their property.

Ms. Craft stated that if there is any aspect of this that the Committee would like to discuss with its attorney, then it could be entertained in closed session prior to the Committee making any decisions. The resolution before the Committee finds an unreasonable impact on the ADA and the agricultural preservation policies of the State. If the Committee comes to that finding then under the Statute the WTMUA cannot proceed any more on condemnation for a sixty day period during which a public hearing would be held and staff would prepare a report. Then whatever that report says would be taken under advisement by the WTMUA, by DEP and by whomever may have impact on what the actual outcome of this permit application will be.

Mr. Germano stated that Mr. Brill's report is enough for him to move the resolution and he didn't feel the need to discuss anything further in closed session. Ms. Reade seconded that.

It was moved by Mr. Germano and seconded by Ms. Reade to approve Resolution FY2011R7(20) finding that the condemnation action would cause unreasonably adverse effects on the ADA and State agricultural preservation and development policies for reasons set forth in said resolution and directs the WTMUA to take no further action on the condemnation of the Smith and Searles farms for sixty days, during which time a public hearing shall be held by the SADC and a written report containing the recommendations of the Committee concerning the proposed acquisitions and community well projects shall be made public. The SADC further finds that if the Secretary of Agriculture finds that the WTMUA is proceeding with the condemnation or any other action with respect to the establishment of community wells in the Morris County ADA that he request the Attorney General to bring an action to enjoin the WTMUA's acquisition and development project. The SADC also concurs with the June 10, 2010 resolution of the Morris CADB. A roll call vote was taken as follows:

Douglas H. Fisher, Chairperson	YES
Richard Boornazian (rep. DEP Commissioner Martin)	YES
Donna Rendeiro (rep. DCA Commissioner Grifa)	ABSENT FOR THE VOTE
Ralph Siegel (rep. State Treasurer Sidamon-Erstoff)	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
Jane R. Brodhecker	YES
Alan A. Danser	YES
James Waltman	ABSENT
Denis C. Germano	YES
Torrey Reade	YES
Stephen P. Dey	YES

The motion was approved. (Ms. Rendeiro was absent for the vote.) (A copy of Resolution FY2011R7(20) is attached to and is a part of these minutes.)

I. FY 2011 Allocation of Funds for Farmland Preservation Programs

Ms. Winzinger and Mr. Lofberg referred the Committee to a staff memorandum dated July 22nd regarding the recommended FY2011 Appropriation Request. She reviewed the specifics of the request for each of the various farmland preservation programs with the Committee and stated that staff recommendation is to approve the request. She stated that if the Committee approves the request staff can announce the availability of these funds and plan ahead for the new year. Chairman Fisher and Ms. Craft stated that Committee approval will be pending appropriation of funds and release of those funds by the Governor's Office. Ms. Craft stated that this is associated with the 2009 bond question. Staff has worked with the Administration and they have supported the SADC being able to move forward on allocations in order for the SADC and its partners to be able to plan but at this point in time there is no specific date upon which this funding will actually be available for closings. Staff will continue to work with the Administration and Treasury before these funds are available for closings.

Ms. Winzinger stated that staff is requesting the appropriation of \$73 million for FY2011 with an allocation of new funding as follows:

Administration:	\$ 3,650,000
State Acquisition	\$ 8,088,316
Municipal Planning Incentive Grant Program:	\$17,261,684
Nonprofit Grant Program:	\$ 5,000,000
County Planning Incentive Grant Program	
Base grants:	\$24,000,000
Competitive Grant Fund:	\$15,000,000
<hr/> TOTAL FUND ALLOCATION	<hr/> \$73,000,000

1) County Planning Incentive Grant Program

For FY11 staff is recommending to appropriate \$24 million with \$1.5 million to each county - except for Camden County which will continue to retain its existing \$2 million Base Grant, but will not receive additional funds in light of having no program activity at this time. Staff is also recommending \$15 million to the Competitive Grant Fund available to all Counties with a **\$3 million cap** per County for FY11 Competitive Grant funds; therefore, some counties could qualify for total SADC grant funds of up to \$4.5 million this year (\$1.5 million base grant and up to \$3.0 million in Competitive Grant Funds). In total, \$39 million is proposed to be allocated to the County PIG program.

2) State Acquisition Program

With respect to state acquisition, there remains enormous demand for the program, however, our limited staff resources constrain the number of new transactions we can accomplish this coming year. Currently we have an estimated 40 transactions in some stage of the acquisition process that are in need of being finalized and closed. Since the State Acquisition program accepts applications at anytime, the number of applications awaiting action are many, with a current list of approximately 55 applications “on hold” until funding and staff time is available. In addition, State Acquisition staff also administers the SADC Non Profit and Fee Simple programs.

Also, state acquisition transactions require the direct involvement of our Deputy Attorney General, whose workload has been severely impacted by the SADC’s recent litigation matters.

Given these considerations, and the fact that the State Acquisition Program has approximately \$10 million available at this time from prior re-appropriations, acreage estimate discrepancies and failed projects, staff is recommending \$8,088,316.00 in new funding and the addition of \$6,326,665.00 in revenue received from the resale of farms through the SADC Fee Simple program for a total appropriation of \$14,708,620.00.

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

3) Municipal Planning Incentive Grant (PIG) Program

Staff has conducted a thorough review of all Municipal PIG appropriations to determine how much funding can be pulled back and re-appropriated due to the lack of significant progress on projects. At this time staff recommends that \$2,738,316.00 be re-programmed, \$601,199.00 be left in place for outstanding ancillary cost reimbursements and \$7,972,896.00 be left in place for 18 farms still pending closing.

4) New Municipal Planning Incentive Grant (PIG) Plans

Staff is recommending a total appropriation of \$23 million for the FY2011 Municipal PIG program using \$17,200,000 in new bond funds and \$5,800,000.00 in funds re-allocated from the FY2000-2008 PIG program and from previous county easement program appropriations.

This funding will offer each of the new municipal PIGs \$750,000.00, the same amount allocated to each new municipal PIG in FY2009. For the existing municipalities it will offer an additional \$500,000.00 to supplement their original \$750,000.00.

5) Nonprofit Grant Program – Close Out of Previously Approved Nonprofit Grants

SADC staff has been working with participating Non Profit organizations regarding outstanding balances either associated with a project area or specific projects which have not closed to date (Schedule D). SADC staff has encouraged all Non Profits to achieve at least SADC final approval on outstanding project funding allocated during the 2005, 2006 or 2007 rounds by this fall and request submissions for ancillary costs reimbursement by then as well. Any project without encumbered funds through SADC Final Approval or not closed with the SADC or ancillary cost not submitted will be considered subject to review for re-appropriation at the end of the year.

At this time SADC staff is recommending a re-appropriation of \$3,211,776.00 leaving \$6,645,164.00 in place for outstanding viable projects and ancillary costs.

6) Nonprofit Grant Program – New Funding

SADC staff is recommending a total appropriation of \$8,211,776.00 for the FY2011 Non Profit program using \$5,000,000 in new bond funds and reallocating \$3,211,776.00 from previous appropriations.

If approved by the Committee, SADC staff will prepare a Notice of Availability of Grant Funds and Application Deadline for inclusion in the New Jersey Register and set an application deadline for December 2010.

In total, the staff is recommending a FY 2011 program appropriation of \$88,570,396.00 comprised of \$73,000,000.00 in 2009 Farmland Preservation bond funding, \$9,243,731.00 in reprogrammed funds and \$6,326,665.00 in fee simple revenues received.

Ms. Craft stated that if you look at everything together the counties would receive \$39 million, the municipalities would receive \$23 million. Combined that comes to \$62 million or 70% of the total appropriation of \$88.5 million. If you add another \$8 million to the nonprofit grant programs that brings us up to 79% of all of the appropriations going to our local partners. It is clearly not a state-heavy funded program and the SADC makes as much money available as possible to its partners. For the Nonprofit Grant Program this will be the biggest appropriation that the SADC has ever done and the SADC anticipates that will be received very well.

It was moved by Mr. Schilling and seconded by Mr. Danser to approve the recommended FY2011 Appropriation Request as presented and discussed. The motion was approved. (Mr. Germano and Ms. Rendeiro were absent for the vote.) (A copy of the July 22, 2010 Memorandum for the Recommended FY2011 Appropriation Request is attached to and is a part of these minutes.)

Ms. Craft stated that agenda item “J” – Request for Reconsideration, Deborah Post, Riamede Farm in Morris County has been postponed at the request of the landowner. It will be placed on the agenda for the September meeting.

PUBLIC COMMENT

Ben Sorbello addressed the Committee. He stated that he is a farm owner and he also represents 25 other farmers who are looking to develop solar projects based on the PL 2009 Chapter 213. He wanted to give the Committee an update on who he has spoken with and where he has been in relation to wind and solar. He also wanted to ask for some additional help in getting these projects developed. He understands that the SADC is working on the rules and regulations for wind and solar. Based on an article that was forwarded to him by the NJ Farm Bureau, it could be up to twelve months to get these rules and regulations adopted. He stated that he is up against the clock in trying to get the federal stimulus money for the farmers to help develop these projects. We are looking for some interim rules and regulations where they can go ahead and start these projects under the umbrella of the Right to Farm Act so they don't run interference with the planning boards and they can get to the permitting process to move a lot faster. He gave

the Committee an update of the various meetings he has been involved with to date. He stated that he would be happy to answer any questions the Committee may have. He provided a draft application form for wind solar projects for review by the SADC. He also provided the Committee with a petition, which is just something he put together addressed to Secretary Fisher, the Department of Agriculture and the SADC indicating that he represents all the farmers who signed the petition that requests interim rules and regulations be approved. He read the petition to the Committee.

Chairman Fisher thanked Mr. Sorbello for his comments. He commented that he hoped Mr. Sorbello understood that the SADC cannot suggest that it is working with any one company. He asked Mr. Sorbello when he talks about this petition who was he petitioning and what was he petitioning for? Mr. Sorbello responded they are petitioning the SADC and the Department of Agriculture to allow farmers to produce these solar projects under the umbrella of the Right to Farm Act, not under a commercial entity, as they don't want to be labeled a commercial project but rather an agricultural project.

Mr. Siegel asked if all of the municipalities in his jurisdiction are rejecting these applications. Mr. Sorbello stated not all of them but there are some and they are not necessarily rejecting them but it's an issue similar to that of Mr. Favorito who presented at last month's meeting. They are having some difficulties with the zoning committees issuing construction and electrical permits so that they can move forward with these projects because they are saying that they don't understand how to treat it. The municipalities are asking if it is under right to farm, or is it a commercial project. We can show them the law but the municipalities are looking for guidance from the SADC and the Department of Agriculture. Mr. Siegel stated that it sounds like Mr. Sorbello is characterizing it as the SADC is holding this up. Mr. Sorbello responded yes that is correct. He stated that perhaps the SADC could provide the municipalities with a letter explaining the provisions of the statute.

Ms. Craft stated that in Right to Farm, it is never a 100 percent shield for anything. She stated she would like to review the draft application form and she thanked him for his input. She stated that what the SADC is trying to do is download standards from whatever source it can find, from the internet, from other countries, from the NJ DEP, from Lincoln Energy, from Sun Farm, from anyone who will talk to the SADC to explain what their standards are because you are talking about a very technical science-based issue that the Committee is being asked to regulate. There is a huge learning curve. She advised Mr. Sorbello that any information he has or anything that he would like the SADC to take a look at is welcomed. That said, she requested confirmation if the petition is asking the SADC to get its rules in place as soon as possible so that right to farm can be provided. Mr. Sorbello responded that was correct and to also educate the municipalities as quickly as possible.

Ms. Craft asked if Mr. Sorbello had an attorney that is representing this group of landowners. Mr. Sorbello responded no but as of this Wednesday he will probably have former Governor Florio's law firm in support of the projects. Ms. Craft stated that the CADBs are not going to issue permits. Ultimately when anyone wants to construct one of these facilities they will have to deal with the town and secure the necessary permits. The right to farm rules are certainly going to help the town understand what the SADC considers a generally accepted practice but that is not going to pass the need to get permits. Mr. Sorbello stated that because it's a right to farm issue, it doesn't need to go to the zoning board and it doesn't need to be re-zoned because you are not changing the farm. Ms. Craft stated that she is surprised that in light of the fact that the legislature also passed the inherently beneficial use bill that is not being used more proactively by people such as yourself to go to the town and say that it has to hear this and frankly you overcame one of the hurdles of getting the variance. The burden is on the towns to come to a finding of why they shouldn't or can't. Mr. Sorbello stated that is the next phase and if he could get some support to the municipalities and he is asking the governor and senate and everyone to education the municipalities.

Ms. Craft stated that right to farm protection is not necessary if a municipality provides the use variance that you may need. She would encourage pursuing both avenues. The SADC is working as quickly as it can to try and assemble a rule dealing with a very new technology. Chairman Fisher stated that this will have challenges by many people on the fringes of these facilities on some of these farms and yet we very much support alternative technology. Chairman Fisher stated that the SADC has recently sent a letter through the Farm Bureau and county agriculture development boards and specifically to Mayor Dubois in Pittsgrove Township, Salem County regarding this issue and will provide a copy to Mr. Sorbello.

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: Thursday, September 23, 2010, beginning at 9:00 a.m.
Location: **Health/Agriculture Building, First Floor Auditorium.**

CLOSED SESSION

At 3:00 p.m. Mr. Danser moved the following resolution to go into Closed Session. The motion was seconded by Dr. Dey and unanimously approved.

“Be it resolved, in order to protect the public interest in matters involving minutes, real estate, attorney-client matters, 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

Note: Vice Chairman Danser presided over the meeting at this point.

A. Real Estate Matters – Certification of Values

County Planning Incentive Grant Program

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

County Planning Incentive Grant Program

1. Robert, Margaret and Christopher Ruske (Cumberland Nurseries)
Block 7, Lots 34.01, 36, 37 and 38; Block 8, Lot 1, Fairfield Township,
Cumberland County, 205 Acres
Certification of value is contingent upon confirmation from the Township engineer to the SADC's satisfaction that a roadway sufficient for subdivision can be placed between the irrigation pond and the property line.

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

Note: Ms. Brodhecker recused herself from any discussion/action pertaining to the Sussex County certification of values for the Warren-Bertot farm and the Washer farm to avoid the appearance of a conflict of interest and left the room Ms. Brodhecker is the Chairperson of the Sussex County Agriculture Development Board.

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

2. Gail Warren and Ramiro Bertot (Warren/Bertot Farm)
Block 159, Lot 2.02, Wantage Township, Sussex County, 45 Acres
3. Richard and Frances Washer
Block 27, Lot 6.02; Block 1, Lot 2, Green Township and Block 166, Lot 1,
Andover Township, Sussex County, 99 Acres

The motion was approved. (Ms. Brodhecker recused herself from the vote. Ms. Rendeiro and Mr. Germano were absent for the vote.) (A copy of the Certification of Value Reports are attached to and are a part of the closed session minutes.)

Municipal Planning Incentive Grant Program

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

1. Thomas and Emily Clayton/Monmouth Conservation Foundation
Block 154, Lot 11, Howell Township, Monmouth County, 28 Acres
2. English Farm Associates I
Block 175, Lot 19; Block 152, Lot 26.01, Bernards Township, Somerset County
Certification of value is contingent upon the SADC acceptance of “advanced engineering” performed by the Township relating to the preservation effort that enhances the before value. After value is contingent upon a 1.66 +/- area along Church Road being established as an independent tax lot and 1.8 acre +/- becoming attached to the northeast portion of Block 9301, Lot 49.

The motion was approved. (Ms. Rendeiro and Mr. Germano were absent for the vote.) (A copy of the Certification of Value Reports are attached to and are a part of these minutes.)

B. ATTORNEY/CLIENT MATTERS

Chairman Fisher recused himself from any discussion/action pertaining to the following agenda item (Schnetzer Farm) to avoid the appearance of a conflict of interest. Mr. Schnetzer’s sister, Nancy Schnetzer Trivette, is an employee of the Department of Agriculture and is a party to this action against the SADC.

1. Schnetzer v. County of Warren, Warren CADB and SADC

Ms. Craft stated that the Committee discussed the issue regarding the property line in question and the encroachment on the preserved farm with its attorney and have asked its attorney to do some additional research on what options may be available to consider. The goal is to have that research done so that it can present the Committee’s position at the August conference with the Judge.

Mr. Baumley stated that as was discussed earlier regarding financial disclosures he

thought there may have been some confusion as one of the Committee members made an inquiry. He stated that staff sent out a memo on July 7th regarding ethics training being required under Executive Order 41. He stated that the Committee may think it had completed the training recently, which it did but that was for 2009. He stated that 2010 training must be done on line and completed by August 20th. He advised the Committee members that once they have completed training on line and obtain a receipt, it must be provide to SADC for confirmation.

ADJOURNMENT

There being no further business, it was moved by Dr. Dey and seconded by Ms. Brodhecker and unanimously approved to adjourn the meeting at 4:35 p.m.

Respectfully Submitted,

Susan E. Craft, Executive Director
State Agriculture Development Committee

Attachments