

STATE AGRICULTURE DEVELOPMENT COMMITTEE

**Department of Agriculture
Market and Warren Streets
1st Floor Auditorium
Trenton, NJ 08625**

January 22, 2009

Chairperson Purcell called the meeting to order at 9:00 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.”

MEMBERS PRESENT

Monique Purcell, Chairperson (rep. Acting Agriculture Secretary Alfred Murray)
Ralph Siegel (rep. State Treasurer Rousseau)
Brian Schilling (rep. Executive Dean Goodman)
Ben Spinelli (rep. DCA Commissioner Doria) (Left the meeting at 10:48 a.m.)
Cecile Murphy (rep. DEP Acting Commissioner Mauriello)
Alan A. Danser
Denis C. Germano
Jane R. Brodhecker
James Waltman (Arrived at 9:08)
Torrey Reade (Arrived at 9:05)
Stephen P. Dey

MEMBERS ABSENT

None

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

Others present as recorded on the Attendance Sheet: Robert J. Baumley, Heidi Winzinger, Brian D. Smith, Charles Roohr, Daniel Knox, Bryan Lofberg, Paul Burns, Edgar Madsen, Edward Ireland, Timothy Brill, Steve Bruder, David Kimmel, Cassandra McCloud, Gail Harje, Patricia Riccitello and Sandy Giambrone, SADC staff, Daniel Pace, Mercer County Agriculture Development Board, Robert Resker, Warren County Agriculture Development Board, Nicki Goger, New Jersey Farm Bureau, Ryan Rapp, Middlesex County Agriculture Development Board, Katherine Coyle, Morris County Agriculture Development Board, Donna Traylor, Sussex County Agriculture Development Board, Laura Yen, Landowner, Harmony Township, Warren County, Robert Carabelli, Landowner, Mansfield Township, Burlington County, William Millette, Hunterdon County Agriculture Development Board, Daniel Kennedy and Brian Wilson, Burlington County Agriculture Development Board, Amanda Brockwell, Monmouth County Agriculture Development Board, David Frank, Esquire, Burlington County.

MINUTES

A. SADC Regular Meeting of December 4, 2008 (Open Session)

It was moved by Ms. Brodhecker and seconded by Dr. Dey to approve the open session minutes of the SADC regular meeting of December 4, 2008. The motion was approved. (Mr. Germano abstained.)

B. SADC Regular Meeting of December 4, 2008 (Closed Session)

It was moved by Ms. Murphy and seconded by Ms. Brodhecker to approve the closed session minutes of the SADC Regular meeting of December 4, 2008. The motion was approved. (Mr. Germano abstained.)

REPORT OF THE CHAIRMAN

Ms. Purcell stated that she has been appointed by Acting Chairman Alfred Murray to chair the SADC meetings until such time as a new Secretary of Agriculture has been selected. She stated that the State Board of Agriculture is in the process of interviewing candidates for that position.

Ms. Purcell stated that regarding the State budget, currently the budget deficit is projected to be \$2.1 billion for fiscal year 2009, which increased from \$1.2 billion in the fall 2008. In response to that the Office of Management and Budget has been having line by line budget meetings with each State agency, looking for any funding that could be recouped to try and fill the budget gap. She stated that as a result of the December line by line budget meeting the Department of Agriculture lost an additional \$2.8 million, the bulk of which came from the school breakfast program with another \$800,000.00 taken from different divisions, a lot of it from carry forward funding that the Department of Treasury felt was not being utilized. She stated that currently the deficit for fiscal year 2009 is

projected to be \$5 million. She stated that the SADC has a dedicated funding source so the budget does not affect the SADC at this time.

REPORT OF THE EXECUTIV DIRECTOR

Ms. Craft stated that regarding the budget with respect to SADC funding, there is enough administrative funding set aside in the Garden State Preservation Trust (GSPT) funds to carry its operation forward several years.

Ms. Craft asked Mr. Lofberg to discuss the SADC's accomplishments for 2008. Mr. Lofberg referred the Committee to the Permanently Preserved Farmland by Calendar Year Summary. He stated that for 2008, 142 farms were preserved totaling 12,405 acres. He stated that is an increase of approximately fifteen percent from the previous year as far as acres goes. He stated that the number of farms that were preserved dropped by approximately twenty percent from the previous year down to 142. However if you go back and look at the average for 2005-2008 and you look at the number of farms that were preserved the average was 143. He stated that if you look at this four year period as far as acres goes, it was approximately 10,563 acres, or seventeen percent above average for that four year period. He stated that there is a couple of reasons why there were less farms preserved but more acres preserved because if you go back and look at the large farms, 200 acres and over, in the calendar year the SADC preserved eleven farms that totaled 3,972 acres, which is about one third of the total acres for 2008. If you look at farms between 100-200 acres there were 26 farms at 3,260 acres. If you put those two acreages together you have 37 farms at 7,200 acres, or roughly 58% of the total.

Ms. Craft stated that when the SADC adopted its prioritization criteria for State acquisitions, staff looked at farms with a higher minimum size and minimum quality score. She feels that the influence of those criteria is beginning to show that impact. The State acquisition program is beginning to increase in terms of acreage. She stated that the Seabrook farms were purchased in 2008 and those acquisitions involved six closings, all over 300 acres each. Mr. Lofberg stated that December was a very busy month not only for the SADC but also for counties completing closings. He stated that during the month of December the SADC accomplished 32 closings for 3,648 acres, which was a large amount of the total for the entire year, spending approximately \$22.9 million of SADC funds. Mr. Lofberg referred the Committee to the Summary of Preserved Farmland by Program in Calendar Year 2008 and the Summary of Preserved Farmland by County in Calendar Year 2008 and discussed each summary report with the Committee. Ms. Craft referred the Committee to the Calendar Year 2008 Preserved Farmland by Closer summary report. She thanked the SADC staff for all their efforts in making fiscal year 2008 a very good year in terms of closings. She stated that there was also a lot of great partnering with the counties and nonprofit groups that contributed to these closings as well. Mr. Lofberg stated that for fiscal year 2009, which we are just about half way through, 76 farms have been preserved totaling 6,931 acres, which compares to approximately 136 farms and 9,100 acres in the previous fiscal year. He stated that he is

confident that in the next five and one half months the SADC will surpass last year's acreage numbers and be around the 12,000 acre mark.

Mr. Siegel advised that he has available for the Committee and any anyone in the audience the GSPT annual report. One of the things that was accomplished in that report, that he did not see previously, with the help of Mr. Lofberg and many of the county administrators, is a breakdown of the acres preserved by municipalities in the last ten years. Mr. Siegel stated that the report is also available on-line.

COMMUNICATIONS

Ms. Craft stated that there is a letter from the New Jersey Conservation Foundation addressed to SADC staff Dan Knox, thanking him for his efforts regarding the acquisition of the Gaynell Pettit farm in South Harrison Township. The letter thanks Mr. Knox for his assistance in the successful acquisition of previous projects as well. Ms. Craft thanked Mr. Knox for all his efforts.

Ms. Craft stated that the Governor's State of the State address recognized the need for a long-term funding solution for land conservation, which is very good and is a positive indication that land conservation is on the radar screen. She stated that the SADC will continue to work with the new Secretary of Agriculture and the legislature to try and make that happen. Ms. Craft encouraged the Committee to take home the various articles provided in the meeting binders.

PUBLIC COMMENT

None

NEW BUSINESS

A. Renewals, Terminations, Withdrawals of Eight Year Programs

Ms. Craft referred the Committee to the summary report for the renewals, terminations and withdrawals of eight-year programs. She stated that there were two terminations of eight year programs. The first is for Robert and Beverly Smaniotto, SADC # 0614-04F-01/06-0018-8F, City of Vineland, Cumberland County, 5.5 acres, with a soil and water conservation cost share grant eligibility of \$3,300.00. She stated that no soil and water funds were expended. The second termination was for the Joan and Robert Smaniotto farm, SADC # 0614-05F-01/06-0023-8F, City of Vineland, Cumberland County, 46.35 acres, with a soil and water conservation cost share grant eligibility of \$27,818.00. She stated that no soil and water funds were expended. Ms. Craft stated that there were no renewals or withdrawals of eight-year programs. She indicated that this was informational and that no action was needed by the Committee.

B. Soil and Water Conservation Cost Share Grant Extension Request

1. Indian Mills Cranberry Company, Shamong Township, Burlington County

Mr. Lofberg referred the Committee to the Soil and Water Conservation Cost Share Grant Extension of Project Approvals Summary, for a request by Indian Mills Cranberry Company, located in Shamong Township, Burlington County for an extension of its soil and water conservation cost share grant. He reviewed the request with the Committee and stated that staff recommendation is to approve the extension request for the following landowner as presented and discussed:

It was moved by Mr. Siegel and seconded by Mr. Danser to approve Resolution FY09R1(1) granting an extension of a soil and water conservation cost share grant for Indian Mills Cranberry Co., SADC ID # 03-0027-PN, Township of Shamong, Burlington County, in the amount of \$13,226.00 to extended to December 15, 2009, as presented and discussed. The motion was unanimously approved. (A copy of Resolution FY09R1(1) and the Soil and Water Conservation Cost Share Grant Extension of Project Approvals Summary is attached to and is a part of these minutes.)

C. Readoption of N.J.A.C. 2:76 (SADC Rules)

1. **Readoption of the Rules**
2. **Approval of Substantive Minutes relating to N.J.A.C. 2:76 (SADC Rules) (Substantive Minutes for this item sent to the Governor's Office on January 23, 2006)**

Ms. Craft stated that the SADC's rules at N.J.A.C. 2:76 are scheduled to expire October 1, 2009. She stated that the SADC is required to reapprove these rules every five years. As such the SADC must publish its entire rule (Chapter 76), provide opportunity for public comment and readopt the rules, with or without changes by October 1st. She stated that in order to meet all the internal review timelines required between the SADC, the Office of Administrative Law (OAL), the Governor's Authority Unit and the Governor's Office, staff is recommending that the Committee approve the rules to be published for re-adoption. Ms. Craft provided the following operative dates that staff will follow to accomplish this goal:

January 22 nd :	SADC approval to publish rules for re-adoption;
March 16 th :	rule published in the NJ Register;
May 15:	60-day public comment period ends;
May 28 th :	earliest SADC could readopt rules (this assumes no substantive changes are proposed as a result of public comment.)
June 25 th :	deadline for submission of final rule to OAL
July 20 th :	final rule published.

Ms. Craft indicated that this schedule gives the SADC approximately two months of extra time in case there is a need to amend the rules in some way and/or to allow some cushion for obtaining approval of other agencies such as the Governor's Authorities Unit or the

Governor's Office. She stated that in order to keep this schedule it will be necessary for the Committee to approve substantive minutes each time it takes action to expedite the Governor's office approval of the SADC's minutes. Ms. Craft stated that the Committee has been given a copy of draft substantive minutes relating to the readoption of these rules and staff recommendation is to also approve the substantive minutes in order to begin the Governor's review period.

It was moved by Mr. Germano and seconded by Ms. Murphy to readopt N.J.A.C. 2:76 as presented and discussed. The motion was unanimously approved. (A copy of N.J.A.C. 2:76 is attached to and is a part of these minutes).

It was moved by Ms. Brodhecker and seconded by Mr. Schilling to approve the substantive minutes of a portion of the January 22, 2009 minutes relating to the readoption of N.J.A.C. 2:76 as presented and discussed. The motion was unanimously approved.

D. Farmland Stewardship

1. Request to Exercise an RDSO

- a. Laura Yen - Harmony Township, Warren County

Mr. Roohr referred the Committee to Resolution FY09R1(2) for a request by Laura Yen, owner of Block 34, Lot 20, in Harmony Township, Warren County to exercise an RDSO. He stated that this issue was before the Committee at its November meeting, at which time the Committee tabled action and directed staff to work with Ms. Yen to obtain a more complete description of her proposed equine/organic vegetable operation in order to determine if the proposal was consistent with the SADC's rules and policy on approval of RDSOs. Mr. Roohr stated that Ms. Yen has submitted sufficient information to support a finding by the Committee that she intends to establish a legitimate equine breeding operation, including her possession of a contract to construct a sixteen stall horse barn. He stated that based on the information provided by Ms. Yen it is evident that at least one person living in the RDSO will be involved in the day-to-day production activities on the farm. He stated that staff acknowledges the fact that start-up agricultural operations involve a high amount of initial capital and may not be profitable in the beginning stages of the operation. Ms. Craft extended an invitation to Ms. Yen to work with staff to identify the various resources that are available to beginning operators through the Department and other State and Federal agencies. Mr. Roohr stated that staff is recommending approval of Ms. Yen's request to exercise an RDSO based on the additional information provided and discussed.

It was moved by Mr. Germano and seconded by Dr. Dey to approve Resolution FY09R1(2) granting a request by Laura Yen, owner of Block 34, Lot 20, Harmony Township, Warren County, 127.15 acres to exercise an RDSO as a residence for the Owner and her family, where at least one person will be involved in the daily agricultural production activities of the farm, in the location identified in Schedule A of Resolution

FY09R1(2), subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY09R1(2) is attached to and is a part of these minutes.)

2. Division of the Premises Requests

1. Carabelli Farm, Mansfield Township, Burlington County

Mr. Roohr referred the Committee to Resolution FY09R1(3) for a request by Robert Carabelli, owner of Block 50.0, Lot 2.01 and 9.01, in Mansfield Township, Burlington County, totaling 87 acres, to divide the premises. He stated that the owner proposes to divide the property to allow him to sell Parcel B to the current tenant on that parcel, a nurseryman, and Parcel C to a local butcher who proposes to raise cattle on the property to sell at his butcher shop. He stated that the owner would retain ownership of Parcel A to continue his equine operation. He stated that the owner has indicated that the large size of the entire property is difficult to maintain and believes that by selling off the parcels that he doesn't need to other operators the land will be better managed. Mr. Roohr stated that the proposed divisions are as follows:

Parcel A - managed by Mr. Carabelli as an equine farm, primarily engaged in boarding, with some fields rented for grain crops;

Parcel B - managed by a tenant farmer as a nursery operation;

Parcel C - managed by a tenant farmer under grain crop rotation.

Mr. Roohr stated that Parcel A would result in approximately 30.05 acres and would include the existing single-family residence, an equine stable, a machine shop and several fenced paddock areas. Parcel B would result in approximately 19.6 acres and would have no improvements and Parcel C would result in 36.99 acres and would include a small barn. He stated that the Burlington CADB considered and approved this request at its October 9, 2008 meeting.

Mr. Roohr stated that staff's concern was with the agricultural viability of the property. He referred the Committee to a wetlands map and that stated that access to Parcel C would be entirely over what is now considered a freshwater wetlands area. He stated that a portion of the area along the road is mowed and there is a run-in shed for some animals at the present time. He stated that the area is definitely wet and there are concerns about the access. He stated that 82 percent of the entire property has a higher clay content and is a wetter soil. Approximately 30 percent of the property has a high water table at ½ foot. In general the property is considered a fair property but does have some limiting soil characteristics and viability. He stated that staff's concern was dividing the property into smaller pieces of what wouldn't be exceptional higher quality soils with a detriment to the viability of the property. He stated that the proposed parcels A&B would have a very limited number of tillable acres (23 acres and 13 acres respectively) and the only

access to Parcel C from a public road requires crossing an area currently designated as a freshwater wetland as described in Schedule B of Resolution FY09R1(3). The Committee and staff reviewed the access areas on an aerial map with Dr. Carabelli. Dr. Carabelli indicated that there was some sort of gravel road to access Parcel C wide enough that he drives his car on that area.

Ms. Reade asked if there was anything that would preclude a long-term lease solution rather than a division of the premises, which could be capitalized by the owners but would not create permanent subdivisions? Mr. Roohr stated that to his knowledge there would be no prohibition of that. Mr. Roohr stated that he visited the property and that he was not aware of the gravel road that Dr. Carabelli mentioned. He stated that there were some paths and that you could probably drive a car through the area in question but what he was looking for was an access way to get farm equipment through. He stated that beyond the wetlands areas is a very good grain field, well maintained and he wondered how the tenant farmer accesses the field. He stated that it was his thought that the tenant farmer came through the other property but he did not see any road that looked like a well traveled farm access.

Mr. Roohr stated that staff recommendation is to deny the request for a division of the premises based on viability of the divisions and the access and wetlands issue on Parcel C. Ms. Murphy stated that more review regarding 99-year leases should be done before stating for the record that it would be alright. Dan Kennedy from the Burlington County Agriculture Development Board stated that there needs to be an agricultural management practice policy in place to better deal with these matters. He stated that the Burlington CADB did not have 100 percent clarity on the access but it does know that the NJ DEP has a permit process used for allowing crossings in wetlands areas. They felt that having the landowner be responsible for getting required permits was a consideration. Mr. Siegel asked if the Burlington CADB made it a condition of its approval to obtain a DEP wetlands encroachment permit. Mr. Kennedy stated that Burlington County is not the regulatory agency in charge of that and basically left it to the landowner. He stated that maybe that was a deficiency in the county's approval looking back but it was not made a condition of approval. He stated that the Committee could do that however. He stated that Burlington County feels that Parcel A and B are certainly viable and by their definitions, which are not very clear right now, he feels A and B be viable. He also wanted to bring to the Committee's attention that this was not Dr. Carabelli's original configuration. He stated that Burlington County staff worked with Dr. Carabelli and the existing lines have a lot to do with drainage patterns of the farm and that the way it is now works best with the farm's drainage patterns.

Mr. Waltman stated he is very uncomfortable with this. He stated that if the Committee approves this it is raising an expectation in a potential new owner of Parcel C that he or she is going to get a wetlands permit. As a taxpayer that contributes to this program, directly or indirectly, the last thing he wants to see done is not just allowing, or raising expectations that, in this case, you are going to be putting a road through wetlands. He

stated that no one can speak for DEP and he does not think it's fair to whoever might end up owning Parcel C.

Ms. Craft stated that the Committee has granted conditional approvals before but the applicant had to demonstrate certain findings. As for this issue, there are two issues. One is that the SADC staff works very hard to collect as much information as they can. However, staff is not the applicant and if they want to submit an application they should be doing the homework or the county should be working with the applicant. It is not the SADC's responsibility to coordinate with DEP, or meet with the wetlands people and come to an independent assessment. She stated that the other thing is that she is very concerned if the Committee believes that an 18-acre parcel having 13 tillable acres that are not all prime becomes the standard for subdivisions. She doesn't think that the SADC's minimum standards are a test for what is an approval for subdivision. She feels you have to look at large pieces of agricultural land as a unique resource and if you are going to subdivide you have to prove viability.

Mr. Spinelli stated that if you split up this farm into three separate units are you really creating three long-term viable agricultural pieces. Are you creating something that will stand the test of time as an agricultural unit? He does not see it in this case. Mr. Waltman moved the resolution to accept staff's recommendation to deny the request.

It was moved by Mr. Waltman and seconded by Mr. Siegel to approve Resolution FY09R1(3) denying a request by Robert Carabelli, owner of Block 50.01, Lot 2.01 and 9.01 in Mansfield Township, Burlington County, 86.96 acres, to divide the premises. The motion was unanimously approved. (A copy of Resolution FY09R1(3) is attached to and is a part of these minutes.)

2. Smaniotto Farm, City of Vineland, Cumberland County

Mr. Roohr referred the Committee to Resolution FY09R1(4) for a request by Beverly Smaniotto, owner of Block 866, Lot 12 and Block 1017, Lots 5, 13, 14 and 17, in the City of Vineland, Cumberland County to divide the premises. He stated that at the time of application to sell the development easement to the Cumberland CADB the individual owners of the premises combined their respective parcels for the purpose of being able to submit a single application for the sale of a development easement to compete with all other applications in Cumberland County and the State as a whole. He stated that the owners' initial request for a subdivision was presented to the Committee at its September meeting, at which time the Committee directed staff to work with the owners to determine if any alternative configurations resulting in agriculturally viable parcels existed. The Committee had tabled action at the September meeting because it found that the configuration of the parcels as presented at that time did not result in agriculturally viable parcels.

Mr. Roohr stated that in December the owners formally submitted new parcel configurations for their request to divide the premises. The resulting Parcel A, which includes Block 866, Lot 12 and Block 1017, Lots 17 and p/o Lot 14 would consist of 32.4 acres, and the resulting Parcel B, which includes Block 1017, Lots 5 and p/o Lot 14 would consist of approximately 18.1 acres and would include a single family residence and detached garage. The resulting Parcel C, which includes Block 1017, Lot 13 and p/o Lot 14 would consist of approximately 17 acres and would include a single family residence, an agricultural labor unit and a garage.

Mr. Roohr stated that staff recommendation is that the division, for the purpose of selling Parcel A to the current tenant farmer for the production of floriculture products, is for an agricultural purpose, Parcel B and Parcel C containing high quality, highly tillable soils benefiting from uniquely favorable climate conditions which allow the potential to obtain multiple plantings of high yielding crops in a single season, supporting the finding that the resulting parcels are agriculturally viable parcels, capable of maintaining a variety of agricultural operations that yield a reasonable economic return under normal conditions and therefore approves the division as follows, with the reconfigured lots requiring the owners to obtain a formal subdivision of certain lots to be approved by the City of Vineland:

- Parcel A - Block 866, Lot 12 and Block 1017, Lot 17 and p/o Lot 14
 (approximately 32.4 acres)
- Parcel B - Block 1017, Lot 5 and p/o Lot 14 (approximately 18 acres)
- Parcel C - Block 1017, Lot 13 and p/o Lot 14 (approximately 17 acres)

He stated that back in September the Committee acknowledged that even though the general parcel sizes were small there were some very unique and favorable environmental conditions in the Vineland area that permits multiple plantings of high value crops, so the parcel sizes in this case were not as important and issue because of the ability to multi-crop in addition to the high quality of the soils and the environmental conditions associated with this property. He stated that based on this new reconfiguration staff opinion was that it was probably one of the best configurations possible and staff recommends approval of this new configuration.

Mr. Siegel commented that the purpose of this division is to sell Parcel A to the tenant farmer and that the owners can stay on their respective parcels B and C. Mr. Roohr responded yes. He stated that he believes that the owners overall plan is that they will continue to rent their home farms to the current tenant farmer but he will own Parcel A. Mr. Danser asked that if in the future it is all farmed as one farm how do we determine that the division is for an agricultural purpose? Mr. Roohr stated that the purpose is to sell to an existing tenant farmer who will be expanding his operation. Mr. Danser asked

how is the division of Parcels B and C for an agricultural purpose. Mr. Roohr stated by the owners keeping their home farms. Mr. Baumley stated the owners would be keeping their home farms with a sizable area that can be farmed as independent parcels in the future. Unfortunately, the combination of these multiple ownerships appeared to be acceptable at the time of application as one parcel. However, the individual applications would never have been approved. He stated that the individual parcels with housing opportunities with viable farm areas that are 100 percent tillable and almost 100 percent prime soils with unique climatic conditions can produce multiple crops and high value crops.

Ms. Craft stated that through the green light approvals, the SADC is now able to scrutinize applications with multiple ownerships. Mr. Danser stated that he is not questioning staff recommendation but there needs to be consistency because the Committee just turned down a division request and the record needs to reflect and establish that everything has been considered. Ms. Craft stated that because there are multiple owners on this property they all have to sign off on the subdivision and she thinks it is fair to say that the owners of the two other pieces are not willing to forgo their rights under the deed of easement without knowing how they are going to come out of this process.

Mr. Roohr stated that the owners' attorney, Mr. Guccio, pointed out that on the last page of the resolution in the first "Be It Further Resolved" where it mentions that the owners will have to get subdivision approval, they are actually doing an "agricultural" division of land with the city so it will be corrected to indicate "agricultural division".

Mr. Germano stated that on the same subject, the resolution is supposed to say why you are granting a variance and how the application meets every test. He asked if this resolution says that these parcels are agriculturally viable because of the unique conditions in Vineland? Mr. Roohr responded yes.

Dr. Dey stated that to him seventeen acres in Vineland, no matter how good the soils are, is not agriculturally viable by itself. Ms. Reade stated that it is conceivable and you could get \$10,000 an acre of peppers in Vineland.

Mr. Siegel moved the resolution and Mr. Danser seconded the motion.

Katherine Coyle from the Morris County Agriculture Development Board addressed the Committee. She stated that she was concerned that the Committee would consider that this was for an agricultural purpose. She stated that Morris County had an application a couple of years ago where a large farm would be divided into four and it was denied because it was for financial and estate reasons. She stated that Morris County was taken to court and the judge said there had to be a contract purchaser to constitute the agricultural purpose. Ms. Craft stated the main purpose was that parcel A is to be sold to the tenant farmer to expand his operation. Ms. Coyle stated she was referring to the

other parcels, which do not have an agricultural purpose.

Mr. Guccio responded to Ms. Coyle saying that he agrees with Ms. Craft's comments with regard to the agricultural purpose associated with this proposed division. He stated that by no means should anyone on the Committee feel that the sole and fundamental purpose of the presentation of this application is to advance anyone's financial future associated with the Smaniotto family. He stated that the commentary offered by the SADC staff with regard to the present situation is completely accurate and the questions raised by the Committee with respect to the issue of agricultural viability are appropriate and he believes that the exchanges of ideas among the Committee are also appropriate. He commented about the commentary offered by Dr. Wesley Kline, County Agricultural Agent, at one of the CADB meetings that he perceived that the soils were such that five acre parcels in the Vineland area, with regards to the growing and cultivation of crops, are historically appropriate to that particular area and are considered viable. He stated that the Committee challenged that when he was before it in September. He stated that the issue then was that if Dr. Kline didn't have a vote regarding that particular discussion, why was it offered? He stated that Dr. Cline offered it specifically for the purpose of indicating that in a division of the Smaniotto farm to create parcels among the entire preserved farm could still meet the test in the eyes of the county agriculture development board of agricultural viability.

Mr. Guccio stated that the parcels as presented today (Parcels A and B) are considerably upsized from that threshold value that Dr. Kline offered previously. There is no question in the perception of the Smaniotto family that there will be three viable parcels of ground created. He commented that the question was raised that if the entirety of the Smaniotto farm is going to be farmed by the same farmer, why is the division even appropriate? He stated that the comment that should go beyond that is to look to the future. He stated that this represents a proper and appropriate division; it achieves all of the aims, objectives, considerations and conditions of the farmland preservation easement that blankets this farm. The present contemplation is that there is going to be no change in agricultural operations, therefore there is no change in terms of agricultural viability. He stated that all of these things have nothing to do with financial considerations at this point and time. He stated that he urges the Committee to look favorably on staff's recommendation to approve this.

Ms. Craft stated that the Committee remanded this back to staff to try and work with the landowners for a better configuration that made more sense and she feels that was accomplished. However, if the Committee is uncomfortable with this, she looks to it to give additional direction. Dr. Dey stated he is comfortable with carving out Parcel A but he has a lot of concerns about creating Parcel B and C and not leaving them as a unit.

Ms. Murphy asked what the agricultural purpose was between Parcels B and C. Ms. Craft responded that it was her understanding that it is all tied together under one easement and all the parties involved have an interest in that easement. The agricultural

purpose for Parcel A is clear and the owners of interests characterized as Parcels B and C are not going to sign off on releasing half of the farm without an understanding of where this will end up. Staff is trying to navigate a multiple party negotiation to deal with the sale of the one piece. Ms. Murphy felt that is the landowners' problem to deal with and Mr. Waltman agreed. He stated that just because five acres in Vineland may be a viable farm doesn't mean that the Committee should decide that it is of sufficient size for a preserved farm.

Mr. Spinelli stated that in order to accomplish Parcel A you have to go with Parcel B and C. Since you have to do Parcels B and C you have to ensure that those parcels become agriculturally viable for the long term so that you try and meet multiple purposes at the same time. It's not whether it's a precedent or not, it is a fact sensitive analysis of this particular parcel. He stated that staff has come up with a solution that meet the appropriate criteria and therefore does not set a precedent because this is a unique situation. It is distinguishable from the Morris County case, which was a fight between heirs to a large landowner who wanted to divide the property up after the fact so everyone could get their piece of the pot because it was difficult to sell the property as one huge parcel. This is much different than what we are dealing with here. Mr. Spinelli stated that the original configuration did not meet the long-term test but here where they have made the adjustment you have created two homes with relatively sizable farms. He stated that a home with eighteen acres in this area will be a viable farm, if in fifty years they get sold off to someone.

Ms. Craft asked if the applicants would be amenable to having Parcel A for the tenant farmer and then Parcels B and C being combined to make up Parcel B - that is the question the Committee is asking. Mr. Guccio indicated that he would not feel that would be helpful.

Note: Mr. Spinelli left the meeting at this time and was not present for the following Committee Action.

Chairperson Purcell called for a roll call vote as follows:

Cecile Murphy	No
Ben Spinelli	Absent for this vote
Brian Schilling	No
Alan Danser	Yes
James Waltman	No
Denis Germano	Yes
Ralph Siegel	Yes
Jane Brodhecker	Yes
Torrey Reade	Yes
Stephen Dey	No
Chairperson Purcell	Yes

Yes Votes: Six

No Votes: Four

Absent Votes: One

The motion carried. (A copy of Resolution FY09R1(4) is attached to and is a part of these minutes.)

3. Deed of Easement Interpretation

1. Crescent Farms Inc., Mansfield Township, Burlington County

Note: Mr. Germano and Mr. Danser recused themselves from any discussion or action pertaining to this issue to avoid the appearance of a conflict of interest.

Mr. Roohr stated that this is a 185 acre farm in Mansfield Township, Burlington County, owned by the VanMarter family. An application for subdivision was submitted to the SADC by the owners' attorney, David Frank, who is present at today's meeting, along with one member of the family. He stated that the property was preserved with two RDSOs and there is also a single family residence and apartment. He stated that the acquisition of this easement utilized an older version of the deed of easement with restrictions that differ from the present restrictions. The request was for a division into three pieces, the southern portion and dividing the northern portion into two pieces. There is some debate over the interpretation of the language in the deed of easement and whether or not the SADC's current division of premises policy applies to deeds using that older language.

Mr. Roohr stated that Mr. Frank contends that the older language precludes his clients from having to meet the tests of agricultural viability and agricultural purpose, which is set forth in the current deed of easement and division of premises policy. He stated that policy P-30-A became effective in 1994 and it superseded a policy which was in effect in 1991, which the 1991 policy also contained the language pertaining to agricultural viability and agricultural purpose. He stated that the application for the division of premises was forwarded to the SADC by the Burlington CADB in November 2008 and when staff reviewed the application there were some questions pertaining to the criteria that were not addressed. Staff wrote to Mr. Frank asking him to submit any information on his clients' behalf that would support agricultural viability and purpose so that staff could see if it met those tests. He stated that Mr. Frank responded in January that he did not believe that his clients needed to meet those tests and did not provide any additional information but asked that this be presented to the Committee for discussion. The question at hand is, does Crescent Farms, with the deed that it has, need to meet the SADC's division of premises requirements or not. The language in the Crescent Farms deed related to division of premises reads specifically that the land and its buildings may be sold collectively or individually for continued agricultural uses as defined in Paragraph 2 of the deed of easement. Mr. Roohr stated that the following language is the part that is in question: "However, no subdivision of the land shall be permitted without the joint approval in writing of the Grantee and the Committee. The subdivision shall be

consistent with the agricultural management practices recommended by the Committee. Subdivision means any division of the Premises, for any purpose, subsequent to the effective date of this easement.”

Mr. Roohr stated that the specific language that is being questioned is “consistent with agricultural management practices recommended by the Committee.” He stated that there are nine agricultural management practices (AMP), all developed through the right to farm rule-making process and all having to do with right to farm protections, none of which deal with division of premises. He stated that it is Mr. Frank’s belief that the Crescent Farms application does need to meet the current division of premises policy tests because there is no agricultural management practice on division of premises. Mr. Frank believes that his clients do not have a high bar to meet. Mr. Roohr stated that Mr. Frank will address the Committee and that the SADC’s counsel will offer legal advice in closed session. Ms. Craft stated that the language contained in the deed of easement for Crescent Farms states “the subdivision shall be consistent with the agricultural management practices recommended by the Committee” and that is the question before the Committee today. She stated that from staff’s perspective, it is the Committee’s responsibility to determine what was meant by that language. Staff’s position is that the language did not mean only agricultural management practices promulgated under the regulations pursuant to the Right to Farm Act. She stated staff believes that was a general statement requiring the Committee to establish standards to determine whether a subdivision is permissible.

Mr. Frank addressed the Committee. He stated that the most important information provided in the deed of easement is in paragraph nine, which reads “nothing shall impose upon the Grantor, its heirs, executives, administrators, personal or legal representatives, successors and assigns, any duty to maintain the premises in any particular state or condition except as provided for in this deed of easement.” He stated that statement says that the language with regard to the standard applicable to this request for a division of the premises means exactly that. You cannot invent new standards such as agricultural viability or agricultural purpose and overlay that into the old deed of easement. The SADC, as the holder of these easements or a participant in the ownership of these easements, and in this case Burlington County has been involved as well, is really just an owner of an interest in land. He stated that the SADC owns a contract and it’s one that the SADC wrote and did not allow individual landowners to modify. He stated it is called an adhesion contract. What the courts say about adhesion contracts is that they are strictly construed against the drafter, in this case the SADC. Any deficiency in language of any kind, goes, in this case, to the landowner, not the SADC. He stated that what he is saying when he states they are not subject to the standards is not that this property doesn’t meet those tests of viability and purpose but that the SADC does not have the discretion to analyze them under that framework. The only discretion that the SADC has is to see whether or not this request is consistent with AMPs recommended by the Committee and none of those are meaningful with respect to this contract.

Mr. Frank stated that when you look at the AMPs, what AMP recommended by the Committee would the SADC compare the landowners to? He stated that the position of SADC staff would be that, we don't have anything so we'll use agricultural viability and agricultural purpose. He stated that it is absolutely evident from the evolution of the SADC's deed of easement that staff recognizes there was a deficiency in language and fixed it in later deeds. He stated that would be evidential and evidential to a court. He stated that he is asking for the Committee's approval of the division request and if the Committee cannot grant that approval, it is his believe that a court would challenge the SADC's action since it has no standard in the deed of easement.

Mr. Frank stated that if you are going to look at intent, you should look at this issue fully. He stated that there are two RDSOs on this property. The original Grantee, the County, the SADC, and the original Grantor, conceived of this division at the time of the placement of the deed of easement. Why would you put two RDSOs on this piece, unless you perceive that there will be a division. He thanked the Committee for allowing him to speak and looked forward to hearing back from the Committee. Ms. Craft stated that she wanted to make sure that everyone understood that the issue of agricultural viability is not before the Committee today at all. She reminded Mr. Frank that staff repeatedly requested the landowners to provide staff with information so that staff could access the agricultural viability of this division request and that Mr. Frank and the landowners refused to provide any information on that point. She stated that the only issue before the Committee today is whether or not Policy P-30-A applies to this landowner.

E. Direct Easement Purchase Program - Requests for Final Approval

1. Woldorf Farm, Waterford Township, Camden County
2. Comly 1 Farm, West Amwell Township, Hunterdon County
3. Comly 2 Farm, West Amwell Township, Hunterdon County
4. Sheppard (Jones Island Farm), Lawrence Township, Cumberland County

Mr. Knox referred the Committee to Resolutions FY09R1(5), FY09R1(6), FY09R1(7) and FY09R1(8) requesting final approval under the Direct Easement Purchase Program for four landowners. He discussed each landowner with the Committee and stated that staff recommendation is to grant final approval to the following landowners as presented and discussed.

It was moved by Mr. Siegel and seconded by Dr. Dey to approve FY09R1(5), FY09R1(6), FY09R1(7) and FY09R1(8) granting final approval to the following landowners as presented and discussed:

1. Jay and Nina Woldorf (Resolution FY09R1(5))
Block 283, Lots 3.01 and 3.02
Waterford Township, Camden County
30 Net Acres
Development easement at a value of \$8,200.00 per acre for a total of

approximately \$246,000.00, subject to the conditions contained in Schedule B of said Resolution.

2. Comly Family Farm # 1 (Resolution FY09R1(6))
Block 31, Lot 12
West Amwell Township, Hunterdon County
71 Net Acres
Development easement at a value of \$13,000.00 per acre for a total of approximately \$923,000.00, subject to the conditions contained in Schedule B of said Resolution.
3. Comly Family Farm # 2 (Resolution FY09R1(7))
Block 31, Lot 12.01
West Amwell Township, Hunterdon County
66 Net Acres
Development easement at a value of \$10,000.00 per acre for a total of approximately \$660,000.00, subject to the conditions contained in Schedule B of said Resolution.
4. Erwin and Donna Sheppard (Resolution FY09R1(8))
(Jones Island Farm)
Block 257, Lots 23, 25 and 26
Lawrence Township, Cumberland County
57 Net Acres
Development easement at a value of \$2,500.00 per acre for a total of approximately \$142,500.00, subject to the conditions contained in Schedule B of said Resolution.

Mr. Knox stated that when the Sheppard application came in it included four farms (Sheppard Farm, Maple Run Farm, Greenbarn Farm and the Layton Farm). He stated that when this application was granted preliminary approval it was contingent on the simultaneous preservation of the adjacent Greenbarn property and the Maple Run property. The SADC presented offers to purchase the development easements on each of the four farms and the applicant accepted the offer on the Greenbarn farm adjacent to the property and the Layton Farm, which is nearby. The landowner did not initially accept the offer for the Jones Island and Maple Run farms but after some negotiation they did accept the certified value per acre for the Jones Island Farm and asked that the SADC remove the Maple Run farm from the contingency. He stated that staff recommendation is to grant final approval to the Sheppard farm and remove the contingency of preserving the adjacent Maple Run farm, with the contingency of preserving the adjacent Greenbarn farm still in place.

The motion was approved. (Mr. Spinelli was absent for this vote.) (A copy of FY09R1(5), FY09R1(6), FY09R1(7) and FY09R1(8) is attached to and is a part of these

minutes.)

F. Nonprofit Grant Program - Requests for Final Approval

1. D&R Greenway Land Trust/Sparks Farm, Mannington Twp., Sal. Co.

Mr. Knox referred the Committee to Resolution FY09R1(9) for a request for final approval on the D&R Greenway Land Trust/Sparks farm nonprofit application. He stated that this will be a fee simple grant to the D&R Greenway Land Trust and when it resells this property, the SADC would receive a percentage back based on the SADC's cost share. He discussed the particulars with the Committee and stated that staff recommendation is to grant final approval as presented and discussed. He noted that the SADC would be utilizing FY2006 Federal Farm and Ranch Lands Protection grant funds and that the SADC would pass through the entire federal funds and waive its original recommendation to cap FRPP funds at \$3,000 per acre in order to assure the preservation of this farm. He stated that the use of the federal funds would include a three percent impervious coverage restriction, which translates to approximately 3.3 acres available for the construction of agriculture related structures on the farm, outside of the exception area and the landowners are agreeable to that. He stated that the cost share participation for each project is as follows:

SADC Federal Funds (Pass Through)	\$559,500.00 or \$5,500.00 per acre
D&R/Landowner donation Funds	\$299,750.00 or \$2,653.67 per acre
SADC Nonprofit Grant Funds	<u>\$899,250.00</u> or \$8,250.00 per acre
Total:	\$ 1,798,500.00 or \$16,500.00 per acre

It was moved by Mr. Siegel and seconded by Ms. Brodhecker to approve FY09R1(9), granting final approval to the following landowner as presented and discussed:

1. D&R Greenway Land Trust/Sparks Farm
Block 62, Lots 3 and 4
Block 64, Lot 8
Mannington Township, Salem County
141 Acres
Cost share grant not to exceed \$8,250.00 per acre (total of approximately \$899,250.00 based on 109 acres), the use of SADC Federal Farm and Ranch Land Protection Program FY2006 funds, which will include an impervious coverage limitation of three (3) percent and other restrictions required under the Federal Farm and Ranch Lands Protection Program, the Federal grant of \$5,500.00 per acre or approximately \$599,500.00 shall be passed through to D&R Greenway Land Trust as part of its fifty percent matching cost share, and subject to any conditions of said Resolution.

The motion was approved. (Mr. Spinelli was absent for this vote.) (A copy of FY09R1(9) is attached to and is a part of these minutes.)

2. D&R Greenway Land Trust/Carpenter Farm, Mannington Twp., Salem County

Note: Ms. Reade recused herself from any discussion pertaining to the D&R Greenway Land Trust/Carpenter Farm to avoid the appearance of a conflict of interest.

Mr. Knox referred the Committee to Resolution FY09R1(10) for a request for final approval on the D&R Greenway Land Trust/Carpenter farm nonprofit application. He stated that this is a development easement purchase, not a fee simple one as was in the previous discussion regarding the Sparks farm. He discussed the particulars with the Committee and stated that staff recommendation is to grant final approval as presented and discussed. He noted that the SADC would be utilizing FY2006 Federal Farm and Ranch Lands Protection grant funds and that the SADC would pass through the entire federal funds and waive its original recommendation to cap FRPP funds at \$3,000 per acre in order to assure the preservation of this farm. He stated that the use of the federal funds would include a three percent impervious coverage restriction, which translates to approximately 3.3 acres available for the construction of agriculture related structures on the farm, outside of the exception area and the landowners are agreeable to that. He stated that the cost share participation for each project is as follows:

CARPENTER FARM

SADC Federal Funds (Pass Through)	\$432,000.00 or \$4,000 per acre
SADC Nonprofit Grant Funds	<u>\$432,000.00</u> or \$4,000 per acre
Total:	\$864,000.00 or \$8,000 per acre

It was moved by Ms. Murphy and seconded by Mr. Danser to approve FY09R1(10), granting final approval to the following landowner as presented and discussed:

1. D&R Greenway Land Trust/Carpenter Farm
Block 38, Lot 14
Block 48, Lot 8
Mannington Township, Salem County
176 Acres
Cost share grant not to exceed \$4,000.00 per acre (total of approximately \$432,000.00 based on 108 acres of uplands and wetlands that are not under water in the Meadow), the use of SADC Federal Farm and Ranch Land Protection Program FY2006 funds, which will include an impervious coverage limitation of three (3) percent and other restrictions required under the Federal Farm and Ranch Lands Protection Program, the Federal grant of \$4,000.00 per acre or approximately \$432,000.00 shall be passed through to D&R Greenway Land Trust as part of its fifty percent matching cost share, and subject to any conditions of said Resolution.

The motion was approved. (Mr. Spinelli was absent for this vote. Ms. Reade recused herself from the vote.) (A copy of FY09R1(10) is attached to and is a part of these minutes.)

G. Planning Incentive Grant Program - Requests for Final Approval (former rule)

1. Koebel Farm, Tewksbury Township, Hunterdon County
2. Saga & Ghattas Farm, Readington Township, Hunterdon County
3. Arcangeli Farm, Franklin Township, Gloucester County
4. Weber Farm, Franklin Township, Gloucester County
5. Travalione Farm, Franklin Township, Gloucester County
6. Cairone Farm, Franklin Township, Gloucester County

Ms. Winzinger referred the Committee to Resolutions FY09R1(11), FY09R1(12), FY09R1(13), FY09R1(14), FY09R1(15) and FY09R1(16) for a request for final approval on six planning incentive grant program applications. She discussed each farm with the Committee and stated that staff recommendation is to grant final approval as presented.

It was moved by Mr. Siegel and seconded by Mr. Danser to approve FY09R1(11), FY09R1(12), FY09R1(13), FY09R1(14), FY09R1(15) and FY09R1(16), granting final approval to the following landowners as presented and discussed, subject to any conditions of said Resolutions:

1. Theresa Koebel and Gregory Simmons (Resolution FY09R1(11))
Block 38, Lot 4.01
Tewksbury Township, Hunterdon County, 26.94 Acres
State cost share of \$14,700.00 per acre for an estimated total of \$369,900.00 (60% of the certified market value and purchase price and estimated total cost).
2. Hanna Saqa & Hanna Abu Ghattas (Resolution FY09R1(12))
Block 75, Lot 33
Readington Township, Hunterdon County, 116 Acres
State cost share equal to the remaining funds in the Township's Planning Incentive Grant appropriation, which is an estimated \$1,168,860.99 (45.80% of the certified market value and 76.34% of the SADC cost share.)
3. Fred Archangeli (Resolution FY09R1(13))
Block 1101, Lot 46; Block 5701, Lot 16
Franklin Township, Gloucester County, 40 Acres
State cost share of \$7,830.00 per acre for an estimated total of

\$313,200.00 (60% of the certified market value and estimated total cost.)

4. Henry Weber, Jr. (Resolution FY09R1(14))
Block 2703, Lot 39
Franklin Township, Gloucester County, 30.5 Acres
State cost share of \$7,500.00 per acre for an estimated total of
\$228,750.00 (60% of the certified market value and estimated total cost.)
5. Ralph and Marc Travaglione (Resolution FY09R1(15))
Block 5701, Lot 15
Franklin Township, Gloucester County, 30.9 Acres
State cost share of \$5,150.00 per acre for an estimated total of
\$159,135.00 (60.59% of the certified market value and 57.22% of the
purchase price and estimated total cost.)
6. Louis and June Cairone (Resolution FY09R1(16))
Block 5701, Lots 7, 11, 12, 13, 25, 41, 42, 43, 44, 51
Franklin Township, Gloucester County, 95.6 Acres
State cost share equal to the remaining funds in the Township's Planning
Incentive Grant appropriation, which is an estimated \$300,256.00 (35.89%
of the certified market value and purchase price and 59.54% of the SADC
cost share.)

The motion was approved. (Mr. Spinelli was absent for this vote.) (A copy of
FY09R1(11), FY09R1(12), FY09R1(13), FY09R1(14), FY09R1(15) and FY09R1(16) is
attached to and is a part of these minutes.)

H. Resolution for Certification

1. County Planning Incentive Grant Application and Comprehensive Plan
 - a. Burlington County

Mr. Bruder referred the Committee to Resolution FY09R1(17) regarding Burlington County's Planning Incentive Grant Application and Comprehensive Farmland Preservation Plan and Project Area Summary. He reviewed the specifics with the Committee and stated that staff's recommendation is to grant approval to the PIG application and comprehensive farmland preservation plan and project area summary.

It was moved by Mr. Siegel and seconded by Ms. Murphy to approve Resolution
FY09R1(17) granting approval to Burlington County's Planning Incentive Grant
Application and Comprehensive Farmland Preservation Plan and Project Area Summary
as presented and discussed. The motion was approved. (Mr. Spinelli was absent for this
vote.) (A copy of Resolution FY09R1(17) is attached to and is a part of these minutes.)

Ms. Craft referred the Committee to the 2010 Municipal Planning Incentive Grant Application Summary as of January 15th. She stated that this summary report reflects the 2010 fiscal year application submissions. She stated that in FY 09 the new SADC rules for county planning incentive grants became effective and fifteen counties of the eighteen counties that participate with the SADC submitted applications. She stated that Burlington County is the last county to receive final approval. She stated that two more counties submitted applications as of December 2008, Bergen and Cumberland Counties. She stated that only Atlantic County has not submitted a comprehensive farmland preservation plan at this time. The summary sheet also reflects the five municipalities that came in with applications. She stated that there are now forty-two municipalities and seventeen counties participating in planning incentive grant programs.

PUBLIC COMMENT

Dave Frank stated that the Committee shouldn't leave the meeting with the understanding that it has no limits whatsoever on the potential of the division of the premises on Crescent Farms. He didn't think that the staff's recommendation was really accurate because P-30-A imposes standards that are in excess of what is imposed by the deed of easement. At some level when you chop that farm finer and finer we run afoul that clearly violates the purpose of the deed of easement. He doesn't think the division that is being proposed would be a problem. He stated that you can't use a policy to take the place of a regulation.

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: **Thursday, February 26, 2009 - Health/Agriculture Building, First Floor Auditorium.**

CLOSED SESSION

At 12:17 p.m. Mr. Danser moved the following resolution to go into Closed Session. The motion was seconded by Ms. Brodhecker 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 RESULT OF CLOSED SESSION

- A. Real Estate Matters**
 - 1. Direct Easement Purchase Program**

It was moved by Ms. Murphy and seconded by Ms. Brodhecker to certify the development easement values for the following landowners as presented and discussed in closed session:

1. Vincent and Terrence Langone
Block 31, Lot 12.01
Tewksbury Township, Hunterdon County
45 Acres
2. Arthur R. and Carolyn Brown
Block 472, Lot 3
Galloway Township, Atlantic County
18 Acres
3. Lee Parisi
Block 4802, Lot 3
Town of Hammonton, Atlantic County
14 Acres
4. Gary and Shirley Hitchner Farm II
Block 91, Lot 22
Pilesgrove Township, Salem County
102 Acres
5. Holly Acres, LLC (Ackerman)
Block 43, Lot 4, 6
Block 18, Lot 62 and 63
Elk Township, Gloucester County
145 Acres

The motion was approved. (Mr. Spinelli was absent for this vote.) (Copies of the Certification of Value Reports are attached to and are a part of the closed session portion of the minutes.)

2. **Nonprofit Grant Program**

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

1. Morris Land Conservancy/Alan Midkiff Farm
Block 602, Lot 3.03
Frelinghuysen Township, Warren County
29 Acres

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

3. **Planning Incentive Grant Program**

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

Gloucester County

1. John and Jean Reistle
Block 1103, Lot 2.01
East Greenwich Township, Gloucester County
13 Acres
2. J & M Workman
Block 1304, Lot 11
East Greenwich Township, Gloucester County
62 Acres
3. A & E Doughty, M. Jess, M. Brown and M. Lloyd
Block 11, Lot 14
Elk Township, Gloucester County
26 Acres
4. Gaetano and Angelina Grasso # 2
Block 42, Lot 9
Elk Township, Gloucester County
23 Acres
5. Back Creek Holding Trust (Dian Snyder)
Block 46, Lot 1; Block 51, Lot 3 (Harrison Township)
Block 56, Lot 6; Block 59, Lot 11 (Woolwich Township)
Gloucester County
79 Acres
6. C. Holtzhauser and Son
Block 49, Lots 6, 6Q
Harrison Township, Gloucester County
92 Acres

7. Michael Gonserkevis, Jr.
Block 36, Lot 16.02
Harrison Township, Gloucester County
28 Acres
8. Joseph S. and Lena H. Coco
Block 1004, Lot 11 and 12
Block 8.01, Lot 1 and 1.04
Logan Township, Gloucester County
160 Acres
9. John, Lillian and Robert Hurff
Block 254, Lots 1 and 2
Mantua Township, Gloucester County
43 Acres
10. Anthony Gattuso et al
Block 18, Lots 3 and 3.03
Block 19, Lot 2
South Harrison Township, Gloucester County
105 Acres
11. Frank and Jennie Sorbello
Block 19, Lot 1
South Harrison Township, Gloucester County
29 Acres
12. Elma Davidson
Block 46, Lot 6
Woolwich Township, Gloucester County
30 Acres

The motion was approved. (Mr. Spinelli was absent for this vote.) (Copies of the Certification of Value Reports are attached to and are a part of the closed session portion of the minutes.)

Note: Ms. Reade recused herself from any discussion/action pertaining to the James Turk farm to avoid the appearance of a conflict of interest.

It was moved by Ms. Brodhecker and seconded by Mr. Danser to certify the development easement values for the following landowner as presented and discussed in closed session:

13. James Turk
Block 9, Lots 1 and 4.01
Harrison Township, Gloucester County
36 Acres

The motion was approved. (Mr. Spinelli was absent for this vote. Ms. Reade recused herself from the vote.) (A copy of the Certification of Value Report is attached to and is a part of the closed session portion of the minutes.)

MERCER COUNTY

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

1. Mercer County/Sawmill Road
Block 2730, Lot p/o 9
Hamilton Township, Mercer County
45 Acres
2. Mercer County/Briarholm
Block 2739, Lot 1
Hamilton Township, Mercer County
32 Acres
3. Mercer County/Hights
Block 43, Lot 5
Robbinsville Township, Mercer County
27 Acres

The motion was approved. (Mr. Spinelli was absent for this vote.) (Copies of the Certification of Value Reports are attached to and are a part of the closed session portion of the minutes.)

MONMOUTH COUNTY

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

1. Walter Jovich
Block 50, Lot 2.03
Upper Freehold Township, Monmouth County
40 Acres

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

OCEAN COUNTY

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

1. Denis and Janice Krowicki
Block 79, Lot 25
Plumsted Township, Ocean County
29 Acres

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

WARREN COUNTY

It was moved by Ms. Brodhecker and seconded by Mr. Danser to certify the development easement values for the following landowners as presented and discussed in closed session:

1. New Villages Road, LLC
Henry Riewerts
Block 28, Lots 4, 5, 7 (Greenwich Township)
Block 61, Lot 28 (Franklin Township)
Warren County
275 Acres
2. Richard J. Motyka
Block 1100, Lot 301
Hope Township, Warren County
39 Acres

The motion was approved. (Mr. Spinelli was absent for this vote.) (Copies of the Certification of Value Reports are attached to and are a part of the closed session portion of the minutes.)

B. Attorney/Client Matters

1. Interpretation of Deed of Easement
Crescent Farms, Mansfield Township, Burlington County

Ms. Craft stated that there was a presentation earlier today during the open session portion of the meeting on behalf of the owners of Crescent Farms. The debate before the Committee is what the meaning of the language of the deed of easement means with respect to the SADC's ability to review the proposed subdivision pursuant to Policy P-30-A, which was adopted by the Committee for that purpose. After a review of the history and the plain language reading of the deed of easement, SADC staff is recommending that the Committee find that the landowner is required to comply with Policy P-30-A in order to request a subdivision. The basis of that finding is a plain reading of the language from the deed of easement that says that no subdivision of the land shall be permitted without the joint approval, in writing, of the Grantee and the Committee. The subsequent sentence says that the subdivision shall be consistent with agricultural management practices recommended by the Committee. That language does not specifically set forth those agricultural management practices pursuant to the Right to Farm Act or adopted under regulations. Secondly, with regard to the history of the issue, the Committee finds that the SADC had adopted the Policy (P-30-A) very shortly after having preserved the first large block of farms with the specific intent of creating a consistent standard of review for subdivisions, regardless of the deed language that appeared in those deeds and that is reflected in the body of that very first policy. The SADC staff feels that finding is consistent with the intent of the program. Finally, when you look at the historic occurrences with respect to agricultural management practices (AMPs) as intended under the Right to Farm Act, you find that procedures for adopting AMPs by regulation were not even adopted until after this farm was preserved, so there is no connection to the language in the deed and the SADC's adoption of AMPs for Right to Farm protection. The SADC intended that Policy P-30 was the standard for review of divisions. For those reasons staff's recommendation is that the landowner is subject to Policy P-30-A and that staff be directed to write a letter to that effect back to the applicant.

Mr. Siegel felt that staff was going into too much detail. Ms. Craft stated that this is open session and it is public information. Mr. Waltman motioned that the SADC concurs with the opinion of the Office of the Attorney General that this subdivision is subject to the policy requiring both the finding of agricultural viability and agricultural purpose and that the Committee instructs Ms. Craft as the Executive Director of the SADC to communicate that and an explanation of that finding to the applicant.

It was moved by Mr. Waltman and seconded by Dr. Dey that the SADC concurs with the opinion of the Office of the Attorney General that this division is subject to the policy requiring both the finding of agricultural viability and agricultural purpose and that the Committee instructs Ms. Craft to communicate that and an explanation of that finding to the applicant. The motion was approved. (Mr. Spinelli was absent for this vote. Mr. Danser and Mr. Germano recused themselves from the vote.)

ADJOURNMENT

There being no further business, it was moved by Mr. Siegel and seconded by Ms. Brodhecker and unanimously approved to adjourn the meeting at 2:55 p.m.

Respectfully Submitted,

Susan E. Craft, Executive Director
State Agriculture Development Committee

Attachments