

Garden State Preservation Trust
May 16, 2006
Meeting Minutes

Chairman Murphy called the meeting to order at 10:45 a.m. Ralph Siegel, executive director, read a statement certifying compliance with the Open Public Meeting's Act, and called the roll. Public members present were: Michael Murphy, chair; Jan Rosenfeld and Herbert Wegner. Ex-officio members present were Agriculture Secretary Charles M. Kuperus, Adrienne Kreipke (for State Treasurer Bradley Abelow); Eileen Swan (for Department of Community Affairs Commissioner Susan Bass Levin) and John Flynn (for DEP Commissioner Lisa P. Jackson.) Vice Chairman Robert DiVincent was absent. One position for a Senate appointee remains vacant following the resignation of Dennis Davidson in December.

OPENING REMARKS

Chairman Murphy welcomed the Secretary of Agriculture Kuperus and thanked him for being present at the meeting. He praised Secretary Kuperus for his five years tenure and his continuous efforts to work cooperatively with the GSPT.

APPROVAL OF MINUTES OF OCTOBER 25 MEETING

Chairman Murphy asked for corrections or clarifications to draft minutes from the October 25, 2005, meeting. Hearing none, Chairman Murphy asked for a motion to approve the minutes.

Moved by Mr. Wegner
Seconded by Mr. Flynn
Approved 6-0.
Ms. Kreipke abstained.

APPROVAL OF MINUTES OF JANUARY 12 CONFERENCE CALL MEETING

Chairman Murphy asked for corrections or clarifications to draft minutes from the January 12, 2006, conference call meeting. Hearing none, Chairman Murphy asked for motions to approve the minutes.

Moved by Mr. Wegner
Seconded by Mr. Flynn
Approved 6-0.
Ms. Kreipke abstained.

EXECUTIVE DIRECTOR'S REPORT (FISCAL)

Before commencing with his report, Mr. Siegel noted on the agenda there would be separate action later in closed session to approve the minutes from the executive session that occurred at the Oct. 25, 2005, meeting.

Mr. Rones advised Mr. Siegel and Chairman Murphy there is no need for consideration of executive session minutes to be delayed and taken up in closed session unless members had comments, corrections or clarifications they wished to discuss.

Hearing no objections, Chairman Murphy said there was no reason to delay the vote on the minutes.

APPROVAL OF MINUTES OF OCTOBER 25 EXECUTIVE SESSION

Chairman Murphy asked for a motion to approve the executive session minutes.

Moved by Mr. Wegner

Seconded by Ms. Rosenfeld

Approved 6-0.

Ms. Kreipke abstained.

The executive session minutes will be made public on Oct. 25, 2006, in accordance with the stipulations of the Open Public Meetings Act.

EXECUTIVE DIRECTOR'S REPORT (FISCAL) CONTINUED

Mr. Siegel proceeded with his report on the \$122 million Farmland Preservation Program recommendations for FY2007 by reviewing funds available in the Garden State Farmland Preservation Trust to support the recommendations.

Mr. Siegel said the Nonprofit grant recommendations had been withdrawn for this meeting and would be finalized and presented at the June meeting.

Mr. Siegel said the present "snapshot" forecast shows the Garden State Farmland Preservation Trust Fund has \$151 million available for appropriations through FY2009. The appropriation of \$77.5 million in new funds, if approved by the Trust and by the Legislature and Governor, will leave a balance for future appropriations of about \$73.5 million.

Concerning cash flow, Mr. Siegel said the deposit of the forward delivery bond proceeds of \$687 million in all of the funds in December means cash flow will not be a concern for the GSPT for several years. Mr. Siegel said the Garden State Farmland Preservation Trust Fund is forecast to open the fiscal year FY2007 on July 1 with \$333 million and close the year at \$268 million with expenditures of \$76 million.

PRESENTATION OF FARMLAND PRESERVATION PROGRAM PROJECT AND GRANT RECOMMENDATIONS FOR FY2007

Susan Craft, executive director of the Farmland Preservation Program, introduced her staff and proceeded to explain the recommended projects approved by the State Agriculture Development Committee using a slide show presentation.

Ms. Craft reviewed program milestones with 1,372 farms preserved. She said three counties have exceeded 20,000 farmland acres preserved and three others have 10,000 acres preserved. She reviewed proposed changes in County Easement Purchase program to streamline grants to these counties with flexibility in use of funds. She said this proposal included a \$600,000 grant program the GSPT would be asked to approve as part of the FY2007 recommendations.

(Executive Director's note: The grant proposal Ms. Craft described at the meeting as recorded in these minutes was not actually included in the FY2007 recommendations being considered at the meeting in Resolution #06-003.)

Ms. Craft said she expected the Farmland Preservation Program to reach its \$80 million expenditure target for FY2006.

Ms. Craft said remaining GSPT funding of \$151 million for appropriations will not carry the program into FY2009. She said the funding would be used over two years, FY2007 and FY2008, to ensure county and local land preservation staffs are not reduced.

Ms. Craft conducted a slideshow presentation to review the specifics of the FY2007 recommendations. She said 163 farm owners applied for preservation through the County Easement Purchase program, the SADC made offers on these and 126 owners accepted these offers or bid down to accept less money as a way of improving their ranking. She said the final recommendation ranks the 78 top farms constituting 5,400 acres at a total preservation cost of \$77 million, of which \$45 million would be covered by the GSPT allocation.

Ms. Craft reviewed the smaller Pinelands program. She said the private sale of Pinelands Development Credits, or PDCs, to remove development rights on farms has preempted the Farmland Preservation Program. She said this is good because it shows different land-preservation tools are in effect and because PDCs are transacted at no cost to taxpayers.

Ms. Craft reviewed the State Acquisition block-grant requests broken into three sections of the state. She said demands for the State Acquisition program have grown dramatically and have outstripped available funding. She said new rules are in place to support the regional block grant system but the similar county program will take longer to implement.

Ms. Craft reviewed Planning Incentive Grant recommendations. She said there are 61 municipalities with approved PIGs and she said SADC has been sending a strong message these funds are allocated on a "use it or lose it" basis. She said \$10 million was being reprogrammed from existing PIG allocations to other project areas that are doing better in executing preservation closings.

Ms. Rosenfeld asked about the reallocation of funds for the new PIGs in the Highlands. Ms. Craft explained the sources of funds included the Highlands Reserve fund. Mr. Siegel noted the Highlands Reserve fund is appropriated at \$15 million separately from the PIG appropriation but is available to put into Highlands PIG project areas or any other Highlands project during FY2007.

Ms. Craft explained municipalities with multiple PIGs received general grants of \$1 million for use in any of the project areas.

Ms. Craft explained the Highlands reserve fund will go into any program and will also be used to maintain statutory county to county balance in spending as required by the 2004 Highlands Act. She also explained the State Acquisition funding includes a \$12.9 million reallocation that comes mostly from folding an old fee simple allocation into the broader State Acquisition program.

Mr. Wegner asked Ms. Craft how many farm owners were seeking fee simple sales instead of applying for easement purchase. Ms. Craft said she did not have precise figures but estimated fee simple applications represented 10 to 15 percent of the applications.

Mr. Wegner asked about the rules governing farms that are not funded and when these owners may reapply, noting Cumberland County had only five farms make the final cut of 78. Ms. Craft said 17 applications came in from Cumberland farm owners but only

seven accepted the State's offer and five of those made the funding cut. She said county rules vary on when such farm owners may apply again but generally the landowner who refuses an offer must wait two years before submitting a new application.

Mr. Wegner asked if the same two-year barrier exists for farms that accept the State's offer but were not recommended because of the lack of funding. Ms. Craft replied these applicants are kept on file and the State will revisit their applications if and when new funds are available. She said some of these projects will be pursued by the SADC directly through the State Acquisition program.

Ms. Swan asked about the county-by-county balanced spending requirement of the 2004 Highlands Act. Ms. Craft explained they affect the State Acquisition program spending only and not the spending in the county or local programs.

Ms. Swan discussed Hunterdon County's refusal to fund farms located in the Highlands. Ms. Craft said it was an unfortunate situation the SADC did not create nor can solve. She said the best approach was to advocate for the landowner and to use federal Farm and Ranchland Protection Program, or FRPP, grants to fill the gap in county funding as a way of saving the deal.

Ms. Swan said the use of the FRPP grants in this manner deprives the municipality of its share of federal funds to offset their local costs. Ms. Craft agreed. Ms. Swan complemented Ms. Craft on her staff's efforts on behalf of the landowners to save the deals. But Ms. Swan said federal grants once they come in are used to be as State funds, and so she questioned the use of State funds to unfairly benefit one county that was refusing to fund its share of deals on farms because they happened to be in the Highlands. Ms. Swan said she does not know who is going to send the message that if Hunterdon County continues to punish the farms in the Highlands, they will face consequences.

Chairman Murphy said Ms. Swan's observations were valid. He thanked Ms. Craft for her presentation.

Ms. Craft said she wanted to publicly thank her staff and Mr. Siegel for their assistance. Secretary Kuperus said Mr. Siegel, who serves as a member of the SADC, raises thought-provoking issues at meetings.

Secretary Kuperus said New Jersey has 800,000 acres in agriculture with 145,000 acres preserved, 17 percent of the agricultural working landscape. He said this is the highest percentage of any State in the nation. He said the Farmland Preservation Program has accomplished a lot in the most densely populated State in the nation.

Chairman Murphy thanked Secretary Kuperus and the SADC staff for the difficult work of preserving farms in New Jersey. He said open space is dwindling and it is important for everyone to work together to continue the GSPT's accomplishments. He praised Governors Whitman, DiFrancesco, McGreevey, Codey and former State Sen. John Bennett for their efforts to raise public awareness about land preservation.

**RESOLUTION # 06-002 APPROVING FARMLAND PRESERVATION
PROGRAM STATE DIRECT EASEMENT AND FEE SIMPLE PURCHASE
PROJECTS, PLANNING INCENTIVE GRANT ALLOCATIONS AND
SUPPLEMENTAL HIGHLANDS FUNDING RESERVE RECOMMENDATIONS**

Chairman Murphy asked for motions to approve the Resolution.

Moved by Mr. Flynn
Seconded by Mr. Wegner
Approved 7-0

**RESOLUTION # 06-003 APPROVING FARMLAND PRESERVATION
PROGRAM COUNTY EASEMENT PURCHASE RECOMMENDATIONS**

Mr. Siegel explained a separate resolution for this recommendation was prepared at the request of a member.

Chairman Murphy asked for motions to approve the Resolution.

Moved by Mr. Flynn
Seconded by Mr. Wegner
Approved 7-0

Ms. Siegel asked permission to correct a typographical error in the title of #06-002 to remove the nonprofit grants from the sentence because it was not part of the recommendation. Members acknowledged their agreement without need for a second roll call vote.

EXECUTIVE DIRECTOR'S REPORT (CONTINUED)

Mr. Siegel explained his practice of breaking the Executive Director's report into two parts so that the first part can be limited to a fiscal report concerning project recommendations about to be presented. The second part of the report is then used for general matters.

Mr. Siegel introduced staff and announced the departure of Deputy Director John Penn attending his final meeting.

Chairman Murphy thanked Mr. Penn for his service and directed Mr. Siegel to prepare a Certificate of Appreciation.

Mr. Siegel reviewed Meeting Book contents; announced the receipt on Dec. 1 of the bond proceeds from the \$650 million Series 2005A and 2005B bond issues contracted in 2004; reported on the Nov. 15 sale of \$209 million bond issue for refinancing to reduce debt service; reported strong expenditures through the 3rd quarter March 31; discussed the financial disclosures which the members had to file for the first time, thanked the members for filing and noted the disclosure requirements recently being extended to trustees of colleges; and reported favorable news on the status of efforts in Congress to restrict charitable-donation tax deductions.

Mr. Siegel noted a tentative meeting scheduled for July 18 but said it would not be needed if all of the Green Acres recommendations come in on time for the June 13 meeting.

Mr. Siegel asked members to move the Sept. 13 stewardship conference meeting to Wednesday Sept. 20.

Mr. Siegel said the Trust staff is pursuing two major projects: the Installment Purchase marketing and education campaign; and research into the GSPT's possible role in stewardship funding. He said he would make a more thorough Stewardship presentation to the Trust at the June meeting.

REPORT FROM GSPT JULY 2005 INSTALLMENT PURCHASE AGREEMENT CONFERENCE AND PRESENTATION OF IPA EDUCATION CAMPAIGN

GSPT consultant Pat O'Connell reviewed the report of GSPT's July 2005 Installment Purchase Agreement (IPA) conference, noting the report includes recommendations for the marketing campaign for the GSPT to promote IPA use.

Mr. O'Connell reviewed the principles and history of IPAs as a way to enable governments to leverage dollars by replacing lump-sum closing payments with installment payments over a time and as a way to enable landowners to reduce capital gains tax liability and to provide assets to handle estate taxes without compelling a land sale. He said IPA legal costs could be reduced once legal documents and templates were established so these models could be duplicated from one deal to the next.

Mr. O'Connell said the marketing program had three elements: development of legally certified template documents; the education of preservation agencies and the education of landowners.

Ms. Rosenfeld asked Mr. O'Connell if GSPT bond issue contracts limited the use of bond proceeds for IPAs.

Mr. O'Connell said local governments getting GSPT funds through State agencies can use these grant funds for IPAs because the State funds come in the form of a grant and so these funds lose their characteristics as tax-exempt bond proceeds.

Ms. Rosenfeld asked for certainty on this matter. Mr. Siegel said if the Trust approves the campaign, the research work would include confirming this interpretation on the use of grant funds for IPAs is correct. He said a similar issue had come up concerning the use of GSPT bond proceeds to help municipalities pay off their bonds, and the finding was GSPT funds because they go out as grants represent an "arm's length" transaction regarding how municipalities might use them.

Mr. O'Connell said landowner education would focus on production and distribution of literature.

Mr. O'Connell said IPA gives land preservation agencies an additional tool to meet landowner needs so they agree to preserve their land. Mr. Siegel said IPA deals give land preservation agencies a competitive advantage over developers who cannot offer such tax-sheltered arrangements.

Mr. Siegel reviewed sample literature and said he expects in 10 or 15 years IPA contracts for land preservation will be the standard, not the exception, and that GSPT should be ahead of the curve.

Mr. Siegel reviewed the resolution to approve the education and marketing campaign and a second resolution to procure what he called a “reliance letter” from either the Attorney General or from a special counsel.

Mr. Siegel said the goal would be to report back in 12 months that the GSPT has helped execute an IPA pilot-project contract on a land preservation deal.

Ms. Rosenfeld asked if an IPA campaign would involve new expenses. Mr. Siegel said it could be covered within the confines of the existing GSPT administrative appropriation.

Secretary Kuperus questioned why a resolution seeking an opinion on the legality of the IPA program would come after a resolution authorizing the IPA campaign if the first place. Mr. Siegel said the IPA approval was scheduled first because if the Trust does not authorize the IPA campaign there is no point to seeking the second resolution.

Secretary Kuperus said he believed the resolution seeking the legal opinion should come first. He makes a motion to that effect.

Chairman Murphy directed the resolution be changed to stipulate an opinion be sought from the Attorney General specifically without reference to a special counsel.

Ms. Kreipke asked if IPA would be funded by GSPT beyond 2009. Mr. Siegel said counties and municipalities could use their grants but the GSPT itself has no future funds available for installment payments. He said the \$98 million dedication beyond 2010 is spoken for in bond debt service.

Mr. Rones asked of this change means the Trust may seek an opinion from special counsel as a second alternative. Chairman Murphy said it would be best to seek the opinion from the Attorney General exclusively. He said the Trust could discuss further measures if this effort is not successful.

RESOLUTION # 06-005 REQUESTING ATTORNEY GENERAL’S OPINION ON LEGALITY OF IPA CONTRACTS

Chairman Murphy had a motion from Secretary Kuperus to approve the Resolution.

Moved by Secretary Kuperus
Seconded by Mr. Wegner
Approved 7-0

RESOLUTION # 06-004 AUTHORIZING GSPT IPA EDUCATION AND STRATEGIC CAMPAIGN

Chairman Murphy asked for motions to approve the Resolution.

Moved by Mr. Wegner
Seconded by Ms. Rosenfeld
Approved 7-0

RESOLUTION #05-013 HONORING DENNIS DAVIDSON

Chairman Murphy called for a motion to approve a resolution honoring former Trust member and chairman Dennis Davidson.

Moved by Secretary Kuperus

Seconded by Mr. Flynn

Approved 7-0.

TRUST MEMBER COMMENTS

Chairman Murphy asked if there were additional comments by Trust members. There were none.

PUBLIC COMMENTS

Chairman Murphy asked if there was anyone from the public who wished to address remarks to the Trust members. There were none.

ADJOURNMENT

Chairman Murphy asked if there a motion to adjourn, approved by voice vote.

Respectfully submitted

Ralph Siegel
executive director/board secretary
June 13, 2006

Others in attendance representing agencies:

GSPT John Penn
GSPT Mairin Bennett
GSPT Daniel Patrick O'Connell
GSPT DAG Cliff Rones
OLS Carrie Anne Calvo
OLS Jeff Climpson
SADC Susan Craft
SADC Bryan Lofberg
SADC Tim Brill
Legislative Staff Thea Sheridan
NJ Conservation Foundation Amy Hansen
NJ Historic Trust Barbara Irvine

Approved 6-0 June 13, 2006