

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

REGULAR MEETING

March 25, 2010

Chairman Fisher called the meeting to order at 9:05 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

Monique Purcell, Acting Chairperson
Fawn McGee (rep. DEP Acting Commissioner Martin)
Ralph Siegel (rep. State Treasurer Andrew P. Sidamon-Eristoff) (Arrived at 9:15 a.m.)
Brian Schilling (rep. Executive Dean Goodman)
Donna Rendeiro (rep. DCA Acting Commissioner Grifa)
James Waltman (Arrived at 9:10 a.m.)
Torrey Reade
Stephen P. Dey
Alan Danser
Denis C. Germano

Members Absent

Jane Brodhecker

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

Others present as recorded on the attendance sheet: Robert Baumley, Heidi Winzinger, Charles Roohr, Hillary Barile, Paul Burns, Edgar Madsen, Edward Ireland, Timothy Brill, Steve Bruder, Cassandra McCloud, Patricia Riccitello and Sandy Giambrone, SADC staff, Daniel Pace, Mercer County Agriculture Development Board, Gregory Romano, New Jersey Conservation Foundation, Thomas Hower, Governor's Authorities Unit, Robert Resker, Warren County Agriculture Development Board, Harriet Honigfeld, Monmouth County Agriculture Development Board, Nicki Goger, New Jersey Farm Bureau, Henry Grinbaum, Farm Credit, Hunterdon County, Barbara Ernst, Cape May County Agriculture Development Board, William and Dorothy Pettit and Dr. William Pettit, Jr., Landowners, Burlington County, Mary Morrison, Middlesex County Agriculture Development Board, Glorianne Robbi, East Amwell Township, Hunterdon County.

Minutes

A. SADC Regular Meeting of February 25, 2010 (Open Session)

It was moved by Dr. Dey and seconded by Mr. Danser to approve the open session minutes of the SADC regular meeting of February 25, 2010. The motion was approved (Mr. Schilling and Ms. McGee abstained).

B. SADC Regular Meeting of February 25, 2010 (Closed Session)

It was moved by Dr. Dey and seconded by Mr. Danser to approve the closed session minutes of February 25, 2010. The motion was approved (Mr. Schilling and Ms. McGee abstained).

REPORT OF THE ACTING CHAIRPERSON

➤ Budget Issues

Ms. Purcell stated that regarding Governor Christie's recent budget announcement, the funding reductions primarily impacted the NJDA's feeding programs – school breakfast and school lunch. The state match for the school breakfast program was eliminated and the state match for the school lunch program was reduced to the minimum amount required to meet the federal match - so both meals will increase in price. She stated that the Department received some additional administrative and operating funding cuts. Of the approximately \$19 million FY11 NJ Department of Agriculture budget (down from approximately \$25 million in FY10), only approximately \$7 million is from direct state services, state aid or grants-in-aid. Ms. Purcell stated that this was the draft budget

proposed by the Governor that now goes to the Legislature. Public hearings will be held before the final budget is adopted July 1st.

REPORT OF THE EXECUTIVE DIRECTOR

Ms. Craft discussed the following with the Committee:

➤ SADC Budget

Ms. Craft stated that regarding the SADC budget, the only impact was in its “in payment of lieu of taxes” (PILOT) line item. The overwhelming majority of the SADC’s budget is paid using its GSPT and bond funds, which pays for administrative services. There are two line items specifically for the SADC that do not come out of those funds, one is the right to farm budget – we get that money directly from state service in the Treasury, and the second is payment in lieu of taxes, when the SADC buys land in fee simple title, it is obligated to pay the township the same equivalent property taxes that it was getting before. She stated that the SADC’s line item for PILOT money was \$50,000.00 and that was reduced by \$15,000.00 so the SADC has \$35,000.00 for the next year. Ms. Craft stated that the SADC recently sold most of the fee simple properties it had owned so we knew that the SADC would not need all of those funds that were set aside and there are sufficient funds to pay the taxes that would be due next year for the properties the SADC still holds and there are no fee simple acquisitions in the near future.

➤ Appropriations

Ms. Craft stated that there was a lot of discussion at the recent Land Trust Rally with the nonprofit communities in particular about the 2009 bond funds. The NJ DEP has indicated that it is anticipating being able to have a local round for the 2009 bond funds. She stated that Secretary Fisher has been reaching out to the Administration and she has been reaching out to the Department of Treasury to see when the SADC can get some type of definitive direction with respect to the commitment of those funds. She is trying to make sure that they understand the difference between needing the money, requiring the selling of the bonds and being able to tell our partners that we have authorization to commit funding.

➤ Fee Simple Auctions

Ms. Craft referred the Committee to a breakdown of recent fee simple auctions listing properties that were sold, what they sold for and what remains to be sold.

➤ Wind and Solar

Ms. Craft stated that the SADC has been getting many calls from all across the country from people interested in coming to New Jersey to build solar power generating facilities. This issue was discussed at the State Board of Agriculture meeting yesterday. The NJ Farm Bureau is going to be putting together an instructional session sometime in the near future in South Jersey and she is planning to attend that to try and get a better understanding of what the financial impacts to landowners are and what are the property tax impacts and to try to get a better understanding of the issue generally. She stated that as it affects the SADC specifically, the bill that was passed and signed by Governor Corzine dealing with preserved farms, right to farm and farmland assessment, which is somewhat separate but is a related issue, staff is receiving many calls from landowners asking what they can and can't do. She stated that staff is working with the Office of the Attorney General to resolve what aspects of that statute, if any, can proceed prior to rulemaking. The statute requires collaboration between the SADC, the Department of Agriculture, the NJ DEP, BPU and Treasury, who all have a role in rule making to implement the statute. Secretary Fisher has sent a memorandum to the Governor's Office asking to meet to make sure all the agencies involved are properly engaged and ensure that we are all coordinated.

COMMUNICATIONS

Ms. Craft reminded the Committee to take home the various communication documents that were provided in the meeting binders.

PUBLIC COMMENT

Dr. William Pettit, Jr. addressed the Committee regarding issues related to exceptions, monitoring processes and farmland preservation, for which he provided the Committee with documentation that he prepared and briefly discussed with the Committee. He stated that the SADC is running out of money. If the SADC would allow the early farmers to buy back exceptions around their buildings it would provide more money and preserve more farms. He stated that most of the farms that have issues are those that don't have exceptions.

NEW BUSINESS

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

Ms. Craft referred the Committee to the Eight Year Program Summary For FY

2010 for renewals, terminations and withdrawals of eight year programs. She reviewed the specifics as follows with the Committee:

Renewals: None

Withdrawals: None

Terminations:

1. Bridge Avenue Farms, Inc., SADC #0113-01F-01/01-0073-8F
Town of Hammonton, Atlantic County, 288 Acres
Soil and water conservation cost share funds remaining at time of termination: \$34,556.02 (Expended \$24,243.98)
(permanently preserved on 2/6/2003)
2. Columbia Cranberries, Inc., SADC #0113-01F-01B/01-0074-8F
Town of Hammonton, Atlantic County, 52 Acres
Soil and water conservation cost share funds remaining at time of termination: \$30,400.00 (Expended \$0.00)
3. William A. DiMeo, Jr., SADC #0113-10F-01/01-0075-8F
Town of Hammonton, Atlantic County, 64.75 Acres
Soil and water conservation cost share funds remaining at time of termination: \$11,691.00 (Expended \$21,259.00)
4. John and Erma Melora, SADC #0113-02F-01/01-0076-8F
Town of Hammonton, Atlantic County, 78 Acres
Soil and water conservation cost share funds remaining at time of termination: \$20,676.57 (Expended \$14,923.43)
5. County Line Blueberries, Inc., SADC #0113-06F-01/01-0012-8F
Town of Hammonton, Atlantic County, 120 Acres
Soil and water conservation cost share funds remaining at time of termination: \$29,597.25 (Expended \$12,402.75)
(Permanently preserved on 7/15/2008)
6. John N. Bertino, SADC #0113-75F-01/01-0012-8F
Town of Hammonton, Atlantic County, 195.53 Acres
Soil and water conservation cost share funds remaining at time of termination: \$49,553.00 (Expended \$0.00)
(Block 4901, Lot 25 and Block 5402, Lot 1 permanently preserved on 5/25/2007)

7. Michael, William, and Frank DiMeo, SADC #0113-74F-01/01-0028-8F
Town of Hammonton, Atlantic County, 3.50 Acres
Soil and water conservation cost share funds remaining at time of termination: \$2,100.00 (Expended \$0.00)
8. Joseph Roesch & Sons, SADC #0111-12F-01/01-0077-8F
Galloway Township, Atlantic County, 38.20 Acres
Soil and water conservation cost share funds remaining at time of termination: \$16,240.55 (Expended \$6,679.45)

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

B. Resolutions for Approval – FY 2011 Planning Incentive Grant (PIG) Program

1. Final Approval of County PIG Program Applications, Including Comprehensive Farmland Preservation Plans and Project Area Summaries(Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Sussex and Warren Counties) (No changes from FY 2010 plans)

NOTE: Mr. Danser recused himself from any discussion/action pertaining to this agenda item to avoid the appearance of a conflict of interest. Mr. Danser is the Chairperson of the Middlesex County Agriculture Development Board.

Mr. Bruder referred the Committee to Resolution FY2010R3(1) for a request for final approval of the FY 2011 Planning Incentive Grant Program applications, including the comprehensive farmland preservation program plans and project area summaries for Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Sussex and Warren Counties. He stated that there have been no changes from the FY 2010 plans that were submitted for these counties. He reviewed the specifics with the Committee and stated that staff recommendation is to grant final approval as presented and discussed.

It was moved by Mr. Germano and seconded by Ms. Reade to approve Resolution FY2010R3(1) granting final approval of the FY 2011 Planning Incentive Grant Program applications, including the comprehensive farmland preservation program plans and project area summaries for Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Sussex and Warren Counties, as presented and discussed, subject to any conditions of said

Resolution. The motion was approved. (Mr. Danser recused himself from the vote.) (A copy of Resolution FY2010R3(1) is attached to and is a part of these minutes.)

2. Final Approval of the Municipal Planning Incentive Grant (PIG) Program Applications Including Comprehensive Farmland Preservation Program Plans and Project Area Summaries (No changes from FY 2010 plans)

Mr. Bruder referred the Committee to Resolution FY2010R3(2) for a request for final approval of the FY 2011 Municipal Planning Incentive Grant Program applications, including the comprehensive farmland preservation program plans and project area summaries. He stated that there have been no changes from the FY 2010 plans that were submitted. He reviewed the specifics with the Committee and stated that staff recommendation is to grant final approval as presented and discussed.

It was moved by Mr. Germano and seconded by Mr. Danser to approve Resolution FY2010R3(2) granting final approval of the FY 2011 Municipal Planning Incentive Grant Program applications, including the comprehensive farmland preservation program plans and project area summaries, as presented and discussed, subject to any conditions of said Resolution. The motion was unanimously approved. (A copy of Resolution FY2010R3(2) is attached to and is a part of these minutes.)

3. Request for Conditional Preliminary Approval of a FY 2011 Municipal Planning Incentive Grant (PIG) Program Application Including Comprehensive Farmland Preservation Plan and Project Area Summaries for Blairstown Township, Warren County

Mr. Brill referred the Committee to Resolution FY2010R3(3) for a request for conditional preliminary approval of the Blairstown Township, Warren FY 2011 Municipal Planning Incentive Grant Program application, including comprehensive farmland preservation program plans and project area summaries. He reviewed the specifics with the Committee and stated that staff recommendation is to grant conditional preliminary approval as outlined in said resolution and as discussed.

It was moved by Dr. Dey and seconded by Mr. Germano to approve Resolution FY2010R3(3) granting conditional preliminary approval of the FY 2011 Municipal Planning Incentive Grant Program application, including the comprehensive farmland preservation program plan and project area summaries, as presented and discussed, subject to any conditions of said Resolution. The motion was unanimously approved. (A copy of Resolution FY2010R3(3) is attached to and is a part of these minutes.)

C. Request for Final Approval – New Rule County Planning Incentive Grant Program

1. Harold and Sally Peck, Lafayette Township, Sussex County

Ms. Winzinger referred the Committee to Resolution FY2010R3(4) for a request for final approval on the Harold and Sally Peck farm, known as Block 14, Lots 10.01 and 10.03, in Lafayette Township, Sussex County, totaling approximately 36.279 net acres. She reviewed the specifics of the request with the Committee. Ms. Winzinger stated that staff recommendation is to grant final approval as presented and discussed.

It was moved by Mr. Germano and seconded by Dr. Dey to approve Resolution FY2010R3(4) granting final approval to the Harold and Sally Peck farm, known as Block 14, Lots 10.01 and 10.03, Lafayette Township, Sussex County, 36.279 net acres, at a State cost share of \$9,000.00 per acre (60% of the certified market value) for a total grant of approximately \$326,511.00, utilizing base grant funds, as presented and discussed, subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY2010R3(4) is attached to and is a part of these minutes.)

D. Request for Final Approval: New Rule Municipal Planning Incentive Grant Program

1. Peter and Frances Rossmassler, Montgomery Township, Somerset County

Ms. Winzinger referred the Committee to Resolution FY2010R3(5) for a request for final approval of the Peter and Frances Rossmassler farm, known as Block 3300, Lots 24 and 32, Montgomery Township, Somerset County, 56 net acres. She reviewed the specifics with the Committee. She stated that Montgomery Township has a fifteen (15) percent impervious cover restriction within its development ordinance and traditionally imposes an impervious cover restriction on lands being preserved with the township. The Township has requested and the landowner has agreed to impose a ten (10) percent impervious cover restriction on the property, exclusive of the three (3) acre nonseverable exception area, which translates to approximately 5.6 acres available for agricultural infrastructure outside of the exception area. Ms. Winzinger stated that staff recommendation is to grant final approval.

It was moved by Mr. Danser and seconded by Ms. Reade to approve Resolution FY2010R3(5) granting final approval to the Peter and Frances Rossmassler farm, known as Block 3300, Lots 24 and 32, Montgomery Township, Somerset County,

56 net acres, at a State cost share of \$13,200.00 per acre for an estimated total of \$739,200.00 (60% of the certified market value and 51.77% of the purchase price and estimated total cost), with a ten (10) percent impervious cover restriction on the property, exclusive of the three (3) acre nonseverable exception area, which translates to approximately 5.6 acres available for agricultural infrastructure outside of the exception area, as presented and discussed and subject to any conditions of said resolution. The motion unanimously approved. (A copy of Resolution FY2010R3(75 is attached to and is a part of these minutes.)

E. Request for Amended Final Approval – Former Rule County Easement Purchase Program

1. Susan Peach Farm, Washington Township, Morris County (2006 Round)

Ms. Winzinger referred the Committee to resolution FY2010R3(6) for a request for amended final approval on the Susan Peach Farm, located in Washington Township, Morris County, known as Block 30, Lot 35, comprising approximately 115 Acres. The application received final approval in June, 2005 providing an SADC cost share grant based on 60% of the certified value or \$8,700.00 per acre for a total grant of approximately \$887,400.00 based on 102 net acres, and at that time the original application recognized one existing single family dwelling, two three-acre nonseverable exceptions and one 2-acre nonseverable exception for a future single family dwelling within each exception area for a total of four housing opportunities. She stated that the owners are requesting to eliminate all three exceptions, resulting in the reduction of residential opportunities from four (4) to one (1), which will result in no exceptions and one existing dwelling. She stated that the farm had to be reappraised and during the reappraisal process, the issue of sufficient road access to accommodate the anticipated development potential that was originally considered was questioned and resulted in a more detailed analysis by the county, township and appraisers. The amended SADC cost share of \$966,000.00 reflects an increase of approximately \$78,600.00, which is less than the “grant not to exceed” amount of \$1,025,000.00. The removal of the exception areas increased the acreage to approximately 115 acres. She stated that staff recommendation is to grant amended final approval as presented and discussed.

It was moved by Mr. Germano and seconded by Dr. Dey to approve Resolution FY2010R3(6) granting amended final approval to the Susan Peach farm, known as Block 30, Lot 35, Washington Township, Morris County to acknowledge the landowner’s amended application to remove all three of the nonseverable exceptions, thereby increasing the acreage from approximately 102 acres to approximately 115 acres and amends its cost share grant to Morris County to be

60 percent of \$14,000.00 per acre or \$8,400.00 per acre, for an approximately total grant of \$966,000.00, subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY2010R3(6) is attached to and is a part of these minutes.)

F. Nonprofit Grant Program – Request for Transfer of Interest

1. Hunterdon Land Trust Alliance/Toll Brothers South Farm, West Amwell Township, Hunterdon County

Ms. Winzinger referred the Committee to Resolution FY2010R3(7) for a request by the Hunterdon Land Trust Alliance to transfer its ownership interest in the property to West Amwell Township subsequent to their joint purchase of the property known as Toll Brothers South, Block 8, Lots 20 and 36, West Amwell Township, Hunterdon County.

Ms. Winzinger stated that the SADC received the non-profit cost share grant application from Hunterdon Land Trust Alliance (“HLTA”) and on March 26, 2009 granted final approval to the application and appropriated \$825,000 for the fee simple acquisition of the Property. West Amwell Township is participating with HLTA in the purchase, maintenance and resale of the Property. Ms. Winzinger stated that the Project Agreement entered into between HLTA, West Amwell Township and the SADC provides that upon the resale of the preserved farm, the SADC is to receive 55% of the net proceeds and that the HLTA and West Amwell Township will jointly acquire fee simple title to the Property.

Ms. Winzinger stated that pursuant to N.J.A.C. 2:76-16.1(a)3.ii.(3) the nonprofit shall, for lands acquired in fee simple title, agree not to sell, lease, exchange, or donate the lands unless the Committee is notified that the restricted farm is being offered for sale, exchange or donation and the Committee approves the transfer in writing, prior to the nonprofit’s offering, for sale or conveyance, of any of its interest in the land. She stated that the HLTA is requesting SADC approval to transfer its ownership interest in the Property to West Amwell Township subsequent to their joint purchase of the Property and HLTA’s receipt of the SADC grant and that it is the intent of West Amwell Township to sell the restricted farm. Ms. Winzinger stated that staff recommendation is to approve the request to transfer interest in the Toll Brothers South farm to West Amwell Township with the following conditions:

1. The SADC must approve the deed of conveyance.
2. West Amwell Township must receive SADC approval prior to selling the Property.
3. West Amwell Township must agree that upon the resale of the restricted Property West Amwell Township will pay the SADC 55% of the net proceeds

as set forth in the Project Agreement between the SADC, Hunterdon Land Trust Alliance and West Amwell Township.

4. "Net proceeds" pursuant to the terms of the Project Agreement are identified in Schedule B.

It was moved by Dr. Dey and seconded by Mr. Waltman to approve Resolution FY2010R3(7) granting a request by the Hunterdon Land Trust Alliance to transfer its interest in the Toll Brothers South farm, known as Block 8, Lots 20 and 36, West Amwell Township, Hunterdon County, 130.6 acres, to West Amwell Township subject to the following conditions:

1. The SADC must approve the deed of conveyance.
2. West Amwell Township must receive SADC approval prior to selling the Property.
3. West Amwell Township must agree that upon the resale of the restricted Property West Amwell Township will pay the SADC 55% of the net proceeds as set forth in the Project Agreement between the SADC, Hunterdon Land Trust Alliance and West Amwell Township.
4. "Net proceeds" pursuant to the terms of the Project Agreement are identified in Schedule B.

The motion was unanimously approved. (A copy of Resolution FY2010R3(7) is attached to and is a part of these minutes.)

G. Farmland Stewardship

1. Review of Actions to Correct Violations on Preserved Farm
 - a. Mario and Carol Mazza, Hamilton Township, Mercer County

Mr. Roohr referred the Committee to Resolution FY2010R3(8) pertaining to the Mario and Carol Mazza farm, known as Block 2732, Lot 39, consisting of 133 acres, in Hamilton Township, Mercer County. He stated that in December 2009, the Committee found that the owners were in violation of the terms of the deed of easement and previously approved resolutions as follows:

- 1) Any heated living space associated with the new residence in excess of the 3,436 sq./ft., as described in SADC Resolution FY03R6(18);
- 2) Any garage space associated with the new residence in excess of 847 sq./ft., as described in SADC Resolution FY03R6(18);
- 3) Use of the agricultural labor unit for two households where at least one member is not engaged, full-time, in production agriculture on the Premises; and

- 4) Conversion or use of a portion of an agricultural structure for residential purposes without the approval of the SADC.

Mr. Roohr stated that since the December action by the Committee staff has coordinated with the landowner's attorney, George White to establish corrective actions necessary to ensure that the use of the structures and activities occurring on the premises are in compliance with the deed of easement. He stated that Mr. White has indicated that only one of the two tenants of the agricultural labor unit remains and this tenant has requested the ability to continue to reside in the unit until the end of the school year, (June 2010) as to not disrupt her daughter's enrollment in the Hamilton township school system.

Mr. Roohr stated that the SADC is requiring the following conditions related to the existing tenants occupancy of the agricultural labor unit until June 2010:

- 1) Proof of the existing tenant child's enrollment in a Hamilton Township public school shall be provided within 15 days of this resolution;
- 2) The existing tenant shall execute a legal document indicating their agreement to vacate the premises on or before June 30, 2010;
- 3) The existing tenant shall be required to vacate the premises prior to conveyance of the farm to a subsequent property owner as a result of the auction should such conveyance occur prior to June 30, 2010

Mr. Roohr stated that the winery/shop building staff confirmed that it was advertised as an executive clubhouse with bedrooms but that was more of an advertising error. It was never used for any type of residential use. There is a section of the shop that is very nice but not considered any type of living quarters. The landowner and his attorney have agreed that they will correct that in future advertising. The landowner also fully understands that it cannot be utilized as any type of living quarters without SADC approval.

Mr. Roohr stated that regarding the excess heated living space within the basement of the residence, Mr. White has indicated that his client has agreed to correct this violation by completing the following:

- 1) Removal of the heat and air conditioning units and all visible ductwork, piping, tubing and drains;
- 2) Permanent capping of all ductwork and vents;
- 3) Removal of the theater system, including all associated electronics, sound equipment, furnishings and accessories;
- 4) Removal of all carpeting;

Mr. Roohr stated that the owners have agreed to record an amended deed of consent with the County Clerk's office, clearly setting forth the limitations of the basement space for future owners with the draft language to be reviewed by the SADC and approved by the Office of the Attorney General. He stated that the existing walls, insulation and drop ceiling shall be permitted to remain and the owners shall be permitted to tile the basement floor with the same industrial style tile currently used in the garage. He stated that regarding the conversion of a portion of the shop/winery building to residential use, Mr. White explained that this was an error in the auction advertising documents, stemming from the owners' temporary storage of bedroom furniture in the building, which would be corrected in future advertising.

Mr. Roohr stated that regarding the garage space in addition to the 847 sq/ft described in SADC resolution FY03R6(18), it has been determined that the resolution also makes reference to the additional space associated with the guest quarters and the areas of existing garage space are reflected in the architectural plans provided by the owners at the time of the request, therefore the SADC rescinds its assertion that existing garage space is a violation.

Mr. Roohr stated that staff is recommending approval of the remedies to the violations as follows:

- 1) Removal of the heat and air conditioning units and all visible ductwork, piping, tubing and drains in the basement of the Owners house;
- 2) Permanent capping of all ductwork and vents in the basement of the Owners house;
- 3) Removal of the theater system, including all associated electronics, sound equipment, furnishings and accessories in the basement of the Owners house;
- 4) Removal of all carpeting in the basement of the Owners house;
- 5) Recording of an amended deed of consent that clearly stipulates the limitations on the basement for all future owners of the premises;
- 6) Proof of the existing tenants child's enrollment in a Hamilton Township public school shall be provided within 15 days of this resolution;
- 7) The existing tenant shall execute a legal document indicating their agreement to vacate the premises on or before June 30, 2010;
- 8) The existing tenant shall be required to vacate the premises prior to conveyance of the farm to a subsequent property owner as a result of the auction should such conveyance occur prior to June 30, 2010; and
- 9) Marketing materials for the sale of the premises shall be amended to remove references of residential or "bedroom" space within the shop/winery building; and

The SADC will require review and approval of the amended deed of consent prior to filing at the Mercer County Clerks's office and the SADC will require a compliance inspection verifying that the above conditions have been met prior to issuing a letter of satisfaction to the Mazzas.

Ms. Craft stated that the difficulty is the interpretation of heated living space and what that means. She stated that she would like to adopt a definition by regulation as to what this means so that there is something official on the record subject to the public process. She stated that for this farm, because it is a precedent case, this is what was needed to avoid litigation and the fact that the restriction will be put on the deed gives her great comfort that the problem will not happen again with the next buyer and then in the mean time deal with this issue more generally and adopt regulations that defines what heated living space means. She stated that the nonagricultural use rule that the SADC adopted contains language that allows a certain amount of space within existing buildings to be finished so there is some text for that but that only defines what "finished space" meant.

Dr. Dey commented that the basement has a drop ceiling that is not being forced to be removed. He stated that it is very conceivable to cut a few holes in the first floor flooring to get heat into the basement. Ms. Craft stated that if the Committee feels that staff has not gone far enough with the recommendations that is why it is before it today. Mr. Siegel stated that the SADC should simply brief the new purchasers. Ms. Craft stated that you have to be careful and that the SADC cannot interfere with subsequent real estate transactions. Mr. Siegel stated that once the farm is preserved the SADC could reach out to the new owners and provide information as to what can and cannot be done on preserved farms. Mr. Roohr stated that this is a fee simple property so the SADC is responsible for monitoring.

Mr. Waltman stated that he wants the Committee to remember that if we are going to preserve farms we would like to think that these farms would be affordable to a farmer. Obviously the kinds of improvements that were made to this property puts this farm out of the reach of the vast majority of people who are engaged in farming. He suggested that possibly the SADC consider some sort of a penalty going forward. He stated that also possibly a penalty for the person who should and more than likely does know better and that would be the auctioneer. He stated that often times these properties are advertised as "build a dream house" rather than "preserve a farm". He realizes that the SADC cannot interfere with transactions of this nature in some ways but shame on us for sitting back and watching these auctioneers auctioning off preserved farms to people that we know in 90% of the time are not going to be real farmers. He wondered why the SADC cannot contemplate some type of presence at these auctions, where staff could be articulating what is supposed to happen on preserved farms. He stated that he wants to make sure that more of these types of issues don't continue to occur and he fears that they will unless the SADC does something. Mr. Schilling stated that he understands Mr.

Waltman's comments but these are free market transactions that basically come with some set of restrictions, however he thinks about this often and it comes down to enforcement. He stated that the auctioneers are in the business of making money for themselves and their clients and he doesn't know what type of accountability they would have to enforce the SADC's ideology. He stated however, that they cannot misrepresent either as it would be illegal to misrepresent what can and cannot happen on a preserved farm. He stated that to a large extent the only thing the SADC has at its disposal are the rules and regulations and it is the obligation of the SADC to make sure these rules are being followed.

Mr. Siegel stated that there are two issues, one is communication with the owners of these preserved farms. He stated that when the SADC finds out a transaction is taking place to make sure that the new owners knows what they are getting into in purchasing a preserved farm. He stated that what we are touching on here is the failure to have a policy or to deal with the larger question of estate farms and the affordability issue. Mr. Schilling stated that enforcement and education are the only tools at the SADC's disposal.

Ms. Rendeiro commented that possibly when you update the rules you could say there is a disclosure requirement on the part of the owner to say this is a preserved farm and it is then up to the buyer to find out what that means. She suggested the SADC could contact the New Jersey Association of Realtors to request some time to speak at one of their training sessions on farmland preservation and the issue of realtors being obligated to disclose what they know about the preserved property. She stated that the owner is obligated to disclose to the realtor and then the realtor is then obligated to disclose in the transaction and then it becomes the responsibility of the buyer to find out what that means and what the restrictions would entail.

Ms. Craft stated that there are three areas which staff has identified to improve communications and understanding of the program. She stated that one is a handbook for the applicants that intend to enter into the program which explains what an exception is, both severable and nonseverable, what is an RDSO and what does it mean to be regularly engaged, etc., to try and walk people through the decision making process. She stated that another handbook would be for those landowners who are already in the program, what permissions they need to do various activities, where they need to go to etc. She stated that the third tool would be to try and have an e-newsletter that goes out on a regular basis. She stated that staff struggles to get these things accomplished when you have issues like wind and solar on land or soil disturbance issues because those issues take up enormous amounts of staff time. She stated that this is very tied into what the deed of easement subcommittee is discussing, trying to clarify certain provisions of the deed of easement and what they mean. Ms. Craft stated that staff will be coming back to the Committee, hopefully at its next meeting to begin moving forward with some of these

issues. She stated that she is striving to get Committee clarity first and then communicate that clarity to the public.

Ms. Craft stated that regarding Mr. Waltman's comments about affordability, that is a big issue for the agricultural community and she felt that there are two aspects that we need to do to improve affordability and one is to put a house size limitation on future deeds and require the land to be in production. She felt if we took those two steps we would go far to improve farmland affordability. The agricultural community needs to engage and support that to some extent. She stated that the SADC needs to be an advocate for the agricultural community and it is the SADC responsibility to address housing policies and subdivision policies. If subdivisions are limited that would influence affordability.

Mr. Waltman asked if staff has a presence at these auctions. He asked if it was conceivable if staff attends these auctions and communicate to potential buyers. Ms. Craft responded that staff attends the auctions but does not have a "presence" but they are not the SADC's auctions. Mr. Waltman stated that it is our program and the SADC has a responsibility to the public who has an ownership interest in these properties. He wondered how it could be communicated more directly rather than through language in the deed, which is a good start but is not an absolute means of communicating. Ms. Craft stated that when this issue first came up she did speak to the auctioneer, Max Spann and advised him that they could not be advertising in a way that is not in compliance with the deed of easement. She stated that his response was that he did not want to advertise anything that would not be in compliance. She stated that Mr. Spann has agreed to meet with staff, after the Mazza issue is resolved, to discuss how they can assure accuracy of their representations. She stated that is about as far as she felt the SADC can go.

Mr. Siegel stated that communication with new purchasers is a simple lo-tech step that can be taken when we are aware that these transactions are happening. Mr. Schilling asked if there was any formal requirement that the SADC be notified regarding the sale of a preserved farm. Ms. Craft responded there was not. Ms. Craft stated that the SADC finds out about a sale through the appraisal process. Mr. Danser stated that it is also revealed through the monitoring process but that would take approximately ten months to a year. Mr. Siegel stated that the CADBs can monitor real estate transactions because it is written in a single page report, a monthly report and they are classified by investment so you can see which ones are farmland assessed. He stated that the counties can then reach out to the new owners so that they are aware what the restrictions are. Ms. Craft stated that Mr. Siegel's suggestion might be a good one to look into. Ms. Rendeiro stated that possibly you could make it a requirement of the program to have the property owner notify the SADC when they are going to put the property on the market so that you would know before the sale happens. She stated that it could be a letter of intent. Ms. Craft stated that if the intention is to more effectively communicate to new owners, then Mr. Siegel's suggestion could be a very good one regarding the transaction report. She stated

that what she hears the Committee saying is that we want to do a better job communicating with new owners as soon as we know there are new owners, and we would like to know that there are new owners as soon as possible. She stated that those two areas can be worked on.

Mr. Danser stated that he supports the settlement terms as stated earlier but he thought it would be good if Mr. White, the attorney for Mr. Mazza, could state for the record that he concurs with the results of this and what the Committee is being asked to approve.

Mr. White stated that both he and Mr. Mazza fully intend to comply with the Resolution as it has been drafted and the terms that need to be met within the time frame listed in the resolution.

There were discussions to amend the draft resolution to ensure that the owners agree to all of the terms to correct the violations. It was the consensus of the Committee to amend the resolution to reflect all nine provisions of settlement as discussed.

It was moved by Mr. Danser and seconded by Mr. Germano to approve Resolution FY2010R3(8), agreeing to the following actions to correct the pending violations on the Mazza property, as presented and discussed, amending the last "Whereas" at the bottom of page two (2) of said Resolution to include all nine provisions of settlement, as listed below:

- 1) Removal of the heat and air conditioning units and all visible ductwork, piping, tubing and drains in the basement of the Owners house;
- 2) Permanent capping of all ductwork and vents in the basement of the Owners house;
- 3). Removal of the theater system, including all associated electronics, sound equipment, furnishings and accessories in the basement of the Owners house;
- 4) Removal of all carpeting in the basement of the Owners house;
- 5) Recording of an amended deed of consent that clearly stipulates the limitations on the basement for all future owners of the premises;
- 6) Proof of the existing tenant's child's enrollment in a Hamilton Township public school shall be provided within 15 days of this resolution;
- 7) The existing tenant shall execute a legal document indicating their agreement to vacate the premises on or before June 30, 2010;
- 8) The existing tenant shall be required to vacate the premises prior to conveyance of the farm to a subsequent property owner as a result of the auction should such conveyance occur prior to June 30, 2010; and

- 9) Marketing materials for the sale of the premises shall be amended to remove references of residential or “bedroom” space within the shop/winery building; and

The SADC will require review and approval of the amended deed of consent prior to filing at the Mercer County Clerks’s office and the SADC will require a compliance inspection verifying that the above conditions have been met prior to issuing a letter of satisfaction to the Mazzas.

The motion was approved. (Mr. Siegel abstained.) (A copy of Resolution FY2010R3(8) is attached to and is a part of these minutes.)

2. SADC Monitoring Program – 2010 work Plan

Mr. Roohr referred the Committee to a memorandum dated March 18th from Ms. Craft regarding the farmland stewardship program and issue of monitoring. He stated that as the number of preserved farms continues to grow the SADC must devote substantial efforts to making sure that preserved lands remain compliant with the deed of easement and available for agricultural uses. This would include coordinating annual monitoring of the preserved farms and conducting outreach and education with the county agriculture development boards, nonprofit agencies and landowners.

Mr. Roohr stated that the SADC, CADBs and nonprofits all conduct monitoring of the preserved farms, but the procedures for monitoring vary. He stated that it is critically important that the monitoring strategies be standardized to make sure that the procedures and information gained as a result of a monitoring visit are essentially the same. It is also critical to standardize the process to ensure fairness to all owners of preserved farms and to provide for consistent and timely communication between the SADC and its partners in identifying and addressing violations. Mr. Roohr introduced Hillary Barile to the Committee. He stated that the SADC has hired Hillary Barile as a temporary employee to assist in developing a consistent and coordinated monitoring program through what is considered “phase 1” of a two-part project. He stated that Ms. Barile’s duties in this first phase will include researching monitoring programs in counties and other states; developing revised forms and procedures for all easement holders to use during monitoring visits, updating the existing database to centralize the information collected during monitoring visits, and deploying this program to the CADBs and non-profits. He stated that the SADC will be able to test the effectiveness of newly developed procedures by integrating them into its own monitoring visits on farms with SADC-held easements. By developing Phase one under real world conditions the SADC hopes to have an end product that is readily usable by all agencies. Staff anticipates phase one of this project will take four to six months.

Mr. Roohr stated that once this first phase is complete, and subject to future funding availability, staff would like to begin the second phase, aimed more toward building an understanding of the conservation needs and opportunities on preserved farms. In this phase, the goal would be to make landowners more aware of conservation resources and help them access those resources to maximize farmland stewardship and the public's investment in farmland preservation. This proactive outreach to landowners will help reduce the number of violations on preserved farms, resulting in avoided administrative and legal costs for the State. He stated that staff would keep the Committee informed as the process moves along. Ms. Barile addressed the Committee. She stated that the process is moving forward very well and she has moved through looking at how other states are doing their monitoring and how all the counties are doing their monitoring. She also looked at what legislation is available at the present time and what the easement says we have to monitor. She stated that she is in the middle of compiling that list of what our minimum standards would include and at the same time thinking about what we might want to get, to the point of what the Committee was speaking about such as what trends are we seeing specifically. She stated that if anyone has suggestions as to what you want to know regarding our body of preserved farms, to let her know. Ms. Craft stated that when staff first discussed this project we thought about it in two phases, one is getting the monitoring program up to standard but to make sure we are using that to also collect data. The second phase is focusing on conservation practices on farms, what is available and how can they get help dealing with issues, to try and improve our opportunity when on site to talk about conservation on farms.

Ms. Reade stated that there was a discussion recently with the soil conservation districts regarding the difference between the different kinds of conservation plans because the 251 plan, which goes to residential development or other kinds of development is called a conservation plan. There is very ambiguous language in the new solar and wind bill that says that any farm that wants to install solar and wind as a renewable energy generator on their farm and presumably taking farmland out of production in the process has to file a conservation plan. She stated that the soil conservation districts had a long discussion regarding whether or not it was an NRCS conservation plan or the 251 plan. She stated that the issues were such that they couldn't decide. She stated that the issues are very difficult problems and the new legislation is very ambiguous in its wording and can be very troublesome. Ms. Craft stated that the issue collides with monitoring in that several counties are using staff from the soil conservation district to monitor their easements and what we are starting to see is a tendency, for example a farmer was proposing to do some massive construction project and the CADB staff usually are saying, well the district gave them a 251 permit so that must mean that soils are being properly conserved on the farm. She stated that they are two totally different issues, a farm conservation plan is one issue and a 251 soil and sediment erosion control plan is something different and one does not mean the other. Ms. Purcell stated that this is a huge issue and she has never heard a 251 plan being called a conservation plan. She stated that she would look into the issue and

that she has a call into Tom Drewes from the NRCS. She stated that these are the issues that need to be worked out as far as what is disturbance and what is not in terms of the 251 plan as well as the plan that is called for in the farmland assessment section of the legislation.

PUBLIC COMMENT

Nicki Goger from the New Jersey Farm Bureau stated that her comments are related to that last few discussions today one being affordability and antidotal evidence. We hear a lot from farmers that are complaining about neighboring farms or farms that they want to rent that are being turned into habitats or set-aside programs for the USDA or are fallow and causing problems with invasive species and wildlife. A lot of those farms are preserved so one marker for the SADC to look for would be is the land being actively used for agriculture. That would lead us to the ability to change the easements to require farms to be actively devoted to agriculture as opposed to being “available” for farming, which is something that the Farm Bureau policy supports. Ms. Craft stated that the SADC would appreciate any thoughts, comments and or suggestions that the Farm Bureau would want to send either formally or informally. Ms. Goger stated that another issue is dealing with the Peach Farm in Morris County. She stated that she didn’t think that the SADC, the Highlands and the DEP had all come to an agreement yet as to how to treat these exceptions on preserved farms, at least in writing and it is a problem for farms that were preserved with exceptions prior to the Highlands Act and going forward. She stated that there needs to be some agreement that the DEP will respect the deed that has allowed that opportunity.

Henry Grinbaum from Farm Credit stated that he has some thoughts about advertising and talking to people who are looking to buy preserved farmland. He stated that Farm Credit finances the majority of farms that are being sold in New Jersey and he deals specifically with preserved farms. Many times the applicants will come to him after the auction for financing and do not know what they can do with the property, coupled with the fact that a lot of the applicants will be successful bidders at auctions without obtaining the financing until after the auctions. He felt that communicating with these people, possibly someone from the Department attending some of the open houses.....he didn’t know whether or not the SADC could put information on the auction advertising as to who in the in SADC people could contact. He stated that he attends a majority of the open houses and he would be happy to provide that information because many times there are questions that he cannot answer and probably Mr. Spann has those types of situations also. He stated that he had a closing the other day and the person knew virtually nothing about the deed of easement. Dr. Dey asked Mr. Grinbaum in his estimation how many of those applicants were farmers. Mr. Grinbaum responded approximately 10-15 percent were farmers and 85 percent were non farmers.

TIME AND PLACE OF NEXT MEETING

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

CLOSED SESSION

At 11:15 a.m. Dr. Dey moved the following resolution to go into Closed Session. The motion was seconded by Mr. Germano and unanimously approved.

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

Action as a Result of Closed Session

A. Real Estate Matters – Certification of Values

County Planning Incentive Grant Program

It was moved by Mr. Danser and seconded by Dr. Dey to certify the development easement values for the following landowners as presented and discussed in closed session, with certification on the Harvestone Farms, Inc. (Linz/Buchan) being conditioned upon the twenty (20) acre severable exception on the property being restricted to the existing uses in place as of the date of appraisal (one residential dwelling, a golf driving range, a nursery stock business, and agricultural uses):

1. William Lare
Block 8, Lot 7, Chester Township; Block 100, Lot 15, Mendham Township,
Morris County, 62.42 Acres
2. William and Helen McLaughlin
Block 50.02, Lot 17, Washington Township, Morris County, 16.74 Acres
3. Harvestone Farms, Inc. (Linz/Buchan)
Block 3, Lot 15, Washington Township, Morris County, 133 Acres

Certification of value will be conditioned upon the twenty (20) acre severable exception being restricted to the existing uses in place as of the date of the appraisal (one residential dwelling, a golf driving range, a nursery stock business and

agricultural uses).

4. Allen and Denise Richardi
Block 43, Lot 74.01, Washington Township, Morris County, 37 Acres
5. Robert W. Smith
Block 12, Lot 4, Washington Township, Morris County, 100.8 Acres
6. Edward Terry
Block 38, Lot 11, Washington Township, Morris County, 18.1 Acres
7. Gulick Home LLC Farm III (Elsie et al)
Block 14, Lot 33.05, West Amwell Township, Hunterdon County, 17 Acres
8. Alice and William Emmons
Block 38, Lot 8, Delaware Township, Hunterdon County, 42 Acres
9. H.J. Hautau and Sons, Inc. # 2
Block 25, Lot 15.02, and Block 28, Lot 1.04, Franklin Township, Sussex County,
37 Acres
10. Deborah Post
Block 33, Lot 4; Block 34, Lot 4, Chester Township, Morris County, 56 Acres
11. Tracey Frick and Stephanie Levick
Block 15, Lot 13, Alexandria Township, Hunterdon County, 42 Acres
12. Craig and Leslie Smith
Block 21, Lots 3, 3.03 and 12.03, Delaware Township, Hunterdon County, 64
Acres
13. Billie and Donna Gardner
Block 6, Lot 48, Holland Township, Hunterdon County, 50.35 Acres
14. C & R Runge et ux (Runge Farm # 1)
Block 23, Lot 1, Alexandria Township, Hunterdon County, 36 Acres
15. C & R Runge et ux (Runge Farm # 2)
Block 19, Lot 13, Alexandria Township, Hunterdon county, 77 Acres

The motion was unanimously approved. (Copies of the Certification of Value Reports are attached to and are a part of the closed session minutes.)

Direct Easement Purchase Program

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

1. Hance Bridge Road Properties, LLC (Cervini Farm)
Block 7301, Lot 3; Block 1703, Lot 7, City of Vineland, Cumberland County, 525 Acres

The motion was unanimously approved. (A Copy of the Certification of Value Report is attached to and is a part of the closed session minutes.)

2009 Municipal Planning Incentive Grant Program

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

1. LilaMae Sara and Shirley Goren
Block 2001, Lots 9, 10 and 11; Block 2203, Lot 21, Pittsgrove Township, Salem County, 38 Acres

The motion was unanimously approved. (A copy of the Certification of Value Report is attached to and is a part of the closed session minutes.)

B. ATTORNEY/CLIENT MATTERS

1. Authorization to Execute Consent Order
 - a. Kneser Farm, Tewksbury Township, Hunterdon County

It was moved by Mr. Germano and seconded by Dr. Dey to approve the draft Consent Order on the Joseph and Elizabeth Kneser property as discussed, with the understanding that staff is being given some latitude on minor adjustments to the consent order and if there is anything of substance that needs to change it would be brought back to the Committee for discussion and approval. The motion was approved. (Mr. Siegel and Mr. Waltman abstained.) (A copy of the Consent Order is attached to and is a part of the closed session minutes.)

ADJOURNMENT

There being no further business, it was moved by Mr. Germano and seconded by Ms. Reade and unanimously approved to adjourn the meeting at 12:35 p.m.

Respectfully Submitted,

Susan E. Craft, Executive Director
State Agriculture Development Committee

Attachments

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