

**STATE AGRICULTURE DEVELOPMENT COMMITTEE (SADC)
REGULAR MEETING**

January 26, 2023

Secretary Fisher called the meeting to order at 9:09 a.m.

Ms. Payne read the notice stating that the meeting was being held in compliance with the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq.

Roll call indicated the following:

Members Present

Chairman Fisher
Martin Bullock
Pete Johnson
Roger Kumpel (alternate Farmer Member for Scott Ellis)
Richard Norz
James Waltman
Gina Fischetti
Renee Jones
Julie Krause
Brian Schilling

Members Absent

Denis Germano
Scott Ellis

Susan E. Payne, Executive Director
Jason Stypinski, Esq., Deputy Attorney General

Minutes

SADC Regular Meeting of December 1, 2022 (Open and Closed Session)

It was moved by Mr. Johnson and seconded by Mr. Bullock to approve the Open and Closed Session minutes of the SADC regular meeting of December 1, 2022. Mr. Kumpel abstained from the vote. The motion was unanimously approved.

Report of the Chairman

Chairman Fisher reported on the Special Occasion Events (SOE) bill and stated that as Secretary of Agriculture, he created a video and distributed it to many preserved farm landowners to inform them of the status of the current SOE bill.

Chairman Fisher noted that 2023 marks the 40th anniversary of the Farmland Preservation Program. He stated that New Jersey has a proud history of farming beginning with Native Americans, and then with the European settlers who came here in the 1600's. NJ has about 5 million acres, including of productive agricultural lands and reliable growing conditions, and does an amazing job producing a variety of crops while being the most densely populated state in the country. NJ cherishes its farms and has invested more actual dollars than any other state to preserve farmland. SADC members are stewards in protecting this resource while also balancing the opportunity to keep farmers on the land not just today but in the future.

A farm can be anywhere, in any number of buildings, and a seed and a plant may never touch the ground, but it is still farming because a crop is being produced. For example, aquaculture is farming, although terrestrial land is not involved. There will always be a need for acreage for topsoil, and precious farmland is being lost to disasters or development. NJ once boasted 2 million acres of farmland out of the less than 5 million total acres, and now there is 750,000 farm acres of which 250,000 have been proudly preserved.

When the pandemic hit, the Garden State, almost overnight, understood the value of having working, productive farms in our midst. When supply chains were interrupted and other logistical problems arose during the pandemic, we could depend on ourselves to a degree and not wait for food from another continent. Our nurseries also provided plant material for people who re-discovered both growing and tending a garden for their emotional well-being. We need to help farmers, in any number of ways, to maintain and grow, without sight of losing the precious commodity that is the land. Dedicated farmers who do this have informed me, time and time again, that they are stewards of these lands. So too are you on this committee, who are mindful of and take seriously the responsibility that has been entrusted to you to balance the present needs without depleting future agrarian endeavors.

I must add that the SADC staff is very talented and shows great care working with landowners and operators. We are entering a new phase of this program where we can continue to maintain our momentum while moving toward additional possibilities where we can fashion new ways to further assist the farmers and the residents of our state with initiatives in the areas of conservation, climate resilience, sustainability, and food security, while enhancing the farmers' financial future for generations.

Report of the Executive Director

Ms. Payne stated that while the SADC's work is not always easy, we cannot lose sight of how lucky we are and how much we have accomplished. The SADC has had 40 years of nonstop, nonpartisan support for farmland protection and that's a huge asset. The program has had unwavering public support both programmatically and financially. NJ's farmland preservation program is the envy of the nation in terms of our funding capacity, and we have a robust

county, state, and nonprofit network of partners and some of the greatest and most innovative farmers in the world.

Ms. Payne thanked the landowners of the state who chose to participate in the program, as that is a very personal and financial decision that affects families and their livelihoods. She also thanked county, municipal, and nonprofit partners, as the program would not have been possible without them. The counties have been the backbone of the program since it started, and they hold 75% of the farmland preservation easements and are the direct link to landowners, all of which is invaluable. Ms. Payne also acknowledged the members of the County Agriculture Development Boards (CADB) and the amount of personal commitment those members make year after year. Ms. Payne also recognized the SADC staff, and the committee members and thanked the board members for their service and dedication.

Mr. Kumpel commented that he read the American Farmland Trust summary of farmland preservation programs from across the country contained in the packets, and complimented the efforts that everyone at the SADC has made for the program, stating that he is proud to be living as a farmer in NJ.

Ms. Payne stated that there are two bills that have been introduced that would have an affect on SADC programs. The first is A4729 sponsored by Assemblyman Sauickie which allows the SADC to adopt a statewide formula for easement values, similar to how farm properties are valued in the Pinelands. Ms. Payne will refer the bill to the Future Program subcommittee for review if the legislation is enacted.

The second bill is S2669 sponsored by Senator Turner that affords Right to Farm (RTF) protection for Agricultural Labor Housing associated with operations that have farm animals. Ms. Payne noted that in early 2021 the RTF Act was amended to protect ag labor housing for equine operations.

Ms. Payne stated RTF protection is needed for all ag labor housing in the state and there is concern about addressing the issue in piecemeal legislation. Mr. Johnson asked if there is any other ag labor housing that is not covered. Ms. Payne stated that no other kinds of farming operations aside from equine farms, have RTF protection for ag labor housing. Chairman Fisher stated that revising the bill may not be as difficult as one thinks and the legislators may just need to be made aware of the situation. Ms. Payne stated that this bill only protects full time year-round housing for labor associated with animal-based agricultural operations. Mr. Norz asked if the SADC can send a letter to the legislature and explain the necessity for more protections. and stated that RTF protection is needed for temporary housing for vegetable growers, and other agricultural operations. Mr. Bullock asked if the board could write a letter to the legislature expressing the committee's concerns. Ms. Payne stated that she will explore this question with the Governor's Office will report back to the SADC.

Ms. Payne reported that the Soil Protection Subcommittee met with the State Board's working subcommittee before Christmas and had a good conversation. In addition, the SADC subcommittee met earlier this week to go over the updated mapping data from Rowan University. Ms. Payne stated that at next month's meeting staff plans to present the committee

with the Rowan data, mapping subcommittee recommendations.

Ms. Payne invited committee members' attention to the delegation reports.

Communications

Ms. Payne stated that there were two letters with comments regarding soil protection standards. She pointed out an article in the communications packet regarding how California did not to irrigate 750,000 acres of land in 2022 due to the prolonged drought. That acreage is roughly equivalent to all the farmland in NJ. Mr. Kumpel commented on the droughts in CA and that the statistics are concerning, as a lot of food is produced in CA.

Mr. Waltman commented that the Watershed Institute is excited to announce that after a two-year search, they will now be hosting Fairgrown Farms, owned by two young brothers who have leased a portion of the Institute's property for an organic farming operation.

Public Comment

There was no public comment.

Old Business

A. Stewardship

- 1. Resolution: Access to Non-severable Exception Area
K. Johnson Enterprises – John Gres Farm
Block 19, Lot 9, Robbinsville Township, Mercer County
SADC ID# 11-0030-EP**

Mr. Willmott reviewed a draft resolution memorializing last month's committee approval of the application to construct a driveway in connection with the construction of a single-family residence on the subject property's exception area. The Committee approved the driveway alignment subject to bringing the property into compliance with the deed of easement by restoring the previously tillable portions of the farm to a tillable condition. The resolution requires the contract purchaser, K Johnson Enterprises, to restore the property prior to initiating construction of the residential unit but allows construction of the driveway simultaneous with the rehabilitation activities.

It was moved by Mr. Norz and seconded by Mr. Kumpel to approve Resolution FY2023R1(1) for access to the non-severable exception area for the K Johnson Enterprises, LLC- John Gres Farm to restore the property prior to initiating construction of the residential unit but allow construction of the driveway simultaneously with the rehabilitation activities, as presented, subject to any conditions of said resolution.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolution FY2023R1(1) is attached to and a part of these minutes.

New Business

A. Stewardship

- 1. Resolution: Agricultural Labor Housing Request
Mary Mazzucco Trust
Block 46, Lot 11, Millstone Township, Monmouth County**

SADC ID# 13-0040-EP

Note: Mr. Bullock recused from this matter.

Mr. Willmott reviewed a draft resolution approving the construction of an already-existing 450 square foot studio apartment on the second floor of the equipment garage. The farm is a small-scale equine breeding/training operation for Hanoverian horses. The farm is 53 acres preserved in 1999 by Monmouth County and now operated by Judy Mazzucco. The deed of easement identifies two existing single-family residences, no RDSOs, no agricultural labor units and no exception areas. Ms. Mazzucco lives in one residence and the other is used for visiting family members. The farm is mostly wooded and there are 8 acres of pasture and a woodland management plan on 22 acres.

During the annual monitoring visit, the county discovered an ag labor apartment in an existing garage on the farm. Structures for the housing of ag labor need to have approval from the grantee and the SADC. The county approved the landowner's application for approval. The apartment is 450 square feet of heated living space, contains a small bathroom and kitchen, and is devoted for occupancy by one ag laborer living exclusively on the farm on a year-round basis. The primary duties of the employee will be general equine care. There are currently three horses on the farm which the owner trains for showjumping events. At this time the breeding consists of selling frozen semen from the owners deceased stallion, but also includes embryo transfer and occasional onsite breeding. Ms. Mazzucco indicated that, due to her age, onsite labor is necessary to support the operation. Staff reviewed the request, and the size and location of the proposed unit minimizes any adverse impacts to the preserved farm and the property is consistent with the DOE, so staff recommends approval.

It was moved by Mr. Kumpel and seconded by Mr. Schilling to approve Resolution FY2023R1(2) for the agricultural labor housing request for Mary Mazzucco Trust, as presented, subject to any condition of said resolution.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolution FY2023R1(2) is attached to and a part of these minutes.

2. Review of Activities

Pleasantdale Farms

Block 5501, Lot 15, Hammonton Township, Atlantic County

SADC ID# 01-0004-PN

Mr. Roohr stated that Pleasantdale Farms is a 126-acre blueberry farm in Hammonton. It was a 2003 direct easement purchase by the SADC, with the Pinelands Commission contributing funds for the preservation.

Pleasantdale Farms was comprised of four different tax lots when preserved, and the issue today involves an unapproved division of premises. As part of a data base cleanup project, staff found that one of the preserved farm lots was titled under a different name. In 2004, Pleasantdale transferred a 5-acre lot (Lot 15), which has a 1,400 square foot house on it, to Mr. Raphael Mendez. The explanation staff received from Pleasantdale is that Mr. Mendez, up until recently, had been a long-time employee of the farm and that transferring the property to

him was a way to help him build some equity and achieve home ownership. Pleasantdale sold Mr. Mendez the lot but it retained a 99-year lease on the farmland comprising most of Lot 15 and a first right of refusal to buy the lot back if Mendez ever wanted to sell it.

Staff informed Pleasantdale that the sale of Lot 15 to Mendez was not compliant with the Deed of Easement (DOE), and that this division would likely not meet the viability and ag purpose tests required for an approval of division of premises. Pleasantdale, because of its long-standing relationship with Mr. Mendez, has been working hard to come up with solutions on how this can be resolved. Mr. Roohr stated that the viable solutions will be explained by Mr. Smith, SADC in in-house counsel, involving re-conveying the parcel back to Pleasantdale but giving Mr. Mendez a lease on the house.

Mr. Roohr stated that the Pinelands Commission will also be involved in agreeing to a solution because it was a cost share partner when the farm was preserved. Ms. Gina Berg is here today on behalf of the Pinelands Commission, as well as Jack Plackter, Esq., attorney for Pleasantdale. Mr. Roohr stated that the objective today is to discuss alternative solutions acceptable to the SADC, and to provide guidance to the landowner and his attorney.

Mr. Smith stated that Lot 15 needs to be consolidated with the rest of the farm and, on its own, the parcel wouldn't pass the viability and ag purpose tests under the DOE. After Lot 15 is consolidated with the rest of Pleasantdale Farms preserved land, the question becomes what is to be done with Mr. Mendez and his home. One option proposed by the landowner was to give Mr. Mendez a 99-year lease on the house and the yard after Lot 15 is consolidated with the rest of the farm. Another option suggested by SADC staff was to convey Lot 15 back to Pleasantdale Farms and provide a life estate for the house and immediately surrounding yard areas to Mr. Mendez. Mr. Smith expressed concern about monitoring and enforcement of a 99-year lease. Mr. Smith stated that a life estate is more viable because when the person dies, the property reverts to the grantor.

Mr. Plackter, counsel for Pleasantdale Farms, complimented the staff and the willingness to discuss different solutions. He stated that a mistake was made in 2003 with the conveyance of Lot 15. Mr. Plackter stated that Mr. Dave Arena, the principal of Pleasantdale Farms, would like to get this issue resolved quickly and cooperatively and in the most cost-effective way possible.

Mr. Plackter suggested combining Lot 15 back with the rest of the adjoining Pleasantdale preserved farm properties, then subdividing the home and giving it to Mr. Mendez because even though the restrictions cover the home site, the area was never intended to be farmed. Mr. Plackter stated that an amendment to the easement might be required but that's only one solution. In other words, carve out a small home, get a subdivision from Hammonton, Mr. Mendez keeps the home, and the Pinelands and the SADC have an easement that covers the remaining area of Lot 15 that is being farmed.

Ms. Payne stated the problem with that proposal is that when a farm is preserved, the decision of how many housing units will be associated with the farm is made at the time of closing. For Pleasantdale Farms, there is a housing opportunity connected to the farm. Someday someone else may own the farm and they may want to tear the house down, move it elsewhere on the farm or expand it. The purpose of that housing unit is to give those who farm the land the ability to live on the farm. Chairman Fisher stated that's a practical solution but not one that

the committee can agree to.

Mr. Roohr, in response to a question from Chairman Fisher, stated that Pleasantdale proposed that Mr. Mendez would reconvey Lot 15 back to Pleasantdale and Pleasantdale would give Mr. Mendez a 99-year lease to live in the house. Ms. Payne asked why the lease would have to be 99 years. Mr. Plackter stated that Mr. Mendez paid for a fee simple interest and thought he would have the right to use the house, so they are trying to protect that. However, the lease does not have to be 99 years and Pleasantdale is willing to work with the SADC to come up with the best solution, and Mr. Mendez is aware of that.

Ms. Payne stated that Mr. Mendez bought what he thought was full fee simple rights, including the right to leave the home to his kids or sell it, but that's not viable because his ability to maintain ownership rights of the house or 5 acres doesn't exist. The question is whether the option for a life estate or a shorter-term lease is viable. Mr. Plackter stated that he is looking for direction from the committee and will then talk to Mr. Mendez.

Mr. Norz asked if there is a possibility of purchasing the property back from Mr. Mendez. Mr. Arena stated that he had that conversation with Mr. Mendez and that Mr. Mendez was a long-time employee who's been on the farm since he was a young man and who wanted to own a home, and Mr. Arena agreed to provide that opportunity. Mr. Arena stated that he took back a mortgage from Mr. Mendez, who paid off the mortgage in 15 years.

Mr. Johnson suggested buying the house back from Mr. Mendez with interest and giving him a life estate. Mr. Kumpel asked who's living with Mr. Mendez. Mr. Arena stated that Mr. Mendez lives in the home with his wife and two children. Mr. Kumpel stated that Mr. Arena has a right of first refusal to the property, so it is more than likely Mr. Arena will come into ownership of the property again. Mr. Kumpel was in agreement that the property should be put back together, and an agreement should be made to buy back the property and compensate Mr. Mendez for inflation and give his family a life estate to the house.

Ms. Payne stated that staff is comfortable with the life estate idea and has seen that happen in the program before, but if the committee wants further legal guidance on the issue of the 99-year lease, then that has to be discussed in closed session with the Attorney General's office. Mr. Plackter stated that he is looking for direction from the SADC and will wait for staff to get back to him after discussions in closed session and then Mr. Arena will take that information back to Mr. Mendez.

Ms. Payne asked how the farm is doing. Mr. Arena stated that the blueberry industry is doing OK, but it is suffering from inflation like everyone else. In answer to questions from Ms. Payne, Mr. Arena stated that he farms 1,200 acres overall with the majority in organic production and that he also farms sweet corn, organic cumpers, peppers, green and yellow splash, eggplants, and specialty peppers. Mr. Arena stated that there is a fallacy that farming is just seasonal, when in fact it's 12 months a year.

B. Resolutions: Final Approval- Municipal PIG Program

Ms. Miller referred the committee to one request for final approval under the Municipal PIG Program. She reviewed the specifics of the request with the committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Schilling and seconded by Mr. Kumpel to approve Resolution FY2023R1(3) granting final approval to the following application under the Municipal PIG Program, as presented, subject to any condition of said resolution.

1. John W. Schafer, SADC ID# 10-0442-PG, FY2023R1(3), Block 6, Lot 62.03, Holland Township, Hunterdon County, 21.1 gross acres.

A vote was taken. The motion was unanimously approved. A copy of Resolution FY2023R1(3) is attached to and a part of these minutes.

C. Resolutions: Final Approval- County PIG Program

Ms. Miller and Ms. Roberts referred the committee to two requests for final approval under the County PIG Program. They reviewed the specifics of the request with the committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Waltman and seconded by Mr. Bullock to approve Resolutions FY2023R1(4) and FY2023R1(5) granting final approval to the following application under the County PIG Program, as presented, subject to any condition of said resolution.

1. Maia and David Barnes, SADC ID# 10-0427-PG, FY2023R1(4), Block 6, Lot 23.02, Kingwood Township, Hunterdon County, 23.8 gross acres.
2. Stella Farms Inc., SADC ID #04-0025-PG, FY2023R1(5), Block 801, Lot 3, Winslow Township, Camden County, 53 gross acres.

A vote was taken. The motion was unanimously approved. A copy of Resolutions FY2023R1(4) and FY2023R1(5) is attached to and a part of these minutes.

D. Resolution: Final Approval- Direct Easement Purchase Program

Ms. Roberts referred the committee to one request for final approval under the Direct Easement Purchase Program. She reviewed the specifics of the request with the committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Kumpel and seconded by Mr. Schilling to approve Resolution FY2023R1(6) granting final approval to the following application under the Direct Easement Purchase Program, as presented, subject to any condition of said resolution.

1. Gerald and Carolyn Sleeter, SADC ID# 04-0013-DE, FY2023R1(6), Block 20201, Lot 3, Gloucester Township, Camden County, 41.6 gross acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolution FY2023R1(6) is attached to and a part of these minutes.

E. Resolution: Preliminary Approval- Direct Easement Purchase Program

Ms. Roberts referred the committee to one request for final approval under the Preliminary Approval Direct Easement Purchase Program. She reviewed a draft resolution granting preliminary approval to this 89-acre farm. Of interest is the location of the property in proximity to a known hazardous spill and ongoing remediation of groundwater contamination. A portion of this property is zoned for residential development and there is public water and sewer available to the site, so the groundwater remediation does not seem to have a direct impact on development potential. The pollution is being addressed by a licensed site remediation professional (LSRP). In addition, there is an agricultural well servicing the farm's equine operations and field crops.

Staff recommends that if the SADC approves proceeding with the application, then the approval should be conditioned upon receipt of clean test results from the agricultural water supply well located on the area to be preserved. Ms. Roberts also noted that areas where soil remediation is taking place are severable exceptions and will not be part of the area being preserved.

Ms. Roberts stated that staff has reached out to the Department of Environmental Protection to get a better understanding of the data. DEP representatives advised that the plume is shrinking in some areas. The LSRP, on the other hand, has said that the pollution is shrinking in some areas and increasing in other areas, but that overall concentration levels are decreasing, all of which is typical for migrating underground water pollution and major remediation efforts.

Mr. Waltman commented that depending on the contaminants, the contamination may or may not be deeper, and the well test results and well depths need to be looked at very closely.

Mr. Kumpel stated that as a vegetable grower, he is worried about food safety and there is no certainty as to what this contamination is comprised of. A discussion ensued regarding the possible source and composition of the contamination.

Ms. Jones asked if the bigger exception area creates enough of a buffer from the contamination. Ms. Roberts stated that there is a big drop off in elevation between the area of soil contamination and the land to be preserved, and no soil contamination occurred on the farmland because of that slope.

Chairman Fisher asked what would happen ten years later if the wells are contaminated. Ms. Payne stated that public water would have to be used to irrigate the farm. Ms. Roberts said staff has a comfort level from the DEP and LSRP that remediation is working. The LSRP has to oversee the project pending DEP's sign off, and preservation will not occur until remediation has been completed to SADC's satisfaction. Chairman Fisher asked for a vote.

It was moved by Mr. Johnson and seconded by Mr. Bullock to approve the application under the Preliminary Direct Easement Purchase Program.

Ms. Krause asked if staff could examine why there were no test wells placed on the farm. Chairman Fisher asked if it were possible for SADC to get more environmental information on this before they proceed with certification of values. Ms. Payne stated that was up to the committee. Mr. Norz asked for an amendment to the motion to make sure that this is a

condition of preliminary approval. Mr. Johnson withdrew his motion.

It was moved by Mr. Norz and seconded by Ms. Fischetti to approve Resolution FY2023R1(7) granting preliminary approval to the following application under the Preliminary Direct Easement Purchase Program, as presented, with the added condition to the resolution that the committee requires detailed environmental information be provided before considering certification of value.

1. Lynne Compari, SADC ID#01-0046-DE, FY2023R1(7), Block 125.04, Lot 1, City of Millville, Cumberland County, 111 gross acres.

A roll call vote was taken. Mr. Waltman abstained from the vote. The motion was approved. A copy of Resolution FY2023R1(7) is attached to and a part of these minutes.

Public Comment

Ms. Uttal stated that an email came in from Jean Public that was opposed to the approval issued to the Mazzucco Farm.

CLOSED SESSION

At 11:12 a.m. Ms. Payne read the following resolution to go into Closed Session:

In accordance with the provisions of the Open Public Meetings Act, N.J.S.A. 10:4-13, it is hereby resolved that the SADC shall now go into executive session to discuss settlement of the SADC v. Van Doren litigation; any other pending or anticipated litigation; any matters falling within the attorney-client privilege; and any matters under N.J.S.A. 10:4-12(b) that have arisen during the public portion of the meeting. The minutes of such meeting shall remain confidential until the Committee determines that the need for confidentiality no longer exists.

It was moved by Mr. Norz and seconded by Mr. Kumpel to go into Closed Session. The motion was unanimously approved.

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: 9 A.M., February 23, 2023

Location: 200 Riverview Plaza, Trenton, NJ

ADJOURNMENT

The meeting was adjourned at 11:45 a.m.

Respectfully Submitted,



Susan E. Payne, Executive Director
State Agriculture Development Committee