

STATE AGRICULTURE DEVELOPMENT COMMITTEE

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

REGULAR MEETING

MAY 28, 2009

Chairman Fisher called the meeting to order at 9:10 a.m. In compliance with the "Open Public Meetings Notice", the following statement was read:

"Pursuant to N.J.S.A. 10:4-6 et seq., adequate public notice of this meeting has been provided by giving written notice of the time, date, location and, to the extent known, the agenda. At least 48 hours in advance, this notice has been posted on the public announcement board, third floor, Health/Agriculture building, John Fitch Plaza, Trenton, NJ, mailed and/or faxed to the Newark Star Ledger, the Times of Trenton, the Camden Courier Post, and filed with the Office of the Secretary of State."

Roll call indicated the following:

Members Present

Douglas H. Fisher, Chairperson
Cecile Murphy (rep. DEP Acting Commissioner. Mauriello)
Ralph Siegel (rep. State Treasurer. Rousseau)
Brian Schilling (rep. Executive. Dean Goodman)
Jane R. Brodhecker
Alan A. Danser
James Waltman (Left at 2:20 p.m.)
Torrey Reade
Stephen P. Dey

Members Absent

Joy Farber (rep. DCA Commissioner Doria)
Denis C. Germano

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

Others present as recorded on the attendance sheet: Robert J. Baumley, Heidi Winzinger, Brian D. Smith, Charles Roohr, Daniel Knox, Bryan Lofberg, Paul Burns, Edward Ireland, Timothy Brill, Steve Bruder, David Kimmel, Cassandra McCloud, Patricia Riccitello and Sandy Giambrone, SADC staff, Nicole Goger, New Jersey Farm Bureau, Ryan Rapp, Middlesex County Agriculture Development Board, William Millette, Hunterdon County Agriculture Development Board, Harriet Honigfeld, Monmouth County Agriculture Development Board, Barbara Ernst, Cape May County Agriculture Development Board, Gregory Romano, New Jersey Conservation Foundation, Ian K. Willis and Howard Willis, Sr., Landowners, Cumberland County, Leslie Floyd and Daniel Pace, Mercer County Agriculture Development Board, Larry Pesesky, Morris County, Ryan J. Scerbo, Esquire, Bergen County, John Keller, New Jersey Turnpike Authority, Somerset County, Kyle Wiswall, Tri-State Transportation Campaign, Kelly Thomas Hunterdon County Agriculture Development Board, Daniel Kennedy, Burlington County Agriculture Development Board, Maura Tully, Esquire, Governor's Authorities Unit.

Minutes

- A. SADC Regular Meeting of April 24, 2009 (Open Session)
- B. SADC Regular Meeting of April 24, 2009 (Closed Session)

Dr. Dey stated that there was a discussion in the open session regarding a committee that was going to review easement definitions for the SADC. He saw that various names were listed for this committee but he doesn't know now where it is in the minutes. Ms. Craft stated that with respect to the April 24th minutes the Committee should be aware that the recording device used by staff failed for most of the last meeting and staff reconstructed the minutes from various notes and memory. With respect to the Committee it was her recollection of the decision that the group that had been pulled together to look at soils disturbance, because that was the issue that was interpretative of the deed of easement, would be the same subcommittee to review other deed of easement issues. Dr. Dey stated that was his understanding also but that was not what was written in the minutes. Ms. Craft stated that staff would clarify that issue.

It was moved by Dr. Dey and seconded by Ms. Brodhecker to approve the open session and closed session minutes of the SADC regular meeting of April 24, 2009 with the above noted amendment. The motion was unanimously approved.

REPORT OF THE CHAIRPERSON

Chairman Fisher stated that he would like to mention that there is a lot of concern that there may not be a public question on the ballot this November to provide new funding for open space, farmland and historic preservation. He would encourage everyone to use whatever influence you may have to assert to your legislators and various groups to have this question on the ballot. He stated that time is running short and he does not see anything else on the horizon right now.

REPORT OF THE EXECUTIVE DIRECTOR

Ms. Craft discussed the following with the Committee:

- Ms. Craft asked Mr. Baumley to discuss the amendment to the State Uniform Code of Ethics. Mr. Baumley stated that there has been a recent amendment to the Uniform Ethics Code dealing with seeking future employment. He stated that a copy of the amendment has been provided to the Committee in the meeting binders for its information.
- Ms. Craft stated that the appropriation bills for the FY09 round are completely through the Senate and it is hoped that they will be before the Assembly in its Agriculture and Natural Resources Committee on June 8th, which is the tentative schedule, and then referred to the Appropriations Committee and finally to the Assembly for a vote. We are still on tract and pushing to have those done by the end of June.
- The recent rule on the definition of current value as it relates to the county PIG program was published in the New Jersey Register and is now an effective rule.
- At the last meeting of the Committee, Ms. Murphy asked about the final recommendations of the Farmland Affordability/Availability Working Group. She stated that the Committee has been provided the results of that exercise, which is a draft summary of that process. She stated that this information has not been published as yet. She stated this will be revisited after the deed of easement subcommittee. She stated that she expects that the deed of easement subcommittee would be meeting sometime in June to talk about where we are in terms of the soil disturbance issues and, depending on how much time there is available, we could begin to discuss some of these other issues relating to the deed of easement.

COMMUNICATIONS

Ms. Craft encouraged the Committee to take home the various articles provided in the meeting binders. She stated that there are a lot of articles relating to whether there will be a bond question on the ballot. Also there is an article relating to the issue dealing with the Mumford division of the premises decision.

New Business

A. Renewals, Terminations and Withdrawals of Eight Year Programs

Ms. Craft stated that there were no requests for renewals, terminations or withdrawals of eight year programs for this meeting.

B. Nonprofit Grant Program – Requests for Preliminary Approval

1. Hunterdon Land Trust Alliance/Brown Farm # 1, Holland Township, Hunterdon County (Resolution FY09R5(1))
2. Hunterdon Land Trust Alliance/Brown Farm # 2, Holland Township, Hunterdon County (Resolution FY09R5(2))

Mr. Knox referred the Committee to Resolutions FY09R5(1) and FY09R5(2) both located in Holland Township, Hunterdon County. He reviewed the specifics for each farm with the Committee and stated that staff recommendation is to grant preliminary approval to each farm under the 2007 nonprofit grant round.

It was moved by Ms. Murphy and seconded by Mr. Danser to approve Resolution FY09R5(1) granting preliminary approval under the 2007 Nonprofit Grant Program round for the Hunterdon Land Trust Alliance/Brown Farm # 1, Block 9, Lot 20, Holland Township, Hunterdon County, 58 Acres and to approve Resolution FY09R5(2) granting preliminary approval under the 2007 Nonprofit Grant Program round for the Hunterdon Land Trust Alliance/Brown Farm # 2, Block 14, Lot 2, Holland Township, Hunterdon County, 35 Acres, as presented and discussed, subject to any conditions of said Resolutions. The motion was unanimously approved. (A copy of Resolution FY09R5(1) and Resolution FY09R5(2) is attached to and is a part of these minutes.)

C. County Planning Incentive Grant Program – Requests for Final Approval

Ms. Winzinger referred the Committee to fourteen resolutions relating to landowners in the County Planning Incentive Grant Program requesting final approval. She reviewed the Mercer County requests with the Committee first to give the Committee some information regarding the base grant and the competitive grant funding, discussing the amount of funding used for each applicant under each county's base grant and competitive grant allotments. Ms. Winzinger stated, for clarification purposes, that the base grant funding is treated differently than the competitive grant funding in that for the base grant counties received \$2 million for acquisitions and the counties can submit farms and lock in that money and if a particular farm came in and it was say ten acres less than anticipated, the extra money from that would go back into the base grant allotment to that county and it could use it for other projects. She stated that if the county was using just competitive money for an acquisition it would lock in a figure and if the farm came in with ten acres less than what the county anticipated the difference in the money would go back into the competitive grant and it would be there for any county that needed it. She stated that the Committee could take action on the Mercer County requests for final approval first since she had already discussed the particulars for those applicants. She stated that all three applicants for Mercer County are all owned in fee simple title by the County and the County has waived a three percent buffer on all of the farms.

It was moved by Dr. Dey and seconded by Mr. Waltman to approve Resolution FY09R5(3) through Resolution FY09R5(5) granting final approval to the following landowners as presented and discussed, subject to any conditions of said resolutions:

1. County of Mercer (formerly Sawmill Road Farm) (Resolution FY09R5(3))

Block 2730, Lot 9 p/o, Hamilton Township, Mercer County, 45.16 Acres
State cost share of \$36,050.00 per acre (59.1% of the certified market value) for a total grant of approximately \$1,628,018.00, subject to any conditions of said Resolution, and that the SADC grant will be funded using \$1,566,720.20 of the County's remaining base grant funds and \$61,297.80 in competitive grant funds.

2. County of Mercer (formerly Briarholm Farm) (Resolution FY09R5(4))

Block 2739, Lot 1, Hamilton Township, Mercer County 32.44 Acres
State cost share of \$49,438.97 per acre (55.55% of the certified market value) for a total grant of approximately \$1,603,800.19, subject to any conditions of said Resolution.

3. County of Mercer (formerly Hights Farm) (Resolution FY09R5(5))

Block 43, Lot 5, Robbinsville Township, Mercer County, 27 Acres
State cost share of \$41,744.09 per acre (52.54% of the certified market value) for a total grant of approximately \$1,127,089.89, subject to any conditions of said Resolution.

The motion was unanimously approved. (Copies of Resolution FY09R5(3) through FY09R5(5) is attached to and is a part of these minutes.)

Ms. Winzinger reviewed the remaining requests for final approval with the Committee as follows. She stated staff recommendation is to grant final approval as presented and discussed.

It was moved by Dr. Dey and seconded by Ms. Murphy to approve Resolution FY09R5(6) granting final approval to the following landowners as presented and discussed, subject to any conditions of said resolution:

MONMOUTH COUNTY

1. Walter Jovich (Resolution FY09R5(6))

Block 50, lots 2.03 and 2.031, Upper Freehold Township, Monmouth County, 41.20 Acres
State cost share of \$21,000.00 per acre (60% of the certified market value and 60% of the purchase price) for a total grant of approximately \$865,200.00, subject to any conditions of said Resolution, and that the SADC grant will be funded using \$393,200.00 of the County's base grant funds and \$472,000.00 in competitive grant funds.

The motion was unanimously approved. (A copy of Resolution FY09R5(6) is attached to and is a part of these minutes.)

Chairman Fisher asked that the Committee take action on all the Gloucester farms with the exception of the Turk Farm and the Back Creek (Snyder) farms. Ms. Reade needed to recuse on the Turk farm and Mr. Waltman asked that the Back Creek Farm be voted on separately.

It was moved by Mr. Siegel and seconded by Mr. Danser to approve Resolution FY09R5(7) to FY09R5(12) and Resolution FY09R5(15) to Resolution FY09R5(16) granting final approval to the following landowners as presented and discussed, subject to any conditions of said resolutions:

GLOUCESTER COUNTY

1. Anthony Gattuso (Resolution FY09R5(7))

Block 19, Lot 2; Block 18, Lots 3 and 3.03, South Harrison Township, Gloucester County, 105 Acres

State cost share of \$11,580.00 per acre (60% of the certified market value and 60% of the purchase price) for a total grant of approximately \$1,215,900.00, subject to any conditions of said Resolution, and that the SADC grant will be funded using \$11,580.00 from the County's base grant funds.

2. Joseph S. and Lena Coco (Resolution FY09R5(8))

Block 1004, Lots 11 and 12; Block 8.01, Lots 1 and 1.04, Logan Township, Gloucester County, 160 Acres

State cost share of \$7,800.00 per acre (60% of the certified market value and 60% of the purchase price) for a total grant of approximately \$1,248,000.00, subject to any conditions of said Resolution, and that the SADC grant will be funded using \$784,100.00 of the County's base grant funds and \$463,900.00 of competitive grant funds.

3. Elma Davidson (Resolution FY09R5(9))

Block 46, Lot 6, Woolwich Township, Gloucester County, 29 Acres

State cost share of \$9,600.00 per acre (60% of the certified market value and 60% of the purchase price) for a total grant need of approximately \$278,400.00, subject to any conditions of said Resolution and that the SADC grant will be funded using \$278,400.00 of the County's competitive grant funds.

Ms. Murphy indicated that the first "Be It Resolved" was out of sequence on page three of the resolution and should come directly after the "Now Therefore Be It Resolved".

Ms. Winzinger stated it would be corrected on the original resolution.

4. Frank and Jennie Sorbello (Resolution FY09R5(10))

Block 19, Lot 1, South Harrison Township, Gloucester County, 29 Acres
State cost share of \$13,140.00 per acre (60% of the certified market value and 60% of the purchase price) for a total grant need of approximately \$381,060.00, subject to any conditions of said Resolution and that the SADC grant will be funded using \$381,060.00 of the County's competitive grant funds.

5. Albert and Elizabeth Doughty; Martha Jess; Margaret Brown/ Myrna Lloyd
(Resolution FY09R5(11))

Block 11, Lot 14, Elk Township, Gloucester County, 26 Acres
State cost share of \$5,880.00 per acre (60% of the certified market value and 60% of the purchase price) for a total grant need of approximately \$152,880.00, subject to any conditions of said Resolution, and the SADC grant will be funded using \$152,880.00 of the County's competitive grant funds.

6. Michael, Joan and Jason Gonserkevis (Resolution FY09R5(12))

Block 36, Lot 16.02, Harrison Township, Gloucester County, 28 Acres
State cost share of \$13,440.00 per acre (60% of the certified market value and 60% of the purchase price) for a total grant need of approximately \$376,320.00, subject to any conditions of said Resolution, and the SADC grant will be funded using \$376,320.00 of the County's competitive grant funds. .

7. John and Jean Reistle (Resolution FY09R5(15))

Block 1003, Lot 2.01, East Greenwich Township, Gloucester County, 13 Acres
State cost share of \$8,700.00 per acre (60% of the certified market value and 60% of the purchase price) for a total grant need of approximately \$113,100.00, subject to any conditions of said Resolution, and the SADC grant will be funded using \$113,100.00 of the County's competitive grant funds..

8. John and Lillian Hurff and Robert Hurff, Jr. (Resolution FY09R5(16))

Block 254, Lots 1 and 2, Mantua Township, Gloucester County, 43 Acres
State cost share limited to the remaining funds available to Gloucester County from its competitive grant funds of \$42,740.00 pursuant to conditions contained in Schedule B of said Resolution.

The motion was unanimously approved. (Copies of Resolution FY09R5(7) through Resolution FY09R5(12) and Resolution FY09R5(15) to Resolution FY09R5(16) are attached to and are a part of these minutes.)

GLOUCESTER COUNTY CON'T.

1. Back Creek Holding Trust (Dion Snyder) (Resolution FY9R5(14))

Block 46, Lot 1; Block 51, Lot 3, Harrison Township, Gloucester County and Block 56, Lot 6; Block 59, Lots 6 and 11, Woolwich Township, Gloucester Township, 80 Total Acres

State cost share of \$10,980.00 per acre (60% of the certified market value and 60% of the purchase price) for a total grant need of approximately \$878,400.00, subject to any conditions of said Resolution, and the SADC grant will be funded using \$878,400.00 of the County's competitive grant funds.

The following comments were made earlier when Ms. Winzinger first presented and discussed the particulars of the Back Creek Hold Trust (Dion Snyder Farm) with the Committee:

Ms. Murphy commented that she thought we were trying to get away from, particularly in this instance, where it looks like two separate tax lots that are going to have two separate houses on them. She stated that it didn't look like the lower piece (based on the aerial map) could ever be agricultural viable but in terms of say people coming in and saying they cannot get a mortgage on their house because it is tied to this other property. She thought that we would try not having two separate houses on the same preserved farm.

Mr. Waltman stated that it looks like we would be setting ourselves up for another subdivision application. Ms. Winzinger indicated that there are many farms that look like that. Ms. Murphy stated that she thought the SADC would be trying to discourage that going forward. Ms. Craft stated that would require having rules. Ms. Craft stated that if she has a sense of the Committee's position staff can work with the county to get an application that the Committee could approve, but there is no rule in place. Some counties are more liberal with exceptions than others. She stated that she resists trying to do a "one size fits all" type of rule but if the Committee continues to be uncomfortable with the number of housing opportunities that the SADC gets on applications, then that is what we will be forced to do. Ms. Murphy stated that she recalled a couple of months back where the Committee had an extensive conversation about this issue of multiple houses on the same preserved farm and that being a problem. Ms. Winzinger stated that staff always inquires about the number of exceptions. Generally the response is yes they needed to proceed with the application and it was approved by the CADB. Mr. Waltman asked to what degree does the size of that application make it a higher ranked application and if you were to subdivide these into two farms would we be talking about this. Ms. Craft stated the request would be denied. Ms. Winzinger stated that in this case there are two houses that are right next to each other, which is somewhat difficult to deal with and

the owners want an opportunity to sell off a building lot. They gained a point in their score but with this PIG program it is not as detrimental because as long as they meet a certain quality score they are eligible. In the prior county easement purchase program, a point could really make a difference either way. She stated that this exception is a severable exception. She stated that the appraisals should reflect that.

Dr. Dey stated that there is very little money left in the competitive grant fund. You start out with \$15 million and we are down to \$7 million. He stated that the Committee should be looking at the best properties for that money. Ms. Winzinger stated that an application has to attain a quality score of seventy percent based on the last three years of quality scores or request the Committee to grant a waiver. All of these farms met the seventy percent quality score and are now ranked on other factors. Mr. Siegel stated that the whole concept behind the PIG grant is that you approve the county plans and you allow the counties to make the decisions. Mr. Danser stated that you have to deal with these applications as they come in but if you can impose a penalty for severable exceptions, that would be something to consider. Ms. Winzinger stated that at the staff level it is felt that the ranking or scoring system needs to be overhauled because in some cases, like this would get a negative 2 points but if there is right to farm language in the deed it would gain a point resulting in only one negative point. Ms. Craft stated that you lose flexibility in deal-making when there is a hard and fast rule but it seems that the Committee has a certain tolerance and some of these challenge that tolerance. She stated that staff tries to work with counties to present applications that the Committee could approve.

Mr. Danser made the following motion:

It was moved by Mr. Danser and seconded by Mr. Siegel to approve Resolution FY09R5(14) granting final approval to the Back Creek Holding Trust (Dion Snyder Farm), Block 46, Lot 1; Block 51, Lot 3, Harrison Township, Gloucester County and Block 56, Lot 6; Block 59, Lots 6 and 11, Woolwich Township, Gloucester Township, 80 Total Acres at a State cost share of \$10,980.00 per acre (60% of the certified market value and 60% of the purchase price) for a total grant of approximately \$878,400.00 using competitive grant funds, subject to any conditions of said Resolution.

Mr. Waltman stated that he requested a separate vote on this request for final approval because he felt the Committee needs to talk more about a policy for these exception areas, particular as Dr. Dey suggested earlier that we are running out of money. He feels compelled to vote against this.

The motion was approved. Mr. Waltman opposed. (A copy of Resolution FY09R5(14) is attached to and is a part of these minutes.)

GLOUCESTER COUNTY CON'T

Ms. Reade recused herself from any action on the James Turk farm to avoid the appearance of a conflict of interest.

It was moved by Mr. Danser and seconded by Mr. Waltman to approve Resolution FY09R5(13) granting final approval to the following landowner as presented and discussed, subject to any conditions in said Resolution:

1. James Turk (Resolution FY09R5(13))

Block 9, Lots 1, 4.01, Harrison Township, Gloucester County, 36 Acres
State cost share of \$8,700.00 per acre (60% of the certified market value and 60% of the purchase price) for a total grant need of approximately \$313,200.00, subject to any conditions of said Resolution, and the SADC grant will be funded using \$313,200.00 of the County's competitive grant funds.

The motion was approved. (Ms. Reade recused herself from the vote.) (A copy of Resolution FY09R5(13) is attached to and is a part of these minutes.)

D. Resolution for Amended Final Approval: Former Rule Planning Incentive Grant

1. Fairmount Land Corporation/Washington Township, Morris County

Ms. Winzinger referred the Committee to Resolution FY09R5(17) for a request to amend a previously approved final approval for the Fairmount Land Corporation/Washington Township farm, in Morris County. She stated that this amended final approval request acknowledges a lower SADC cost share grant than previously approved in the original final approval that was approved on July 26, 2007, due to an oversight of not applying N.J.A.C. 2:76-6:11(d) and SADC policy "Local Government Acquisition of Lands in Fee Simple Title, Resale and SADC Cost Share Grant for Development Easement, adopted November 2, 2006 to this transaction. She stated that the SADC has new rules now but at the time of previous final approval it was a policy, where if a township or a county had acquired a farm for less than the certified before value the easement value would be adjusted. She stated that this was not done during final approval and was picked up at a later date. She referred the Committee to the resolution for the specifics involving the amendment request. She stated that the amendment would reflect a state cost share for the Fairmount Farm at \$1,127.85 per acre for an estimated total of \$65,583.35 (6.26% of the certified market value and 15.03% of the County contract purchase price.) She stated that the SADC would not cost share on an encroachment consisting of approximately 0.75 acre. Ms. Winzinger stated that staff recommendation is to grant amended final approval as presented and discussed.

It was moved by Dr. Dey and seconded by Ms. Murphy to approve Resolution FY09R5(17) granting amended final approval to the Fairmount Land Corporation/Washington Township, Block 60, Lots 1 and 5, Washington Twp, Mor. Co., 58.149 Acres, at a state cost share at \$1,127.85/acre for an estimated total of \$65,583.35 (6.26% of the certified market value and 15.03% of the County contract purchase price) subject to any conditions of said resolution, and that the SADC would not cost share on acreage within the encroachment consisting of approximately 0.75 acre. The motion was unanimously approved. (A copy of Resolution FY09R5(17) is attached to and is a part of these minutes.)

E. Farmland Stewardship
Division of Premises Request

1. Howard and Nola Willis, Hopewell Township, Cumberland County

Mr. Roohr referred the Committee to Resolution FY09R5(18) for a request for a division of the premises by Howard and Nola Willis, owners of Block 82, Lot 9 in Hopewell Township, Cumberland County. He stated that the owners are retired from farming and have entered into a sixteen (16) year lease on Parcel "A" with an adjacent landowner who has expanded his peach orchard, and Parcel "B" is annually leased to a local vegetable farmer. He stated that the owners would retain ownership of both parcels. He stated that Parcels "A" and "B" are approximately ¼ mile apart from each other and have always been operated as separate farm units.

Mr. Roohr stated that the owners would like to divide the premises to allow them to more efficiently manage the leasing of the two distinct parcels and also that the owners have stated that dividing the parcels would allow them to properly perform their estate planning and mitigate liability issues. He stated that the owners have indicated that they are presently in the process of estate planning and that by separating the farms they hope to keep them in the family. The owners have indicated that they do not have any immediate plans to give either property to their children or to offer them for sale and that they believe that by separating the parcels it could help reduce exposure to liability by having them formally set up as separate farm units.

Mr. Roohr stated that the resultant parcels would result in Parcel "A" being approximately 83.71 acres and would include an existing single-family residence and two barns. He stated that this is the first year of a 16-year lease on this property to an adjacent farm family who have a peach orchard and are expanding that operation. He stated that the farmer has planted the entire portion of Parcel "A" in peach trees. The owners' primary residence is located on Parcel "A". The resultant Parcel "B" would result in approximately 133.8 acres and would include an existing single family residence, several barns, outbuildings and an irrigation pond. This property is in vegetable crops and is leased out on a year-to-year basis to a local vegetable farmer. He stated that the Cumberland CADB approved the request at its March 17, 2009 meeting.

Mr. Roohr stated that staff recommendation is to deny the request for the division of the premises based on the following:

Any request for a subdivision must meet the SADC's tests contained in Policy P-30-A that 1) the subdivision is for an agricultural purpose, and 2) that it results in agricultural viable parcels.

With regard to the first test, SADC staff does not find that this application clearly meets the definition of agricultural purpose. Staff's position is based on lack of evidence that the subdivision will expand, intensify or diversify the operation (tests that were discussed during the recent Mumford Farm deliberations), nor is any transfer in property ownership to another agricultural producer contemplated. Also, the SADC discussed a similar case last year in which a landowner wanted to divide the farm for purposes of "limiting liability" to one of the proposed parcels, as opposed to all of their land holdings. In that

case, the SADC was not convinced that subdivision was necessary to achieve the goal, and remanded the case back to staff to obtain further information from the landowner. The landowner did not pursue the subdivision further. Finally, staff believes that the Committee should be careful not to allow “estate planning” being the primary purpose for a subdivision. If it concedes that, then all future landowners will come in and claim that they are proposing the subdivision for purposes of “estate planning” thereby minimizing the agricultural purpose test.

With regard to the second test, based on the good quality of soils and amount of tillable acreage on both farms and the existence of two viable operations staff believes that the request does meet the “agricultural viability” test as set forth in the deed of easement and policy P-30-A.

Mr. Siegel asked if there were any specifics provided regarding the estate planning issues. He stated that when this comes up we should get some details as to what that means because it could be something like the prevention of a forced tax sale. He stated that it was not listed in the information that Mr. Roohr just provided but the Committee has looked at maintenance of agricultural operations and family transactions, such as a son taking over the agricultural operation and that is an agricultural purpose, he’s not going to diversify and intensify but just going to take it over and therefore we are not moving backwards. With estate planning, sometimes people like to throw that out there as a catch-all phrase but if they can provide some detail of what is the estate problem that they are trying to address, there may be a legitimate concern of a forced sale.

Mr. Roohr stated that those types of questions were not listed in the application. He referred the Committee to a one page hand-out that was provided by the Willis family listing their reasoning for the request.

Dr. Dey inquired as to why the two farms were not separate applications from the beginning because the farms are not even next to each other. Was that the policy of the Cumberland CADB at that time? Ms. Craft stated she is not sure if Cumberland County had a policy at that time requiring that. Sometimes it is the decision of the landowner that if they come in as one application with more acreage it could rank more favorably at the county level.

Mr. Schilling asked where the language originated “expand”, “intensify” or “diversify” the operation. Ms. Craft responded that the Committee discussed those terms during the Mumford division of premises request. It is not a policy and it is not regulatory but the Committee is trying to understand how to look at these types of issues. Mr. Schilling stated that he didn’t know if he had verbalized it or thought of it at the time but if these are basically discussion points he thinks discussion of the efficiency of the operation or enhancing the efficiency of the operation from a managerial standpoint is also a valid consideration. Mr. Siegel stated that it doesn’t take much to hit the estate tax threshold, especially if it goes away in two years. You could have a lot of people applying just to prevent a tax sale and the Committee should be ready to address that issue if it is a legitimate purpose. Ms. Craft stated that if someone came to the SADC for a tax related issue, then the SADC could consider those circumstances. Chairman Fisher stated that

we want to make sure that that an applicant's poor choice of wording does not achieve the desired Committee action.

Ms. Reade asked what agricultural purpose is served by having the two of these farms continue together. The soils are different, one is a vegetable operation and the other is an orchard, they are being managed by two separate farmers. The family is no longer living, or perhaps never occupied one of the farmsteads. She stated that the farmstead on Parcel "B" is a very nice historic farmstead with some nice buildings on it. It would be a shame to see those fall in disrepair because the family was forced to sell it to another farmer that had no interest in the buildings. She felt that the Committee should be considerate of that issue.

Mr. Danser stated that it is almost impossible to come up with an agricultural purpose that makes it right to take a 200 acre parcel and make it into two 100 acre parcels because bigger is virtually always better but on these two relatively large parcels that are noncontiguous and each has their own individual houses, if we are not going to divide these two we shouldn't bother wasting staff time or the Committee's time considering divisions. There is never a real agricultural purpose that isn't better being bigger so anytime you divide something it is contrary to that and if that is going to be the Committee's position we might as well stop wasting everyone's time and when we get requests for divisions we just say no.

Ms. Craft stated that these tests are already laid down in the deed of easement and in the regulations. Mr. Danser stated that the biggest reason that the Mumford request got denied was because what they were doing was not agriculture. He stated that when the Committee looked at that request the landowner wasn't complying with the deed of easement as one parcel let alone two. He stated that has mushroomed and now we are using language that sounds like it's a written policy. Ms. Craft stated that staff is just trying to develop the Committee's position on what does agricultural purpose mean. She stated that Mumford was a test case for the SADC and we learned a lot with that case. She stated that if we concede that all you need to do is come in and say its estate planning, we might as well not look at agricultural purpose. Mr. Danser stated there is a big difference between one parcel with one house and two parcels with two houses. He stated that Mr. Willis didn't just come in and list estate planning and that was all, this is two different farms, with different farmers, two completely separate operations. If they came in and said they wanted to do it just for estate planning and that was it at that point staff would say they needed a better reason for the request.

Howard Willis and Ian Willis addressed the Committee in support of their request for a division of the premises. Dr. Dey asked why the two farms were combined as one unit for farmland preservation. Mr. Willis responded that he believed it was for reasons previously stated that it was grouped together as one application. They did not realize at that time that was going to happen. He thought the deed restrictions would have been on separate deeds not covered together on one deed. Ms. Reade stated that in 1997, Salem County had a 150 acre minimum size in order to qualify and was that the case in Cumberland? Mr. Willis responded that they didn't say that at the time. Mr. Brill stated that he was the County administrator for Cumberland at the time and he assured the Committee that there was no such threshold. There were ranking systems that prioritized

larger farms but it did not make it impossible for smaller farms. Chairman Fisher stated that since Mr. Brill was there at the time could he shed some light as to how this could have happened that they were combined? Mr. Brill responded that they applied deed restrictions to all the acreage in the application. The landowners may not have been fully aware of how difficult it would be to divide the farm but as a rule in Cumberland County they worked with a fifty-acre tillable threshold that would enable division applications to be approved without a great deal of review at the time.

Ms. Murphy had questions regarding the summary sheet provided by the Willis family. She stated that some of the reasons given were that the division will perpetuate the farms to be leased and make it easier to maintain lease agreements in a more satisfactory manner. One of the farmers has installed underground irrigation and dividing it will protect his interest, and the division would allow for better management practices. She asked if the Willis' could talk about those issues in a little more detail. Mr. Willis stated that each farm with each farmer leasing the ground is two separate farming operations, one is in a peach orchard and the other one is in vegetables. Mr. Willis stated that the farmer farming vegetables invested in underground irrigation so he signed a longer lease to protect his investment. There is an irrigation pond and regarding the liability if something was to happen they would probably take both farms. If it was separated then you have individual farms. Mr. Siegel asked Mr. Willis to further explain the liability issue. Ian Willis stated that the deed restrictions tie both farms together and if something were to happen in the pond or with the pond, say from a trespasser, even though it is posted, people will still sue you. Ms. Craft asked how would the subdivision limit the liability? Ian Willis stated that he is beginning to repair the house on the one farm, with plans of purchasing it from his parents in the future, so long-term the family plan is to have two separate homes at some point. Mr. Willis stated that he is not looking to turn around and sell the property but rather is trying to make sure the farm stays in the family. Mr. Willis, Sr. stated that he has another son who has an interest in purchasing one of the farms in the future also. He stated that they are not going to be changing any of the farming operations but are just trying to eliminate potential problems. He stated again that he was not aware that these farms were under one set of restrictions until recently.

Ms. Murphy stated that right now it seems like the farms are being leased with separate lease agreements and there is underground irrigation. She does not understand how splitting the farms would improve any of that or would better protect the irrigation system or allow for better management, or allow for easier or more satisfactory lease agreements. Mr. Willis stated his son is going to eventually purchase one of the farms. Mr. Roohr stated that one thing that staff discussed is whether we are penalizing or not penalizing people for doing a pretty good job of taking care of their farms. Both of these farms are managed pretty well and are actively being farmed and not reverting to forest.

Ms. Brodhecker asked how many children Mr. Willis had and he responded that he had four children and they are interested in keeping the farms in the family. She stated that in its current form they would all be tied together if we don't do the division? Mr. Willis responded yes.

Dr. Dey asked about the farm with the irrigation pond and the lease. He stated that was not a long-term lease. Mr. Willis indicated that it was at one time but now it is going to

have a one year lease. Mr. Willis stated that the person who was renting the ground installed the underground irrigation system. Mr. Willis stated that he put the pond in years ago and the leaser installed the underground irrigation when he began raising vegetables and at that time there was a five-year lease and that has now changed.

Ms. Reade stated that each of the separate operations look high-quality to her right now, when she looked at them and as she understands from reading the material provided, Mr. Willis had only owned the second farm (Hope Grange Road farm) for two years when you put it in preservation. She asked if he had actually farmed it himself? Mr. Willis responded that he and his father farmed it together and when he passed away he inherited that farm. He stated that he was only nine months old when they moved into that farm and he is seventy years old now.

Ms. Craft stated that the resolution before the Committee is to deny the subdivision request because of a lack of a specific agricultural purpose. Dr. Dey asked if he could make a motion to accept the owner's request for a division of the premises, or a motion that the Committee deny staff's opinion? Chairman Fisher indicated that the Committee does not have to use the resolution before it. Mr. Siegel stated that Dr. Dey could motion to approve the owner's request. Ms. Murphy stated that she supports the resolution as presented and that the applicants are very sympathetic people, but unfortunately she agrees with staff's analysis and she does not see a true agricultural purpose and that is what is in the rules. She stated that these requests really need to be consistent because it has a very big impact on people's lives. Ms. Reade stated that keeping them combined could actually jeopardize one or the other because you have a vegetable grower on one farm and a peach grower on the other farm. She doesn't see how you could successfully meld those two operations in the case of liability for say problems with irrigation and as you know there are a million things that could go wrong. They are also physically separated from one another with a number of houses between them. Ms. Murphy stated that there are many preserved farms with houses between them and that is not in the rules as a reason to subdivide. She stated that the agricultural purpose reasons have not been set forth clearly as to how it would jeopardize either business. She stated that the farms right now are working very well as they are.

Mr. Waltman stated that the Committee has to act with great caution. There was an applicant requesting subdivision at a prior meeting who stood up and told the Committee that he would sue it if he didn't get the subdivision. Unfortunately every action the Committee takes is going to be used by someone as a precedent perhaps or some litigation down the road. He stated that he agrees with Ms. Murphy and if anything he would be inclined to support this, although if there is a conversation that could take place and in some way the applicants could come back and convince the Committee, but he would rather take no action today or pass the resolution as submitted.

Chairman Fisher indicated that he would like to speak as the Secretary of Agriculture and say that he thinks if you were to ask anyone in the farming community if this makes sense to them, they would say yes. They understand from a business point of view what they need to do to continue to operate farms. The applicants put this under the catch-all of saying "estate planning" which is sort of unfortunate by saying it that way because what he thinks they are saying is that in order for us to continue to maintain operating

viable operations, which we have been doing for all these years, and to continue to be able to do that, this makes great sense to us as landowners and to other farmers in the farming community. He stated that as Ms. Murphy indicated when she said she was not a farmer, yes from the environmental side you could clearly say that we should not do this, leave it whole, and yes we want to continue to have these operators continue to farm, but we see problems with people trying to subdivide and having all these wonderful grand plans of getting out of the business of farming, sometime perhaps in the future. He stated that he recognizes that there is always going to be this tension point but he thinks as an example of farmers who have been farming for all these many years who want to stay in this business apparently, they are trying to stay viable and farming is changing. As it has been said, bigger is better, however he is not so sure we are going to be seeing a lot of smaller operators being able to continue operating as separate entities and yet stay in the business of farming. He stated that it makes perfect sense from the aspect of farming. It is unfortunate that they have this easement that they did not know about the farms being tied as one farm. He is asking as the Secretary of Agriculture to make sure you look at this just from the farming aspect because that is what this is about because it may actually impact them. He stated that he would make a motion that the owner's request be approved.

Mr. Siegel stated his concern is that this is a barrier for them to overcome if the motion is defeated. He would suggest that there is some interesting information here that the applicants may want to refine concerning limited liability and details of the estate planning that in fact a transaction is contemplated in the future to protect the estate and then this could be resubmitted, holding off action today and then have it represented to the Committee when the owners have had a chance to explain these concerns to staff in more detail. He stated that the resolution clearly didn't get that the owners plan on being separate owners at some point in the future and that this affects their leases, their estates and the liability, in terms of two corporations that one's assets are not exposed to the other. He felt that the owners did not explain this very well.

Mr. Danser commented that the owners did state that at the table today that there are plans for the one son to own one parcel and the other son to own another parcel. Clearly he thought that if it was explained in the application to that effect ahead of time we would be having at least a different discussion at this point. Ms. Murphy stated that we need to be careful in what we are asking staff to do. As in the Mumford case the Committee stated that the proof is on the applicant to make a case and that he or she needs to provide the Committee with the information not the other way around. Mr. Danser stated that if we just leave these parcels together and run all these through an estate, at that point the parcels have to be divided among four children. If we give him the opportunity, he at least has the chance to do estate planning.

Mr. Siegel indicated that his initial suggestion may have been misunderstood in that he is not telling staff to come back next month with a resolution that says to approve this but he is asking staff to take this back and have another meeting with the owners and discuss what seems to be a new fact that was not in the first application that there is a long-term estate plan involved with multiple owners. Mr. Schilling stated he is sensitive to what Ms. Murphy is saying. He commented that Mr. Siegel is suggesting that the Willis' provide more thorough information to staff. Mr. Siegel stated that with the new

information staff may still come back with the same recommendation but we have approved applications involving transfer of ownership to blood relatives that are already on the property. Ms. Murphy added....for an agricultural purpose.

Ms. Reade stated that these are not farms that started out together but are farms that are only considered a farm because at one point, for two years prior to preservation, they were owned by the same person. You cannot say that there is an agricultural reason for them to be together and the only reason for them to be together is because of the legal issue that they were a single farm for the purposes of applying for the development easement. She expressed an ancillary concern in that had you preserved that really nice farmstead on the 133 acre parcel, if you have a big vegetable farmer who is running that farm, he is not going to care about the farmstead. That is something that the environmental community might be concerned about. She stated that although that is not in the Committee's purview and it goes against what we are supposed to do here she felt that it is something that the Committee needs to consider over the long term when looking at some of these old farms.

Chairman Fisher suggested that the issue be tabled to give the landowners an opportunity to come back with whatever information the Committee has asked for and then the Committee could vote at that time.

It was moved by Mr. Siegel and seconded by Dr. Dey to table action on the request for a division of the premises on the Howard and Nola Willis farm, Block 80 Lot 18 and Block 82, Lot 9, Hopewell Township, Cumberland County in order to give the owners an opportunity to provide additional information in support of their request. The motion was unanimously approved.

**F. Resolution for Approval: Municipal Planning Incentive Grant
Comprehensive Plans and Project Area Summaries: Woolwich and Franklin
Townships, Gloucester County and Pittsgrove Township, Salem County**

Mr. Bruder referred the Committee to Resolution FY09R5(19) for the Municipal Planning Incentive Grant Program comprehensive farmland preservation plans and project area summaries for Woolwich and Franklin Townships, Gloucester County and Pittsgrove Township, Salem County. He reviewed the specifics for each township and stated that staff recommendation is to approve the comprehensive plans and project area summaries for Woolwich and Franklin Townships, Gloucester County and Pittsgrove Township, Salem County as presented and discussed.

It was moved by Dr. Dey and seconded by Ms. Brodhecker to approve Resolution FY09R5(19) granting approval to the Municipal Planning Incentive Grant Comprehensive Farmland Preservation Plans and Project Area Summaries, 2009 Funding Round for Woolwich and Franklin Twps., Gloucester Co. and Pittsgrove Twp., Salem Co., as presented and discussed, subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY09R5(19) Municipal Planning Incentive Grant Comprehensive Plans and Project Area Summaries for Woolwich and Franklin Townships, Gloucester County and Pittsgrove Township, Salem County, FY 2009 Round is attached to and is a part of these minutes.)

G. FY 2010 Planning Incentive Grant Program – Final Approval of County Planning Incentive Grant Program Plans (No changes from FY 09 Plans) for Burlington, Camden, Cape May, Gloucester, Hunterdon, Mercer, Monmouth, Morris, Ocean, Passaic, Salem and Warren Counties, including Comprehensive Farmland Preservation Plans and Project Area Summaries

Mr. Bruder referred the Committee to Resolution FY09R5(20) for the final approval of the County Planning Incentive Grant Program comprehensive farmland preservation plans and project area summaries for Burlington, Camden, Cape May, Gloucester, Hunterdon, Mercer, Monmouth, Morris, Ocean, Passaic, Salem and Warren Counties. He reviewed the specifics for each county and stated that staff recommendation is to approve the FY 2010 Planning Incentive Grant Program – Final approval of the County Planning Incentive Grant Program comprehensive plans and project area summaries for those counties as presented and discussed.

It was moved by Dr. Dey and seconded by Ms. Murphy to approve Resolution FY09R5(20) granting final approval of the County Planning Incentive Grant Program comprehensive farmland preservation plans and project area summaries for Burlington, Camden, Cape May, Gloucester, Hunterdon, Mercer, Monmouth, Morris, Ocean, Passaic, Salem and Warren Counties, as presented and discussed, subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY09R5(20) FY2010 Planning Incentive Grant Program - Final Approval of the County Planning Incentive Grant Program Comprehensive Farmland Preservation Plans and Project Area Summaries for Burlington, Camden, Cape May, Gloucester, Hunterdon, Mercer, Monmouth, Morris, Ocean, Passaic, Salem and Warren Counties is attached to and is a part of these minutes.)

H. FY 2010 Planning Incentive Grant Program – Conditional Preliminary Approval of the Bergen and Cumberland Counties' Planning Incentive Grant Applications Including Comprehensive Farmland Preservation Plans and Project Area Summaries

Mr. Bruder referred the Committee to Resolution FY09R5(21) for the conditional preliminary approval of the FY 2010 Planning Incentive Grant Program applications and comprehensive farmland preservation plans and project area summaries for Bergen and Cumberland Counties. He reviewed the specifics for each county and stated that staff recommendation is to grant conditional preliminary approve for these two counties as presented and discussed.

It was moved by Dr. Dey and seconded by Mr. Schilling to approve Resolution FY09R5(21) granting conditional final approval of the FY 2010 Planning Incentive Grant Program applications and comprehensive farmland preservation plans and project area summaries for Bergen and Cumberland Counties, as presented and discussed, subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY09R5(21) FY 2010 Planning Incentive Grant Program – Conditional Preliminary Approval of the Bergen and Cumberland Counties' Planning

Incentive Grant Applications Including Comprehensive Farmland Preservation Plans and Project Area Summaries is a part of these minutes.)

I. FY 2010 Planning Incentive Grant Program – Conditional Preliminary Approval of Municipal Planning Incentive Grant Applications Including Comprehensive Farmland Preservation Plans and Project Area Summaries (New FY 2010 Plans) for Upper Deerfield Township, Cumberland county, Elk Township, Gloucester county, Union Township, Hunterdon County, Peapack and Gladstone Borough, Somerset county and White Township, Warren County

Mr. Bruder referred the Committee to Resolution FY09R5(22) for the conditional preliminary approval of the new FY 2010 Municipal Planning Incentive Grant Program applications and comprehensive farmland preservation plans and project area summaries for Upper Deerfield Township, Cumberland County, Elk Township, Gloucester County, Union Township, Hunterdon County, Peapack and Gladstone Borough, Somerset County and White Township, Warren County. He reviewed the specifics for each municipality and stated that staff recommendation is to grant conditional preliminary approval as presented and discussed.

It was moved by Dr. Dey and seconded by Mr. Danser to approve Resolution FY09R5(22) granting conditional preliminary approval of the FY 2010 Municipal Planning Incentive Grant Program Applications and Comprehensive Farmland Preservation Plans and Project Area Summaries for Upper Deerfield Township, Cumberland County, Elk Township, Gloucester County, Union Township, Hunterdon County, Peapack and Gladstone Borough, Somerset County and White Township, Warren County, as presented and discussed, subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY09R5(22) FY 2010 Municipal Planning Incentive Grant Program Applications and Comprehensive Farmland Preservation Plans and Project Area Summaries for Upper Deerfield Township, Cumberland County, Elk Township, Gloucester County, Union Township, Hunterdon County, Peapack and Gladstone Borough, Somerset County and White Township, Warren County is a part of these minutes.)

J. Review of a Non-Agricultural Development Project in an Agricultural Development Area Including Condemnation of Preserved Farmland – NJ Turnpike Authority Widening Project – Interchanges 6 to 9 – Burlington, Mercer and Middlesex Counties

Note: This agenda item was sent to the Governor's Authorities Unit separately for review and approval on June 4, 2009.

Mr. Brill referred the Committee to the draft resolution in the meeting packet. Staff reviewed the process for review of public projects involving eminent domain action in Agricultural Development Areas (ADAs), including those with the need to condemn preserved farmland. Mr. Brill also presented an overview of the Notice of Intent related to the most significant project to be reviewed in the Farmland Preservation Program's history. He described the extensive documentation submitted by the NJ Turnpike

Authority (NJTA) as well as the participation of the agricultural community in the process to date as the project moved from preliminary to final design. Mr. Brill indicated that the NJTA and its consultants met with SADC and CADB staff on at least 20 occasions over a two and a half year time frame and conducted a special farmer / landowner outreach initiative to attempt to avoid or minimize the project's agricultural impacts to the greatest extent possible.

Kyle Wiswall from the Tri-State Transportation Campaign addressed the Committee. He stated that Tri-State Transportation Campaign is a regional nonprofit organization. He stated that many of his comments are based on a report that it had done recently that looks at GIS information prepared by the New Jersey Turnpike Authority (NJTA) and what the report indicated is that several modeling errors and assumptions made by the NJTA lead to an overstatement for the need for this expansion. It leads to an overstatement regarding the amount of traffic that is currently on the road and that will be on the road in the future. That greatly reduces any purpose or need for such a huge expansion of the roadway. In addition Tri-State Transportation Campaign also found that the traffic relief that is sought by the project can actually be achieved with a viable and feasible alternative that does not require construction. This is important because a project of this size in what is a very rural corridor would induce and encourage sprawling growth, put pressure on the farms and bring more traffic to the corridor in the long run.

Mr. Wiswall stated that Tri-State has been opposed to this project for a long time and recommends that the SADC require more of an in-depth analysis of the alternatives that he will detail in his next comments. He stated that they are concerned with the level of analysis and conclusions presented in GIS and the accompanying environmental documents and they feel that the project is ultimately incompatible with the SADC's policies and regulations. He stated that the corridor is under extreme pressure from encroaching development, deteriorating air and water quality and economic pressures. The farmland preservation program administered by the SADC is designed to address these issues. The SADC must evaluate any taking and any impact on agricultural development areas (ADAs) for increased vehicle traffic, impact on aesthetic value of the land, effects on water quality and increased runoff. He stated that the proposed taking of farmland will severely and adversely impact preserved farmland in the corridor and ADA lands. As detailed in the report, which he did not bring enough copies for all members, the project will accelerate sprawling development, residential development and exacerbate economic pressures on the farmlands. He stated that the project is thirty-five miles long but it is a doubling of the size, which means 170 lane miles being added to the area. This is a huge increase in impervious surfaces, causing a massive runoff into adjacent areas. Reduced traffic caused by newly available road space and all the sprawl that goes with that choke the air with pollutants, including green house gases. In addition, with the doubling in size, this will take away from the vital buffer lands that are right now between a major roadway and farmlands that the SADC is protecting. He stated that for these reasons the project does not serve the safety, health and welfare of the residents of New Jersey, especially in this corridor. He stated that he also notes in this report that there are some findings that the growth way, as expanded, would not actually increase the safety on the roadway. This project will increase congestion in the long run and that will cause more accidents.

He stated that SADC regulations also require a thorough alternatives analysis. He stated that there is a detailed analysis in Tri-State's report and the documents submitted by the NJTA contain a marked lack of substantive alternative analysis. In some cases their analysis and GIS falls to the level of simply defining the alternatives with no analysis whatsoever, in particular the discussion regarding carpooling. Admittedly carpooling is not the solution for the corridor but if you look at the alternatives analysis they define what carpooling is and they do not apply it at all to the project. That is symptomatic of NJTA's entire analysis of the alternatives. The comments also question the traffic analysis. He stated that NJTA's models are based on several erroneous assumptions and subject to inadequate procedures. Commonly a four-step modeling process is used and in this case only one modeling iteration was run, meaning they didn't take into account all the induced demand pressures that will come from the roadway. The erroneous assumptions include the failure to include the impact of recent and future program's tolling prices, reliance on unrealistic levels of job growth in the corridor, the failure to account for the widening effect on future land use, failure to account for reduced driving by senior citizens and the overestimation of growth in external and freight growth. The taking of farmlands and impact on the ADA areas is avoidable as there is an immediately apparent feasible alternative. The potential traffic benefit of the project is achievable without widening the turnpike, as detailed in the report. The congestion on the turnpike, including the merge at 8A can be solved through vastly less expensive and environmentally hazardous methods. Through bolder and more efficient use of the existing variable pricing program on the turnpike can be managed to ease traffic in the corridor, even at the merge, without the deleterious effects of widening. However, the NJTA has not evaluated the effect of using the variable pricing program with the correct traffic modeling as an alternative. As proposed, the project only promises a reduced quality of life for residents in the corridor, hitting hardest the farmer and the farms that the SADC is mandated to protect. Given the potential for severe and permanent negative effects on farmlands and a nearly three billion price tag, Tri-State strongly urges the SADC to reject the requested taking of farmlands until the NJTA corrects the errors and traffic modeling and fully develops an alternatives analysis that includes the potential for congestion relief through the existing variable tolling program. He thanked the Committee for allowing him to speak.

Daniel Kennedy from the Burlington County Agriculture Development Board stated that Burlington County did not go through the process of holding a public hearing on this issue, though the net result of its process would have yielded the same result, a very detailed set of recommendations for the Committee to consider and incorporate within its findings. He stated that the one thing that troubles Burlington County is the NJ DEP's insistence that farms with modified agricultural wetlands be targeted for wetlands mitigation projects. He stated that this practice presents concerns and should be reviewed by the Committee. Ms. Murphy stated that policy is based on a preference for modified agricultural lands versus the conversion of existing uplands into wetlands. The NJ DEP is saying that if there are lands that are wet and are easier to convert into wetlands, that would be better and much less disruptive than to convert existing uplands and excavate those lands and turn it into wetlands. Mr. Kennedy stated that it is more of a general comment of State policy and the land and the kind of property that you should be using. He stated that he acknowledges that the natural features of those lands are more suited to conversion wetlands but it also has impacts on productive agricultural areas. The farmers

and the Committee should consider unwanted seed disbursal and negative impacts of unmanaged properties. Often times these projects fail and are a nuisance to communities and agricultural land and just because the soils may be a little wet doesn't mean it cannot be a productive farm. He wanted to bring this to the Committee's attention regarding the scope of this project and the general scope of state policy. He asked that the Committee consider this in its findings.

Ms. Craft asked Mr. Kennedy if the Burlington County Board had an opinion as to what it felt would be a more appropriate type of land to be targeted for mitigation? Mr. Kennedy responded that the type that used to be targeted such as farms not in agricultural production.

John Keller, NJTA Program Engineer introduced his design team and offered an overview of the massive \$2.7 billion project which will add 170 lane-miles in the 35 mile corridor. The proposal will expand the Turnpike's "dual-dual" highway configuration by widening the existing roadway by 1 lane in each direction from Interchange 8A to 9 and adding 3 new lanes in each direction from Interchange 6 to 8A. Mr. Keller presented the program schedule which calls for construction to start this summer and end in 2014. He described the extensive public approval process that included an Environmental Impact Statement and numerous public hearings. Mr. Keller and his design team also reviewed the existing traffic congestion and projections through the design year of 2032 as well as the enhanced connection to Interstate 95 in Pennsylvania as justification for the project. A brief overview of the 5 project alternatives evaluated as part of the environmental impact analysis was also presented.

While nearly all of the highway widening can be accomplished within the NJTA's existing 300-foot wide right of way, Mr. Keller explained that most of the required takings involved the need to manage increased storm water runoff, relocate petroleum pipelines and other utilities, expand roadway crossings and provide ramps for interchanges and service areas. He provided a summary of agricultural and environmental impacts as well as examples of design accommodations that avoided or minimized agricultural impacts and/or balanced environmental and agricultural impacts.

Mr. Keller stated that the environmental impact statement was coordinated with the NJ DEP and, the statement that was made earlier is correct regarding wetlands mitigation in that the NJTA was somewhat caught in the middle and when it started this program it thought that the way the NJDEP wanted it to do wetlands mitigation was to take properties that were outside of the SADC's ADA that were just uplands and create wetlands with them. He stated that there was a lot of property in Middlesex County that was going to be used for another project from years ago on Route 92, which comprised over 200 acres and the NJTA thought that it could finally use the property for this project. While only a small portion of it was going to be used, most of the property would be preserved rather than creating wetlands. The numbers that Mr. Brill related to earlier, the 700 acres being impacted, are true but are somewhat inflated by 415 acres because the NJDEP asked the NJTA to go to a particular farm in Monroe Township because it coveted that property. It appeared that fifty years ago the property was all wet and a farmer was able to go in and place some tile drains in and do some re-routing and then turn some of the wetlands into farmland. He stated that the NJ DEP was saying it would

be easy to revert that land back to wetlands, which it was years ago. He stated that they were not aware in going through this process that this was going to happen so the NJTA met with Middlesex County and explained that this may happen and the NJTA is presently in negotiations with the owner of that property and it appears that NJTA may have a deal. He stated that the NJTA did not target preserved or ADA lands but it was strongly encouraged by other agencies to look at that particular property.

Mr. Keller stated that the NJTA put a lot of time and effort into doing a side slope analysis and tried to avoid where possible and minimize where it couldn't avoid preserved farmland and ADAs. He stated that the NJTA is putting in tens of thousands of feet of retaining walls to minimize impacts for the farmland areas. The NJTA is going through a long process with the property owners.

Mr. Keller stated that the Burlington CADB gave its approval for this project in April 2008, as did Middlesex County and Mercer County gave its approval earlier this month. He stated that there are conditions to those approvals and the NJTA takes those conditions very seriously. A lot of the conditions stem on the pipelines that run parallel to the turnpike. He stated that they would have to push them to the outside and when those pipelines move they must consider the farmer's drainage systems. He stated that they met with the utility companies that are going to be installing the pipelines to discuss what provisions are being made and what has to be in the specifications. He stated that the NJTA has also asked the utility companies to meet individually with each of the farmers affected to find out to the best of their ability where these underground pipes are located. In general the farmers have told the NJTA that they know the pipes were installed within the last 20 years but anything outside of that they were not sure about. Mr. Keller stated that there will be provisions in the contracts with the landowners that if they hit cross drains, whatever it is, they will have to be restored and this is all covered in the contracts with the utility companies for which the NJTA has control.

Mr. Keller stated that there has been a lot of coordination with the farmers and have moved around basins based on those discussions. He stated that it comes down to these water quality basins and they have to be put adjacent to the turnpike generally at the low spots. There are not many options available and many times it deals with preserved farmland or ADA lands on either side of the road but the sizes and locations have been tweaked, along with the configurations of the basins based on input from the farmers.

Mr. Pesesky, also from the NJTA, addressed the Committee. He also reviewed various aspects of the road widening project with the Committee. He stated that 651 acres of farmland is to be acquired and the roadway widening itself only accounts for approximately nine percent of the total farmland to be acquired. The storm water treatment facilities account for approximately eighty-four percent of the farmland to be acquired. He stated that meeting the storm water rules requires meeting not only retaining the water and treating it for water quality but also preventing any addition to downstream flooding. He stated that generally the further south you go down the turnpike, which unfortunately is where most of the farmland is, the wetter it gets in terms of depth to the water table. The water table in Mansfield, in particular, is very shallow and in designing these basins you have to hold enough water to prevent downstream flooding. With a shallow water table it means you have to have a fairly sizable water

basin to be able to retain the water and then slowly let it out. He stated that the pipeline easements account for six percent of the farmland to be acquired and then some minor amounts for slope easements, and most of the slope easements are related to the county and local road crossings. There will also be some temporary easements for construction. When the pipeline companies go out the pipeline easement itself is fifty feet but for construction purposes they need double that. Then once the pipe is in the ground and the land has been restored the temporary easement goes away.

Mr. Brill went on to review the 284.21 acres of farmland in ADAs that will be directly affected by the project including 59.27 acres of fee acquisitions for highway widening, 131.27 acres of fee acquisition for storm water detention basins, 6.81 acres for slope easements, 39.32 acres of pipeline relocation easements and 47.54 acres of temporary construction easements related to the pipeline relocation. He also described the 414.69 acre parcel in an ADA in Monroe Township, Middlesex County, recently added to the Notice of Intent as a preferred wetlands mitigation site which brings the project's total impact to 698.90 acres on 90 farms or parcels in ADAs, including 75.34 acres of preserved farmland. Mr. Brill indicated that the three county agriculture development boards recently completed their reviews of the project and concluded that the Turnpike widening project serves the legitimate public purpose of benefiting the health, safety and welfare of the residents of the State of New Jersey, and that the proposed action will have no materially adverse impact to the preserved farms, the ADA, or the State agricultural preservation and development policies. He also stated that the two CADBs with project impacts to preserved farms (Burlington and Mercer) determined that there were no other immediately apparent feasible alternatives to the proposed condemnation of the 75.34 acres on 16 farms necessary to complete the widening project.

Mr. Keller stated that the NJTA will try and do most of the pipeline work in the winter time and the landowners will be able to utilize that property for the next growing season. Mr. Brill stated that there will be limits on the use of that land involving nursery, orchards, any buildings for agricultural purposes that would have been allowed under the deed restrictions. There will be limitations on fencing. Mr. Scerbo stated that you can do a fence that crosses the pipeline easement but not one that is parallel. Mr. Brill stated that these are some of the kinds of issues being worked out with the pipeline companies. Mr. Keller stated that the NJTA realizes that the impact on these farms is tremendous and many of the impacts will be restored to farmable lands.

Ms. Craft stated that SADC staff had various concerns and one of the issues was configuration. If they locate the drainage basin right in the middle of the farm and create an unfarmable configuration of land, those concerns have affected some of the design changes that the NJTA has made. Another major concern for staff was valuation, which has not been touched on today. She stated that the NJTA has begun to submit appraisals to staff. The Committee will have to approve what the compensation will be because the NJTA is condemning easements that the SADC cost-shared on, which will then be returned to the county and the State.

Mr. Brill presented the staff recommendation that the acquisition of a total of 698.90 acres of lands in the ADAs in Burlington, Mercer and Middlesex Counties including 75.34 acres of permanently preserved farmland as listed by block and lot in Schedule A

of the resolution would not cause unreasonably adverse effects on the preserved farms, ADA or State agricultural preservation and development policies pursuant to N.J.S.A. 4:1C-19, N.J.S.A. 4:1C-25, and N.J.S.A. 40:55D-128 for the following reasons:

1. The proposed project is necessary in order to address existing and future traffic projections for this corridor;
2. The project, including utility relocation, serves the legitimate public purpose of benefiting the public health, safety and welfare;
3. The project has been designed to minimize impacts to the ADAs and preserved farms in this corridor to the greatest extent possible;
4. The NJTA has evaluated all options and determined that there is no immediately apparent feasible alternative to the widening project on its existing alignment; and

that the SADC agrees with the determination of the Burlington and Mercer CADBs that there are no other immediately apparent feasible alternatives to the proposed takings and use by the NJTA of the 75.34 acre portions of the preserved farms as specified in Schedule A, and that this action will not cause unreasonably adverse effects on the ADA or State agricultural preservation and development policies; and

that the SADC agrees with the determination of the Burlington, Mercer and Middlesex CADBs that the proposed takings and use by the NJTA of the 623.50 acres of the other properties in ADAs, as specified in Schedule A, will not cause unreasonably adverse effects on the ADA or State agricultural preservation and development policies; and

that the SADC recommends that the Governor declare the action necessary for the public health, safety and welfare and that there is no immediately apparent feasible alternative; and

that the SADC will work with the NJTA, utility companies, the three CADBs and farmers / landowners to resolve site-specific impacts to farms in the ADAs, particularly with respect to pipeline relocations and impacts to surface and subsurface drainage systems, during and after construction; and

that the SADC will work with the NJTA, the three CADBs and the NJDEP to identify locations for wetland mitigation outside of ADAs to the greatest extent possible, and to include any additional wetland mitigation sites in an ADA (beyond the property in Monroe Township, Middlesex County recently added to this NOI) in a separate NOI for review by the SADC and the CADB(s) if necessary; and

that the NJTA is directed to work with the SADC to insure the condemnations of land are properly valued and approved by the Committee, and the net proceeds of the condemnation awards are distributed pursuant to paragraph 23 in the deed of easement.

Mr. Waltman thanked everyone for the thorough presentations that were given. He stated that he has the utmost respect and gratitude to staff that provide tremendous work on behalf of farmland preservation and its support of the work that is done on this Committee. He stated that he is very troubled that the Committee is being asked to vote

on this enormous project, having only just received the material related to the project. He stated that the information was just delivered to his home yesterday and he didn't get home until very late in the evening. He stated that possibly the rest of the Committee had an opportunity to read through the material. He stated that he didn't know if the Committee would ever do anything to take this much farmland out of production in its history again at one time. Therefore he is troubled by the process and he felt that it is the Committee's job to understand everything before voting on it and he doesn't feel that he does. He stated that the Committee is being asked two different questions, one being the impact on agriculture, the ADAs and the preserved farmland in particular. He stated that the Committee is also being asked to make a finding that this project is necessary for the public health, safety and welfare and that there is no immediately apparent feasible alternative. He stated that none of the Committee members are transportation planners but are very bright and he feels that he would rather have more time to investigate some of these issues. He stated that he did spend a great deal of time in a former position working on energy policies. He follows issues like the energy information administration, projections for oil prices and oil consumption. He stated that he knows that agency for the first time, maybe forever, is projecting that we travel in our autos fewer miles over the coming years and the price of oil is going up and we will be consuming less. He feels that the world has changed dramatically in the last couple of years and he thinks that the agency he mentioned agrees and the forecast for vehicle miles to be traveled, costs of fuel are different from 2, 3, 5 years ago, etc. He questions whether some of the assumptions that made perfect sense several years ago are even in the ball park now. He also knows that federal and state governments are going to invest approximately \$8 billion in this new rail tunnel under the Hudson River and he knows that it projects huge increases in the amount of travel that citizens of the State and others do on the rail versus cars. He would assume that would have a big impact on the miles that we would project on the turnpike expansion. He stated he would like to see the report that Mr. Wiswall spoke of be made available to all the Committee members. He would urge the Committee to defer the decision until the next meeting.

Dr. Dey stated that he goes across the turnpike many times a day and he can say that in his area, which is Mercer County, Route 526 and the road that goes next to the Bordentown Reformatory, it is rare that he crosses the turnpike where there is not a backup on the turnpike. He stated that we do not have the infrastructure to handle the traffic that is available now and you won't have it in the future. By the time they finish this project they will still have to build again because you will be still getting this type of congestion on these types of roads. He stated that he read most of the material that was provided and he felt that there is very little preserved farmland that is being affected in the three counties. He stated that he is in favor of supporting the resolution before the Committee to approve this project.

Chairman Fisher indicated that it is clearly the will of the Legislature and the Turnpike Authority as well as the Governor and the Executive Branch that this project move forward and he understands the concerns that were mentioned but the reality is that it is happening and it will continue to happen. The question is was there enough of a concern for the issues as it relates to farmland, not as to the whole project. Mr. Waltman stated that the resolution has two findings 1) is the concern of farmland and 2) is the issue of whether it is necessary for the public health, welfare and safety and whether there are any

other feasible alternatives. If we are being asked to rule on the second issue, we are hearing this information for the first time and he thinks the Committee should exert itself and not make a decision of this magnitude lightly. He doesn't feel that the need for this project has been proven to the standards that he is looking for. He stated that as it is right now he would vote against the resolution.

Mr. Brill stated that the statute only allows for a thirty-day window from the time the notice of intent is deemed complete and arrives at the SADC. He stated that staff received the final version of the packet on May 14th so technically the Committee is obligated to act within that time frame. We received confirmation on some of the details within that packet as late as last Thursday, May 21st so that was part of the delay in getting the information out. The crux of the determination is contained within the notice of intent. The other materials were distributed in an effort to allow the Committee to appreciate the level of reviews that were incorporated in the SADC, county and NJ DEP review processes that went into many of the environmental aspects that the Committee has concerns about. He stated that it is conceptually possible to add another week or two to the process if that is the Committee's desire without violating the provisions in the statute but staff recommendation at this point is to proceed and continue to work with the NJTA to address some of these concerns that were mentioned earlier.

Ms. Brodhecker stated that Mr. Brill indicated that staff has been working on this for a very long time, over two years. She stated that she puts a lot of confidence in the SADC staff and she feels that staff would have advised the Committee somewhere along the way if there was something that the Committee needed to know sooner about the project. She also feels that the materials that were sent to the Committee, having approvals from all three of the counties that have reviewed all of the farmland situations, she would accept their expertise and advice.

Mr. Danser stated that as far as the need goes he can see it as Dr. Dey mentioned earlier, driving over the turnpike over a half dozen times this weekend. The south side lane was at a standstill, and that is in 2009, not 2012 or 2030 need. One thing as far as the denying goes, and he has had the advantage of reviewing this very carefully when it came before the Middlesex CADB, what was underemphasized was the fact that most of the takings are for the water quality basins that are actually going to improve significantly the water quality that runs off the turnpike. The standards that were in effect when this stretch was built in 1952 were minimal and run off was directed into a brook or a creek. The basins and filters catch the petroleum distillates and everything else that drips off all vehicles and gets washed off with the storm water. He feels that the greater loss of the land is not the roadway but ancillary water quality structures. He felt it was a little bit of a trade off but is going to vastly improve the water quality of all the streams that this roadway goes over for that 35 mile stretch.

Mr. Schilling stated that you can argue about different models and we all have personal accounts and in terms of modeling it is never perfect. He stated that he doesn't necessarily know whether or not the determination regarding public health, safety and welfare is being addressed but it sounds like it has been complete and there are other agencies that determine that. He stated he has a question regarding the sixteen farms being impacted that are in the preservation program. Seventy five acres would be

condemned and in terms of compensation for revoking the easement what would the impact of the farm in whole be?

Mr. Scerbo (attorney representing the NJTA) stated that there is a set procedure, which was discussed with Ms. Craft and Mr. Brill, where there is a clear distribution of value that has to be determined for the landowner in fee. When we value the property and go in for a condemnation we also look at the damages for the remainder so if there is some sort of damage for the remainder, and the one that comes to his mind often is when the farmer claims there is no longer access to a field, any place where there is such an issue the NJTA is replacing the access, giving viable access back to the farmer and it will work with the farmer to make sure it is acceptable to him/her. He stated that he and the NJTA have had a few opportunities to speak to preserved farm owners about appraisal values. However, after speaking with Ms. Craft and Mr. Brill they asked that we refrain from those discussions until after the review process is complete. He stated that they have submitted two appraisals so far for SADC staff to look at. He stated that in speaking to those landowners just briefly on the issue they did not seem displeased with the appraisal amount that the NJTA had come up with. Mr. Keller stated that the independent appraisers that they are using are ones that are acceptable to the SADC and are on the Approved Appraiser List. He stated that for example they met with the owner of the Winzinger farm and originally the NJTA had the basin moved further to the south of the property and after meeting with Mr. Winzinger he suggested another area as long as the NJTA could cut access through a hedgerow. Therefore after meeting with the landowner the NJTA modified its plans in that area to move the basin and remove some of the hedgerow so that the farmer would have access from one side to the other. These are the types of issues that have worked out well, understanding how the farmer farms the land and then making the appropriate modifications to the plans.

Mr. Keller also gave a brief discussion regarding the Kim farm in Mercer County, which is one of the farms that would have a large impact. He stated that they met with Mr. Kim and walked the site. A lot of his crops are going in a diagonal direction. He stated that they came up with an alternative to reconfigure the pipeline to minimize the impact on his operation. If they did the work in the winter time, put the pipe under the road and put a dirt road back then we wouldn't impact his property so much and the amount of trees being taken down would be cut down by approximately eighty percent. He stated that they still need to have further conversations with Mr. Kim. He stated that they have first taken these alternatives to the pipeline people first to find out if these types of issues can be done and what, if any, issues they might have and once we have those answers there is a meeting set up for early June with Mr. Kim so that this can move forward.

Nicki Goger from the New Jersey Farm Bureau addressed the Committee. She stated that there has been a lot of discussion regarding the temporary easements and she wanted everyone to know that just because you do this work in the winter doesn't mean that land will be viable farmland that next spring because of compaction issues, top soil removal and other factors that the farmer may need to be compensated. Mr. Keller stated that concern would be addressed in the appraisal stages, of how long, how many weeks, months, years that the farmer wouldn't have access to the property and to their normal farming procedures. Mr. Brill stated that, to the extent possible, the Notice of Intent does include a pledge to work with the pipeline companies to restore the top eighteen inches of

top soil to the best possible configuration that it can. Mr. Keller stated that also in some areas they do have different methods and technologies that they will use that will afford less impact on some areas, when it is feasible to take advantage of those technologies.

Mr. Waltman stated that Mr. Wiswall raised the question of the study and the Committee has not seen that study. It was his understanding that there was a question of a potential feasible alternative that has to do with alternate pricing scenarios? Mr. Wiswall stated that he understands that there are problems on the turnpike traffic wise but what the study found was that errors in modeling caused an overstatement of need. He stated that Tri-State actually did run the model with the corrected procedures and found that of the eight segments of the project area, only one of these in the design year 2032 was congested to the point that it would justify widening. That means seven of the eight in the design year would not need more roadway. Mr. Waltman asked that the NJTA respond to that. Mr. Keller stated that they did look at the alternate pricing and there are alternative pricing at this time on the turnpike, be it off-peak for trucking, or peak time for easy pass use. It helps and they have considered that. He stated that they have had the best engineers available on board to do this and if there was not a need to do the project, they would not be proceeding.

Ms. Reade stated that she had some questions regarding the resolution. She stated that she thought that it may be overreaching for the Committee to ask that the Governor declare this action necessary for the health and safety of the public because it is not really the Committee's purview and also that the statement that the SADC will work with the NJTA, could that be toughened so we can be sure that the easements that the SADC owns will be accommodated. Ms. Craft stated this is the test under the statute. She stated that staff could amend the language that it is our belief based on the information provided that it is for the health, safety and welfare of the public. Ms. Reade stated that if it is statutory language then that is fine.

Chairman Fisher stated that there has been a painstaking effort over a period of two years and our staff has been involved, along with many other partners, including the NJ DEP that have given approvals but that does not stop the SADC from making sure that whatever concerns that it has the NJTA has expressed that they are trying to address almost all the concerns, trying to minimize the impact on the farmland and the easements that the SADC has in its possession.

It was moved by Dr. Dey and seconded by Mr. Siegel to adopt proposed resolution FY09R5(23) without change, and to forward the recommendation to the Governor for his consideration regarding the Review of a Non-Agricultural Development Project in an Agricultural Development Area Including Condemnation of Preserved Farmland-New Jersey Turnpike Authority Widening Project – Interchanges 6 to 9. A roll call vote was taken as follows:

Douglas H. Fisher	Yes
Cecile Murphy	Yes
Ben Spinelli	Absent
Ralph Siegel	Yes

Mr. Schilling stated that he would have to abstain since he has not had an opportunity to read the information provided and some of the questions he had were regarding the modeling information, which he felt that would be something he would be qualified to address. Chairman Fisher stated that would be fine if that was how he wanted to vote. He asked the Committee to keep in mind that there is only fifteen days to act. Mr. Schilling stated that the concern he raises is that there are 16 farms being impacted to the amount of approximately 75 acres and his concern is the impact could be considerably more. He stated that it sounds like the NJTA will be taking these issues on a case by case basis. He expressed his concerns that these issues will be worked out with the SADC and the NJTA and landowners.... Ms. Craft responded that the SADC has to agree on the value of the development easement being removed. Then a separate discussion of compensation will take place with the NJTA with the landowner regarding the impact of their operation. Mr. Scerbo stated that the NJTA will be statutory required to pay the landowners for their crops. The NJTA will be evaluating life time production of their operation or the life cycle. Mr. Schilling indicated that if that was the case he would like to change his abstention to a yes vote.

Brian Schilling	Yes
Jane R. Brodhecker	Yes
Alan A. Danser	Yes
James Waltman	Oppose
Denis C. Germano	Absent
Torrey Reade	Yes
Stephen P. Dey	Yes

8 Yes Votes, 2 Absent Votes, 1 Oppose Vote. The motion carries. (A copy of Resolution FY09R5(23) is attached to and is a part of these minutes.)

K. Adoption of Proposed Appraisal Handbook Amendments

Mr. Burns referred the Committee to the Draft Summary of changes to the SADC Appraisal Handbook-2009. He stated that this was before the Committee at its meeting last month when staff advised that with Committee approval it would be sent out for informal public comment and then it would come back to the Committee for adoption. He stated that no comments were received and staff recommendation is to adopt the proposed handbook amendments as presented and as discussed previously.

It was moved by Mr. Siegel and seconded by Ms. Reade to adopt the 2009 Appraisal Handbook amendments as presented and discussed. The motion was unanimously approved. (A copy of the Summary of Changes to the SADC Appraisal Handbook-2009 and the 2009 Appraisal Handbook is attached to and is a part of these minutes.)

PUBLIC COMMENT

None

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: Thursday, June 25, 2009, beginning at 9:00 a.m. Location:
Health/Agriculture Building, First Floor Auditorium

CLOSED SESSION

At 2:20 p.m. Dr. Dey moved the following resolution to go into Closed Session. The motion was seconded by Ms. Brodhecker and unanimously approved.

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

Action as a Result of Closed Session

A. Real Estate Matters - Certification of Values

Planning Incentive Grant Program – 2009 County

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

1. Orchard Enterprises, LLC
Block 502, Lot 5.01
Chesterfield Township, Burlington County, 48 Acres
2. Burlington County/Parker Farm
Block 601, Lot 3; Block 603, Lot 5
North Hanover Township, Burlington County, 94 Acres
3. Burlington County/Homestead Nursery, Inc.
Block 779, Lt 9.01; Block 785, Lot 1.01
Pemberton Township, Burlington County, 78 Acres
4. Burlington County/A. Puglia Estate
Block 601, Lot 15.01; Block 100, Lot 1
Springfield Township, Burlington County, 66 Acres
5. Madelyn Belliveau Farm
Block 202, Lot 20, Hillsborough Township, Somerset County, 57 Acres
6. Richard Elliott Hoynes Farm
Block 62, lot 4, Bedminster Township, Somerset County, 53 Acres

The motion was approved. (Mr. Waltman was not present for this vote.) (Copies of the Certification of Value Reports are attached to and are a part of the closed session minutes.)

Municipal Planning Incentive Grant Program – 2009

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

1. William B. Leavens, III (Apple Valley Farms)
Block 57, Lots 1 and 34, Franklin Township, Warren County, 56 Acres
2. Janet and Ignazio Piedilato
Block 40, Lot 2, Bedminster Township, Somerset County, 59 Acres

The motion was approved. (Mr. Waltman was not present for this vote.) (Copies of the Certification of Value Reports are attached to and are a part of the closed session minutes.)

Former Rule Municipal Planning Incentive Grant Program Amended Certification of Value

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

1. E. and D. Greene Farm
Block 701, Lot 3.02, Frelinghuysen Township, Warren County, 32 Acres

The motion was approved. (Mr. Waltman was not present for this vote.) (A copy of the Certification of Value Report is attached to and is a part of the closed session minutes.)

Nonprofit Grant Program

Real Estate Matters – Certification of Value

1. Nonprofit Grant Program
D&R Greenway/Sparks Farm, Mannington Twp., Salem County

Note: This agenda item was sent to the Governor's Authorities Unit separately for review and approval on June 4, 2009.

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

D&R Greenway/Sparks Farm

Block 62, Lots 3 and 4; Block 64, Lot 8
Mannington Township, Salem County
141 Acres

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

2007 County Easement Purchase Program – Amended Certification of Value

Note: Ms. Brodhecker recused herself from any action pertaining to this property to avoid the appearance of a conflict of interest. Ms. Brodhecker is the Chairperson of the Sussex County Agriculture Development Board.

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

1. Deidre Lewis Farm
Block 3401, Lot p/o 4A, Stillwater Township, Sussex County, 64 Acres

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

- B. Nonprofit Grant Program – Amended Final Approval
D&R Greenway/Sparks Farm, Mannington Township, Salem County

Note: This agenda item was sent to the Governor's Authorities Unit separately for review and approval on June 4, 2009.

Mr. Knox referred the Committee to Resolution FY09R5(24) for a request for amended final approval for the D&R Greenway/Sparks Farm, located in Mannington Township, Salem County, comprising 141 acres. He stated that this originally came in as a fee simple application under the nonprofit grant program. When D&R Greenway began negotiations with the landowner they realized an approximate \$300,000.00 shortfall. They went back to the landowner who changed her mind and decided to just sell the development easement. The application was then switched from a nonprofit fee simple to a nonprofit easement purchase application. The development easement value was discussed in today's closed session portion of the meeting and the Committee took action and approved the certified value today. Mr. Knox stated that federal funding is being used on this acquisition and if we do not close on this property by the end of June we would lose the federal funding. He stated that there is an additional severable exception being taken because when the survey was done for this property it showed that the fire house next to the property was one and one half feet onto the property. The owner wanted to take this additional exception in order to sell that portion of the property to the fire house, which would give the fire house some room for expansion. He stated that there is also a nonseverable exception for a future dwelling. Staff is requesting that the Committee amend its previous final approval to reflect these changes. He stated that staff is also requesting that substantive minutes be sent to the Governor's Authorities Unit in

order to expedite review and approval by the Governor so that the SADC can close on this property by the end of June in order to utilize federal funding.

It was moved by Dr. Dey and seconded by Ms. Reade to approve Resolution FY09R5(24) granting amended final approval to the D&R Greenway/Sparks Farm, known as Block 62, Lots 3 and 4; Block 64, Lot 8, Mannington Township, Salem County, 141 acres, as presented and discussed, subject to any conditions of said resolution. The motion was approved. (Mr. Siegel abstained and Mr. Waltman was not present for this vote.) (A copy of Resolution FY09R5(24) is attached to and is a part of these minutes.)

C. 2007 County Easement Purchase Program – Amended Final Approval

Diedre Lewis, Stillwater Township, Sussex County

Note: Ms. Brodhecker recused herself from any action pertaining to this property to avoid the appearance of a conflict of interest. Ms. Brodhecker is the Chairperson of the Sussex County Agriculture Development Board.

It was moved by Dr. Dey and seconded by Mr. Siegel to approve Resolution FY09R5(25) granting amended final approval to the Diedre Lewis Farm, Block 3401, Lot 4.01, Stillwater Township, Sussex County, 64 net acres, to include an additional twelve (12) acres on Block 3401, Lot 4.01 (net 64 acres) and to provide a cost share grant to Sussex County at a State cost share of \$3,205.00 per acre for a total of \$205,120.00 (61.63% of the certified market value and 68.57% of the purchase price), subject to any conditions of said resolution. The motion was approved. (Ms. Brodhecker recused herself from the vote and Mr. Waltman was not present for this vote.) (A copy of Resolution FY09R5(25) is attached to and is a part of these minutes.)

D. Approval of Substantive Minutes

Note: The substantive minutes were sent to the Governor's Authorities Unit separately for review and approval on June 4, 2009.

Ms. Craft indicated that in order to proceed with 1) the issue relating to the New Jersey Turnpike Authority road widening project and 2) the D&R Greenway/Sparks Farm certification of value and amended final approval review period by the Governor's Authorities Unit, the Committee needs to approve substantive minutes for those two items. Staff recommendation is to approve the substantive minutes.

It was moved by Mr. Siegel and seconded by Dr. Dey to approve the substantive minutes dealing with Resolution FY09R5(23) Review of a Non-Agricultural Development Project in an Agricultural Development Area Including Condemnation of Preserved Farmland – NJ Turnpike Authority Widening Project – Interchanges 6 to 9 – Burlington, Mercer and Middlesex Counties and the certification of value and Resolution FY09R5(24) Amended Final Approval for the D&R Greenway/Sparks Farm, as presented and discussed, subject to any conditions of said resolutions. The motion was approved. (Mr. Waltman was not present for this vote.)

Mr. Schilling asked if there was any possibility that the Committee could have something more quantitative or a scoring system to evaluate applications for a division of the premises. Mr. Danser stated that conditions vary so much for different parts of the state.

Mr. Siegel stated that there are concerns involving corporate liability and estate planning and estate taxes. Mr. Shilling stated that at some point the Committee is going to find itself in an indefensible position.

Ms. Reade suggested that perhaps this is fact sensitive and the Willis situation is very different from the Mumford situation. She stated that in this case the facts are different from what was in the last case and to a certain extent every farm is going to be different from every other farm and every situation from every applicant is going to be different. Ms. Murphy stated that a set of minimum standards would be helpful. She stated that we are a public board and we need to be consistent.

Ms. Reade stated that at a recent meeting of the soil conservation districts for the southern part of the state there was a lot of vocal objection to a letter that all the districts received from the SADC asking that it talk about whether the conservation plans for the preserved farms in the districted were being obeyed. They had two objections, one being a privacy issue in revealing this to the SADC and the other concern was that they didn't think that administratively they have to respond to a request to monitor these things to the SADC. They are feeling very strapped with funds right now because they are not getting any 251 fees.

Mr. Danser felt the way to handle that is that it is not their job to report to the SADC. If the SADC has a requirement of a property owner that there be a conservation easement in place and followed it is incumbent on the property owner as part of the annual monitoring to 1) certify that there is and yes its being followed and if need be document it.

Mr. Baumley stated that there was a meeting with the NRCS State Conservationist Tom Drewes. Staff discussed what NRCS can allow through a waiver provided by the person receiving the information. He stated that the landowner can waive the requirement of the SADC seeing the plan but it would have to come from the landowner.

Respectfully Submitted,

Susan E. Craft, Executive Director
State Agriculture Development Committee

Attachment