

STATE AGRICULTURE DEVELOPMENT COMMITTEE (SADC)
SPECIAL MEETING

February 12, 2024

Mr. Joseph Atchison called the meeting to order at 9:01 a.m.

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

Roll call indicated the following:

Members Present

Joseph Atchison, III (Acting Chairman)
Martin Bullock
Scott Ellis
Pete Johnson
Richard Norz
Tiffany Bohlin
Charles Rosen
Julie Krause
Lauren Procida
Brian Schilling

Members Absent

Gina Fischetti

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

New Business

Ms. Payne announced that the SADC's Future Program subcommittee met recently to discuss the enactment of the "Statewide Farmland Preservation Formula" bill early this year. The objective of today's special meeting is to discuss the proposed policy with the committee and make revisions. The proposed policy will then be discussed with our preservation partners on Thursday.

- A. Implementing the Statewide Farmland Preservation Formula (P.L. 2023, c. 235)
1. Implications for Pending Applications

While the formula is being established, the law has implications for the farmland

preservation program in terms of landowner participation and the rate of application submissions.

Staff has drafted a policy titled “Interim Policy for Applications Pending Adoption of the Statewide Farmland Preservation Formula.” This policy addresses the handling of applications while the formula value is being developed. The objective for today’s meeting is to discuss the draft policy with the committee and make any revisions. The proposed policy will be discussed with our preservation partners this coming Thursday, and then will be presented to the committee for adoption at its regular February meeting.

Ms. Payne explained that the proposed policy offers flexibility for partners. The policy would enable the committee to allow for changes to farmland preservation applications.

The Executive Director reviewed the main contents of the draft policy. Landowners and/or grant partners will need to request the policy be applied to each application. All extensions, approvals and amendments authorized by this policy are subject to the availability of funds.

Ms. Payne explained for applications with SADC’s certified market values (CMV’s), the proposed policy would extend the performance timeframes that are in SADC’s regulations and policies. The performance extension standards would allow our partners to wait for the issuance of the certified fair market value or the certified formula value, whichever is later.

Ms. Payne stated she anticipated legislative interest in extending the Highlands dual appraisal provision, which is set to expire on June 30, 2024. However, if it is not extended, a gap may exist while the formula-based values are being implemented. She explained the proposed policy allows farms to be eligible for Highlands dual appraisal as long as the application is submitted to the SADC by June 30, 2024. Those dual appraisal applications will remain eligible for the dual appraisal provision through the duration of that application and pending the receipt of a CMV or certified SFV, whichever is later.

Ms. Payne explained the draft policy also allows for final approval resolutions to be amended at the request of the landowner and grant partner, to account for the SADC’s adoption of the Statewide Formula Value (SFV) and the issuance of the revised SADC certification of value to include the SFV for the acquisition of a development easement on or fee simple title to farmland.

For those landowners and partners who want to continue with the acquisition process, SADC may amend final approvals granted prior to the adoption of this interim policy to allow for the issuance of a SFV for the farm application and potential acceptance of the certified SFV. For landowners and grant partners who wish to move forward with preservation after this interim policy’s adoption, SADC final approvals shall include a

provision that such approval may be later amended to reflect the offer and acceptance of the certified SFV. All changes to final approvals would be subject to availability of SADC funding.

Ms. Payne explained that if the SADC had entered into an agreement of sale, this proposed policy would allow, at the landowner's request, for the extension of the performance period and amending the agreement to reflect the opportunity to received a new offer based on the formula value.

The Executive Director commented that SADC's regulations currently prohibit a landowner who rejects a certified appraisal value from reapplying to the program for two years from date of the original application. The proposed policy would allow landowners who rejected an offer before the date the formula value bill was introduced to reapply once the formula value has been adopted.

Ms. Payne stated this new proposed policy addresses applications at every step of the acquisition process to provide the maximum amount of flexibility. Decisions on how to proceed with applications in light of the formula value will be made by the partners and landowners.

Mr. Ellis asked if this new formula would have a negative effect on the appraised values. Ms. Payne explained that the new law requires that the SADC still conduct traditional appraisals and apply the formula valuation. Both values will be made available to the landowner who can elect the higher of those two values. Ms. Payne commented that future contracts will probably be drafted with a minimum contract price.

Mr. Schilling asked if the landowner is under any obligation to use an older CMV. Ms. Payne answered that once the SADC publishes the formula value as a notice of rulemaking, the formula value will be effective immediately and for three years thereafter. At the end of the three-year period, SADC must go through the formal rule-making process.

Mr. Schilling asked whether the SADC will contribute a higher cost share percentage if the partner is unable or unwilling to provide funds needed for acquisition based on a higher formula value. Ms. Payne answered that one of the recommendations of the 2022 audit was to have the SADC reconsider its cost share percentages. She stated that an additional SADC cost share would require amendments to the agency's current regulations, and that we're exploring whether those amendments could be made as part of the rulemaking on the formula value.

Mr. Schilling asked if a local partner is unable or unwilling to move forward with the higher formula-based value, and if the applicant decides to withdraw for that reason, does the applicant have to wait 2 years to reapply. Ms. Payne said yes; once the formula is established, a landowner who rejects the formula-value offer will be subject

to the two-year waiting period, which begins on the date of the initial application.

Mr. Rosen asked what happens if the market value decrease during the period between SADC certification and adoption of the formula value. Ms. Payne stated that if the SADC certifies a value based on today's market, that value will be held in place until such time as it can also offer the formula value. If the real estate market crashes in the meantime, landowners are held harmless.

Mr. Rosen asked what if a local partner could not honor the new valuation, is SADC bound to its cost sharing agreement? Mr. Rosen further inquired about an applicant rejecting one partner's offer and seeking a new partnership with another entity. Ms. Payne stated that there is a limited ability to move farms from one program to another.

2. RFP for Market Research Consultant

Ms. Payne stated that in connection with the development of the formula, staff will require assistance from a real estate market consultant. SADC staff has drafted an RFP for the committee's review and approval.

This RFP identified the different factors that must be considered when developing the formula: appraisal documents, the easement value trends throughout the different market areas of the state, the importance of preserving agricultural land in the municipality and county where the farm is located, the importance of natural resources and how to attach a value to those resources, Pinelands' Development Credits, and other factors that would increase participation in the farmland preservation program.

Other factors include the rate of inflation, the quality of the agricultural soils, the size of ag lands to be acquired, the risk of conversion, the rate of inflation, and the proximity of the subject property to other preserved lands which, if developed, would lead to conflicting land uses.

Ms. Payne stated the draft RFP provides a description of what the consulting firm would do to provide ideas and information to the subcommittee. The draft RFP includes the development of the formula value.

The Executive Director commented that the consultant should have a level of understanding of how the Pinelands and Highlands development credit programs value development potential, as well as the SADC's Pinelands formula. The consultant will need to understand and analyze easement formula valuation techniques utilized by other farmland preservation programs in the United States. Importantly, the consultant needs to help develop methodologies to attribute value to natural resources.

Ms. Payne stated that it is important for the consultant to help create a formula value methodology that can be readily updated over the life of the program using defined factors.

Ms. Payne stated the RFP breaks the formula project into four phases. The first phase is the research phase which will take place from April to July 1, 2024. The funding available in the administrative budget for this purpose is a maximum of \$150,000.

The development phases will occur in fiscal year 2025 between August and November. The test phase and close out phase will occur in late 2024 and early 2025.

Ms. Payne stated that the maximum amounts for the project in fiscal year 2024 is \$150,000, and \$250,000 in fiscal year 2025, with a total project cost not to exceed \$400,000.

Ms. Payne stated that there was some concern based on the length of time of the project. She commented that the time and money spent here to get things done correctly will be a great investment in the farmland preservation program.

Mr. Norz commented that the last subcommittee meeting, it was discussed how important is it to stick to the timeline shown in the RFP, based on the guidelines set forth in the legislative process. Mr. Ellis stated that \$400,000 seems like a lot of money for a study. Mr. Bullock asked if the budget would generate a study that would meet all the requirements.

Ms. Payne stated that a consultant working in collaboration with SADC staff should be able to answer some of the more technical aspects of this exercise. The consultant would assist us with developing a base price and adjusting the price over time, if possible.

Mr. Bullock stated that he is concerned about the amount of time the consultant will take to complete the work. Ms. Payne stated that staff will do everything possible to accelerate the project.

The Executive Ddirector stated that the proposals that come back from potential consulting firms may inform the committee about the budget allocation. The responses to this RFP may also inform the committee what areas the consultants will need to focus on.

Ms. Krause stated that if the proposals are not satisfactory and price is a constraint, staff can come back and discuss the issues with the committee. She said that she is comfortable with voting today.

Mr. Rosen stated that he is comfortable with voting today given the interest of time. He noted that Mr. Norz was the one who requested this special meeting to take place as soon as possible.

Mr. Norz made a motion to have SADC staff proceed with the recommendations and release the RFP to hire a consulting firm.

It was moved by Mr. Norz and seconded by Ms. Bohlin to have SADC staff release the RFP. The motion was unanimously approved.

Public Comment

Mr. Brian Wilson from Burlington County's CADB asked if the new formula value of the statewide application is going to be capped at 80% of the fee simple value as was done in the Pinelands. Ms. Payne stated that there is no statutory constraint on the % of fee simple value and development of the formula will address that issue Mr. Wilson commended the SADC on the policy.

No further public comment was made.

It was moved by Mr. Schilling and seconded by Ms. Bohlin to adjourn the meeting. The motion was unanimously approved.

ADJOURNMENT

The meeting was adjourned at 10:00 a.m.

Respectfully Submitted,



Susan E. Payne, Executive Director
State Agriculture Development Committee