

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

**REMOTE MEETING DUE TO CORONAVIRUS
EMERGENCY**

January 28, 2021

Chairman Fisher called the meeting to order at 9:01 am.

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.

Ms. Payne advised that anyone wishing to make a public comment at this meeting should email their comments to SADC@AG.NJ.GOV. All public comments will be read during the public comment portions of the meeting.

Roll call indicated the following:

Members Present

Chairman Fisher
Cecile Murphy
Roger Kumpel
Gina Fischetti
Brian Schilling
Martin Bullock
Ralph Siegel
Denis Germano
Pete Johnson
Richard Norz
James Waltman

Members Absent

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

Minutes**A. SADC Regular Meeting of December 3, 2020 (Open Session)**

It was moved by Mr. Siegel and seconded by Mr. Kumpel to approve the Open Session minutes of the SADC regular meeting of December 3, 2020. Mr. Bullock and Ms. Murphy abstained from the vote. The motion was unanimously approved by the remaining members.

Report of the Chairman

Chairman Fisher wished the committee members and staff a Happy New Year. He informed everyone that the SADC has now been officially moved to 200 Riverview Plaza and he thanked staff for their hard work in that effort. Chairman Fisher stated that there are many big items to hopefully finalize this year such as soil protection standards and special occasion events legislation. He also indicated the issue of climate change is a priority to the new administration in Washington as well as the Governor of New Jersey and the role of farmland preservation will be included in those discussions. Chairman Fisher also reiterated the solar industry's desire to use farmland for solar arrays and stated conversations continue to take place to protect the state's agricultural resources. Lastly, Chairman Fisher touched on a letter that staff received from the Department of Community Affairs (DCA) denying a municipal redevelopment designation of a farm based on its inconsistency with farmland preservation plans and stated that it is an important letter regarding this topic.

Report of the Executive Director

Ms. Payne noted the DCA letter addresses how Franklin Township, Warren County sought to use a redevelopment statute to declare a farm as a blighted area in need of redevelopment. She explained the statute states if the municipality makes the designation and the area in which the property is located is identified growth and development, that designation becomes automatic. In cases where the designated land is not clearly identified for development in the State Plan and other applicable growth/development plans, the DCA is required to review and approve this designation by the municipality. In this case the DCA disapproved this farm as an area in need of redevelopment. Ms. Payne stated that this is an interesting issue that's starting to evolve, and staff will probably see more of these in the future.

Ms. Payne stated that last year Mr. Charles Roohr was promoted from Stewardship Manager to Chief of Agriculture Resources. She announced that the Stewardship Manager position has now been backfilled by Mr. Tim Willmott. She noted that Mr. Willmott interned for the SADC in 2007 and then worked in Burlington County's Farmland Preservation Program. Mr. Willmott has a bachelor's degree in Agriculture Business Management and is currently serving as Vice President of the New Jersey Agriculture Society. Ms. Payne welcomed Mr. Willmott to the SADC and thanked him for joining the team.

Ms. Payne stated that the Right to Farm (RTF) law was recently amended to extend RTF protection to housing for full time, year-round, equine operation laborers. This extends RTF

eligibility to the construction of ag labor housing in the same building in which the horses reside but does not extend eligibility for a stand-alone unit. It was signed into law and the SADC has to promulgate regulations to implement that law.

Mr. Germano and Chairman Fisher asked if there is a precedent for the law being effective prior to rules being promulgated, so that equine operators could seek SSAMP approvals prior to the SADC adopting an AMP.. Ms. Payne stated that there have been instances where enabling law was sufficiently detailed to permit its implementation prior to the adoption of applicable rules, however, the SADC needs to consult with the Office of the Attorney General (OAG) on this issue before providing guidance to the public.

Ms. Payne stated her recommendation while the bill was being drafted was it should be broader to address agricultural labor housing in other sectors of the agricultural industry. Mr. Siegel asked if this issue of the stand-alone single-family house can be addressed in the rulemaking process. Ms. Payne stated that this needs to be explored further. She noted that she will discuss it with Mr. Stypinski, Mr. Smith and staff and come back to the committee with a proposed plan. Chairman Fisher stated this bill was passed with a very narrow scope, and that the SADC can still explore opening the subject matter up further.

Ms. Payne stated that the appropriation bills have all been signed and all funding associated with the FY21 appropriation round is now available. Staff is preparing letters to go out to the County Agriculture Development Boards (CADBs), townships and non-profits to give them an overview of their grants. Staff also plans on inviting them to attend in person or virtual meetings to explain how their grants were calculated.

Ms. Payne noted that the Chairman Fisher set up an acquisition policy subcommittee to help staff envision the future of the program. She noted that staff is conducting background research and working on collecting good data on the trends in agriculture and program performance. There will be a great package of information provided to the committee to get the discussion started.

Communications

Ms. Payne noted there is an article from Gardner News naming Secretary Fisher as the 2020 person of the year based on his contributions to agriculture. Ms. Payne congratulated Chairman Fisher on this well-deserved accomplishment and noted that the article does a great job of helping everyone understand the breath of issues that Chairman Fisher deals with.

Public Comment

Amy Hansen requested an update on a prior request by Mr. Siegel regarding whether the proposed soil protection standards are consistent with the bond covenants associated with the Garden State Preservation Trust's issuance of bonds. Mr. Siegel recommended that since the Attorney General is counsel to the GSP bond issuer, outside bond counsel should

be hired to provide advice as to whether the proposed 6 acre or 8% allowance on soil disturbance on farms under 60 acres would violate the federal limitation on private use for properties preserved with tax exempt bonds. Mr. Stypinski stated that he received comments yesterday regarding this matter and will discuss it in the Closed Session.

Old Business

A. Soil Protection Standards – Best Management Practices (BMPs)

SADC staff reviewed Best Management Practices (BMPs) related to Ground-Mounted Solar Energy Facilities, Agricultural Water Impoundments, Soil Stockpiles, and Parking and Storage Areas (Temporary and Semi-Permanent). As discussed at the October SADC meeting, all BMPs have been reviewed with the Soil Protection sub-committee prior to placing them on the agenda. The BMPs cover standards for the design, site selection, construction, and maintenance of each practice on preserved premises.

Kelly Doyle reviewed Ground-Mounted Solar Energy Facilities (SEF) BMP. Solar panels and arrays installed according to this BMP shall be considered Temporary Disturbance and fall under the yellow category. The land under and between the solar panels will not count towards the soil disturbance limitation if this BMP is followed. Nothing in this BMP will abrogate, supersede, or replace the solar energy generation rules. Construction of solar arrays that does not follow this BMP counts towards the 6 acres/8% disturbance limits set forth in the Soil Disturbance Standards.

Ms. Doyle then addressed the proposed Agricultural Water Impoundments BMP. Agricultural Water Impoundments are excavated, unlined farm ponds or dammed impoundments fed by surface water or groundwater designed and sized for irrigating agricultural crops or watering livestock. If installed in accordance with the BMP, they would fall under the orange category. She noted that the BMP does not apply to decorative or recreational ponds, wildlife ponds, stormwater management facilities, aquaculture ponds, manure lagoons, tailwater recovery ponds, ponds constructed primarily for hydropower uses, or naturally occurring ponds and wetlands. Farm ponds constructed prior to adoption of the rules are proposed as exempt from the soil disturbance limits.

Ms. Doyle noted that the need for an agricultural water impoundment must be justified with a Rutgers Cooperative Extension Specialist review and an alternative analysis must also be done. Chairman Fisher asked whether this review can only be performed by a Rutgers Cooperative Extension Specialist and expressed concern about the potential for delays if Rutgers had a large workload. Chairman Fisher referred the question to Mr. Schilling, as Director of Rutgers Cooperative Extension. Mr. Schilling suggested that this needs to be discussed offline so he can get further input.

David Clapp reviewed the Soil Stockpiles BMP with the committee. If the stockpiles are designed, installed, and maintained as described in the BMP, they will fall under the orange category. Typically, these stockpiles are associated with soil disturbances. The standards herein are intended to minimize the potential negative impacts of stockpiling to the

physical, chemical, and biological properties of soil and to facilitate the successful reuse of stockpiled soil on disturbed areas of the preserved premises during site restoration.

Mr. Kumpel asked for clarification regarding the language in the BMP that requires amendments be added to the soil to maintain pH and fertility levels. Mr. Clapp stated the intent was to ensure that the surface had enough fertility to support and grow a vegetative cover. Mr. Norz suggested the language be revised to make that intent clear.

Mr. Clapp stated the Parking and Storage Area BMPs were previously presented to the committee in October 2020 and revised based on subcommittee and committee input. The intent is to offer standards for a functional working area that reduces erosion potential, minimizes soil compaction, protects the integrity of the topsoil, and allows infiltration. The goal is to allow flexibility for parking but also keep the soil available for crop production. Mr. Clapp explained the parameters of temporary and semi-permanent parking and storage areas and the criteria used for each classification.

Chairman Fisher asked the farmer members if the 4-inch height requirement for actively cropped land on temporary parking areas is a realistic number. Mr. Norz stated that he uses a field for parking periodically and when he cuts the grass the vegetation left is around 2 inches and it will grow if there's moisture. He noted that the 4 inches may not be practical if a crop was just removed from the production land prior to using the area for temporary parking. Chairman Fisher stated that the language in the BMPs can be changed to reflect that.

Mr. Waltman stated his concern about the proposed regulations potentially being too lenient in its effort to preserve soil resources and also noted concerns regarding parking areas and travel lanes' impact on soil capacity and compaction. Mr. Norz commented that travel lanes could be required to be wider than 16 feet as per local municipal ordinances or safety requirements. Mr. Johnson stated that the travel lanes are also used as pedestrian walkways, so for safety reasons they must remain wide – 16-feet wide at a minimum.

Ms. Payne stated all of the BMPs and standards will go out to the stakeholders for a 60-day comment period. Once those comments are back, they will be brought before the committee for review. Staff is looking to get a proposed rule to the committee in May or June. The sub-committee will review the proposed rule and then once the committee approves this as a proposed rule, it will go to the register. Mr. Norz commented that the full package should not go out without a final, full committee review. Mr. Siegel stated that he thinks it's premature for these standards to go out now because the baseline issue for soil disturbance regarding farms under 60 acres should be resolved first. Chairman Fisher stated that this issue of distributing these rules will be re-addressed after coming out of closed session.

B. Stewardship

NOTE: Mr. Bullock recused from this matter.

Charles Roohr referred the committee to a request to a resolution approving the issuance of a Rural Microenterprise (RME) permit to Dr. Patricia Hogan for use of an existing barn on the former “Perretti Farm” as an equine surgery clinic for standard and thoroughbred horses. The committee discussed the application at length at its October 2020 meeting and this resolution formalizes the committee’s approval of the proposal. The SADC staff recommendation is to approve the request as a class two RME as described in the resolution.

Dr. Hogan stated that she is excited about this opportunity and thanked Mr. Roohr for all the work he did and thanked the committee for hearing this discussion. Chairman Fisher congratulated Dr. Hogan and thanked her for the high standards of care that she provides for the equine industry.

1. Resolution: Rural Microenterprise Request
Hogan Veterinary Clinic, Pheasant Hill Farm, LLC
Block 20, Lots 2 & 8.01
Upper Freehold Township, Monmouth County
304.82 Acres

It was moved by Mr. Kumpel and seconded by Mr. Schilling to approve Resolution FY2021R1(1) granting a RME permit request for an existing barn to be used as an equine surgery clinic. Mr. Bullock recused. A roll call vote was taken, and the motion was unanimously approved. A copy of Resolution FY2021R1(1) is attached to an is part of these minutes.

New Business**A. Stewardship**

Mr. Roohr referred the committee to a house replacement extension request for the Hansen Farm. He reviewed the specifics of the request with the committee and stated that the staff recommendation is to grant final approval.

1. Resolution: House Replacement Extension Request
Hansen Farm
Block 508.01, Lot 7.18
Lower Township, Cape May County
14.09 Acres

It was moved by Mr. Germano and seconded by Ms. Murphy to approve Resolution FY2021R1(2) for a house replacement extension request for the Hansen Farm. The motion was unanimously approved. A copy of Resolution FY2021R1(2) is attached to an is part of these minutes.

B. Resolutions: Final Approval- County PIG Program

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

It was moved by Mr. Kumpel and seconded by Mr. Germano to approve Resolution FY2021R1(3), granting approval to the following applications under the County PIG Program, as presented, subject to any conditions of said resolution.

1. Dykstra Properties LLC, SADC ID #21-0608-PG, Resolution FY2021R1(3), Block 601.02, Lot 44, Mansfield Township, Warren County, 302.9 acres.

A roll call vote was taken, and the motion was unanimously approved. A copy of Resolution FY2021R1(3) is attached to and a part of these minutes.

C. Resolutions: Final Approval – Direct Easement Purchase Program

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

It was moved by Mr. Germano and seconded by Mr. Kumpel to approve Resolution FY2021R1(4), granting approval to the following applications under the Direct Easement Purchase Program, as presented, subject to any conditions of said resolution.

1. Estate of Evelyn Marie Cosh , SADC ID #19-0028-DE, Resolution FY2021R1(4), Block 38, Lot 1.01, Wantage Township, Sussex County, 95.96 net easement acres.

A roll call vote was taken, and the motion was unanimously approved. A copy of Resolution FY2021R1(4) is attached to and a part of these minutes.

D. Resolution: Final Approval- Non- Profit Program

Ms. Mazzella referred the committee to one request for final approval under the Non-Profit Program. She reviewed the specifics of the request with the committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Bullock and seconded by Mr. Kumpel to approve Resolution FY2021R1(5), granting approval to the following applications under the Non-Profit Program, as presented, subject to any conditions of said resolution.

1. Richard and Michael Curtis NJCF FY21, SADC ID #10-0072-NP, Resolution FY2021R1(5), Block 21, Lot 5, Delaware Township, Hunterdon County, 63.2 acres.

A roll call vote was taken, and the motion was unanimously approved. A copy of Resolution FY2021R1(5) is attached to and a part of these minutes.

E. Resolution: Fee Simple Transfer Approval- Non-Profit Program

Alison Reynolds stated that the Fichera Farm was preserved by the SADC with a non-profit fee simple grant to the New Jersey Conservation Foundation (NJCF) in 2010. NJCF seeks the SADC's approval for it to transfer its fee simple interest in the farm to NJCF Preserves, LLC, a company of which NJCF is the sole member. The deed of easement also requires NJCF to reimburse the SADC a percentage of the net proceeds in the event NJCF sells any interest in the farm; however, this transfer will be for no monetary consideration. Therefore, the fee simple deed will carry forward this reimbursement provision so that the future landowner will be responsible for this obligation. Also, in reviewing this request, it came to staff's attention that the reimbursement percentage figure in the deed of easement appears to be incorrect and this percentage figure will be corrected via a recordable document. Ms. Reynolds stated that staff recommendation is to grant approval for the deed transfer.

It was moved by Mr. Germano and seconded by Ms. Murphy to approve Resolution FY2021R1(6), granting approval to the following application under the Fee Simple Transfer Approval- Non-Profit Program, as presented, subject to any conditions of said resolution.

1. Fichera Farm – NJCF to NJCF Preserves, LLC, Resolution FY2021R1(6), Block 31, Lot 4; Block 32, Lot 9; Block 34, Lots 3 & 12; Block 35, Lots 1 & 2; Block 36, Lots 7 & 9, Mannington Township, Salem County, 278.814 acres.

A roll call vote was taken, and the motion was unanimously approved. A copy of Resolution FY2021R1(6) is attached to and a part of these minutes.

F. FY2022 Nonprofit Notice of Grant and Application Deadline

Ms. Mazella reviewed the FY22 Non-profit funding round with the committee and stated to date the SADC has participated with non-profits and other local partners to preserve 92 farms consisting of 5,925 acres with State grants totaling over \$26.7 million. The proposed schedule includes SADC approval of announcing the FY22 round at the January 2021 meeting; publication in the NJ Register in March; application submission deadline in June and tentative SADC preliminary approval in September. This schedule ensures staff will have all non-profit program application information submitted in time for preparation of the overall SADC FY22 appropriations cycle.

It was moved by Mr. Kumpel and seconded by Ms. Fischetti to approve the FY2022 Non-Profit Notice of Grant and Application Deadline. The motion was unanimously approved.

Public Comment

There was no public comment.

CLOSED SESSION

At 11:02 a.m. Ms. Payne read the following resolution to go into Closed Session:

In accordance with the provisions of the Open Public Meetings Act, N.J.S.A. 10:4-13, it is hereby resolved that the SADC shall now go into executive session to discuss certain matters including any pending or anticipated litigation, including the Alstede and Quaker Valley Farm cases, and any matters falling within the attorney-client privilege, including attorney advice on the alternate member legislation. The minutes of such meeting shall remain confidential until the committee determines that the need for confidentiality no longer exists.

It was moved by Mr. Germano and seconded by Mr. Norz to approve the resolution to go into closed session. The motion was unanimously approved.

ACTION AS A RESULT OF CLOSED SESSION

1. Soil Protection Standards – Best Management Practices

Chairman Fisher asked the committee members for their thoughts and comments on staff mailing out the soil protection standards to stakeholders for comment. Mr. Norz suggested waiting to see the changes that the staff made based on the SADC committee members' recommendations before the comments go out to the public. Mr. Siegel said that the underlying concern as to how the 6-acre policy affects smaller farms needs to be resolved before the soil protection standards go out. Mr. Waltman agreed with Mr. Siegel's comments.

Mr. Schilling mentioned that he is in favor of the best management approach because it gives a balance between soil protection and agriculture management practices and suggested putting together a final package for the committee to review and then providing it to the larger population for comment. Ms. Fishetti agreed with Mr. Schilling's comments. Mr. Germano stated the importance of keeping the process moving and soliciting comments from the public and reiterated the ability to make amendments and revisions to the regulations after the comment period is over. Mr. Germano motioned to send the proposed regulation packet out to the partners and solicit comments. There was not a second and the motion failed. Chairman Fisher stated that seeing as there is no second motion, this item will be delayed to another meeting. Ms. Payne stated that another package will be prepared for the committee members with a red line marked up version showing all the amendments that were made since the first time the standards were discussed and a summary of comments from the subcommittee and the committee will be attached for clarity.

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Ms. Murphy asked whether, since there is concern with the percentage and allotment for smaller farms, could staff prepare another option such as changing 8% to 4% for small farms? Mr. Siegel suggested eliminating the 6-acre provision and just allow 8% on all farms. Mr. Waltman stated that he is still concerned about the percentage of disturbance on small farms for activities that fall under the orange category. He suggested certain orange category activities default into the red category unless and until it is demonstrated the BMP is working. Chairman Fisher suggested that the committee members send their proposals and ideas to the staff so that they will be prepared for the next meeting.

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: 9 A.M., Thursday February 25, 2021

Location: TBA

ADJOURNMENT

The meeting was adjourned at 12:41 p.m.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Susan E. Payne".

Susan E. Payne, Executive Director
State Agriculture Development Committee