

## RESOLUTION # 10

### LAND USE

1           **WHEREAS**, a sufficient land base must exist for agriculture to remain viable in New  
2 Jersey, and of the approximately one million acres of remaining developable unpreserved  
3 open space in New Jersey, approximately 700,000 acres are unpreserved farmland and  
4 privately held forest land actively devoted to agricultural and woodland production; and

5           **WHEREAS**, New Jersey voters previously approved a state constitutional change  
6 that dedicates a portion of the Corporate Business Tax revenues for the purposes of  
7 preserving farmland and open space; and

8           **WHEREAS**, preservation of land is only one component of preserving New Jersey's  
9 farmers and agricultural industry, hence the Department's approach to smart growth  
10 coordinates farmland preservation efforts with economic development strategies at the  
11 county and municipal levels; and

12           **WHEREAS**, land devoted to agriculture greatly fulfills the need to offset increasing  
13 impervious cover, wherever possible, that is inevitably a byproduct of residential, commercial  
14 and industrial development, thereby having a positive impact in recharging groundwater; and

15           **WHEREAS**, the State Planning Commission (SPC) reconvened in February 2011  
16 and announced a new State Strategic Planning project to transform the existing land use  
17 planning framework into one that prioritizes and supports sustainable economic growth; and

18           **WHEREAS**, after seven public hearings, the State Planning Commission was  
19 scheduled to adopt the new State Strategic Plan in November 2012, but the vote was  
20 delayed due to the state dealing with the aftermath of Hurricane Sandy, allowing for  
21 additional public comment on the draft plan; and

22           **WHEREAS**, the proposed final draft of the State Strategic Plan focuses the state's  
23 policies and investments on vibrant regions by fostering targeted job growth, supporting  
24 effective regional planning and preserving critical resources, but has yet to be adopted by the  
25 SPC after a series of public hearings; and

26           **WHEREAS**, in 2019, the Murphy administration reactivated the SPC and the Center  
27 Designation/Plan Endorsement process; and

28           **WHEREAS**, in some recent road and other public works projects, government  
29 agencies administering the projects have purchased land from farmers to replace wetlands  
30 taken for the projects; and

31           **WHEREAS**, these agencies have made a practice of buying three acres of farmland  
32 to turn into wetlands for every acre of wetlands taken for the project, and this counteracts the  
33 ongoing state policy of trying to keep as much farmland as possible in production; and

34           **WHEREAS**, this creation of additional wetlands expands wildlife habitat and can lead  
35 to wildlife crop damage on farms adjacent to the farms from which the land was purchased to  
36 make wetlands, harming the production of a farmer who did not benefit from the purchase of  
37 his neighbor's land; and

38           **WHEREAS**, under the State TDR Act, Woolwich Township, Gloucester County, and  
39 Berkeley Township, Ocean County, have enacted TDR ordinances, however neither have  
40 yet successfully either marketed their receiving areas or provided the infrastructure  
41 necessary to create a viable market for credits; and

42           **WHEREAS**, particular concerns have been raised in Woolwich Township about a  
43 decision to continue with the program, with no ability for a landowner to "opt out," even as  
44 TDR credits have yet to sell for receiving area development during the ten-year trial period;  
45 and

46           **WHEREAS**, to provide landowner relief the Woolwich TDR Bank held a credit  
47 auction in 2016 leveraging \$5,000,000 from the State TDR Bank for the purchase of 274.5  
48 credits from 16 properties, at a total cost of \$6,978,000, and resulting in the preservation of  
49 817 acres bought at auction; and

50           **WHEREAS**, that left those remaining property owners whose land was "down-  
51 zoned" from two acres to 15 acres with falling land values, effectively "preserving" that land  
52 without an investment similar to that involved in the Farmland Preservation Program, where

53 the landowner receives a monetary value for selling the non-agricultural development rights  
54 of the land; and

55 **WHEREAS**, acknowledging the difficulty municipalities have had establishing TDR  
56 programs, a State TDR Task Force, which included staff of the State Agriculture  
57 Development Committee, NJDA and New Jersey Farm Bureau, was created to discuss ways  
58 to foster use of TDR and other cluster provisions; and

59 **WHEREAS**, efforts of the State TDR Task Force culminated in an August 2010  
60 report that outlined specific recommendations, which included amending the Municipal Land  
61 Use Law to create enhanced provisions for tools such as non-contiguous clustering and lot-  
62 size averaging; and

63 **WHEREAS**, on August 7, 2013, P.L. 2013, c.106 amended the Municipal Land Use  
64 Law to specifically authorize use of these density transfer techniques to provide  
65 municipalities a variety of development options as recommended in the Task Force report.

66 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 106<sup>th</sup> State  
67 Agricultural Convention, assembled through a virtual platform hosted in Trenton, New  
68 Jersey, in accordance with COVID-19 pandemic recommendations, on February 17, 2021,  
69 do hereby endorse the Department's Agricultural Smart Growth Plan and its five-part  
70 approach to land use and conservation, balanced with economic development initiatives and  
71 encourage the Department to incorporate these concepts into the Department Strategic Plan  
72 based on the State Plan goals and objectives with guidance from the Office of Planning  
73 Advocacy.

74 **BE IT FURTHER RESOLVED**, that we urge the Department to continue taking a  
75 lead role in supporting and advancing equitable and feasible density-transfer methods,  
76 including but not limited to clustering, regional growth zones, Pinelands Development Credits  
77 (PDCs), Highlands Development Credits (HDCs) and transfer of development rights (TDRs)  
78 to facilitate preservation planning in conjunction with growth planning.

79           **BE IT FURTHER RESOLVED**, that we urge the Department to support and advance  
80           the use of current and new wastewater technologies to allow for the implementation of  
81           sound, innovative planning techniques to assist municipalities and counties with the  
82           implementation of the objectives and strategies of the Agricultural Smart Growth Plan.

83           **BE IT FURTHER RESOLVED**, that we urge the Department to explore funding  
84           options to advance the development and expansion of agricultural facilities and infrastructure  
85           systems, and to explore other statewide initiatives, such as Ag Enterprise Zones, to stimulate  
86           the retention and viability of farms and the businesses that support them.

87           **BE IT FURTHER RESOLVED**, that we are opposed to “downzoning” or large-lot  
88           zoning or zoning that has the practical effect of large-lot zoning, because it fractures and  
89           consumes farmland, promotes land-consumptive sprawl, and adversely affects landowner  
90           equity, and therefore is counter-productive to the principles of smart growth.

91           **BE IT FURTHER RESOLVED**, that we oppose the adoption of restrictive land use  
92           and wildlife management or protection statutes, ordinances or regulations by the state, any  
93           municipality or other government entity in the state of New Jersey that are not science-based  
94           or that exceed the powers granted to governmental entities under existing laws and statutes.

95           **BE IT FURTHER RESOLVED**, that we support the SADC’s legislative amendment  
96           that provides landowners involved in all preservation programs (municipal TDR, PDCs ,  
97           HDCs, clustering, etc.) be eligible for the same package of benefits or state incentive  
98           programs available through the state Farmland Preservation Program, and that tenants be  
99           eligible for those programs that are appropriate to them.

100           **BE IT FURTHER RESOLVED**, that we call on the Legislature and all other  
101           appropriate officials to require that all public land acquired for open space purposes, which is  
102           farmed or can potentially be farmed, continue in an agricultural use or be placed in an  
103           agricultural use until it is needed for its acquired purpose - thereby keeping more of the  
104           state’s land base in agriculture.

105           **BE IT FURTHER RESOLVED**, that we continue to oppose any hard and fast caps on  
106 impervious cover, but instead support a threshold trigger, tied to a percentage of the land  
107 with impervious cover, for new impervious cover and the use of science-based criteria, which  
108 is evaluated on a site-specific basis, and that such a trigger should be used to begin a  
109 conversation about the amount of impervious cover, instead of automatically causing any  
110 particular action to take place.

111           **BE IT FURTHER RESOLVED**, that we support the participation of the Department  
112 and the State Agriculture Development Committee (SADC) in helping to implement a New  
113 Jersey Future Task Force report of recommendations to encourage the use of TDRs at both  
114 the municipal level and regionally through changes to relevant statutes, regulations, policies  
115 and programs as recommended in the State Plan.

116           **BE IT FURTHER RESOLVED**, that we support the use of municipal non-contiguous  
117 clustering pursuant to N.J.S.A 40:55D-1, et seq. as a way of achieving development  
118 transfers without disrupting underlying zoning by creating a voluntary program to transfer  
119 development potential from areas where preservation is desirable to areas intended to  
120 support new development.

121           **BE IT FURTHER RESOLVED**, that the agricultural community should monitor the  
122 implementation of this law at the municipal level to maximize landowner protections and  
123 assess this program's feasibility as an equity-enhancement opportunity for agricultural  
124 landowners.

125           **BE IT FURTHER RESOLVED**, that we strongly urge coordinated efforts by and  
126 among the various New Jersey state agencies to aid municipalities interested in TDR, in  
127 particular, with regard to establishing the receiving areas and demonstrating a market for the  
128 TDRs, necessary to drive demand for TDR credits.

129           **BE IT FURTHER RESOLVED**, that we urge municipalities to engage with their  
130 planners, agricultural advisory committees, and the state to identify opportunities for use of  
131 TDR, non-contiguous cluster and other density transfer techniques.

132           **BE IT FURTHER RESOLVED**, that we strongly urge any municipality or regional  
133           entity establishing or with established TDR programs to ensure that landowner equity is  
134           given the utmost consideration, and protected in the long term, by either creating lasting,  
135           viable markets for TDR credits or discontinuing TDR programs promptly if found to be  
136           inoperable, consistent with the State TDR Act, and that in lieu of a viable program, including  
137           adequate funding, with no TDRs applied, the program in that area be terminated.

138           **BE IT FURTHER RESOLVED**, that we recommend that representatives from the  
139           Department and the SADC meet with the Office of the Attorney General in order to seek full  
140           compliance with the Right to Farm requirement related to regulatory agricultural impact  
141           statements.

142           **BE IT FURTHER RESOLVED**, that we urge government agencies at all levels to limit  
143           the transforming of farmland into wetlands as a way to replace wetlands lost to public works  
144           projects.