

**STATE AGRICULTURE DEVELOPMENT COMMITTEE (SADC)**

**Department of Agriculture**

**REGULAR MEETING**

**April 23, 2020**

Chairman Fisher called the meeting to order at 9:03 a.m. The flag salute was conducted.

Ms. Payne read a revised notice, as permitted by law in order to accommodate remote meetings due to the coronarivus emergency, indicating the meeting was held in compliance with the Open Public Meetings Act.

Roll call indicated the following:

**Members Present**

Chairman Fisher  
Renee Jones  
Gina Fischetti  
Brian Schilling  
Martin Bullock  
James Waltman  
Ralph Siegel  
Scott Ellis  
Denis Germano  
Pete Johnson  
Richard Norz

**Members Absent**

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

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**Note: The public was advised by the SADC at the beginning of the meeting to email their comments to [sadc@ag.state.nj.us](mailto:sadc@ag.state.nj.us) and that all public comments will be addressed at the appropriate time during the meeting.**

## **Minutes**

### A. SADC Regular Meeting of February 27, 2020 (Open and Closed Sessions)

It was moved by Mr. Germano and seconded by Mr. Schilling to approve the Open and Closed Session minutes of the SADC regular meeting of February 27, 2020. Mr. Johnson and Mr. Waltman abstained from the vote. A roll call vote was taken. The remaining members unanimously approved the motion.

## **Report of the Chairman**

Chairman Fisher stated that New Jersey (NJ) is dealing with extraordinary times right now due to the COVID-19 pandemic, and Governor Murphy has shown tremendous leadership attempting to “flatten the curve” of the virus and get us back to normal. There has been severe disruption for everyone and certainly in the world of agriculture and in food. As an example, many livestock had to be euthanized, crops had to be plowed under, yet there is a massive need for food across the country due to closed businesses and worker fatigue.

With approximately 730,000 acres of farmland in NJ, the question often arises as to whether the state can sustain food sufficiency. The farmers are out there working hard on the front lines along with nurses, doctors, first responders, garbage collectors, and supermarket employees. Our farmers are definitely a part of the frontline workers because they are responsible for the food supply. This year and at this time in particular, the SADC is pushing very hard to support NJ farmers, as they are doing extraordinary things to serve the public and to modify their operations to get food to our citizens. The pandemic stresses now more than ever the importance of the work of the SADC in keeping farmland viable during this crisis.

## **Report of the Executive Director**

Ms. Payne stated that her heart goes out to everyone in the country as well as NJ that is going through this trying time and acknowledged the profound impact that this is having on NJ farmers and their families. SADC staff is focused on getting funds out as soon as possible to help the farmers and landowners in every way we can. She noted that this crisis will impact SADC staff program performance, including the pace of acquisition, and the ability to conduct site inspections, which will impact both fiscal year 2020 and 2021 performance measures. Staff began working from home on March 18 and is well equipped to maximize workload and function effectively.

In terms of acquisition, the biggest obstacle for closings is that title and survey submissions and revisions had slowed due to the fact that the counties were closed for a while; however, at this point we are able to interface with all county and nonprofit partners. Another obstacle

that staff encountered was physically routing documents for signatures, so we've obtained software called DocuSign that will allow them to notarize documents remotely and get signatures digitally. The Governor recently signed a bill, A3903, which allows documents to be notarized digitally. Staff is still doing conducting pre-closing inspections as needed. There were two closings in March after the shutdown, three closings in April, and there are seven closings scheduled in May. Staff has had to move to "mail-in" closings, which has rarely been done before, and staff is adjusting to keep closings moving.

In regard to Stewardship, easements monitored by the SADC and the soil conservation districts under contract with the SADC have been suspended. Staff will keep evaluating every two weeks to see if conditions have improved in order to restart monitoring; however, that would require approval from the Secretary with coordination from the Governor's office.

Stewardship staff has done a great job with the deer fencing grants. They developed a list of things that a farmer can submit virtually, including photos of the fence that will allow a virtual inspection and allow funds to be released sooner. So far, four farms have requested and have sent in a virtual inspection checklist and one has been received and is being reviewed.

Ms. Payne noted that the Committee's prior delegation to staff of soil and water cost share funding decisions has resulted in more timely grants being provided to applicants.

Ms. Payne noted that the deadline for Committee members' submission of financial disclosure forms has been extended to July 31<sup>st</sup>.

Ms. Payne explained that Executive Order 103, which was issued as a result of COVID-19, allows state agencies like the SADC to waive, suspend or modify regulations during the public health emergency so long as approval is obtained from the Governor's office, the Commissioner of Health, and the State Emergency Management Director. Lastly, Executive Order 127, most recently signed by Governor Murphy, extends deadlines for matters subject to the Administrative Procedure Act by 90 days after the end of the COVID-19 emergency. That affects the SADC primarily with Right to Farm matters because normally when a case arises from the counties, there is a time line on our issuance of a final decision. Fortunately there are no RTF cases pending except for the one on today's agenda.

### **Public Comment**

There was no public comment.

### **Old Business**

- A. Right to Farm – Final Decision – I/M/O Brodhecker Farms, LLC, Hampton Township, Sussex County**

Brian Smith stated that Brodhecker Farms followed up on the SADC's 2014 decision by filing for approval of its farm market operation with the Sussex County Agriculture Development Board (SCADB). The board approved the application and a neighbor appealed. The materials Brodhecker submitted to the SCADB were reviewed by the municipal engineer, the county engineer, and Brodhecker's engineer. The final decision concludes that the materials y Brodhecker presented to the SCADB satisfactorily addressed farm market public health and safety, parking, construction, pedestrian safety, vehicular safety and configuration of the the entrance to the farm, which is on a county road.

The final decision also noted that, due to the delay between the time Brodhecker's application was filed with and heard by the SCADB , commercial farm and farm market eligibility information had become stale. As a result , SADC staff requested updated material from Brodhecker, which reviewed and determined to be sufficient to satisfy eligibility requirements. The final decision affirms the SCADB's resolution approving Brodhecker's application for continued operation of the farm market. The other objections raised in the appeal had no merit and there was nothing in the record to support the claims. Therefore, staff recommendation in this draft final decision is to affirm the SCADB's resolution .

It was moved Mr. Germano and seconded by Mr. Siegel to approve the final decision for Brodhecker Farms, LLC as presented. A roll call vote was taken. The motion was unanimously approved.

## **New Business**

### **A. Stewardship**

1. Review of Activities on a Preserved Farm - Naturally Nurturing, LLC  
Block 205.11, Lot 48.05  
49.6 Acres, Hillsborough Township, Somerset County  
SADC ID #18-0097-EP

Mr. Roohr stated that Mr. Yash Patel is the owner of Naturally Nurturing, LLC and since acquiring the property in 2016, he has constructed a home and high tunnel on the exception area and has experimented with crops and livestock in order to create sustainable and organic practices. Mr. Patel applied to the SADC and Somerset CADB to construct hügelkultur beds and create and apply biochar to a small portion of the farm. Hügelkultur is new to the SADC and the request is site specific to this farm and landowner.

Mr. Roohr explained that hügelkultur is a practice where a trench is dug and filled with tree parts of various sizes and other organic matter and a mound is built up with soil on top. After 12 months the wood decomposes and the nitrogen levels settle to a point where seedlings can be planted directly into the mound. Over time the soil nutrients, the additional organic matter and the soil moisture capacity are improved and provide a great growing medium for 5 to 7 years.

Mr. Roohr explained that biochar is a practice where wood is converted into charcoal through a pyrolysis process or oxygen deficit process. Application of the material to the soil is beneficial to the soil and is a highly stable form of carbon that lasts for a long time and improves soil fertility and stimulates plant growth while reducing the need for chemical fertilizers. It also provides a sustainable foundation for microbes and fungi to adhere to the soil.

Research shows that hügelkultur and biochar are good soil practices; however, neither SADC, Rutgers Extension nor National Resource Conservation Service (NRCS) have practices for hügelkultur. NRCS does have a practice for biochar but that's in the context of forestry and has not been adopted in NJ. There were no examples of this practice in NJ to refer to and that's what brings the request before the Committee today.

In 2017 Mr. Patel had tree logs brought to the farm to use in these practices, but due to the uncertainty surrounding the practices he was proposing, SADC staff requested that he delay implementation until further information could be assembled. The initial concern is that the proposed deposit of tree logs could violate the deed of easement (DOE) prohibition against dumping certain materials on the preserved farm. After researching the issue, staff determined that both these practices are legitimate soil practice amendments and recommend that both be used as a pilot program with a few conditions. Due to the fact that these practices are not used in NJ, staff recommends building into an approval the ability of the CADB and the SADC to study the affected areas of the farm.

Mr. Roohr stated that staff recommendations for biochar are that all state and federal permits must be obtained prior to producing the material; the application rate of biochar shall not exceed 18 tons per acre; and the biochar application shall be limited to the 3.5 acre area shown on schedule A of the farm map.

The staff recommendation for hügelkultur is that the trenches are no more than 18-24 inches in depth, and all topsoil shall be reincorporated into the upper layer of the hügels. For both biochar and hügelkultur, staff recommends that as a condition of approval, the CADB and SADC is permitted access to the soil for testing, and if both practices have a negative impact on the soil, those impacted areas of soil will count toward soil disturbance on the landowner's property.

It is recommended that the landowner also enter into an agreement with the CADB and SADC acknowledging the terms of this pilot program; the owner shall utilize the existing stockpile of wood for this project before bringing any new wood material onsite and no new wood shall be brought onto the site without approval of the CADB and SADC. At its February meeting the Somerset CADB reviewed this request and agreed this project should be allowed as a pilot under the conditions previously mentioned and that is staff's recommendations. Mr. Roohr noted that Mr. Patel was in attendance at the meeting if the Committee had any questions for him.

Mr. Schilling stated that although Rutgers Cooperative Extension has not participated in the practices of hügelkultur and biochar in NJ, Rutgers is familiar with it and feels they are

viable practices that can be learned from. Mr. Waltman commented that the application of biochar helps to sequester carbon out of the atmosphere and into the soil and the thought is that it will help address climate change and he looks forward to supporting the pilot .

It was moved by Mr. Germano and seconded by Mr. Schilling to approve the request for Naturally Nurturing Farm, LLC to use hügelkultur and biochar practices as a site specific pilot program, with the conditions as set forth in the accompanying staff memo. Mr. Norz recused from the vote as he is a member of the Somerset CADB. A roll call was taken and the remaining members unanimously approved the motion.

2. Renewable Energy Generation Systems - Solar  
Sarracino Farm  
Block 46, Lot 1.03  
Upper Pittsgrove Township, Salem County  
18.68 Acres

Mr. Roohr referred the Committee to an application for the installation of a previously-installed, ground-mounted solar energy facility on the Sarracino farm . He reviewed the specifics of the application with the Committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Germano and seconded by Mr. Siegel to approve Resolution FY2020R4(1), granting approval to install a ground mounted solar energy facility at the Sarracino Farm, as presented, subject to any conditions of said resolution. Mr. Waltman abstained from the vote.. A roll call vote was taken. The remaining members unanimously approved the motion. A copy of Resolution FY2020R4(1) is attached to and a part of these minutes.

**B. Resolution: Delegation of Authority - Agricultural Development Area Map Amendments**

Mr. Bruder referred the Committee to a draft resolution titled Delegation of Authority for Agricultural Development Area (ADA) Map Amendments. He referenced the primary provisions of the resolution which contemplates the SADC delegating the authority to the Executive Director to review and approve, approve within certain conditions, or deny any ADA certification requests that do not modify already adopted ADA criteria and do not amend the geographic area of the ADA area by more than 10 percent. The SADC can review any applications, including those denied or approved with conditions by the Executive Director, and the SADC may uphold, modify or reverse the Executive Director's decision. Staff will provide the SADC and the Secretary notification of all such approval and denials in the form of a written report. The denial of any approval, or conditional approval, the Executive Director may be appealed by the board to the SADC within 30 days of the receipt of the Executive Director's decision.

Mr. Norz stated he has the utmost confidence in the SADC staff, but feels the public and landowners look to the SADC members for direction and is concerned about not including the SADC in this process. Mr. Siegel noted that most, if not all, of the amendments where this Resolution would apply have been approved by the SADC in the past and are typically done to assist in preservation efforts. Secretary Fisher stated he understood Mr. Norz's concerns but supports the staff's recommendation to streamline these routine approvals.

It was moved by Mr. Ellis and seconded by Mr. Germano to approve Resolution FY2020R4(2), granting approval for Delegation of Authority to the Executive Director for Agricultural Development Area Map Amendments, as presented, subject to any conditions of said resolution. Mr. Norz abstained from the vote. A roll call vote was taken. The remaining members unanimously approved the motion. A copy of Resolution FY2020R4(2) is attached to and a part of these minutes.

### **C. Term Farmland Preservation Program**

Mr. Roohr referred the Committee to a request under the term farmland preservation program for a 16 year preservation easement to allow the landowner access to soil and water cost share funding. This meets all of the SADC requirements and staff recommendation is to grant final approval.

It was moved by Mr. Germano and seconded by Mr. Siegel to approve Resolution FY2020R4(3), granting approval to the following application under the Term Farmland Preservation Program, as presented, subject to any conditions of said resolution.

1. Ward E. Eachus, SADC ID #08-0032-TF, Resolution FY2020R4(3), Block 56, Lot 5, Harrison Township, Gloucester County, 95.635 acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolution FY2020R4(3) is attached to and a part of these minutes.

### **D. Resolutions of Final Approval - County PIG Program**

Ms. Miller referred the Committee to three requests for final approval under the County PIG Program. She reviewed the specifics of the applications with the Committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Siegel and seconded by Ms. Jones to approve Resolutions FY2020R4(4), FY2020R4(5), and FY2020R4(6) granting final approval to the following applications under the County PIG Program, as presented, subject to any conditions of said resolution:

1. Charles Datz and Laura Lopez-Pelayo, SADC ID# 08-0208-PG, Resolution FY2020R4(4), Block 28, Lot 2, Harrison Township, and Block 265, Lot 11, Mantua Township, Gloucester County, 57.4 acres.

2. Lynda Carpenito, SADC ID #08-0209-PG, Resolution FY2020R4(5), Block 1107, Lot 6, East Greenwich Township, Gloucester County, 21.116 Acres.
3. Carol Beatty, SADC ID# 21-0614-PG, Resolution FY2020R4(6), Block 26, Lot 31 and Block 27, Lot 2, Greenwich Township, Warren County, 85 acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolutions FY2020R4(4), FY2020R4(5), and FY2020R4(6) are attached to and a part of these minutes.

#### **E. Resolutions of Final Approval - Municipal PIG Program**

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

It was moved by Mr. Germano and seconded by Mr. Siegel to approve Resolution FY2020R4(7), granting approval to the following application under the Municipal PIG Program, as presented, subject to any conditions of said resolution.

1. Earl & Robert Moore, SADC ID #17-0212-PG, Resolution FY2020R4(7), Block 4, Lot 12, Mannington Township, Salem County, 24.1 Acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolutions FY2020R4(7) is attached to and a part of these minutes.

#### **F. Resolutions of Final Approval – Direct Easement Program**

Ms. Miller referred the Committee to two requests for final approval under the Direct Easement program. She reviewed the specifics of the requests with the Committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Ellis and seconded by Ms. Siegel to approve Resolutions FY2020R4(8) and FY2020R4(9) granting approval to the following applications under the Direct Easement Program, as presented, subject to any conditions of said resolution.

1. Kelly et al (Powers), SADC ID #17-0350-DE, Resolution FY2020R4(8), Block 22, Lot 12, and Block 24, Lot 2, Pilesgrove Township, Salem County, 159.4 Net Acres.
2. Kelly et al (Sharp), SADC ID#17-0351-DE, Resolution FY2020R4(9), Block 21, Lot 11, Pilesgrove Township, Salem County, 116.2 net acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolutions FY2020R4(8) and FY2020R4(9) is attached to and a part of these minutes.



### **G. Resolution of Final Approval - Non Profit Program**

Ms. Miller referred the Committee to two requests for final approval under the Non Profit program. She reviewed the specifics of the requests with the Committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Siegel and seconded by Ms. Jones to approve Resolutions FY2020R4(10) and FY2020R4(11), granting approval to the following applications under the Non Profit Program, as presented, subject to any conditions of said resolution.

1. Daniel Rogers and Sioban Flaherty, SADC ID #21-0042-NP, FY2020R4(10), Block 601, Lots 1, 1.01, & 2, Frelinghuysen Township, Warren County, 105.66 acres.
2. David & Shannon Black, SADC ID#21-0043-NP, FY2020R4(11), Block 202, Lot 1.03, Hardwick Township, Warren County, 36.51 acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolutions FY2020R4(10) and FY2020R4(11) is attached to and a part of these minutes.

### **H. Preliminary Approval - Alternate Direct Easement Farms**

Ms. Miller referred the Committee to two requests for preliminary approval under the Direct Easement Program. She reviewed the specifics of the requests with the Committee and stated that staff recommendation is to grant preliminary approval.

It was moved by Mr. Siegel and seconded by Mr. Germano to approve Resolutions FY2020R4(12) and FY2020R4(13) granting preliminary approval to the following applications under the Direct Easement program, as presented, subject to any conditions of said resolution.

1. Patricia Ayars, SADC ID#17-0353-DE, Resolution FY2020R4(12), Block 11, Lot 6, Alloway Township, Salem County, 77.3 acres.
2. Anthony and Joseph Cerbo, SADC ID#19-0027-DE, FY2020R4(13), Block 3202, Lot 24.02, Hampton Township, Sussex County, 38.45 acres.

Ms. Payne advised the Committee that Sussex County has stated they are no longer accepting county applications until they have additional staff resources and landowners who were interested in applying have been directed to the SADC.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolutions FY2020R4(12) and FY2020R4(13) is attached to and a part of these minutes.

## **I. Resolution: Delegation of Certain Authority During the COVID-19 Public Emergency**

Mr. Stypinski stated that Executive Order 103 grants agencies, like the SADC, the authority to waive, extend or modify regulations, programs and policies, provided prior approval is obtained from the Governor's office in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health. He also stated that Executive Order 127 extended certain statutory deadlines associated with the Administrative Procedure Act (APA) under which executive branch agencies must act for the period of time equal to the number of days in which the public health emergency exists.

The resolution delegates to the Executive Director, in consultation with the Secretary of Agriculture, the authority to "extend or waive any deadlines or due dates" set forth in SADC regulations or, any SADC program or policy administered pursuant to the Agriculture Retention and Development Act (ARDA), the Right to Farm Act (RTFA), the Garden State Preservation Trust Act (GSPTA), and the Preserve New Jersey Act; extend or waive any deadlines or due dates in any contract or agreement in which the SADC is a party; certify the values of development easements; and manage and direct, in consultation with the Office of the Attorney General, litigation in which the agency is a party.

Ms. Payne commented that some items, specifically certification of values and litigation cases, are matters for closed session. There are practical problems associated with conducting a remote meeting with both an open and closed session so this delegation of certain authority promotes efficient administration of the agency's business during the COVID-19 emergency.

Mr. Norz stated that he understands why this delegation is being proposed and that he has confidence in the Secretary and Executive Director to carry things out; however, the COVID-19 crisis could go on for a period of years, and he proposes that this delegation of authority be approved by the Committee on a monthly basis .

Chairman Fisher suggested approving this resolution every 90 days instead. Mr. Norz asked what the difference would be in approving it each month versus every 90 days. Ms. Payne stated that if the Committee passes the resolution today, the minutes of the meeting go to the Governor's office for a 14 day review period in which the Governor's office could veto the minutes. This resolution will not take effect until the end of the governor's review period which is three weeks out from now, so a 90 day review period would work better if the Committee seeks to change the timeframe.st.

Mr. Siegel commented that discussing certification of values over a phone conference in open session would not pose a problem as the information discussed would not be shared by anyone as there is technically no public present. Chairman Fisher noted that the public is present on the phone conference call and it is the duty of the SADC to ensure that the public has trust in its negotiations whether over the phone or in person.

Ms. Payne asked Mr. Stypinski to address an edit to be made to paragraph 2a. of the resolution. Mr. Stypinski stated that instead of reading “extend or waive any deadlines or due dates set forth in SADC regulations” it was edited to align with Executive Order 103 to read “waive, suspend or modify any SADC regulations in accordance with Executive Order 103”. Ms. Payne stated that the original draft was limiting authority to deadlines and due dates and this edit makes sure that the regulatory flexibility that the state is giving the SADC is the same that is given to the Executive Director and the Secretary.

Ms. Payne addressed Mr. Siegel’s prior statement and noted that not all counties and nonprofits share their appraisal range or their certifications with landowners, and making that information public can affect the ability of counties and nonprofits to negotiate with the landowners. Mr. Siegel stated that he supports the resolution as written.

Chairman Fisher asked how we would determine the end of the COVID-19 crisis in regard to this resolution. Mr. Stypinski noted that the Committee could rescind the resolution at some point in the future. Ms. Payne stated that paragraph 5 of the resolution states that “the foregoing delegation shall remain in effect until Executive Order 103 is rescinded by the Governor and this resolution is rescinded by the SADC at a meeting physically attended by its members and convened in accordance with the Open Public Meetings Act.” Ms. Payne recommended modifying this paragraph to say “the foregoing delegation shall remain in effect until Executive Order 103 is rescinded by the Governor *or when the SADC rescinds it by resolution at a meeting convened in accordance with the Open Public Meetings Act.*” This would allow the Committee to rescind at any meeting whether remote or in person.

Mr. Ellis and Mr. Norz stated that they wanted the 90 day review of the resolution to be reflected in the motion as well. Chairman Fisher stated that the person making the motion had to consent to the change. Mr. Siegel stated that as the person introducing the motion, he would like the resolution to remain as it is proposed by the staff. Ms. Payne stated that paragraph 4 of the resolution reads “SADC staff shall provide notification of the exercise of any such delegated action in a written report to the SADC at regular monthly meetings.”

It was moved by Mr. Sigel and seconded by Mr. Germano to approve Resolution FY2020R4(14) for the Delegation of Certain Authority During the COVID-19 Public Emergency as prepared by the staff along with the edits made to paragraph 2a. which read “waive, suspend or modify any SADC regulations in accordance with Executive Order 103” and the changes to paragraph 5 that was discussed and will read “the foregoing delegation shall remain in effect until Executive Order 103 is rescinded by the Governor *or when the SADC rescinds it by resolution at a meeting convened in accordance with the Open Public Meetings Act.*” A roll call vote was taken. Ms. Jones, Ms. Fischetti, Mr. Schilling, Mr. Waltman, Mr. Germano, Mr. Bullock, Mr. Siegel, Mr. Johnson, Mr. Ellis and Secretary Fisher voted in favor of the motion. Mr. Norz voted against the motion. The motion was approved.

## **J. Supplemental Code of Ethics**

Ms. Payne stated that the Committee has had some discussion on the contents of the SADC's supplemental code of ethics and its particular effect on farmer members of the SADC who are also members of their respective CADBs. The matter of ethics is handled by the SADC's ethics liaison officer, Brian Smith. It's important for the Committee to understand that the attorney general's office is not the SADC's ethics officer. Ms. Payne noted that she requested Mr. Smith to prepare a memo for the Committee on the issue of recusals and conflicts of interest to prepare the Committee members for the discussion today.

Mr. Smith stated that the memo was written to discern how the SADC developed its Supplemental Ethics Codes (SEC) thirteen years ago. The genesis of the SEC is the NJ Conflict of Interest Law (CIL), as well as the NJ Uniform Ethics Code because the CIL required it. The CIL also requires each executive branch agency to develop its own SEC to address particular needs and requirements based on the work of the agency. The overall reason that these SECs are written is to protect the integrity of the decision making process.

All members of the SADC, not just farmer members, need to act independently and objectively. The problem that arises is when an individual who is a state appointed official has a dual office or serves in another capacity in another public or private organization and common issues arise between the dual offices. The CIL says that an elected or appointed state official serving in a capacity for another entity can only be independent and objective in one of their offices. Therefore, CADB members that are also on the SADC can only exercise their independent and objective opinion in one office, not both.

The legal authority for that opinion is in the Uniform Ethics Code and the State Ethics Commission's regulations, which refer to the conflict as an indirect personal interest in the subject matter. It requires recusal when a state official is involved in a matter in which his or her judgment may be affected because of membership in another public or private organization. However, the attention paid to conflicts arising from dual SADC-CADB membership applies with equal validity to the SADC's public members who are, or may in the future be, in leadership roles in other organizations whose interest may overlap with those of the SADC.

Chairman Fisher stated he would like to know if there is a solution where the SADC farmer member who serves on a CADB can be allowed to listen and observe an issue at the CADB level without voting or making any remarks, and then later voting on the matter if it comes to the SADC for review. Mr. Siegel stated that there is no way to determine that a CADB case will get to the SADC level so the farmer member will not know if they need to recuse themselves. Mr. Germano suggested Mr. Smith review what took place initially to cause this topic to be reviewed today.

Mr. Smith stated this issue arose as a result of the SADC soliciting stakeholder comments on the report the SADC was required to submit to the Governor regarding the preserved farm winery pilot law.

Ms. Payne stated that the issues of conflicts, recusals and the agency's supplemental ethics code arose during the orientation of the new SADC members. She explained that Mr. Norz, Mr. Bullock and Mr. Kumpel were briefed on the rules and policies and that led to the understanding that the supplemental code would prohibit farmer members from participating in discussion of Special Occasion Events (SOEs) recommendations to the legislature because all four SADC members are CADB members and participated in discussion on the same topic at the county level.

Chairman Fisher stated that the SADC wrote the supplemental ethics code and has the opportunity to change it and determine whether the revisions would be acceptable. He questioned if an SADC member did not take an official vote at the CADB level, would that have some bearing on their case to vote at the SADC level.

Mr. Smith noted that any changes or amendments to the SEC would have to be cleared by the Attorney General's Office and the State Ethics Commission, and there is no guarantee that those offices would approve. Secondly, proposing a change to the supplemental code may result in a determination by the State Ethics Commission that the SADC's existing code is not strict enough.

Mr. Siegel agreed with Mr. Smith that changing what is already in place may backfire and cause more of an issue so he doesn't recommend it. Mr. Germano agreed with Mr. Siegel and Mr. Smith and commented that it's not necessary to seek any further advice outside of Mr. Smith's, as the Committee should make these types of decisions themselves. Mr. Waltman commented that he is always careful to recuse on matters that he himself or the Watershed Institute is involved with and has never had issues doing this in the past.

Mr. Ellis and Mr. Bullock commented that farmer members should be able to give their opinions on certain matters at the county level so long as they are not directly involved in them. Mr. Schilling stated that this issue is a matter of interpretation that requires guidance from Mr. Smith, the Committee's Ethics Liaison Officer, to prevent any conflicts of interest. Mr. Smith explained that it is his sole responsibility to interpret whether he thinks something is wrong or if a litigation risk is posed to the Committee. He expressed that he wants to avoid any member being suspended, fined or permanently ejected from their state office. Chairman Fisher stated that there was a lot to learn on this topic today and it should be more clear to the Committee as to what the Supplemental Code of Ethics entails and all that is involved.

Mr. Norz asked to reserve the ability to discuss this subject again when the Committee convenes again in person. Secretary Fisher advised Mr. Norz that as a Committee member, he can bring a matter to the SADC for discussion at any meeting.

### **Public Comment**

Mr. Smith stated that there was an email submitted to [sadc@ag.state.nj.us](mailto:sadc@ag.state.nj.us) at 9:30 a.m. by Mr. David Pierson, the neighbor and petitioner in the Brodhecker case. Mr. Smith read Mr.

Pierson's email verbatim to the Committee. Chairman Fisher stated that the Brodhecker case was already voted on before this public comment was issued.

Ms. Winzinger noted that Mr. Brian Wilson, a public member who took part in the meeting today, emailed and said that he was able to view and hear the meeting very clearly and everything went well.

Mr. Siegel stated that most conservation operations have shut down and are waiting until the COVID-19 stay at home orders pass. He congratulated the staff on their impressive efforts to continue to have farmland preservation closings during these difficult times. Chairman Fisher thanked Ms. Payne and her staff for their hard work and efforts to conduct today's meeting.

**TIME AND PLACE OF NEXT MEETING**

**SADC Regular Meeting:** 9 A.M., Thursday May 28, 2020

Remote Meeting

**ADJOURNMENT**

The meeting was adjourned at 12:01 p.m.

Respectfully Submitted,



Susan E. Payne, Executive Director  
State Agriculture Development Committee