

STATE AGRICULTURE DEVELOPMENT COMMITTEE (SADC)

Department of Agriculture

REGULAR MEETING

May 28, 2020

Chairman Fisher called the meeting to order at 9:05 a.m. The flag salute was conducted.

Ms. Payne read the notice indicating the meeting was held in compliance with the Open Public Meetings Act.

Roll call indicated the following:

Members Present

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

Members Absent

Scott Ellis

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

Minutes

A. SADC Regular Meeting of April 23, 2020 (Open Session)

It was moved by Mr. Germano and seconded by Mr. Siegel to approve the Open Session minutes of the SADC regular meeting of April 23, 2020. Ms. Murphy abstained from the vote. A roll call vote was taken. The remaining members unanimously approved the motion.

Note: Mr. Norz stated that while the minutes reflect that he recused from voting on the motion for the Naturally Nurturing, LLC case, the minutes should also state that he recused from the discussion.

Report of the Chairman

Chairman Fisher stated that New Jersey (NJ) is going through a challenging and devastating time right now as a result of the COVID-19 pandemic. He added that there is so much surrounding COVID-19 that we are all dealing with, but there are also extraordinary stories that lift our spirits .

Chairman Fisher stated that agriculture is an essential industry and it was deemed as such from the beginning of the pandemic; however, farmers are not sure what practices they can and can't conduct. The department is constantly weighing in on how to maintain agriculture and ensure public safety . Right now, for example, there is the issue of migrant seasonal workers coming into the state to work, and auction sales of farm equipment have been put on hold, both of which affect the farming industry. Despite these and many other extraordinary challenges, farmers have remained resilient and have continued to provide a food supply and people are very much appreciative of having local farm products now more than ever. The SADC is also making sure to continue the preservation of farms across the state.

In closing, Chairman Fisher requested a moment of silence to commemorate the extraordinary memory of two former State Board members who passed away, Mr. Roy Etch and Mr. Tom Brodhecker.

Report of the Executive Director

Ms. Payne stated that the American Farmland Trust (AFT), which is a nationwide land trust organization that exclusively focuses on the preservation and protection of agricultural land, just released a study called "Farms Under Threat: The State of the States". The study mapped agricultural land conversion from 2001 to 2016 and found that nationwide the country lost 11 million acres of agriculturally-productive land.

The AFT concluded that agricultural land is not only converted to urban high density development but also to low density residential use, which counts for nearly half of all land lost. Beyond mapping land conversion, the study evaluated the states based on a score card ranking the protection of agricultural land from non-agriculture development, how agricultural farm viability is being promoted, and what the state is doing to facilitate the transfer of agricultural land to new agricultural operators.

Ms. Payne stated that she is delighted to report that NJ ranked number one in the country for its implementation of policies to protect farmland and support its viability. She noted that although NJ is a small state, the commitment from all levels of government helped to keep the “Garden” in the “Garden State” and give NJ the national recognition that it deserves. Some of the policies NJ was recognized for are the Farmland Preservation Program, Planning and Land use policies, property tax relief program, use of Agricultural Development Areas (ADAs), and the SADC’s LandLink Program. The AFT also recognized NJ’s use of leasing state-owned agricultural land to farmers.

Ms. Payne noted that she is very proud of AFT’s acknowledgement and thanked everyone for their participation in the farmland preservation program. The report ended with a call to action encouraging all states to do more to combat farmland loss. AFT will hold a webinar on the study for each state, and New Jersey’s will take place on June 10. The webinar will be open to anyone who wants to listen in on the call. Ms. Payne noted that a press release will be issued today or tomorrow along with a link to the report on the AFT website.

Ms. Payne stated that COVID-19 has caused an immense impact on the state budget and revenues. The state released a financial report recently and corporate business tax (CBT) revenues are projected for FY2020 to be down 12%, and preliminary projections of CBT revenues will be down about 1/3 by FY2021. The SADC doesn’t expect an impact on the appropriations already made but expects a lower amount of money available to support FY2021 appropriations. With CBT revenues decreasing, the SADC will be receiving approximately \$30 million to support next year’s appropriations compared to the appropriation of \$50 million in the last fiscal year.

Chairman Fisher thanked Ms. Payne, her staff and the Committee for the great work they have done as reflected in the American Farmland Trust study.

Ms. Payne reviewed the monthly Delegation Report with the Committee. She explained that pursuant to the resolution passed last month delegating certain actions to the Executive Director and Secretary of Agriculture, staff will report monthly all delegated actions that have been taken. The report presented to the Committee today contains COVID-19 related actions such as the SADC legal spreadsheet, the Appellate court decision on the Picozzi matter, and the Certification Market Value (CMV) reports listing the appraisal range and what was certified. The delegation report also contains other actions delegated to the Executive Director by the SADC prior to the COVID-19 emergency, including soil and water cost share grants and deer fencing grants that were approved.

Communications

Ms. Payne noted that there were some concerns expressed by Committee members about an op-ed written by Michele Byers, Executive Director of the NJ Conservation Foundation that promotes organic food consumption and organic farming practices as opposed to buying products raised by conventional agricultural practices.

Mr. Norz stated that the article appears to be one sided, and he is concerned that the message to move towards organics may be showing bias towards one particular land owner group . Mr. Kumpel stated that the organic producers don't have the production ability to feed everyone and the chemistry discussed in the article isn't entirely correct . Mr. Siegel stated that Ms. Byers and NJCF have been doing this monthly column for decades and it gets picked up in a lot of newspapers, and there is no expectation that her opinions represents the policies of the SADC. Chairman Fisher noted that he invited Ms. Byers to the meeting to express her opinions on the matter.

Ms. Byers stated that she appreciates being invited to the meeting, that she takes the concerns of the Committee to heart and apologized for any upset that her article may have caused. She stated that it was not her intention to be insulting, as she has respect for the farming community. She noted that the timing of the article was not great given the pandemic and the economic hardship that a lot of people, including the farming community, are suffering from.

Ms. Byers stated that she appreciates any feedback that the Committee has to offer and noted that she would like to continue the strong partnership and keep open communication with the farming community. Mr. Norz requested that Ms. Byers be more cognizant of her articles as they can have a negative effect on some members of the farming community.

Chairman Fisher stated that he believes Ms. Byers understands the article appeared at an inopportune time, and noted that the SADC will continue its relationship with the NJCF. Mr. Siegel stated that the benefits of the NJCF have far outweighed any detriments , as the organization has supported the bond referendums that have provided funding for the state farmland preservation program .

Public Comment

No Public Comment

Old Business

- A. Adoption of PIG Program Rule Amendments NAC 2:76-17, et seq. and NJAC 2:76-17 A.1, et.seq.

Mr. Bruder stated that staff is looking for final agency approval of the revisions to the County and Municipal PIG regulations. He presented a memo from the February SADC meeting which summarized those changes and included a draft of the rule proposal that later appeared in the NJ Register. He noted that this work is a culmination of a multi-year review and outreach process .

The goals to be accomplished with these revised rules are to streamline the PIG application process, make sure there is a reexamination of comprehensive farm preservation plans, encourage more active agriculture advisory committee participation, and create a competitive grant fund for the municipal program.

The initial discussion with funding partners started in spring of 2018 when acquisition staff had outreach sessions with the CADBs and municipal agriculture advisory committees. Staff recognized that some of the amendments that should be proposed for the Municipal PIG program also required modifications to the County PIG Program rules. In December 2019 the proposed rule was published in the NJ Register. Public comments were received, SADC staff prepared responses, and all of the materials were forwarded to the Governor's office, which has approved the proposed adoption.

Mr. Bruder explained that if the rule amendments get approved today, staff will submit them to the Office of Administrative Law (OAL) for publication in the NJ Register for final adoption anticipated in July.

It was moved by Ms. Murphy and seconded by Mr. Siegel to approve the adoption of PIG Program Rule Amendments NAC 2:76-17, et seq. and NJAC 2:76-17 A.1, et seq. A roll call vote was taken. The motion was unanimously approved.

New Business

A. Stewardship

Approval of Division of Premises – Dubois Farm
Block 22, Lot 3, Pilesgrove Township, Salem County, 147 acres

Mr. Roohr stated there is a division of premises request for the DuBois farm, an approximate 247 acre farm preserved by Salem County in 1999. The county and SADC approved a division in 2013 in which parcels of 147 acres and 130 acres were created, with the 130 acre lot sold to the neighbors, Ed and Barbara Burns.

The purpose of today's division is to sell an additional 95 acres to the Burnses, who farm 1,200 acres in mixed grains and processing vegetables. The Burnses are looking for an opportunity to obtain more acreage for their operation and allow for long term investments. The two tests for division of premises are agricultural purpose and agriculture viability, and securing the additional 95 acres would count as agricultural purpose and the high quality soil parcel would meet agriculture viability. However, the parcel is landlocked, so as a condition of approval, Mr. and Mrs. Burns have agreed that

the 95 acre lot would be permanently associated with the original 130 acres that they purchased in 2013. Essentially, the parcel they will be getting would not be able to be sold separate and apart from the parcel that they bought in 2013.

Mr. Roohr stated that staff opinion is that the division of premises meets the agriculture purpose test and that the 95 acre lot should be permanently associated with the 130 acre lot. The Salem County Agriculture Development Board approved this request in April and the SADC staff request is for approval as well.

It was moved by Mr. Siegel and seconded by Mr. Germano to approve the request for Division of Premises for the DuBois farm. The motion was unanimously approved.

B. Review of Non-Agricultural Development Project in an ADA on Preserved Farmland-Medford Township, Temporary Construction Access; Jennings Farm, Medford Township, Burlington County

Note: Brian Smith, Esq., SADC's ethics liaison officer, stated that he received an inquiry from Mr. Johnson, member of the Burlington County Agriculture Development Board (CADB) regarding his involvement in this matter in light of the fact that the Burlington CADB took official action at a prior CADB meeting. Mr. Smith advised Mr. Johnson to recuse from the discussion and action on this matter today.

Ms. Reynolds stated that Medford Township is proposing to use a portion of the preserved Jennings farm for temporary construction access (TCA) so that the township can extend sewer service to an off-site residential project mandated by COAH. Ms. Reynolds stated that under section 25 of the Agricultural Retention and Development Act (ARDA), a public body may only exercise eminent domain on a preserved farm if the action is necessary for the public health, safety and welfare and that there are no immediately apparent feasible alternatives.

Ms. Reynolds showed the Committee maps of the Jennings Farm and the locations of the court ordered affordable housing project to be serviced by the sewer line extension. She noted a correction on the map and mentioned that the Tofamo West and the Tofamo East properties are considered one project so there is one affordable housing project missing on the map that is located under the third affordable housing development.

The Township filed a Notice of Intent with the Burlington CADB and the SADC informing both agencies of the Township's proposal to use what the Township described as an unimproved grassed travel lane on the Jennings farm for construction access from Jennings Road to a manhole within the Medford's preexisting sewer easement on the preserved farm. The Township anticipates that its contractor would most likely require access over the farm for approximately two weeks.

Medford presented three alternative options for accessing the manhole on the Jennings farm. The first option is to gain access via Hartford Road via the existing sewer easement through the adjacent Wildflowers development, and this would result in 0.989 acres of disturbance in a wetlands transition area and 0.248 acres of disturbance in a wetlands area. The second option is to gain access from Montclair Road to the manhole through the sewer easement area. Medford estimates that this would require 0.681 acres of disturbance in a wetlands transition area and 0.062 acres of disturbance in a wetlands area. The third option would be to gain access from Highspire Court and continue on an existing path along a storm water basin located on a lot owned by the Wildflowers by Medford Community Association. By Medford Township's calculations, this access would require 0.158 acres of disturbance in a wetlands transition area and would have no impact on a wetlands area.

David Clapp, SADC Resource Conservationist, conducted a site visit on April 3, 2020. Mr. Clapp's report observes that Medford's preferred access through the Jennings access would disturb 0.29 acres of the farm, the northern portion of which is used for occasional vehicular use, and the southern portion of which is located in a field that is cropped or mowed with hay, concluding that there was no indication of a preexisting access lane in the area. None of this disturbance would be located in a wetlands transition area or wetlands area. He also observed that a wood board fence and water and electric utilities intersect the proposed access and would need to be removed or relocated to utilize the access as proposed by the Township.

With regard to alternative access, Mr. Clapp's report focuses on the Wildflowers/Highspire Ct. access, as that appeared to be the most feasible alternative based on the information provided. This access consists of using a parcel owned by the Wildflower at Medford Community Association and dedicated as open space as part of the Wildflower subdivision. From that parcel, the Township could access its sewer easement, and from there could obtain access to the manhole entirely within that easement. Using this route would eliminate any disturbance on the Jennings farm not within the existing sewer easement area. An additional 0.110 acres of transition area would be disturbed utilizing this alternative compared to using the proposed access on the Jennings farm.

A tree inventory Medford provided suggests that approximately 40 trees would need to be removed; however, Mr. Clapp observed that several of those trees were already dead and the majority of the trees are less than six inches in diameter. Only one tree was identified as being larger than 24 inches in diameter and it showed signs of damage and rot at the base. Mr. Clapp stated that a large portion of the trees show signs of infestation by the Emerald Ash Borer and, based on the extent of the damage, it is unlikely that many would survive even if treated. Mr. Clapp concluded that the removal of these trees to facilitate access, coupled with the use of timber mats and the replanting of native vegetation post-disturbance, would actually enhance the long-term vegetative diversity of the area affected by the Wildflower access.

Finally, based on Medford's assumption that the entire easement area would need to be cleared, Mr. Clapp estimated that this would result in the removal of approximately 0.1 acres of woody vegetation. However, Mr. Clapp observed that most of the sewer easement area located on the Jennings farm is already absent woody vegetation, that several overhanging limbs from adjacent trees could simply be pruned without removal, and therefore, he concluded that the actual clearing of woody vegetation could be minimized.

Ms. Reynolds stated that staff concludes that the Wildflower access presents an immediately apparent feasible alternative and, therefore, recommends that the Committee disapprove Medford's proposed access on the preserved Jennings farm. She also noted that, in order to obtain access over the Wildflower property, Medford would need to apply for a modification to its NJ Department of Environmental Protection (DEP) wetlands permit as well as obtain legal access over the property, whether with the Association's consent or through a condemnation action. Although staff does not recommend approval of the proposed Jennings access based on the information available at this time, if Medford encounters serious obstacles with the DEP that would serve to defeat the feasibility of this alternative access, then the township may present this new information to the SADC for consideration.

Ms. Reynolds stated that the landowners did not wish to speak today but expressed that they support the staff recommendation. She noted that Medford Township officials were present today to give their feedback to the Committee.

Chairman Fisher thanked Ms. Reynolds for her hard work and efforts on this matter and stated that he will take all comments from Medford officials.

Tim Prime, Esq., Medford township attorney, stated that he respectfully disagrees with the staff's recommendation, but appreciates their courtesy and professionalism during this process. He understands that public health, safety and welfare is involved; however, the Burlington CADB approved the access through the Jennings farm.

He quoted the Burlington CADBs resolution of approval adopted on January 9, 2020, which states that "The sanitary sewer easement on the Jennings Farm predates the farmland preservation easement; the proposed work is consistent with the terms of that easement. Medford has committed to taking the appropriate measures to prevent actions that would be detrimental to the agricultural soils within the work area and access area. Medford has committed to cooperate with the landowner to prevent disturbing the horses that are kept on the Jennings farm. Medford will restore all impacted areas of the property to preexisting conditions; the proposed project is the best alternative as it minimizes the impacts to the wetlands on the farm and results in the least amount of vegetative disturbance. The overall size and scope of the project is temporary in nature and has a minor impact to the Jennings farm."

Mr. Prime concluded that this is a temporary access to reach an existing sewer line that has been there for over 35 years. The township has no intention of making permanent improvements on the farm, but requests temporary access for the affordable housing developers to connect to an existing sewer main to service their project.

Mr. Chris Noll, Engineer for Medford Township, stated that when he spoke with the landowners about this within the last six months to a year, one had expressed that they would prefer access through the farm as opposed to taking down trees. Additionally, the impact would be minimal in terms of disturbance and it's unsure if a modified permit will be issued by the DEP or the homeowners association will grant permission to go through the Wildflower property. Mr. Noll noted that the Township is trying to avoid environmental disturbances and impacts.

Mayor Charles Watson of Medford Township stated that Medford values wetlands, wooded areas and its longstanding history of supporting farms and farmland preservation. He mentioned that he wants to work with the SADC and all government agencies to come up with the best solution that is efficient for the environment and believes that access through the Jennings farm is the best solution.

Ms. Murphy asked if the open space area where the alternative access would be located was owned by the homeowners' association and, if the township had an open space or conservation easement on the property, whether the alternative access is consistent with the easement. Mr. Prime stated that the easement is held by the association, not the township, but that he would confirm that the easement was not part of the township's recreation and open space inventory (ROSI).

Mr. George Greatrex, attorney for the homeowners' association, stated that the residents of the community support Medford's access through the farm because the sewer extension does not benefit the HOA or encroach on the residents' property. However, concerns regarding the alternative access are that it would require access to private streets and potentially privately owned lands within the development and the removal of mature trees which may cause property damage and inconvenience to the residents.

Ms. Payne stated that the testimony that there is an existing roadway on the farm is incorrect; to the contrary there is an existing grass access roadway going along the detention basin on the Wildflowers property. This really comes down to the small percentage of disturbance of a wetlands buffer associated with the Wildflowers access, as opposed to going across the preserved farm. She noted that the statutory provision to protect preserved farms is the only thing that stands between farms and farmers being protected and using publicly preserved land for non-agricultural purposes.

Mr. Germano agreed that there is no existing roadway on the Jennings farm and there will be some impacts on the crops. Mr. Norz asked what the opinion of the landowner is. Ms. Reynolds stated that the Jennings agree with the SADCs recommendation.

NOTE: During the discussion, Mr. Siegel's phone was disconnected and was unable to participate.

It was moved by Mr. Germano and seconded by Mr. Norz to approve the staff recommendation that the Wildflower access presents an immediately apparent feasible alternative and disapproved Medford's proposed access on the preserved Jennings farm. A roll call vote was taken. Mr. Johnson recused from the vote. Mr. Siegel was unable to vote due to connectivity issues. Ms. Fischetti and Mr. Norz voted against the motion. Ms. Murphy, Mr. Schilling, Mr. Waltman, Mr. Germano, Mr. Bullock, Mr. Kumpel and Secretary Fisher voted in favor of the motion and it was approved.

C. Resolutions of Approval: FY2021 PIG Program

Mr. Bruder referred the Committee to the Resolutions of Approval of County and Municipal PIG Programs for FY2021. He reviewed the specifics and statistics of the program 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 Resolutions FY2020R5(1) and FY2020R5(2), granting approval to the following program plan updates under the County and Municipal PIG Programs, as presented, subject to any conditions of said resolutions:

1. Final Approval- Annual County PIG Program Plans Update
2. Final Approval- Annual Municipal PIG Program Plans Update

Mr. Siegel was unable to vote due to connectivity issues. The remaining members unanimously approved the motion. A copy of Resolutions FY2020R5(1) and FY2020R5(2) are attached to and a part of these minutes.

D. Resolutions: Final Approval- County PIG Program

Ms. Miller referred the Committee to two 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. Kumpel and seconded by Mr. Germano to approve Resolutions FY2020R5(3) and FY2020R5(4), granting final approval to the following applications under the County PIG Program, as presented, subject to any conditions of said resolutions:

1. Daniel and Kathleen Haynicz, SADC ID#08-0214-PG, Resolution FY2020R5(3), Block 175, Lot 7, Elk Township, Gloucester County, 27.253 acres

2. Kathleen Aders Racite, SADC ID#08-0210-PG, Resolution FY2020R5(4), Block 1004, Lot 9, Logan Township, Gloucester County, 36.738 acres.

Mr. Siegel was unable to vote due to connectivity issues. The remaining members unanimously approved the motion. A copy of Resolutions FY2020R5(3) and FY2020R5(4) are attached to and a part of these minutes.

E. Resolutions: Final Approval- Municipal PIG Program

Ms. Miller referred the Committee to two requests for final approval under the Municipal 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. Kumpel and seconded by Mr. Germano to approve Resolutions FY2020R5(5) and FY2020R5(6), granting final approval to the following applications under the Municipal PIG Program, as presented, subject to any conditions of said resolutions:

1. James Mc Lain, SADC ID#21-0618PG, Resolution FY2020R5(5), Block 44, Lots 15 & 19, Harmony Township, Warren County, 140.8 acres
2. Brook Hollow Winery, LLC, SADC ID#21-0617-PG, Resolution FY2020R5(6), Block 10, Lot 6, Knowlton Township, Warren County, 15.2 acres.

Mr. Siegel was unable to vote due to connectivity issues. The remaining members unanimously approved the motion. A copy of Resolutions FY2020R5(5) and FY2020R5(6) are attached to and a part of these minutes.

F. Resolutions: Final Approval- Non Profit Program

Ms. Miller 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. Kumpel and seconded by Mr. Germano to approve Resolution FY2020R5(7), granting approval to the following application under the Non Profit Program, as presented, subject to any conditions of said resolution.

1. Robert, Sharon and Matthew Santini, SADC ID#21-0044-PG, Resolution FY2020R5(7), Block 57, Lot 31.01, Franklin Township, Warren County, 57.42 acres.

Mr. Siegel was unable to vote due to connectivity issues. The remaining members unanimously approved the motion. A copy of Resolution FY2020R5(7) is attached to and a part of these minutes.

Public Comment

There was no public comment

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: 9 A.M., Thursday June 25, 2020

Remote Meeting

ADJOURNMENT

The meeting was adjourned at 11:17 a.m.

Respectfully Submitted,



Susan E. Payne, Executive Director

State Agriculture Development Committee