

STATE AGRICULTURE DEVELOPMENT COMMITTEE (SADC)
Department of Agriculture
REGULAR MEETING

**REMOTE MEETING DUE TO CORONAVIRUS
EMERGENCY**

August 27, 2020

Chairman Fisher called the meeting to order at 9:02 a.m.

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
Scott Ellis

Members Absent None.

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

Minutes

A. SADC Regular Meeting of June 25, 2020 (Open Session)

It was moved by Mr. Schilling and seconded by Mr. Siegel to approve the Open Session minutes of the SADC regular meeting of June 25, 2020. A roll call vote was taken. Ms. Murphy, Mr. Germano, and Mr. Norz abstained from the vote. The remaining members voted in favor of the motion. The motion was approved.

Report of the Chairman

Chairman Fisher expressed his appreciation and thanked Ms. Payne and the SADC staff for running business smoothly during these difficult times. He noted that this is attributed to their ingenuity, ability and dedication.

Chairman Fisher stated that Senator Smith introduced Senate bill S2605 and there has been a heightened push for solar development in the state. SADC staff, as well as some environmental groups, have noticed the bill needs some attention and has identified 84,000 acres of farmland located both in and outside of the ADA that will be the most suitable for solar projects. Farms are targeted for solar projects because it is the cheapest and easiest way to lay out a solar array. He noted that as things advance in the process, he is hopeful that a balance between public policy and cost efficiency will be found.

Chairman Fisher stated that the Winery Special Occasion Events (SOEs) legislation has expired. He noted that there are two competing bills in the legislature that will be discussed further and staff is working with the Governor's office on that.

Report of the Executive Director

Ms. Payne directed the Committee to an article regarding the solar matter and the Dakota Powers Project, which serves as an example of what will continue to happen if adequate standards are not created related to solar siting.

Ms. Payne noted that SADC staff is waiting on the Office of Management and Budget (OMB) to certify the funds that will be available to support the appropriation request for FY2021 and is planning to submit the appropriations schedule to the Committee next month. She noted that FY2020 was not an average year as COVID-19 shut down many closings. In total fifty farms closed in FY2020 compared to 62 closings in FY2019 and a recent annual average of about 75 closings. Staff hopes is to recover some of the momentum in FY2021 as the counties are getting back on their feet and farmers are getting into the groove of the new normal.

Ms. Payne noted that the Delegation Report submitted to the Committee today lists the certifications of values, soil and water cost share and deer fencing grants issued.

Ms. Payne stated that public comments are to be emailed to sadc@ag.state.nj.us and all public comments received during the meeting will be read at either public comment section.

Mr. Everett stated that the SADC approved a contract to have a private company conduct remote reconnaissance farm visits on five farms utilizing drone technology. The Drone Pilot Project was conducted in Sussex and Warren Counties. Mr. Everett reviewed the finding from the Lyons Farm in Sussex county, which is a diversified farm with beef cattle, fruit trees and woodland. The original reconnaissance farm visit conducted in fall of 2019 determined that it did not meet SADC minimum eligibility criteria for tillable acreage due to a lot of overgrown stock. The drones were able to take photos and staff used them in connection with the GIS tracking system in order to orient the footage. Mr. Everett stated that there are many advantages and disadvantages of drone usage, but it helps to process applications during these difficult times.

Public Comment

No Public Comment.

Old Business

A. Soil Production Standards – Best Management Practices (Discussion Only)

Mr. Everett stated that before the COVID-19 pandemic hit, staff brought a series of Best Management Practices (BMPs) for Soil Production Standards to the Committee for its input. Mr. Everett reviewed the soil disturbance land use chart with the Committee and stated that it is color coded to capture land uses on farms and is broken down in categories based on soil disturbance reversibility. The red soil disturbance class indicates mostly permanent soil disturbance, orange indicates semi-permanent soil disturbance, yellow indicates temporary soil disturbance and green indicates not disturbance. Mr. Everett stated that he has gone to the County Agriculture Development Boards (CADBs) to get feedback and he is scheduled to discuss with the Burlington CADB in September. He noted that BMP presentations will be posted to the SADC's website as well as its YouTube channel for review and comment from stakeholders and CADBs.

Mr. Germano asked what, if any feedback, was given from the CADBs regarding the BMPs. Mr. Everett stated that there were not many complaints and there were no calls or written comments requiring more information as this is still in the discussion phase. Ms. Payne stated that the Committee looked at BMPs in January and February right before the pandemic, so it may have stifled the ability of the CADBs to spend time on this. The videos will create a tool for the stakeholders to consume this information and get more of a

conversation going. Chairman Fisher stated that as time has gone on, much of the opposition that was there earlier has dissipated.

Mr. Norz asked when the SADC will be allowed to give input or make changes to these before they go out. Ms. Payne stated that once the Committee is ok with this, it will be posted to the web and sent to the stake holders for their feedback and staff certainly wants the Committee's feedback.

Mr. Siegel stated that he is not clear on the feedback given from the stakeholder community as the soil disturbance limitation of up to six acres may get a negative comment from some stakeholders as the six- acre limit is hard to apply to smaller farms. Mr. Schilling stated that context matters, so what's important is that the number of disturbed acres right now is quite small and that ARDA has an expectation to support the industry.

Mr. Siegel reiterated his concern is for the smaller farms in this case and asked why staff has not heard from the New Jersey Conservation Foundation (NJCF). Ms. Payne stated that staff gave presentations to the NJCF but she has not heard anything from them. Staff is glad to speak at any and every meeting to which it is invited to elevate this topic. Mr. Johnson stated that this is the first time that he's seen hard numbers and design plans on the BMPs and that might have something to do with why there has been no real feedback given. Ms. Payne suggested having the BMPs referred back to the Deed of Easement (DOE) subcommittee of the SADC to get feedback. The feedback would then be brought to the Committee where it will have the final opportunity to review them at that point. Secretary Fisher concurred that the matter be forwarded to the DOE subcommittee for review.

B. Princeton Show Jumping – Request for Additional Show Dates in 2020

Note: Mr. Norz and Mr. Schilling have recused on this matter.

Ms. Payne reviewed the Princeton Show Jumping (PSJ) case with the Committee and stated that the SADC has received a copy of a letter dated August 6 from Anthony Sposaro, attorney for Hunter Farms/ Princeton Show Jumping (PSJ). Staff has been having an ongoing dialogue with them since 2013 with respect to their holding competitive hunter jumper shows. The SADC has approved PSJ to hold up to 9 shows on the Hunter Farms property consisting of not more than 42 days collectively.

Since the approval in 2013, PSJ asked for additional shows and in 2019 the SADC declined to approve more than 9 shows because there are a series of ongoing conservation concerns on the property. The SADC required PSJ to take care of all outstanding conservation issues before additional shows could be requested. The August 6th letter outlines a request for 3 additional shows in 2020 for an additional 17 days for a total of 12 shows for 57 total days.

The basis of the request is that COVID-19 caused the closure and cancellation of numerous horse shows in the Spring of 2020 which included the Devon horse show, the Brandy Wine horse show, the Garden State May horse show, the Sussex County horse show, the Hampton

Classic horse show and various other single day events. PSJ has licenses from the equine federation for more shows than the 9 shows that the SADC has approved. Since they have the licenses and because NJ is open for business for these kinds of events, PSJ is seeking approval from the SADC.

Ms. Payne reviewed four conservation concerns of the SADC with the Hunter Farm property and the status of those concerns. The first concern was an erosion channel in southern field of the farm and remediation on that area was completed per NRCS specifications and has been resolved to the satisfaction of the SADC.

The second concern is the lack of stormwater management facilities for the overall site. Mr. Sposaro responded that he received an email yesterday afternoon from John Showler at the Department of Agriculture stating that he had approved the storm water management plan. Mr. Sposaro stated that he would double check the approval with the soil conservation district.

Ms. Payne stated that the third issue was that Hunter Farms exceeded the 5% impervious cover limit. The owner has offered numerous potential concepts from professionals to remediate impervious surface over the current tent pad site, however, no actual plans for any one concept have been submitted for agency review. The SADC is requesting that they provide engineering plans for the specific concept they plan to move forward with.

The fourth outstanding issue involves the restoration of the former tent pad site along Burnt Hill Road. Upon review of soil logs, on August 6, 2020, the owner's professional rescinded her initial restoration proposal and offered a new, more intensive restoration concept. The owner has not stated whether he wishes to proceed with this new concept or not. No actual plans have been provided for agency review. The SADC is requiring PSJ provide engineering plans in order for them to move forward and no soil work will commence without formal SADC approval.

Ms. Payne stated that she has a letter dated August 26, 2020 from Montgomery Township attorney, Anthony Todaro, strongly objecting to additional shows for PSJ. She read the letter to the Committee at the request of Montgomery Township so that it will be added to the record:

“Dear Secretary Fisher & Committee Members:

As you may recall, this office serves as legal counsel to Montgomery Township (the "Township"). The Township is in receipt of Mr. Sposaro's correspondence on behalf of Hunter Farms, under cover of letter dated August 6, 2020. Please accept the following as the Township's opposition to the extraordinary relief sought by Hunter Farms therein.

As an initial matter, the Township did not have any reason to respond to Mr. Sposaro's letter until the SADC's August 27, 2020 agenda was amended on August 25, 2020, to include Hunter Farms' petition seeking to further exploit the Right to Farm Act (the

"RTFA"). Accordingly, the Township strongly disagrees with any formal action taken in connection with this matter during the August 27, 2020 meeting.

Notwithstanding said objection and without waiving same, the Township's primary concern in relation to the RTFA is the public's safety and its collaborative efforts to ensure preserved lands remain agricultural for future generations. Contrary to the insinuations found within the August 6, 2020 letter, the Township remains ready, willing and able to work towards resolving the outstanding issues caused by Hunter Farms' improper conduct and willful omissions. To the extent that the SADC decides to take formal action during Thursday's meeting, the Township respectfully requests that, prior to allowing any additional horse shows, the SADC either: (1) require Hunter Farms to submit to Agricultural Mediation with the Township; or (2) forward the matter to the Office of Administrative Law.

Next, Hunter Farms' continued non-compliance prevents the SADC from allowing any additional shows or amending its prior approvals. There can be no dispute that we all must comply with State laws in order to receive the protections afforded by the RTFA. The deed of easement governing activities on the Premises is drawn from the Agricultural Retention and Development Act (the "ARDA") and SADC regulations. Moreover, Hunter Farms must adhere to all environmental and construction regulations, such as New Jersey's Stormwater Management rules, N.J.A.C. 7:8, and the Uniform Construction Code. The overarching goal of this statutory framework is to preserve the agricultural integrity and productivity of New Jersey farmland for the current owner(s) as well as future generations. In this case, the unauthorized development has detrimentally altered the Premises for actual farming purposes, and increasing the number of shows will only exacerbate the problems caused by Hunter Farms' clear violations. Furthermore, Hunter Farms cannot be given any protections under the RTFA until it complies with the SADC's conditions of approval and State law.

Pursuant to the deed of easement, impervious coverage for existing and new construction on the Premises cannot exceed five percent of the total acreage. Rather than adhere to its 2013 approvals and SSAMP, Hunter Farms elected to develop the Premises for purely show purposes, including: (1) at least three additional sand rings; (2) new and expanded temporary horse stable areas; (3) new gravel parking for attendees; (4) warm-up area for horses; and (5) grass parking for spectators. All topsoil that was disturbed and stockpiled as a result of this unauthorized development has been allegedly redistributed to other portions of the Premises. The August 6, 2020 letter finally concedes the Township's longstanding position that Hunter Farms' impermissible construction on the Premises exceeds the five percent limitation. These development activities are incredibly problematic to soil conservation, stormwater run-off and retention considerations and future actual agricultural uses of the Premises, and thereby constitute significant violations of the deed of easement, ARDA, and SADC regulations. Before increasing the number of shows, Hunter Farms must be compelled to remediate the Premises "to a pervious condition similar to that of the undisturbed portions of the farm in accordance with a plan approved by the Committee." See SADC Sept. 26, 2019 Resolution #FYR() at 6-7, ¶8.

The Committee permitted a limited number of shows in response to Hunter Farms' 2013 testimony that the value of horses bred and raised on the Premises increases based upon performance in competitions. To ensure that the shows were a legitimate marketing tool for the agricultural output and could not be confused with non-agricultural activities whose primary purpose is to impermissibly market the use of the farm's land, the Committee required that "a minimum of 10 horses or 10% of the horses participating in the shows, whichever is greater, shall be owned by [Hunter Farms], and bred, raised and/or trained on the Premises."

On a yearly basis, the SADC was to be provided with sufficient evidence of the agricultural output - i.e., horses bred, produced, raised, and trained on the Premises - shown during competitions and sold by Hunter Farms. While Hunter Farms may request additional show days, it must demonstrate the need for additional shows to market said output. Again, it is beyond question that the approved agricultural use on the Premises is Hunter Farms' breeding, raising, and training of horses. Absent the marketing of Hunter Farms' agricultural output, the shows constitute nonagricultural activities prohibited by the deed of easement and SADC regulations. Indeed, Resolution FY2013R5(5) explained that failure to provide the SADC with evidence of substantial equine production or sales resulting from holding shows on the Premises could result in the SADC rescinding its approval of the ability to hold equine shows on the Premises.

Here, Hunter Farms has not provided the SADC with sufficient information about the production activities on the Premises nor the sale of the horses bred, produced, raised, trained, and shown. In fact, the SADC even acknowledged last fall that "to date no horses have been bred or raised on the Premises." See SADC Sept. 26, 2019 Resolution #FYR() at 5, ¶1. Since Hunter Farms lacks any proof of actual farm production on the Premises, it cannot demonstrate a need for additional shows to market its agricultural output.

Similarly, the deed of easement and prior Resolution(s) require Hunter Farms to develop a conservation plan approved by the Somerset-Union Soil Conservation District. Hunter Farms is also obligated to satisfy New Jersey's Stormwater Management rules, N.J.A.C. 7:8, as well as implement a NRCS conservation plan for the Premises. Hunter Farms has yet to implement a Stormwater Management plan or NRCS conservation plan for the Premises. Both plans are required by the deed of easement, the Committee's prior approvals, and applicable State laws. Thus, it is appropriate for the SADC to reject Hunter Farms' petition at this time.

Lastly, with all due respect to Mr. Sposaro, the August 6, 2020 correspondence severely misconstrues Judge Miller's opinion in regards to local public assembly permits. There was no finding by the Court that the Township has "[refused] to abide by the Right to Farm Act." Unfortunately, the same cannot be said for Hunter Farms' flagrant disregard for the SADC's conditions of approval and RTFA during the past seven consecutive years.

For these reasons, it should come to no surprise that Hunter Farms' claim that it is currently experiencing "delays" in achieving compliance due to the COVID-19 virus is contrary to the facts. Hunter Farms had seven years to comply with the conditions of approval and satisfy its outstanding obligations. Ironically, during that same time period, Hunter Farms was able to: (a) advertise and hold shows on the Premises in excess of the number of permitted competitions; (b) host double the amount of allowable visitors and spectators during show dates; (c) build into the Township's right-of-way in an attempt to provide additional access to the Premises during show dates; and (d) complete substantial development of the Premises to facilitate its non-agricultural operations. This is not a situation involving an unforeseen hardship to a commercial farmer. Instead, this is another excuse by Hunter Farms to avoid its outstanding obligations at the expense of the Right to Farm program, and to the detriment of actual farmers in need of additional safeguards.

In sum, contrary to Hunter Farms' allegation(s), this is not a matter involving a disgruntled municipality attempting to sidestep the SADC's jurisdiction. The Township shares in the laudable goal of promoting and facilitating farming activities within its borders. To be blunt, Hunter Farms' continuous violations and failure to conduct any actual farming activities on the Premises is the cause of all disputes involving the SADC, SCADB, and Township.

Rather, the time has come for the SADC to enforce the deed of easement and exercise its authority, or rescind Hunter Farms' protections pursuant to the RTFA. It is now clear that Hunter Farms has developed the Premises for purely non-agricultural purposes, and these improvements exceed the five percent impervious cover limitation. Moreover, Hunter Farms is not entitled to the protections of the RTFA until it complies with State law. Hunter Farms has ignored all applicable laws and regulations, including the ARDA, Stormwater Management regulations, and the RTFA itself. At this juncture, the only activities that should be authorized are the production of Hunter Farms' agricultural output and necessary restoration of the Premises.

Based on the foregoing, granting Hunter Farms permission for additional show days and amending its approvals would constitute an arbitrary, capricious, and patently unreasonable decision that would be in direct contravention of the applicable law.

Should the Committee have any questions or concerns, please do not hesitate to contact the undersigned directly, at the SADC's convenience.

With thanks, I remain,

Anthony R. Todaro, Esq."

Ms. Winzinger read an email from Mr. Emad Abou-Sabe, neighbor of PSJ, in which he states:

“We the neighbors wholly object to granting Hunter Farm any additional show dates. We have consistently offered evidence of HF’s non-compliance with the Deed of Easement as follows;

- Number of tents in excess of 2013 approval*
- Duration of use of tents in excess of 2013 approval*
- Photographs of the excess runoff from riding rings directly in to the Back Brook*
- Evidence that the construction of the rings is in fact impervious in nature*
- HF’s own admission that the tent pads are impervious*

Please note that NJ State codes stipulate that structures erected for longer than six months shall be deemed permanent and should be regulated that way.

*Thanks,
Emad”*

Chairman Fisher requested comments from PSJ.

Mr. Sposaro, stated that PSJ has made a good faith effort to comply with the requirements imposed by the resolution of the SADC and the Deed of Easement (DOE) and believes that with the temporary tent augmentation plan, PSJ will be in compliance with the 5% impervious cover limit. The stormwater plans have been approved and once shows are over and the soil is dry enough, that work will commence.

The former tent area work is partially complete as rocks were removed from the soil, and crops were planted and are fully vegetated. Mr. Sposaro stated that these efforts will take an extended period of time due to deep plowing and adding nutrients to the soil to bring it back to what it once was. Mr. Sposaro added that PSJ is looking for three additional shows and 14 show days.

Chairman Fisher stated that the PSJ case is before the Committee today because of the threat to the equine industry from show closures. He addressed the Committee and advised them to consider the extra show days for PSJ if it feels PSJ will comply with the Committee’s conditions by year’s end. Mr. Sposaro stated that the USEF has reached out to PSJ to offer more shows and the Committee has previously recognized that the sale of horses constitutes production because the horses are shown and developed at Hunter Farms. He noted that the equine industry was dead until these shows commenced in late June as they were delayed over two months due to the COVID-19 pandemic.

Mr. Germano asked Mr. Sposaro if PSJ has exceeded the number of shows and show days that they were authorized to have and if they plan to use Hunter Farms/PSJ horses to compete in the three additional shows. Mr. Sposaro stated that 8 shows and 40 show days were conducted so far, which is under the 9-show limit and 42 allowed days. PSJ is asking for 3 additional shows beyond that and 14 additional show days and it is a one-time only request.

Mr. Waltman stated that the SADC has been through this for years with PSJ and their non-compliance with the SADC's conditions, so he's objecting to them adding any events for this year until they satisfy the conditions.

Mr. Siegel stated that the letter from Montgomery Township's should be given weight in this case as Montgomery Township is strongly against the Hunter Jumper shows. Mr. Siegel motioned to deny the request of PSJ. Ms. Murphy seconded the motion. Chairman Fisher asked Mr. Stypinski if there are not enough votes to deny the request, does that mean it is approved. Mr. Stypinski stated that no, that there would have to be a motion to approve the request. Mr. Siegel withdrew his motion.

Chairman Fisher asked for a motion to approve PSJs request to hold three additional shows for 14 additional show days. Mr. Germano moved to approve the request and Mr. Johnson seconded the motion. Mr. Germano stated that he is willing to approve the request because the restoration of the tents is an ongoing process that is done during the fall and based on what he understands, there are efforts to get it done and the same is true for the soil and water regulations and soil and water management plan. However, he noted the importance for the farm to get in compliance as soon as possible.

Mr. Philbrick stated that that horse shows are very important as his facility has allowed farm owners to stay in business. He noted that without horse shows scheduled in September, public and private facilities will be shut down and lots of people will be out of work.

Chairman Fisher commented that Hunter Farms/PSJ has not had a good history for several years with adhering to and complying with the conditions imposed by the SADC, and therefore, the Committee was frustrated because it was not getting the response it should have from them. The Committee tried to be accommodating and still felt that it was not getting a response until the last year or two. However, Chairman Fisher stated that it seems as though PSJ is taking the Committee seriously now. regarding what the Committee is requiring for the various conditions that are set forth. Chairman Fisher addressed the Committee and stated that they should vote today based on how serious they think PSJ is about carrying out its efforts to fulfill its agricultural commitments, and that it will not be back next year before the Committee asking for more dates until they do what is required of them.

It was moved by Mr. Germano and seconded by Mr. Johnson to approve Princeton Show Jumping request to have three additional shows and fourteen additional show days, for one time only. A roll call vote was taken. Mr. Norz and Mr. Schilling recused from the vote. Ms. Murphy, Mr. Waltman, Mr. Bullock, Mr. Siegel and Mr. Ellis voted against the motion. Ms. Fischetti, Mr. Germano, Mr. Johnson and Secretary Fisher voted in favor of PSJ's request. The motion was denied.

New Business

A. Reorganization

1. Election of Vice Chairman

Ms. Payne stated that long acting Vice Chairman, Mr. Alan Danser, has stepped down from the SADC and it's time to elect a new Vice Chairman. The Vice Chairman's role is to serve when the Secretary or his designee is unable to attend a meeting. Secretary Fisher requested nominations from the committee. Mr. Schilling commented that he favors the Vice Chairman being among the ranks of the public and farmer members and nominated Mr. Germano to serve as Vice Chairman. Mr. Siegel seconded the nomination. There were no other nominations from the committee. It was moved by Mr. Norz and seconded by Secretary Fisher to close the nominations. The motion was unanimously approved.

It was moved by Mr. Schilling and seconded by Mr. Siegel to approve the election of Mr. Germano as Vice Chairman of the SADC. The motion was unanimously approved.

2. September 2020 to July 2021 Meeting Dates

It was moved by Mr. Schilling and seconded by Mr. Germano to approve the September 2020 to July 2021 Meeting Dates. The motion was unanimously approved.

B. FY21 Budget Approval

Mr. Distaulo reviewed the FY21 administrative budget for the SADC's Farmland Preservation Program activities. He explained that COVID-19 impacted many of the line items of the budget due to unexpected costs of employees working from home, new equipment and the realities of things that were not anticipated before. The main difference from last year's budget relates to fringe costs. In FY20 the Office of Management and Budget (OMB) required the SADC to pay 25% of its fringe costs from the SADC's Corporate Business Tax (CBT) proceeds, whereas for FY21, OMB is requiring the SADC to cover 100% of its fringe costs, resulting in an increase of \$750,000. Mr. Distaulo stated that staff recommendation is to grant final approval of the FY2021 budget outlined before them.

Mr. Norz asked where the extra money is coming from to increase the budget. Ms. Payne stated that the SADC administrative budget is funded entirely by Corporate Business Tax (CBT) revenues with the biggest change coming from the fringe costs. Since the history of the program, up until FY2019, all fringe costs associated with staff were paid through the Governor's general budget and were not paid for by the SADC through its Farmland Preservation funds; however, that mandate has changed.

In FY20, SADC paid one quarter of its fringe costs, and in FY2021, SADC is required to pay the full amount. The funds are available and sufficient administrative funds were

approved by the legislature and available to satisfy this. Mr. Norz asked for the percentage of money that will be coming out of the Preservation Program. Ms. Payne answered that CBT funds last year were 50 million dollars and this year it may be 35 or 40 million. Chairman Fisher stated that there is one million dollars that would have gone to farmland preservation that is now going to administrative costs.

It was moved by Mr. Siegel and seconded by Mr. Germano to approve FY21 budget. A roll call was taken. Mr. Norz voted against the motion. The remaining members voted in favor of the motion. The motion was approved.

C. Stewardship

1. House Replacement

Grumpy Farm LLC, Block 46, Lot 22.01, Reading Township, Hunterdon County, 70.07 acres.

Mr. Roohr referred the Committee to a request for a house replacement on the Grumpy Farm, LLC. He reviewed the specifics of the application with the Committee, noting that the application was approved by the Hunterdon CADB at its July 9 meeting, and stated that staff recommendation is to grant approval as it meets the DOE requirements.

Mr. Roohr noted that a letter came in on August 26th from an entity called Paradise Farm, in Clinton, NJ. Paradise Farm is objecting to this house replacement because it involves relocating a farm house outside of its original farmstead complex area. Their rationale is that the language in the DOE allowing for the construction of a single family residential building anywhere on the premises to replace a single-family residential unit in place of the time of conveyance of the easement with the approval of the Committee does not apply to farm houses. The letter takes the position that a farmhouse is a specific ag structure and not a general residence, therefore the language in the DOE is not applicable to farmhouses. Ms. Payne stated that staff wanted to bring this objection before the Committee, however, it does not agree with this interpretation of the DOE because farmhouses have always been considered as residential units by the SADC when it interprets the deed of easement.

It was moved by Mr. Germano and seconded by Mr. Siegel to approve Resolution FY2021R8(1), granting approval for the house replacement request for Grumpy Farm. A roll call vote was taken. The motion was unanimously approved. A copy of Resolution FY2021R8(1) is attached to and a part of these minutes.

D. Review of Non-Agricultural Development in the ADA (N.J.S.A. 4:1C-19) PSE&G Roseland- Pleasant Valley Transmission Project Segment 1: Morris and Somerset Counties

Mr. Bruder reviewed a draft resolution with the Committee which outlined a proposed PSE&G project to replace existing electric transmission lattice towers with taller monopole

structures within a 50-mile stretch of its existing right of way. The resolution finds that the proposed project does not cause an unreasonably adverse effect on preserved farms, the ADA, or State agricultural preservation and development policies. Both Morris and Somerset CADBs have reviewed the matter and made the same findings. Mr. Bruder stated that staff recommendation is to approve the resolution.

It was moved by Mr. Germano and seconded by Mr. Schilling to approve Resolution FY2021R8(2), finding that the proposed PSE&G Roseland-Pleasant Valley Transmission Project does not cause unreasonably adverse effects on preserved farms, the ADA or State agricultural preservation or development policies. The motion was unanimously approved. A copy of Resolution FY2021R8(2) is attached to and a part of these minutes.

E. Soil Protection Standards Agreement – Dubrow Farm
Franklin Township, Hunterdon County

Mr. Everett reviewed with the Committee how staff should administer farms seeking enrollment into the Farmland Protection Program (FPP) where the extent of soil disturbance approaches the maximum allowed under the proposed soil protection standards being developed by the Committee. The concern in the Dubrow case is that a landowner may make the decision to preserve his farm, but once preserved, there could be very little remaining capacity for disturbance. Staff is seeking a method of ensuring that landowners are aware of the draft standards and acknowledge that their farm would be subject to such limitations once preserved to avoid the likelihood of soil disturbance-related litigation in the future. Staff drafted a template of an agreement that could be used in such instances for Committee review.

Mr. Germano suggested some changes to be made to the last paragraph of the Soil Protection Standards Agreement, which reads:

“Owner acknowledges that paragraph 2 of the Deed of Easement provides: “The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other rules promulgated by the State Agriculture Development Committee...”, and Owner understands and agrees that: (1) the SADC reserves the right to deny or rescind approval of the application or cost share grant should development occur on the Premises prior to preservation in contravention of the soil protection standards; (2) the Owner of the preserved Premises will be subject to the soil protection regulations to be adopted by the SADC; (3) by accepting the Premises for enrollment in the farmland preservation program, the SADC reserves its rights under the Deed of Easement; (4) the Owner shall provide a copy of this Agreement to any party who takes title to the Premises prior to preservation; (5) this Agreement shall be recorded contemporaneously with the Deed of Easement.”

Mr. Germano suggested the word “*development*” be changed to “***additional soil disturbance***”, and that point number two of the paragraph should read *(2) the Owner of the preserved Premises will be subject to the soil protection regulations to be adopted by the SADC notwithstanding the fact that the property is enrolled in the program before the rule is adopted.* He noted that point (1) should come after point (2).

Chairman Fisher suggested that the Soil Protection Standards Agreement should just be a signed agreement that acknowledges that the farmland owners have received the rules and information and that they are aware of penalties. Ms. Payne stated that the most conservative way to go about this to protect the SADC would be to have the landowner sign something that says they acknowledge what the draft proposal is and that they understand that even if that proposal changes they will be held to the regulations that the SADC adopts. An alternative approach would be for staff to develop a “guidance document” on soil disturbance that landowners would need to acknowledge receipt of, as is done for other subject areas related to application submission. Staff is concerned as the Dubrow Farm is approaching closing and the landowner was not aware of how the limits apply to their farm. The recommendation is for a more formal process that would require recording the agreement. Mr. Norz stated that his concern is that he does not want to see landowners get into a position where they are caught off guard and find out that they have to remediate their land and wind up having to spend lots of money to come into compliance with SADC regulations. Chairman Fisher asked how this agreement will be moved from one landowner to the next. Ms. Payne stated that if the document is recorded, any future owner of the property will see this document from a title search. Ms. Payne stated that the Dubrow Farm landowners are anxious to close and that staff is looking for the Committee to set the tone on how this issue will be handled with regard to this property, which will set the precedent on how similarly-situated properties will be handled going forward. Chairman Fisher stated that he agrees with recording a document to outline standards, but not as hyper-specific as this document is and that the landowners just need to know what standards they have to follow. .

It was moved by Mr. Norz and seconded by Mr. Germano to attach the Soil Protection Standards Agreement with the changes to the agreement that were suggested by Mr. Germano to the deed documents. A roll call vote was taken. The motion was unanimously approved.

F. PIG Program Implementation Procedure Update

Ms. Miller reviewed the PIG Program Implementation Procedure Update with the Committee. In 2007 when the SADC adopted its full Planning Incentive Grant (PIG) rules, it also issued written implementation procedures to provide detailed guidance to county PIG program participants on how the PIG rules worked. In light of the recent update to the county PIG rules and substantial amendments to the municipal PIG rules, including creation of a municipal competitive grant fund, staff has prepared an update of the prior PIG implementation procedures. Once approved by the Committee, the document will be sent to

all PIG program participants to assist them with understanding how to successfully participate in the PIG program.

It was moved by Mr. Siegel and seconded by Mr. Germano to approve the PIG Program Implementation Procedure Update. The motion was unanimously approved.

G. Resolutions: Final Approval – County PIG Program

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

Note: Mr. Johnson recused from both the RTE Farms discussions.

It was moved by Mr. Germano and seconded by Mr. Waltman to approve Resolutions FY2021R8(3) and FY2021R8(4) granting approval to the following applications under the County PIG Program, as presented, subject to any conditions of said resolution.

1. Dennis & Nancy Dare, SADC ID# 17-0223-PG, Resolution FY2021R8(3), Block 43, Lot 13, Upper Pittsgrove Township, Salem County, 75.4 acres.
2. Martin and Cathleen DeSapia, SADC ID#10-0430-PG, Resolution FY2021R8(4), Block 6, Lot 11, Kingwood Township, Hunterdon County, 48.4 acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolutions FY2021R8(3) and FY2021R8(4) is attached to and a part of these minutes.

It was moved by Mr. Schilling and seconded by Mr. Norz to approve Resolutions FY2021R8(5) and FY2021R8(6) granting approval to the following applications under the County PIG Program, as presented, subject to any conditions of said resolution.

3. RTE III Farms, LLC, SADC ID#03-0433-PG, Resolution FY2021R8(5), Block 903, Lot 22.01, Tabernacle Township, Burlington County, 56 acres.
4. RTE III Farms, LLC, SADC ID#03-0432-PG, Resolution FY2021R8(6), Block 903, Lot 14.01, Tabernacle Township, Burlington County, 98 acres.

A roll call vote was taken. The motion was approved. A copy of Resolutions FY2021R8(5) through FY2021R8(6) is attached to and a part of these minutes.

H. Resolutions: 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 request with the Committee and stated that the staff recommendation is to grant final approval.

It was moved by Mr. Schilling and seconded by Mr. Germano to approve Resolution FY2021R8(7) granting approval to the following application under the Municipal PIG Program, as presented, subject to any conditions of said resolution.

1. Wesley & Melinda Kollmer, LLC, SADC ID#10-0249-PG, Resolution FY2021R8(7), Block 6, Lot 7, Kingwood Township, Burlington County, 26 acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolution FY2021R8(7) is attached to and a part of these minutes.

I. Resolutions: Final Approval- Direct Easement Purchase Program

Ms. Miller referred the Committee to six requests 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.

1. Estate of Oscar Braun, SADC ID# 10-0275-DE, Resolution FY2021R8(8), Block 15, Lots 2 and 22.01, Holland Township, Hunterdon County, 128.2 acres.
2. Lori & Russell Pittenger, SADC ID#19-0022-DE, Resolution FY2021R8(9), Block 19, Lot 13, Green Township, Sussex County, 87.4 acres.
3. Judy Roof, SADC ID#19-0021-DE, Resolution FY2021R8(10), Block 2701, Lot 9, Stillwater Township, Sussex County, 66.65 acres.
4. Mary Roebling Foster, SADC ID#11-0048-DE, Resolution FY2021R8(11), Block 54, Lot 1, 2 & 11, Hopewell Township, Mercer County, 124.1 acres.
5. Donald Stimpson Sr. & Donald Stimpson Jr., SADC ID#17-0341-DE, Resolution FY2021R8(12), Block 47, Lot 13; Block 43, Lots 10 & 12; Block 46, Lot 8, Upper Pittsgrove Township, Salem County, 126.5 net easement acres.

6. Alice Fogg, SADC ID#06-0082-DE, Resolution FY2021R8(13), Block 3, Lot 7, Stow Creek Township, Cumberland County, 128.7 net easement acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolution FY2021R8(8) through FY2021R8(13) is attached to and a part of these minutes.

- J. Resolutions: Approval of Fee Resale Value
The Land Conservancy of New Jersey – Bain Estate
Frankford Township, Sussex County, FY09 Nonprofit Fee Grant

Ms. Miller referred the Committee to one request for approval of Fee Resale Value. 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. Norz and seconded by Mr. Schilling to approve Resolution FY2021R8(14) granting approval to the following application under Fee Resale Value, as presented, subject to any conditions of said resolution.

1. Bain Estate Farm, SADC ID# 19-0012-NP, Resolution FY2021R8(14), Block 26, Lots 14, 16 and 20.01, Frankford Township, Sussex County, 120.756 acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolution FY2021R8(14) is attached to and a part of these minutes.

Public Comment

Chairman Fisher asked if there were any emails submitted from the public.

Ms. Winzinger stated that two emails came in.

The first email came from Amy Hansen, from the New Jersey Conservation Foundation, which reads:

“On behalf of the NJ Conservation Foundation, we will provide comments on the soil protection standards before the next SADC meeting in September and we apologize for the delay. We also support holding outreach sessions outlining the standards for the non-profit conservation community this fall. Thanks very much for this opportunity to comment.”

The second email came from Ashley Kerr, from the NJ Farm Bureau, which reads:

“Does the SADC have any comments on the Solar on Farmland bill by Senator Smith? Does the BPU endorsement Monday at the State Environment Committee meeting mean the administration has signed off on the solar bill? Is the SADC blocking an application in Hunterdon County for an easement purchase based on the proposed soil protection standards?”

Chairman Fisher announced that the SADC will be moving to 200 Riverview Plaza between the months of November and December if everything goes according to plan. He noted that the location of next month’s meeting is still to be determined. Chairman Fisher thanked everyone for attending the meeting and for their efforts.

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: September 24, 2020, 9 A.M.

Location: To Be Announced

ADJOURNMENT

The meeting was adjourned at 12:13 p.m.

Respectfully Submitted,



Susan E. Payne, Executive Director
State Agriculture Development Committee