

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

**REMOTE MEETING DUE TO CORONAVIRUS
EMERGENCY**

April 22, 2021

Chairman Fisher called the meeting to order at 9:03 am.

Ms. Payne read the notice stating that the meeting was being held in compliance with the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq.

Roll call indicated the following:

Members Present

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

Members Absent

Scott Ellis

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

Minutes

SADC Regular Meeting of March 25, 2021 (Open Session)

It was moved by Mr. Germano and seconded by Mr. Schilling to approve the Open Session minutes of the SADC regular meeting of March 25, 2021. Ms. Jones and Mr. Norz abstained from the vote. The motion was approved by the remaining members.

Report of the Chairman

Chairman Fisher stated that the SADC is dealing with issues surrounding large scale and dual use solar installations, and is working closely with the Governor's office to balance the state's alternative energy initiatives with the retention of prime farmland soils and preservation programs . He noted that the Governor's environmental agenda is addressing climate change, social justice, an open and fair economy, and technological innovations. Chairman Fisher stated that it appears most people will be satisfied with the work that will be done once the legislative bills are passed.

NOTE: Martin Bullock joined the meeting.

Report of the Executive Director

Ms. Payne wished everyone a Happy Earth Day. Earlier in the week she and staff members visited the Cassaday Farm in Salem County. Ms. Payne said it was a great opportunity to meet with a farmer who has been able to expand his farming operations to approximately 3,000 acres of land as a result of involvement in the Farmland Preservation Program (FPP).

Ms. Payne stated that it was great to meet a farmer who is a big believer in the FPP and to discuss some conservation challenges on the property. She stated how helpful it was to be on the ground and hear directly from farmers regarding what's good about the FPP and what can be improved. She noted that staff would like to do more farm visits once the pandemic eases.

Ms. Payne stated that the Soil Protection Standards will be sent to partners today and staff is asking for informal comments within sixty days. Those comments will then be given to the SADC to see what changes are needed and then go through the formal rule making process, hopefully in the summer and early fall.

Ms. Payne stated that staff did get final approval of a Deed of Easement (DOE) for use in the Federal government's Agricultural Land Easement Program. She thanked Ms. Reynolds, staff attorney, who was instrumental in getting this approval. Now that staff has an approved deed, it can begin to close farms with federal funding. Ms. Payne stated that a package will be going out to the partners regarding this approval.

Communications

Ms. Payne stated that Ms. Winzinger is doing an amazing job putting a very comprehensive package together about agricultural economy, land prices and solar energy as well as a host of other important subjects. She asked that the committee take time to review the communications packets when they can. Chairman Fisher added that the communication packets help to understand current events as well as major policy concerns.

Chairman Fisher stated that he had the pleasure of talking with Senator Corey Booker who is now on the Senate Agriculture Committee. He noted that Senator Booker is very engaged in issues affecting farming and family farms, and that he is also very interested in food policy and nutrition. Chairman Fisher stated that he was interested to hear what the senator's thoughts were on New Jersey farming.

Public Comment

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

There was no public comment.

New Business

A. Stewardship

1. Resolution: Extension of Commercial Non- Agricultural Use Permit

Mr. Roohr referred the committee to a draft resolution approving a 5-year extension to the only nonagricultural use permit issued by the SADC in 2016 for floral design classes, craft workshops and other related events in a former milk house building on MJC Properties, LLC . The original request was for 36 events per year, and the approval only contemplated indoor events. Due to covid related safety concerns and the Governor's executive orders related to social distancing and occupancy rules for businesses, SADC approved an internal amendment in July 2020 that allowed for the use of a 30 x 30 tent outside the milk house area so that MJC could continue to operate while meeting necessary covid safety protocols. This amendment for the outside use was effective until November 2020.

MJC's current request is to expand the type of events, increase the number of events and allow for permanent use of the outdoor area. The expansion of the types of events include weddings and more elaborate special occasion events.

Mr. Roohr stated that because the rural microenterprise (RME) rules and prior nonagricultural use permit rules are not entirely consistent, and because of anticipated legislative action on special occasion events (SOE) within the next few months that could affect this application, staff is recommending the SADC approve a 5-year extension to its prior permit issued to MJC , with no changes. At the end of the 5-year period the permittee can either apply for an RME permit under applicable rules or seek approval for SOEs pursuant to whatever legislation and regulations are then in effect.

Ms. Payne reiterated the fact that the tent was requested due to covid reasons and the resolution says that the use of the tent would continue through November 30, 2021 or until the Governor declares the end of the public health emergency, whichever is later. This approval would allow the landowner to use the tent throughout the end of the season so as not to disturb any events if the public health emergency is lifted sooner.

Chairman Fisher asked what the reasoning was for limiting the landowners to one extension and stated that there are many instances of situations that are grandfathered based on the rules that were set in place at the time.

Mr. Roohr stated that the RME rules replaced the prior commercial nonagricultural use regulations. Technically, if someone were to make a new request today, he would be making that request under the RME regulations. Mr. Roohr stated that MJC Properties came in under the old rules, and even though the rules changed, this would give MJC the opportunity to adjust its operations in compliance with the current rules and the SOE rules that are likely forthcoming.

Ms. Payne stated that prior commercial nonagricultural use rules that have been removed from the books do not live on forever, so the landowner can't anticipate having access to those rules indefinitely. SADC repealed those rules and replaced them with RME rules and this is the only application that has been issued a permit under the old rules and this is a unique case.

It was moved by Mr. Germano and seconded by Mr. Schilling to approve Resolution FY2021R4(1), granting approval to the following application, as presented, subject to any conditions of said resolution.

Mary Coombs, a principal of MJC, stated that it has been a complicated process trying to fit this unique business into the regulations, and everyone has worked together to make this happen, especially Mr. Roohr. She noted that if all lines of communication are kept open it will help the business move forward and make the process easier for other landowners in the future.

Ms. Fischetti asked what would happen if the landowners want to keep the tent up after the health crisis is over; is it subject to the type of events that are to be held or to the one-time extension. Ms. Payne stated that the previous non-agricultural use rules prohibited outside activity. She explained that the tent was a flexibility extended due to the public health emergency, so that is the rationale for departing from the rules.

Ms. Payne stated that her goal is to try and avoid the landowner having to apply for an RME permit when the SOE law could pass and result in a reconfiguration of MJC's operations again. By permitting the extension, MJC can keep its business running and then can decide later whether to apply for an RME or an SOE.

Mary Coombs stated that they don't personally own the tent and there were just two or three occasions where the tent was up for a 24-hour period, so there is no need for the tent for an extended period of time at this point.

Chairman Fisher stated that the MJC is a great farm with great operators and he's glad that the SADC was able to accommodate the operation.

MJC Properties, LLC., Resolution FY2021R4(1), Block 102, Lot 3, Upper Deerfield Township, Cumberland County, 88.77 Acres.

A roll call was taken. The motion was unanimously approved. A copy of Resolution FY2021R4(1) is attached to and a part of these minutes.

2. Resolution: House Replacement Request

Note: Mr. Bullock recused from the discussion.

Mr. Willmott referred the committee to the house replacement request. He reviewed the specifics of the request with the committee and stated that staff recommendation is to grant final approval.

Mr. Waltman stated that the house looks spectacular, but he's concerned about farmland affordability and whether future farmers will have the ability to purchase this farm. Ms. Payne stated that farmland affordability was a topic of conversation in 2005. There was a discussion at that time whether the SADC should amend the Deed of Easement (DOE) to include a house size limitation, but there was insufficient support for that policy change.

Chairman Fisher stated that each county can decide to put a house size limit in the DOE. Ms. Payne stated that the counties can make that a standard provision in their DOE and the SADC can approve it. The SADC itself, when doing direct easement purchases, does not have a house size limit. If the committee would like to go in that direction, that can be done. Chairman Fisher stated that the subject can be discussed at a later date.

It was moved by Mr. Germano and seconded by Ms. Jones to approve Resolution FY2021R4(2), granting approval to the following application, as presented, subject to any conditions of said resolution.

Virag-Non Farm, Resolution FY2021R4(2), Block 87.01, Lots 9 & 9.01, Freehold Township, Monmouth County, 36.535 acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolution FY2021R4(2) is attached to and a part of these minutes.

B. Resolution: Review of Non-Agricultural Development in the ADA (N.J.S.A. 4:1C-19) South Jersey Gas Deepwater Gas Pipeline Replacement Project: Salem County

Mr. Bruder referred the committee to a Non-Agricultural Development in the ADA for the Deepwater Gas Pipeline Replacement Project by South Jersey Gas in Salem County. He reviewed a draft resolution finding that a proposed in-kind replacement of 4.2 miles of an existing natural gas pipeline in Carney's Point and Pilesgrove townships, Salem County does not cause unreasonably adverse effects on the preserved farms, the ADA or State agricultural preservation and development policies pursuant to the Agriculture Retention and Development Act.

The proposed project includes 2.52 miles of pipeline in existing road rights-of-way (ROW) and approximately 1.68 miles through Salem County's ADA and on privately owned lands, including two SADC-preserved farms and one NRCS-preserved farm. He reviewed the

specifics of the request with the committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Schilling and seconded by Mr. Bullock to approve Resolution FY2021R4(3), granting approval of Non-Agricultural Development in the ADA (N.J.S.A. 4:1C-19) South Jersey Gas Deepwater Gas Pipeline Replacement Project for Salem County. The motion was unanimously approved. A copy of Resolution FY2021R4(3) is attached to and a part of these minutes.

C. Resolutions: Final Approval – County PIG Program

Mr. Everett reviewed a substantial acquisition project for final approval. At nearly 400 acres, the four parcels that collectively comprise Kerr Ridge Farm/Kerr Ridge Associates render it perhaps the largest remaining unreserved farm in Hopewell Township. Identified by NJ Conservation Blueprint as high priority lands for farmland preservation not only given its size but also its soils - 89% of the farm is mapped by NRCS as Important NJ Soils - significant development pressure emanating from the nearby I-295 corridor renders the property vulnerable to conversion if not preserved.

Operated by the next generation of the Kerr family, the young farmer who produces soybeans, wheat, hay and straw on the property does so by using conservation tillage practices. Additional natural resource management is evident in the intact forested riparian buffer along Jacobs Creek, a tributary of the Delaware River, which the County wishes to acquire as a conservation easement for use as a hiking trail.

In addition to the agricultural and natural resources noted above, the subject properties are located within the Bear Tavern Road/Jacobs Creek Crossing National Register Historic District, with two extant late eighteenth/early nineteenth century farmhouses on the property. Notably, the property was traversed by General George Washington's Continental Army during its march to Trenton to defeat the Hessian garrison quartered there after the celebrated Delaware River crossing on Christmas Day, 1776. Total purchase price for the 357 acres of farmland easements is just over \$4 million, with an SADC cost share of \$2.4 million.

Mr. Waltman stated that this is an exciting day for Hopewell Township and Mercer County. He noted that this farm is everything and more that Mr. Everett just described, and this is a fitting act for the SADC to take on Earth Day to preserve this very important farm. He thanked the staff for all of the hard work that it took to preserve this farm.

Ms. Mandelbaum referred the committee to five requests for final approval under the County PIG Program. She reviewed the parcel configuration rates and the certified market value of the requests with the committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Waltman and seconded by Ms. Jones to approve Resolutions FY2021R4(4) through FY2021R4(7), granting approval to the following applications under the County PIG Program, as presented, subject to any conditions of said resolution. Mr. Siegel advised that he was recusing on this matter.

1. Kerr Ridge Associates (Lot 15S), SADC ID#11-0183-PG, Resolution FY2021R4(4), Block 98, Lot 15, Hopewell Township, Mercer County, 139.477 acres.
2. Kerr Ridge Associates (Lot 15N), SADC ID#11-0182-PG, Resolution FY2021R4(5), Block 98, Lot 15, Hopewell Township, Mercer County, 139.477 acres.
3. Kerr Ridge Associates (Lot 3S), SADC ID#11-0185-PG, Resolution FY2021R4(6), Block 95, Lot 3, Hopewell Township, Mercer County, 259.001 acres.
4. Kerr Ridge Associates, SADC ID#11-0184-PG, Resolution FY2021R4(7), Block 95, Lot 3, Hopewell Township, Mercer County, 259.001 acres.

A roll call vote was taken. The motion was approved, with Mr. Siegel recusing on the vote. A copy of Resolutions FY2021R4(4) through FY2021R4(7) is attached to and a part of these minutes.

Ms. Mandelbaum referred the committee to the request for the George and Terri Hitchner final approval under the County PIG Program. She reviewed the specifics of the request with the committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Germano and seconded by Mr. Siegel to approve Resolution FY2021R4(8), granting approval to the following application under the County PIG Program, as presented, subject to any conditions of said resolution.

5. George & Terri Hitchner, SADC ID#06-0195-PG, Resolution FY2021R4(8), Block 65, Lot 1, Hopewell Township, Cumberland County, 153 acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolution FY2021R4(8) is attached to and a part of these minutes.

D. Resolutions: Final Approval – Direct Easement Purchase Program

Ms. Mandelbaum referred the committee to two requests for final approval under the Direct Easement Purchase 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 Mr. Germano to approve Resolutions FY2021R4(9) and FY2021R4(10) granting approval to the following application under the Direct Easement Purchase Program, as presented, subject to any conditions of said resolution.

1. Richard Gardner, SADC ID#21-0077-DE, Resolution FY2021R4(9), Block 48, Lots 12.01 & 14, Franklin Township, Warren County, 97.1 net easement acres.
2. Paul and Vouletti Mitchell, SADC ID#10-0278-DE, Resolution FY2021R4(10), Block 39, Lots 2 & 27, Kingwood Township, Hunterdon County, 72.8 net easement acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolution FY2021R4(9) and FY2021R4(10) is attached to and a part of these minutes.

E. Resolution: Nonprofit Fee Transfer – Muckshaw Preserve

Ms. Reynolds referred the committee to a request for a nonprofit fee transfer for the Muckshaw Preserve from the Ridge and Valley Conservancy to the Foodshed Alliance.

The preserve consists of two preserved farms - one located in Fredon and Andover Townships and the other entirely in Fredon Township, Sussex County. The first farm was preserved in 2001 and the other in 2002 with nonprofit fee simple grants to the nature conservancy. In December 2019, the SADC approved the fee transfer from the Nature Conservancy to the Ridge and Valley Conservancy.

The Foodshed Alliance, currently a lessee of the property, runs a Sustainable Agriculture Enterprise, or “SAGe” program, on the property in which plots are leased to sustainable farm businesses at affordable rates. Ms. Reynolds explained that currently there are seven leases, totaling 50 acres. Ms. Reynolds pointed out that the resolution of approval refers to 6 leases; however, the Foodshed Alliance just finalized a new lease this past week, so the resolution of approval will be modified accordingly. Paragraph 24 in both DOEs state that the land can’t be sold unless it continues to be used for agricultural purposes and production. The SADC must be notified in advance that the land will be offered for sale and the SADC approves the transfer prior to the conveyance.

Additionally, under paragraph 5 of both DOEs, the grantor agrees to reimburse the SADC 50% of the net proceeds in the event of a sale of any interest in the preserved farm. However, Ridge and Valley Conservancy intends to transfer its fee interests for nominal consideration and, therefore, the deed transferring the fee simple interest specifically references the paragraph 5 reimbursement clause as well as other paragraphs in the DOE placing requirements on a future transfer so that those provisions remain intact, and future landowners are on notice .

Ms. Reynolds described for the committee the different farm operations that are leasing plots under the SAGe program. Some of the agriculture engaged in in on the farm include hemp, bees, mixed vegetables, fruits, chickens and goats. She stated that the descriptions were provided to her by Eric Derby, the SAGe program manager. Ms. Reynolds noted that Mr. Derby, as well as Kendrya Close, Foodshed Alliance Executive Director, and George Shawbert, the Ridge and Valley Conservancy Vice President, are all in attendance at the meeting.

Ms. Reynolds stated that based on the foregoing, as well as the finding that the land will be used for agricultural use and production, the staff recommends approval of the fee transfer.

Mr. Norz asked why this particular case has to be approved through the SADC. Ms. Reynolds stated that this is a regulatory requirement specific to the nonprofit programs. Chairman Fisher asked if the farm will still be referred to as the Muckshaw Preserve. Mr. Derby confirmed that the name will remain the same. Ms. Payne clarified that the approval

of the resale is a condition of any acquisition made with fee simple grant funds, and the SADC will be involved in the review of the sale transaction.

Ms. Payne stated that this endeavor is very exciting and she thanked Ms. Close and Mr. Derby for working together to make this a unique agricultural incubator in NJ. She noted that she was on a panel discussion where the SAgE program came up, and people across the country are interested in how to connect farmland with new and beginning farmers. Ms. Payne stated that the SADC wants to stay close to this endeavor to gain a better understanding of the successes and challenges of this project.

It was moved by Mr. Waltman and seconded by Mr. Germano to approve Resolution FY2021R4(11) granting approval to the following application under the Nonprofit Fee Transfer for the Muckshaw Preserve from the Ridge and Valley Conservancy to the Foodshed Alliance, as presented, subject to any conditions of said resolution.

Muckshaw Preserve (Ridge and Valley Conservancy to the Foodshed Alliance)

Block 1001, Lot 30,
Fredon Township, Sussex County
Block 153, Lots 33 & 33.01
Andover Township, Sussex County, 197.864 acres (Parcel A)

Block 801, Lot 33
Block 1001, Lot 1.01
Fredon Township, Sussex County, 132.099 acres (Parcel B)

A roll call vote was taken. The motion was unanimously approved. A copy of Resolution FY2021R4(11) is attached to and a part of these minutes.

Mr. Derby stated that the SAgE Project started out as a way to help people gain access to land given the huge expense that is entailed. The mission is to make sure natural organic farmers in NJ get access to land and get educated on preserved state farmland. Farmers that are approved get 10-year leases after a rigorous application process that includes providing their production plan, mission statement, years of experience, business plan and marketing process. The applicants have to adhere to organic guidelines and follow national organic protocols. Mr. Derby noted that the farmers have all been working really well together and everyone has been a delight to work with.

Chairman Fisher thanked Mr. Derby and everyone for joining in the discussion and congratulated them on the approval of the transfer.

Public Comment

Ms. Winzinger stated that there was a comment from Mr. Scott Lenox from the Barnegat Oyster Collective in regard to a legal analysis for Right to Farm Act (RTFA) protection of shellfish aquaculture farms.

Ms. Payne stated that Mr. Lenox is in the process of submitting an SSAMP application to the Monmouth County Agriculture Development Board (MCADB) for his retail market operation for his oysters in Wall Township, Monmouth County. The harvest of oysters takes place offshore and the oysters are brought onshore and processed and then sold at a market located in Wall Township. The SADC hasn't had a RTFA case like this before, and it's pretty clear that the Act was not written with this type of aquaculture in mind.

Ms. Payne stated that she, Ms. Reynolds, Ms. Purcell and NJDA aquaculture staff are working together to understand how the RTFA could apply to aquaculture. Staff shared this advisory and consultative information with the MCADB. Ms. Payne stated that the SADC can't give detailed advice to Mr. Lenox because if the MCADB issues a decision in his case and any party was dissatisfied, they could appeal the decision to the SADC.

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: 9 A.M., Thursday May 27, 2021

Location: TBA

ADJOURNMENT

The meeting was adjourned at 10:36 a.m.

Respectfully Submitted,



Susan E. Payne, Executive
Director

State Agriculture Development Committee