

STATE AGRICULTURE DEVELOPMENT COMMITTEE
Department of Agriculture
Market and Warren Streets
1st Floor Auditorium
Trenton, NJ 08625

REGULAR MEETING

February 24, 2011

Acting Chairperson Purcell called the meeting to order at 9:05 a.m. In compliance with the "Open Public Meetings Notice", the following statement was read:

"Pursuant to N.J.S.A. 10:4-6 et seq., adequate public notice of this meeting has been provided by giving written notice of the time, date, location and, to the extent known, the agenda. At least 48 hours in advance, this notice has been posted on the public announcement board, third floor, Health/Agriculture building, John Fitch Plaza, Trenton, NJ, mailed and/or faxed to the Newark Star Ledger, the Times of Trenton, the Camden Courier Post, and filed with the Office of the Secretary of State."

Roll call indicated the following:

Members Present

Monique Purcell, Acting Chairperson (Left meeting at 12:15 p.m.)
Douglas H. Fisher, Chairperson (Arrived at 12:15 p.m.)
Richard Boornazian (rep. DEP Commissioner Martin) (left meeting at 12:35 p.m.)
Ralph Siegel (rep. State Treasurer Andrew P. Sidamon-Eristoff)
Brian Schilling (rep. Executive Dean Goodman)
James Requa (rep. DCA Commissioner Grifa) (left meeting at 1:50 p.m.)
Alan Danser
Denis C. Germano, Esq. (Arrived at 9:15 a.m.)
Torrey Reade
James Waltman
Jane Brodhecker

Members Absent

Stephen P. Dey

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

Others present as recorded on the attendance sheet: Robert Baumley, Heidi Winzinger, Hope Gruzlovic, Brian Smith, Charles Roohr, Edgar Madsen, Ed Ireland, Timothy Brill, Cassandra McCloud, Daniel Knox, Paul Burns, Stefanie Miller, David Kimmel, Patricia Riccitello and Sandy Giambrone, SADC staff, Daniel Pace, Mercer County Agriculture Development Board, Brandon Minde, Governor's Authorities Unit, Nicole Goger, New Jersey Farm Bureau, Renee Jones, New Jersey DEP, Pat Butch, Farmland Preservation Committee Chair, Millstone Township, Monmouth County, Nancy A. Grbelja, Mayor, Millstone township, Monmouth County, Rhyne Simpson, Jr., Landowner, Hunterdon County, Marlena Heydenrich, Landowner, Hunterdon County, Harriet Honigfeld, Monmouth County Agriculture Development Board, Jack Eisner, Connor Hill Farm, Manalapan Township, William Millette, Hunterdon County Agriculture Development Board, Barbara Ernst, Cape May County Agriculture Development Board, Frances Gavigan, Harvest Hill Farm, Hunterdon County, Kat Cammelongo and Barbara Sageser, East Amwell Historic Preservation, Hunterdon County, Violetta and Sergio Neri and Illeline Rayer, Hopewell Valley Vineyards, Mercer County.

Minutes

A. SADC Regular Meeting of February 7, 2011 (Open Session)

It was moved by Ms. Reade and seconded by Mr. Danser to approve the open session minutes of the SADC regular meeting of February 7, 2011. The motion was approved. (Mr. Waltman abstained from the vote.)

B. SADC Regular Meeting of February 7, 2011 (Closed Session)

It was moved by Ms. Reade and seconded by Ms. Brodhecker to approve the closed session minutes of the SADC regular meeting of February 7, 2011. The motion was approved. (Mr. Waltman abstained from the vote.)

REPORT OF THE CHAIRPERSON

Chairperson Purcell discussed the following with the Committee:

- New Jersey State Board of Agriculture Convention

Ms. Purcell stated that the NJ State Board of Agriculture Convention was well attended and received. The highlight of the convention seemed to be the listening sessions, where they have a topic and a speaker and then it gets opened up for discussion by the delegates. The listening sessions for this year were on farm labor issues, common sense regulations where they had the Lieutenant Governor's Chief of Staff attend for that session. There was also a session on farmland preservation and right to farm and food safety.

- 2012 Budget

Ms. Purcell stated that the Governor presented his budget message this past Tuesday and it appears that the Department of Agriculture received only a one percent cut, which was very good news since we are still recovering from the previous year's cuts. The focus by the Governor and the legislature will more than likely be on pension and health benefits reform.

REPORT OF THE EXECUTIVE DIRECTOR

Ms. Payne discussed the following with the Committee:

- New Jersey State Board of Agriculture Convention

Ms. Payne stated that The Lieutenant Governor's Chief of Staff, Mr. Bagger, during his remarks at the Ag. Convention, recognized and identified the fact that the Administration is well aware of the urgency for the 2009 referendum funds. She stated that she reviewed the budget brief yesterday and there is not enough detail to find out whether any decisions have been made in this budget with regards to debt service to support the 2009 bond. The SADC will continue to work with the Department of Treasury to find out if any decisions have been made with respect to timing, amounts etc.

- 2012 State Budget

Ms. Payne stated that regarding the state budget, the impact to the SADC is that we gave up payment in lieu of taxes (PILOT) funds. Under the Garden State

Preservation Trust, if the SADC purchases property in fee simple it needs to pay for “in lieu of taxes” to municipalities. The SADC had approximately eleven farms in the last couple of years that it acquired in fee and fortunately sold most of them. The SADC still owns two of those farms. There was funding in this account that the SADC didn’t need because of the fact that it doesn’t own a lot of properties in fee simple so some funds were taken from the PILOT account but it really has no impact on the SADC’s operations. The initial proposal was to take money out of the SADC’s right to farm account but staff was able to have the Administration not take that funding and rather remove some of the PILOT funding instead. She stated that aside from that there are no layoffs identified in the Department or in any department that she is aware of.

- Retiring of SADC Staff person

Ms. Payne stated that Edgar Madsen, one of the SADC’s review appraisers, will be retiring the end of February. Mr. Madsen started with the SADC in 2003 and was an appraiser in the industry for 40 years prior to joining the SADC. As a consultant to the SADC, he authored the Review of the SADC Appraisal Handbook prior to his appointment to the SADC. He has conducted over 400 appraisal reviews during his time with the SADC and has been wonderful in researching and keeping an up-to-date database of all information regarding the farms once they have closed and been resold on the SADC’s preserved farms list. Mr. Madsen is also a regular lecturer for the NJ Association of Realtors. The SADC has been very fortunate in having Mr. Madsen’s expertise on its staff.

Ms. Payne presented a letter of recognition by Secretary Fisher to Mr. Madsen and thanked him for his dedicated service to the Department of Agriculture and the SADC.

Mr. Madsen thanked Ms. Payne and Ms. Purcell on behalf of Secretary Fisher for the kind words. He stated that it has been a privilege to work with the SADC staff. He stated that the SADC staff is a very dedicated group of people who are working very hard to provide the best service for farmland preservation.

COMMUNICATIONS

Ms. Craft reminded the Committee to take home the various articles provided in the meeting binders.

PUBLIC COMMENT

The following members of the public addressed the Committee:

- Pat Butch, Chair of the Open Space/Farmland Preservation Committee, Millstone Township, Monmouth County addressed the Committee regarding the Perlman farm. She wanted to know when it was going to be presented to the Committee. Ms. Payne indicated it would be after closed session during the “Action as a Result of Closed Session” discussion.
- Nancy Grbelja, Mayor of Millstone Township, Monmouth County addressed the Committee regarding the Perlman farm. She stated that she is happy that it will be discussed in open session so that Ms. Butch can answer any questions that the Committee may have. Millstone Township has been a community that is dedicated to saving as much open space and farmland as it can. That is one of the prime purposes of Millstone Township. She stated that in 2004 when she took office they had a very dysfunctional farmland preservation program and from that point they have developed a procedure where Millstone Township is able to close with its partners within a year of application. Millstone Township was one of the first communities to develop its comprehensive farmland preservation plan. They have a very comprehensive plan that stands next to their master plan.

Millstone Township has regulations that will monitor their open space and their easements. She is here today because she is concerned about the fact that the Perlman property has been an on-going process for close to three years. It has caused a problem for this landowner as well because he has had to come before their planning board on two occasions to receive extensions. She stated that Millstone Township does not normally grant extensions because they don't want additional development. They have five watersheds and they have an obligation to keep the environment of their community sound. She stated that they have granted those extension but they are at the point where they are not going to be able to grant another extension to these landowners. These landowners have a right to have their land preserved. There are another 160 acres across the way from this farm that is contingent on whether or not this property gets to closing. The problem they are having is with the restrictive deed of easement language. She does not know where this mandate has come from but it makes it very difficult when you have one agency trying to impose language on land that is not purchased with their funds. Maybe in

another community where they don't monitor their easements or open space it could be a problem but in Millstone Township there are guidelines, which are in place that will protect open space and does protect their trails and green acre easements. She felt it was very important to get final approval today on the Perlman farm so that we can close this property. They recently received an award for their threatened and endangered species and they have cutting-edge ordinances and legislation that sets Millstone Township apart from other communities. She promised that having a trail next to farmland preservation in Millstone Township will never be a problem.

- Harriet Honigfeld, Monmouth County Agriculture Development Board Administrator stated that next Tuesday Monmouth County will be hosting its quarterly greentable on why horseracing is critical to its county and the region. It will be held at the county library from 9:00 to 10:30 a.m. Anyone who is interested in attending is requested to contact her for more details and the notice is posted at their planning board website.
- Brian Schilling, SADC Member addressed the Committee regarding the implications of the state budget to Rutgers. He stated that basically higher education was held flat and in many ways that was a good thing but from the experiment station perspective the concern is that it also implies there is no relief from the cuts that have occurred over the last couple of years, which is on the order of 15 percent or more. The Ag. Experiment Station does not really get any relief because tuition dollars at the University do not come back to support the Experiment Station. The one issue he was asked to comment on is that right now there is a grass-roots effort underway through a Federal Bill, which is a source of funding for Extensions that implies somewhere around an 8 or 9 percent cut to Extensions, which would be pretty bad, on top of the cuts that have already been experienced. There are a lot of administrators in Martin Hall who are very concerned and are putting out a lot of information to help feed some of the grass-roots efforts that is going back to D.C.

OLD BUSINESS

- A. Request for Division of the Premises
1. Simpson Farm, Tewksbury Township, Hunterdon County

Mr. Roohr referred the Committee to Resolution FY2011R2/24(1) regarding a request a division of the premises on the Simpson Farm in Tewksbury Township,

Hunterdon County. The application came to the Committee in December at which time there was a tie vote by the Committee and therefore no action was taken. There were a couple of questions put on the table at that time and staff have been able to get those answered but it is now back to the Committee for consideration under the same conditions. Staff recommendation in December was to deny the request and because it is the same request today, staff's recommendation is still to deny the request. This is a 72 acre farm and the proposal is to divide it into Parcel "A", a 44-acre piece, which would include Mr. Simpson's residence and equine facilities and Parcel "B", which would be a 20 acre piece and the buyer for that piece is Ms. Heydenrich who would be purchasing that parcel and adding it to her existing 26 acres, which includes her residence. As part of the application Ms. Heydenrich has about eight tillable acres that would blend into Mr. Simpson's hayfield and she has agreed to donate a development easement on that eight acres.

Mr. Roohr stated that staff recommendation is to deny the request because there are two requirements for a division of the premises 1) the parcels be agriculturally viable for a variety of agricultural operations, solely from their own output and 2) the division is for an agricultural purpose. A very similar request had come in on this farm in 2009 and the Committee found at that time that the parcels would not be agriculturally viable and staff's recommendation today is consistent with the 2009 determination of the Committee. With respect to agricultural purpose, staff does not believe that there would be a substantial increase in the diversity, intensity or expansion of the production activities on the farm.

The two questions raised last month were 1) what is the current development potential of Ms. Heydenrich's property? The answer was that the development potential of her property is fairly limited under State and local zoning conditions today. Both of these properties are entirely in the Highlands Preservation Area. At 26 acres, Ms. Heydenrich's property under the current Highlands Rules would have no further development potential. Additionally the property is a flag-lot, which presents an issue with local zoning, which would be another constraint on the property. The other question was would Ms. Heydenrich be willing to place a development easement on her entire property, not just the eight acres. Ms. Heydenrich felt that she didn't see why that would be necessary. If the intent is to limit additional houses that conflict with the farming operation, the state and local zoning already prohibit that. Therefore she is not fully on-board in limiting herself in the future for all purposes, especially if the current zoning would not allow it anyway. Mr. Roohr reviewed a few aerial photos with the Committee. He stated that Mr. Simpson and Ms. Heydenrich are present today if the Committee has any questions.

Ms. Payne stated that the threshold question is whether the Committee feels that this division meets the agricultural purpose test and the agricultural viability test. Mr. Simpson has indicated previously that he doesn't need as much of his farm as he has to support his horse operation, which is approximately seven horses. She stated that Mr. Simpson has indicated that his desire here is to erase capital. Ms. Payne stated that Ms. Heydenrich's purpose of this division, as was explained to staff, was to add this land to her estate property so that she can protect the viewscape and protect the use of that land in a manner that is consistent with her use of the property. She also indicated that she rents the eight acres out to a farmer who raises hay and his operation going from eight to twenty eight acres would have a more efficient operation. Staff did not feel that this would constitute a sufficient agricultural purpose to divide this farm. Mr. Siegel stated that he remembered from the last meeting that some Committee members had felt it constituted an agricultural purpose, he was just trying to remember the specifics.

Mr. Boornazian stated that Secretary Fisher voted against staff recommendation, as he did during the last meeting. His comments on this particular item is when we vote against staff recommendation the applicant has no real relief. At that point they are left in limbo. In this case there was a tie vote and therefore the applicant is just stuck. Mr. Siegel stated that he is just trying to remember from the last meeting what the point was from some people who felt it there was an agricultural purpose to the division because he doesn't see it.

Mr. Boornazian stated that there would be another eight acres coming into the program and a more efficient operation, which is why he voted against staff recommendation. He would propose that the applicant be given some sort of alternative when staff recommends no, there should be an alternative resolution that could be proposed to vote yes instead of leaving the landowner in limbo. We send the applicants off and then they have to re-apply. If the staff recommendations are again to deny the division it doesn't give the Committee a chance to vote yes. Ms. Payne stated that the Committee has the opportunity to give staff direction. We at the staff level cannot come in with two resolutions, one defending a negative recommendation and one with a positive one. Mr. Boornazian disagreed. Ms. Payne stated that if today the Committee's decision is that it supports this subdivision it could indicate that to staff, in which case staff would redraft a resolution for a future meeting that would memorialize that; however staff would need to have the Committee set forth its basis for that decision.

Mr. Siegel stated that the additional information that was requested from the last meeting was to further flesh out the claim of an agricultural purpose as he

recalled; that the divided vote left staff with the direction to have a further conversation with Mr. Simpson to try and determine whether it was for an agricultural purpose to support his operation. However, staff has no additional information in support of that test. Ms. Payne stated that another question that came up at the last meeting was how much of Ms. Heydenrich's property would she be agreeable to subject to the SADC's easement. Mr. Roohr talked about that and there was additional discussions with the property owner. She stated that Chairman Fisher had stated at the last meeting that it didn't pass so the landowners would need to go back and work with staff but at this point in time there is no new additional information. Mr. Schilling stated that in response to that he feels that his obligation is to respond to the application that is before us, not to come up with one that is satisfactory. This is a proposal that came forth, both landowners agreed to it and that is what he is responding to – staff's recommendation on this proposal. Mr. Danser stated that he went back and double checked the minutes and they very accurately reflected what he said at the last meeting and he was one of the two abstentions. He stated that Mr. Roohr asked him about it afterwards and he could tell from what Mr. Roohr said that it was reported back to the applicants and they chose not to change the application in any of the ways that he indicated would illicit his support. That is clearly their decision but it makes it much easier for him this month that he supports staff recommendation given what has transpired.

Mr. Waltman stated that the Committee was very sympathetic to the applicant but the question is, where is the burden? If we assume the burden to try and figure out how an applicant can redo their application so it may pass with the Committee he didn't feel that was right. He also doesn't want to see the Committee bring up the same issue over and over again and the way it decides is dependent upon who shows up at a particular meeting. That is very dangerous. He was among those who was interested in the question of whether the second landowner would be willing to preserve the entirety of her property and hearing that it was not of any interest to that landowner he had no reason to change his vote today. Mr. Boornazian stated that the Committee has in the past, at least on one occasion since he has been on the Committee, sent the landowner back with specific things that they needed to do to improve their application but in other cases we send them away with no idea of what to do to accomplish the task. Mr. Schilling recalled that was a case in Colts Neck involving an equine operation where there was outstanding information and with the expertise of Dr. Dey as an equine person and others of the Committee who had questions, staff went back with specific questions that it felt was needed to make a decision so it wasn't per se guidance to them in terms of what would make it successful but rather information that the Committee felt was missing.

Mr. Siegel stated that this is not a case of there being a dispute and we need to resolve it. We have an agreement with a landowner who preserved his farm and took taxpayer funds and the agreement is that there are restrictions on the property. It is preserved as this particular parcel. Had the application been made for the smaller parcel, this may not have been preserved. To him there is always a very high bar to be met when you are changing a preserved farm and have in mind the people in the room who were denied funding in that particular round because this farm ranked higher. He stated that to him in that case the staff recommendation becomes very weighty. The agricultural purpose he feels we need to do more to encourage financial solvency and to help farmers plan for estate problems, etc. However the agricultural viability is not a question; that is what the taxpayers paid for, regardless how it is being used today and to change that and reduce its viability, then the taxpayers probably should not have paid for it.

Ms. Heydenrich addressed the Committee in support of the request for a division of the premises. She reviewed the proposal as was presented at the last meeting for those Committee members who may not have been present. She reviewed the specifics with the Committee. She stated that when she left the last meeting they did not have any clear direction on anything that they could or could not do to change anything. Her understanding was that questions needed to be asked amongst the Committee to see if there was any clarification need. She stated that it was her understanding that for a local farmer in the Tewksbury area, a 29 acre tillable field would represent one of the largest, if not the largest field that he farms. The farmer who presently farms her land is in support of this proposal as he stated at the last meeting. She stated that Shawn VanDoren, Chair of the agricultural advisory committee in Tewksbury Township submitted a letter to Ms. Payne asking that the Committee act favorably on the request as it supports Tewksbury Township's goals. In his letter he mentions that the two farms created after this proposed subdivision would be large for Tewksbury Township, as the average farm size for the area is in the ten to twenty acre range. Ms. Heydenrich stated that she realizes that allowing a preserved farm to be made small could appear to be a negative according to the existing guidelines; however she asks the Committee to be open to consider the fact that in this particular case the end result could be better from a preserved land perspective than from what presently exists. She stated that she was asked if she would donate or preserve the rest of her property and her answer was, as Mr. Roohr related, only the eight acres and the reason was that the rest of her property is not farmland but the eight acres is and is presently being farmed. She felt that to simplify the issue, as a donation to the State it would be much easier. She stated that because of the local zoning and the Highlands zoning, her property cannot be developed so she didn't see the need to talk about the rest of the property.

Mr. Simpson addressed the Committee in support of the division of the premises. He stated that regarding viability, the deed of easement clearly states that the farm can be severed, subject only to being part of a viable farming operation, which shocked him somewhat when he read it because he had no intention of subdividing the farm at that time. However, a financial situation changed that unfortunately. The first proposal made to the SADC was that we were selling the house and keeping the 28 acres. We were going to buy a house nearby or rent and build an equine facility on the 28 acres. To speak specifically to the viability of a 44 acre track and a fifty plus acre track, he has been in the horse business for over 40 years and he had a 2,000 acre track of land and he ran a horse operation on essentially ten acres of that land so he knows how many acres are needed for a viable horse operation. He stated that he is not trying to subdivide because of the money issues; however it is because of money issues that he is trying to subdivide. He would not want to be subdividing this land except for the financial circumstances of his manufacturing business, which was building materials, and we don't need to speak on what is happening with that market. He stated that he feels the 44 acres is a viable horse operation and it fits the wording of the deed of easement.

Acting Chair Purcell stated there is a draft resolution before the Committee. She asked if there was a motion to move the resolution.

It was moved by Mr. Danser to approve Resolution FY2011R2/24(1) to support the staff recommendation and deny the request for a division of the premises, as presented and discussed. Ms. Reade seconded the motion.

Mr. Siegel suggested that the Committee table this again to see if the applicants would consider the voluntary preservation of the entire resulting parcel. Ms. Reade stated that why doesn't the Committee act on this resolution and then if Mr. Simpson and Ms. Heydenrich can devise an application that more likely may meet the SADC's standards, depending on the outcome of this one. He stated that he was uncomfortable that the landowner came away from the last meeting feeling that there was nothing she could do to improve the application, where his recollection was the door was left open for some improvement. Mr. Danser stated that he feels that the Committee has done that. He stated that Mr. Siegel's thoughts were almost identical to his at the last meeting and it is reflected in the minutes. Mr. Danser stated that the Committee can still act on what is before it and then the landowners can come back with whatever they choose to come back with.

Mr. Schilling stated that when he looked at this situation, essentially we are going

from 8 tillable acres that is not in the program and 41 tillable acres in the program to a scenario where we have 29 tillable acres through the addition of the 8 acres being proposed tillable in the program and 20 acres tillable in the program for the current farm. He stated that the test for the Committee is to look at the viability for a variety of agricultural purposes as we go beyond equine so effectively what he is seeing is one 41 tillable acre parcel be split into a 20 acre parcel and then a 29 acre would be the addition of the other 8 acres. That is the challenge he was struggling with and when he went back through a lot of his notes since he has been on the Committee where there were subdivision requests to see what type of parallels there were and typically this is starting to get to a threshold of somewhat small.

Mr. Waltman suggested that the Committee vote on the draft resolution before it and if the Committee needs a conversation in closed session to reach some consensus on the next steps then we can communicate that clearly to the applicant. Deputy Attorney General Stypinski stated that the Committee could not have that discussion in closed session because he doesn't believe that it meets the standards of the Open Public Meetings Act to go into closed session. Mr. Waltman withdrew his suggestion.

Mr. Germano stated that on the theory, which may be incorrect, that on hearing the Committee's reasons for how they vote he has concerns with being very strict about the agricultural viability test because an agricultural purpose can be put forth when the subdivision occurs and a day and a half later that person, after the subdivision is approved, can sell the parcel so he is going to come down against this request for the same reasons as Mr. Schilling. He stated that he feels it also has problems meeting the agricultural purpose test. The fact that there may be problems with the SADC's tests doesn't change the fact that they do not meet it. They are not even espousing an agricultural purpose for this. It does not meet the test, whether he likes the tests or not, it doesn't come close. He stated that this may be a terrific horse farm but that is all it is good for and that is not the viability test so he feels it fails on both counts. Mr. Danser stated that he agrees with Mr. Sigel's comments regarding not losing sight of the fact that as a 72 acre application it may have beaten out another farm application initially. There may be someone that didn't get funded because of this application and it sets the bar much higher for a division of the premises.

Mr. Simpson thanked the Committee for its time on this issue. Ms. Heydenrich stated that if there was a way to tie the acreage to her property to make it one entity and she agrees not to subdivide without going the preserved land route she is open to that. She just doesn't know the legal terms to describe it that way.

A roll call vote was taken as follows:

Monique Purcell	Yes
Richard Boornazian	Oppose
Ralph Siegel	Yes
Brian Schilling	Yes
James Requa	Oppose
Alan Danser	Yes
Denis C. Germano, Esq.	Yes
Torrey Reade	Yes
James Waltman	Yes
Jane Brodhecker	Yes
Stephen Dey	Absent

8 – Yes Votes 2 – Oppose Votes

The motion was approved 8-2. (A copy of Resolution FY2011R2/24(1) is attached to and is a part of these minutes.)

NEW BUSINESS

A. Request for Final Approval – New Rule Municipal Planning Incentive Grant Program

Ms. Winzinger referred the Committee to a request for final approval under the new rule Municipal Planning Incentive Grant Program for the Sigismondi farm, located in Manalapan Township, Monmouth County. She reviewed the specifics with the Committee and stated that staff recommendation is to grant final approval as presented and discussed.

It was moved by Mr. Siegel and seconded by Ms. Brodhecker to approve Resolution FY2011R2/24(2), granting final approval to the following landowner as presented and discussed and subject to any conditions of said resolution:

1. Sigismondi Millhurst Road Farm (Resolution FY2011R2/24(2))
Block 64, Lot 11
Manalapan Township, Monmouth County, 30 Acres
State cost share of \$6,600.00 per acre for an estimated total of \$198,000.00 (60% of the certified market value and 50.77% of the purchase price).

Note: There is an approximate one acre area where the landowner screens, stores and sells soil from offsite sources, which is considered a preexisting nonagricultural use and is to be restricted by the terms of the deed of easement. Also there is a 1.25 acre nonseverable exception area for flexibility in nonagricultural uses, such as the sale of mulch, stone and other landscaping products, which will be restricted from any residential opportunity.

Mr. Danser stated that regarding the nonseverable exception for nonagricultural uses, typically the resolution says that it cannot be expanded and if it is abandoned for a specific period of time it would be lost as a nonagricultural exception. He stated that he did not see that wording in the resolution. Ms. Winzinger stated that staff normally does not go into that detail in the resolution for final approval but it is standard language in the deed of easement. The Schedule "B" states what the nonagricultural use is and it is identified on the survey.

The motion was unanimously approved. (A copy of Resolution FY2011R2/24(2) is attached to and is a part of these minutes.)

PUBLIC COMMENT

Daniel Pace, Mercer County Agriculture Development Board requested clarification on the process and timeline for the Hopewell Valley Vineyards discussion. The Committee will take some sort of action to either accept or not accept the report and those recommendations will be sent to the CADB. He inquired as to when that would occur, with the timing of the minutes and the Governor's action on the minutes. He stated that the CADB has sixty days to act on the recommendation so he is looking for clarification. Ms. Payne stated that if the Committee takes final action today and approves the report or amends it, staff will send it to the County immediately but officially the SADC's approval of that is not effective until such time as the veto period expires on the minutes, which will be fifteen business days from the next meeting of the Committee at which time the minutes are approved and sent to the Governor's Office for review. She stated that the county's clock does not begin until the SADC's action is formal.

Francis Gavigan from Harvest Hill Farm, Hunterdon County addressed the Committee. She asked if there would be an opportunity for the public to speak on agenda items as they come up to provide input. Ms. Purcell stated that time would be during the public comment period which is now. The SADC typically does not entertain public comment prior to a vote on an agenda item so now would be the time for any comments you may have.

Ms. Gavigan stated the issue pertains to the house replacement request in East Amwell

Township. She is a resident of East Amwell Township and she is a small horse farmer and she also has had interactions with other farmers who gave her some of the history of how that farm, the Dippolito farm, came to be preserved and what the goals, according to John Perens of East Amwell when Sal Cavalier preserved the property. Mr. Cavalier had two goals 1) to preserve the land and 2) preserve the Prawl homestead. Her concern is that the house that has survived since 1780 will not survive a year under preservation and the concerns of that. She is hoping there is a mechanism found to either subdivide or come up with some option of a win-win other than to destroy something that is 250 years old and then put a new house on one acre in the middle of a field in an area that has 10-acre zoning. In 2007 there was a presentation that was put together by this Committee about the program and one of the poster properties for this 2007 presentation was the Cavalier farm. This is a highly developed area and East Amwell Township is an island in that regard. I understand that there is concern that the property owner who bought it after it was preserved knowing the restrictions might have concerns about litigation. The locals oppose the demolition of the house. She stated that her hope is that the guidance for the path to get a win-win on the Dippolito farm would be to subdivide the 105 acres into 20-25 acre equine properties to where there may then be some mechanism for saving this house. She indicated that she had a PowerPoint presentation that she would leave with SADC staff for its review and consideration.

Sergio Neri from Hopewell Valley Vineyards addressed the Committee regarding the timing of his farm issue which is on the agenda. He stated that a hearing was held last September regarding his farm and the farm has suffered a lot this year because of the right to farm issue. He was also looking for clarification regarding the timing of the Committee's action and the county's action. Ms. Payne stated that the Committee will take action today and under the Right to Farm Act (Act) the SADC will give the county a decision about what it determines is and is not protectable under the Act, and then the county will conduct a hearing and issue a decision.

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: Thursday, March 24, 2011, beginning at 9:00 a.m. Location: **Health/Agriculture Building, First Floor Auditorium.**

CLOSED SESSION

At 10:30 a.m. Mr. Requa moved the following resolution to go into Closed Session. The motion was seconded by Ms. Reade and unanimously approved.

“Be it resolved, in order to protect the public interest in matters involving minutes, real estate, attorney-client matters, pursuant to N.J.S.A. 10:4-12, the NJ State Agriculture Development Committee declares the next one

half hour to be private to discuss these matters. The minutes will be available one year from the date of this meeting.”

Action as a Result of Closed Session

A. Certification of Values

Municipal Planning Incentive Grant Program

It was moved by Mr. Siegel and seconded by Mr. Danser to certify the development easement values for the following landowners as presented and discussed in closed session:

1. Joseph and Elizabeth Kneser **(Amended Certification)**
Block 43, Lot 3.02, Tewksbury Township, Hunterdon County, 16 Acres

The motion was approved. (Mr. Boornazian and Mr. Requa were absent for the vote. (A copy of the Certification of Value Report is attached to and is a part of the closed session minutes.)

County Planning Incentive Grant Program

It was moved by Mr. Germano and seconded by Ms. Reade to certify the development easement values for the following landowners as presented and discussed in closed session:

1. Burlington County/Brian Krause
Block 402, Lot 1, Chesterfield Township, Burlington County
Block 101, Lot 2, N. Hanover Township, Burlington Co., 97 Total Acres
2. Alfred VanMeter # 1
Block 8, Lot 11.01, Hopewell Township, Cumberland County, 40 Acres
3. Keung Lam Realty, Inc. (Shun Lam)
Block 249, Lot 2, Lawrence Township, Cumberland County, 69 Acres
4. Jhon and Caroline Olbis
Block 89, Lot 8 and 8.02, Freehold Township, Monmouth County, 16 Acres

The motion was approved. (Mr. Boornazian and Mr. Requa were absent for the vote.) (Copies of the Certification of Value Reports are attached to and are a part of the closed

session minutes.)

Nonprofit Grant Program

It was moved by Mr. Siegel and seconded by Mr. Waltman to certify the development easement values for the following landowner as presented and discussed in closed session:

1. Morris Land Conservancy/Robert Santini **(Amended Certification)**
Block 34, Lot 10, Franklin Township, Warren County, 69 Acres

The motion was approved. (Mr. Boornazian and Mr. Requa were absent for the vote.) (A copy of the Certification of Value Report is attached to and is a part of the closed session minutes.)

B. Attorney/Client Matters

1. **Right to Farm – Adoption of Hearing Report**
 - a. Hopewell Valley Vineyards, Hopewell Township, Mercer County

Note: Mr. Waltman and Ms. Brodhecker recused themselves from any action/discussion pertaining to this agenda item to avoid the appearance of a conflict of interest.

Ms. Payne stated that complaints were made by Hopewell Township and certain residence against Hopewell Valley Vineyards and were properly filed with the Mercer CADB in 2010. Since the complaints involved activities that are not reflected in an adopted AMP by the SADC the Mercer CADB forwarded the matter to the SADC for a public hearing and the issuance of a decision as to whether the activities and practices do represent a generally accepted AMP. The findings today will be sent to the Mercer CADB who will then conduct its own hearings and come to a finding. If that finding is appealed it will come back to the SADC and if it is not appealed that is where the matter will end, at the Mercer County level. There were many legal issues for the Committee to explore, which is why there was such a long discussion in closed session.

Ms. Payne summarized the Committee's findings as follows: There is a list of activities that were subject to those right to farm complaints. They include grape production and wine making, retail wine sales, a wine shop, wine tastings and accessories (cork screws, coasters, etc.), winery and vineyard tours, weekly and monthly wine and music night events, posting of a Garden State Wine Growers Association wine trail events, winery run education courses on different wine topics, vintner's dinners, large festivals, but the records reflects that those were only conducted after attaining municipal permits, fund raisers and charity events, weddings and wedding receptions and private group events

such as reunions, corporate meetings, bridal showers and other significant life celebrations, and finally other entertainment based events, including “comedy night, happy hour”, which include the making of pizza for on-site consumption and the making or selling of other food products, either prepared on-site or catered by a third party in conjunction with those music nights, comedy nights, and happy hours.

Ms. Payne stated that the job of the SADC was to determine which of these activities can enjoy the protection of the Right to Farm Act (Act) based on what the Act says today and the regulations that exist today. The Committee wants to be very clear in stating that when it comes to a decision about which of those activities are protected and which are not it is just that – which of these activities enjoy right to farm protection and therefore can supersede municipal zoning. It does not mean that wineries cannot conduct certain activities it simply means those activities may not be eligible for right to farm protections. She stated that the activities that the SADC does find as generally accepted agricultural management practices for a winery are as follows: producing, processing and packaging of the winery’s grapes and wine, wine drinking, samplings and tastings, winery tours and wine education classes, hosting the Garden State Wine Growers Association wine trail days, and the operation of a farm market, provided the buildings and parking areas are constructed in conformance with municipal standards. The basis for how the draft opinion considers the winery is as a farm market and that is the section of the Act that is most applicable to what happens at the winery. Other generally accepted agricultural management practices include the sale of the vineyard’s wine and wine related products, the sale of or gratis cheese, crackers, olives, cold cuts and personal pizzas as a supplement to on-site consumption of wine and finally music, provided it is accessory to the on-site consumption of the wine.

Ms. Payne stated that based on the evidence submitted in testimony and our review of the statute and regulations this decision proposes that the following activities do not enjoy the protection of the Act: the hosting of weddings and other celebratory life events, such as but not limited to birthday parties, bridal and baby showers, class reunions and alumni group meetings, the hosting of corporate retreats, business luncheons, community organization meetings and the like, vintner’s dinners, fund raisers and charity events, catering and catered events and other activities or events involving entertainment that is not subordinate to the sale or consumption of Hopewell Valley Vineyard’s wine. That essentially encapsulates the draft decision before the Committee and staff offers that for approval.

Ms. Payne stated that on page 15 of the draft decision the originally drafted text has been amended and reads as follows: “Rather the Committee interprets the Right to Farm Act in its entirety to mean that educational and recreational activities must be connected to agricultural production. She noted that she read that section as amended. The remainder of that paragraph starting with the word “Obviously” remains unchanged.

It was moved by Mr. Germano and seconded by Mr. Danser to accept the draft Hearing Officer's Findings and Recommendations of the State Agriculture Development Committee with the above noted amendment, as presented and discussed. A roll call vote was taken as follows:

Douglas H. Fisher,	Yes
Richard Boornazian	Absent for this vote
James Requa	Absent for this vote
Ralph Siegel	Yes
Brian Schilling	Yes
Jane R. Brodhecker	Recuse
Alan A. Danser	Yes
James Waltman	Recuse
Denis C. Germano	Yes
Torrey Reade	Yes
Stephen P. Dey	Absent

Six (6) yes votes Two (2) recusals – The motion passes

The motion was approved. (A copy of the Draft hearing Officer's Findings and Recommendations of the State Agriculture Development Committee is attached to and is a part of these minutes.)

Ms. Payne stated that this report will be forward to the Mercer CADB as discussed earlier. Once the SADC approves the minutes of this meeting and the Governor's veto period expires, which is fifteen business days, that action will become final and then the Mercer CADB has sixty (60) days from that date to conduct its own hearing and issue a decision. This concludes the SADC's consideration of that matter.

2. Appeal of Development Easement Value

- a. Deborah Post (Riamede Farm), Chester Township, Morris County

Note: Court Reporting Services were conducted on this agenda item.

Ms. Payne stated that the SADC, at its December meeting received a presentation by the property owner, Deborah Post, of Riamede Farm, located in Chester Township, Morris County, seeking to appeal the certification of values set forth by the SADC on March 25, 2010. The SADC, based on its conversation in closed session, finds no basis for amending that certification of value or recertification of value from its original value. Therefore staff is seeking a motion to take that action so that the SADC's action can be considered final agency action.

It was moved by Mr. Siegel and seconded by Mr. Germano to find no basis for amending the certification of value or recertification of value from its original value dated march 25, 2010, on the Deborah Post, Riamede Farm, known as Block 33, Lot 4 and Block 34, Lot 4, located in Chester Township, Morris County, as presented and discussed in closed session. A roll call vote was taken as follows:

Douglas H. Fisher,	Yes
Richard Boornazian	Absent for this vote
James Requa	Absent for this vote
Ralph Siegel	Yes
Brian Schilling	Yes
Jane R. Brodhecker	Yes
Alan A. Danser	Yes
James Waltman	Yes
Denis C. Germano	Yes
Torrey Reade	Yes
Stephen P. Dey	Absent

The motion was approved.

B. Farmland Stewardship

1. House Replacement Requests
 - a. Dippolito Farm, East Amwell Township, Hunterdon County

Ms. Payne stated that with respect to the Dippolito farm, this was a house replacement request that has been on the SADC's agenda for some time and is the second time it has been placed for action within the last two years. The issue at hand is that the existing house on the farm is of historic interest and value to the municipality and county. We have received repeated and consistent communication from both the township historic commission and Hunterdon County acknowledging their interest and appreciation for the structure and their desire to see it retained on the farm. The property was purchased by the SADC in fee simple in 2002. Under the statute at that time the SADC is only required to give special consideration so to speak, to structures that are on the National Historic Register. At the time this property was acquired it did substantial due diligence with the State Historic Preservation Office to confirm whether or not it was on that list. It was confirmed on more than one occasion that this house is not on the NJ Historic Register. Relying on that advice from the State Historic Preservation Office the SADC acquired the property, placed a deed restriction on it that did not contain any obligation on the part of the landowner to maintain this structure for historic purposes and resold it at auction. The SADC is not able to apply any historic preservation restriction at this time. The property owner is interested in replacing the house and the SADC has

previously approved that request, which has since expired and the resolution before it again recommends the landowner being able to replace the house. The SADC also does not have the authority to allow another single family residential unit to be constructed on this farm. The deed of easement sets forth the housing opportunities.

Ms. Payne stated that the SADC also hears and understands the sentiment of the public in wanting to preserve this structure. Therefore what the draft resolution before the Committee suggests is to provide some period of time during which the county and/or the municipality could find a way to either relocate the house off the property, to dismantle it and reassemble it or to explore all the options it may have to preserve this structure off the property, if that is their desire. For that reason staff is recommending a rather long period of time to give the community the opportunity to do that. As originally drafted the resolution was going to suggest that the main house be permitted to remain on-site for sixty (60) days after the certificate of occupancy is issued or up to one year from the date of the resolution, whichever was longer. We are now recommending the time frames be changed to allow the house to remain on-site for one year after the certificate of occupancy is issued or up to two years from the date of the resolution, to again provide the community an opportunity to explore its options to save the structure. We are making one recommendation to add to this resolution on page five as follows: "Be It Further Resolved that upon the issuance of the certificate of occupancy for the replacement house there shall be no residential use of any kind of the existing structure without the approval of the SADC". Staff recommendation is to approve the draft resolution as discussed and amended.

Mr. Roohr added for the record that the SADC has received a letter from the Hunterdon County Freeholder Board and the East Amwell Township Committee, which includes a resolution. Those were included in the meeting packets and earlier today he provided the Committee correspondence from Senator Schluter dated February 23rd in support of the preservation of the existing house, which the Committee had an opportunity to read and consider.

Mr. Danser wanted to clarify that the Committee is not authorizing demolition nor is it permitted to do so. We are authorizing the construction of a replacement house as the deed restriction and the SADC's obligation requires it to do. If the landowner does that then after the time periods described passes, the main house must be demolished. Mr. Siegel also wanted to clarify that the landowner has the discretion to demolish it tomorrow if he chooses to. This resolution does not affect that. It affects the requirement to remove the house. The landowner has absolute discretion on what to do with this property. Mr. Waltman stated for the record that personally he has a strong hope and would strongly encourage that the owners and interested parties continue to communicate, which he understands they have, and he would hope there would be a way to save this structure that is in compliance with the deed.

Kat Cammelongo from the East Amwell Historic Preservation Committee in Hunterdon County addressed the Committee. She stated that they have been speaking with Mr. Dippolito and he is in concurrence that they would like to change the use of the house to make it an agricultural building, not a residence so that it can be used as a farm office and he can use it for the purpose of perhaps an equine facility to house people's equipment and the like, not to be used as a residence. She felt that was a good compromise. She wanted to call the Committee's attention to something the Committee handed out years ago which was a partnership encouraging the preservation not only the farmland but the buildings on them. They are important and farmland preservation should be working in conjunction with historic preservation and she would ask the Committee to do that now.

Chairman Fisher stated that he didn't think you would find anyone on the Committee that doesn't agree or concur that they are trying to save historic structures. This has to do with the deed requirement that when someone wants to build a new house the existing one has to be removed. Ms. Cammelongo stated that is why they are asking for a change in use of the existing structure. Ms. Payne stated that for the Committee to consider anything like that...there is a period of time that has been given and if the landowner has a concrete proposal, whatever it may be, he should give it to the SADC and staff would then review it with the Attorney General's Office.

Francis Gavigan addressed the Committee again. She asked what options for creative out of the box thinking would be possible given the deed restrictions. Is something like a division of the property or changing its use to a farm related building an option, or even a mechanism for amending the deed restrictions? Chairman Fisher stated that SADC staff would need to be contacted and they can discuss what options may be available.

It was moved by Mr. Germano and seconded by Mr. Waltman to approve Resolution FY2011R2/24(3) granting approval of the replacement of the Main House with the conditions as outlined in said resolution and as discussed and amended by the Committee above, subject to any other conditions of said resolution. The motion was approved. (Mr. Boornazian and Mr. Requa were absent for this vote.)

2. Eisner Farm, Manalapan Township, Monmouth County

Mr. Roohr stated that this is a preserved farm with an older house that the owner is looking to replace. This is a 58 acre farm in Manalapan Township, Monmouth County and the owners have purchased an additional 20 acres adjacent to this farm. The existing house can be dated to approximately 1880. Mr. Eisner is a member of his township's historical commission and is quite fond of the existing house and was going to add an addition to the house. However, when the plans were drawn up and the engineers came in they said that he couldn't add anything to the existing house because of sever structural

issues. He confirmed that there was severe termite damage and water damage, ruined support beams, etc. Mr. Roohr stated that the owner has offered to donate the existing residence or its pieces to the township or county historical commissions and to contribute to the expense of moving the structure and the township and county declined. Mr. Roohr stated that staff recommendation is to approve the request to construct a new single family residence, subject to any conditions of the resolution that was presented to the Committee.

It was moved by Mr. Siegel and seconded by Ms. Brodhecker to approve Resolution FY2011R2/24(4) granting approval to a request by Jack Eisner, owner of preserved property in Manalapan Township, Monmouth County, to construct a new single family residence, as presented in said resolution and discussed, subject to any conditions of said resolution. The motion was approved. (Mr. Boornazian and Mr. Requa were absent for this vote.) (A copy of Resolution FY2011R2/24(4) is attached to and is a part of these minutes.)

C. State Acquisition

1. Princeton Nurseries: Trails MOU

Note: Mr. Waltman recused from any discussion/action pertaining to this agenda item to avoid the appearance of a conflict of interest.

Ms. Payne stated that staff provided the Committee with the most recent version of the recommended document, memorializing an understanding between the county, the SADC and the Green Acres Program with respect to how the trails and open space will be managed on the Princeton Nurseries acquisitions in an effort to minimize farm and nonfarm conflicts going forward. Staff recommendation is to accept this draft MOU for purposes of the Princeton Nurseries transaction.

It was moved by Mr. Germano and seconded by Ms. Reade to authorize the appropriate officials to sign the Cooperative Memorandum of Understanding on behalf of this Committee, as presented and discussed in closed session. A roll call vote was taken as follows:

Douglas H. Fisher,	Yes
Richard Boornazian	Absent for this vote
James Requa	Absent for this vote
Ralph Siegel	Yes
Brian Schilling	Yes
Jane R. Brodhecker	Yes
Alan A. Danser	Yes
James Waltman	Recuse

Denis C. Germano	Yes
Torrey Reade	Yes
Stephen P. Dey	Absent

Seven (7) yes votes – one (1) recusal – the motion passes.

The motion was approved. (A copy of the Cooperative Memorandum of Understanding is attached to and is a part of these minutes.)

2. Request for Final Approval - Municipal Planning Incentive Grant Program
 - a. Perlman Farm, Millstone Township, Monmouth County

Ms. Winzinger referred the Committee to Resolution FY2011R2/24(5) for a request for final approval on the Perl Acres-David Perlman farm in Millstone Township, Monmouth County. She stated that this farm comprises 25 acres and it has a one acre nonseverable exception area for a house and then it has a fifteen acre severable exception area for the open space area that is going to be owned in fee by the Township. As previously discussed they plan to have a trail. The draft resolution also has a cooperative memorandum of understanding (MOU), which is to be signed, in an effort to solidify everyone's intent regarding the trails. Ms. Winzinger reviewed the specifics of the request for final approval with the Committee and stated that staff recommendation is to grant final approval as presented and discussed.

It was moved by Mr. Germano and seconded by Ms. Reade to approve Resolution FY2011R2/24(5) granting final approval to the Perl Acres, David Perlman farm in Millstone Township, Monmouth County as presented, discussed and amended.

Ms. Honigfeld stated that Ms. Butch, who had to leave the meeting earlier, had some minor edits to the draft resolution. She noted that there is a typographical error on page one of the resolution, reflecting Monmouth County Park System in the fifth "whereas", which should read Millstone Township. She stated that it was unclear to Ms. Butch if the attachment Schedule "B" was her most current version. Ms. Payne responded it was. Ms. Honigfeld stated that Ms. Butch was hoping that perhaps the word on the first "Be It Further Resolved" could read that the SADC's approval is conditioned upon the "signing" of the attached MOU Schedule B, rather than "finalizing" as it currently reads. Ms. Payne stated that was not an issue. Chairman Fisher stated that the typographical error would be amended but the other request will not be changed.

The motion was approved. (Mr. Boornazian and Mr. Requa were absent for this vote.)
(A copy of Resolution FY2011R2/24(5) is attached to and is a part of these minutes.)

ADJOURNMENT

There being no further business, it was moved by Mr. Siegel and seconded by Mr. Danser and unanimously approved to adjourn the meeting at 3:20 p.m.

Respectfully Submitted,

Susan E. Payne, Executive Director
State Agriculture Development Committee

Attachments

S:\MINUTES\2011\Reg Feb 24 2011.doc