

STATE AGRICULTURE DEVELOPMENT COMMITTEE

**Department of Agriculture
Market and Warren Streets
1st Floor Auditorium
Trenton, NJ 08625**

REGULAR MEETING

June 25, 2009

Chairman Fisher called the meeting to order at 9:08 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

Douglas H. Fisher, Chairperson
Cecile Murphy (rep. DEP Acting Commissioner. Mauriello)
Ralph Siegel (rep. State Treasurer. Rousseau) (Left at 11:36 a.m.)
Brian Schilling (rep. Executive. Dean Goodman)
Jane R. Brodhecker (Arrived at 9:32 a.m.)
Denis C. Germano, Esquire (Arrived at 9:39 a.m.)
Alan A. Danser
James Waltman
Torrey Reade
Stephen P. Dey

Members Absent

Joy Farber, Esquire (rep. DCA Commissioner Doria)

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

Others present as recorded on the attendance sheet: Robert J. Baumley, Heidi Winzinger, Brian D. Smith, Charles Roohr, Paul Burns, Edgar Madsen, Edward Ireland, Timothy Brill, Steve Bruder, David Kimmel, Cassandra McCloud, Patricia Riccitello and Sandy Giambrone, SADC staff, Daniel Pace, Mercer County Agriculture Development Board, Amanda Brockwell, Monmouth County Agriculture Development Board, William Millette, Hunterdon County Agriculture Development Board, Barbara Ernst, Cape May County Agriculture Development Board, Ryan Rapp, Middlesex County Agriculture Development Board, Ryan Allen, Ocean County Agriculture Development Board, Nicole Goger, New Jersey Farm Bureau, Robert Resker, Warren County Agriculture Development Board.

Minutes

- A. SADC Regular Meeting of May 28, 2009 (Open Session)
- B. SADC Regular Meeting of May 28, 2009 (Closed Session)

There were two minor typographical errors in the open session minutes that needed corrections (change the word from “tying to “trying on page 12 and change the word “deed” to “need” on page 27).

It was moved by Dr. Dey and seconded by Mr. Danser to approve the open session and closed session minutes of the SADC regular meeting of May 28, 2009 with the above noted corrections. The motion was unanimously approved.

REPORT OF THE CHAIRPERSON

Chairman Fisher stated that he has been touring the various counties throughout the state and sometimes the meetings consist of both the county boards of agriculture and the county agriculture development boards. He stated that farmers are facing many problems such as weather, and world-wide conditions that dairy farmers are facing right now. The dairy farmers are experiencing very severe difficulties right now when a couple of years ago they were doing very well. He stated that what he is seeing is two facets of agriculture, one side being production agriculture and the other side is what the SADC wrestles with all the time, which is other activities that are taking place on a farm to allow the farmers to get additional revenue, agri-tainment, agri-tourism, etc. He stated that some operators are doing well and are able to marry both sides together that will produce income that they know will help keep them going.

Chairman Fisher stated that he knows that a lot of focus for the SADC is on the land, making sure that it is “forever” for production and that the SADC wants to make sure that there is agriculture in the state. He stated that it is also important to know that there have to be farmers that are farming that land so that we have agricultural production. He asked if the Committee ever goes out to the farms to tour and understand what the farmers are up against and what they are thinking for the future. Ms. Craft responded that there have not been any tours since she has come on board with the SADC and that has been since 2005. Mr. Siegel stated that when he first became a member of the Committee it was customary for

SADC members to be invited to the annual Legislative Tour and that has stopped. Mr. Schilling indicated that he is involved with the New Jersey Agricultural Society and he would make sure that the Committee gets an invitation to the Legislative Tour. He stated that he was not aware that the SADC did not receive annual invitations.

Chairman Fisher stated that what he got out of these tours is that farmers are not sure of what they can and cannot do on preserved farms and that on some farms in some counties certain things can be done while in other counties those certain things cannot be done. One county considers one thing to be production and in another county it is not considered production. He stated that the Committee is the final arbitrator for these issues so he asked that the Committee get more involved as a Committee to get a better understanding of these operations. The SADC is not just protecting the land but is also protecting the farmer who is farming the land.

Chairman Fisher stated that moving forward, because of the variety of opinions on what is considered farming activity or what is production that when land is put into preservation, that the farmer or farm family needs to make sure that they have their own plan for future non-production activities. For example, one farm he toured took ten acres out of the farmland preservation program application for a future nonagricultural related business but is surrounded by farming but it works. The ten acres that the owner envisioned to carve out allowed them to do everything they needed to do.

REPORT OF THE EXECUTIVE DIRECTOR

Ms. Craft discussed the following with the Committee:

- Appropriation Bills – Should be completely through the Legislature today. Staff will keep the Committee posted as they get more information relative to the timing of the Governor signing it the Bills.
- Communications – Staff have spent a tremendous amount of time monitoring and communicating efforts to secure future funding. She stated that there are many editorials in the member's binders relating to this issue, including an article written by Mr. Waltman. She stated that the \$600 million bond question has been reduced to \$400 million but it looks as though that will also be voted on today and that indications are that the Administration is supportive of that. The SADC's portion of that funding would still be at forty percent (40%).
- Deed of Easement (DOE) Subcommittee – The discussion by the Committee was to get clarity on the SADC's interpretation of certain provisions of the deed of easement. She stated that the DOE subcommittee met this month and the agenda for that meeting was dedicated to the Rutgers contract, moving that project forward. She stated

that staff will be reaching out to the subcommittee in July to meet and discuss the deed of easement issues.

COMMUNICATIONS

Ms. Craft encouraged the Committee to take home the various articles provided in the meeting binders. She stated that there is an article in the packet relating to the Brodhecker farm in Sussex County and their use of alternative energy methods to meet their needs on the farm.

PUBLIC COMMENT

Amanda Brockwell from the Monmouth County Agriculture Development Committee stated that she was reviewing the resolution for the final approval on the Klein farm. She stated that she noticed a clause in the resolution that she hopes in the Committee's discussion that it could provide some clarification to that clause that reads "Be It Further Resolved, SADC's approval is conditioned on determination of what provisions may be needed in association with the design, maintenance and management of the adjacent open space area". She stated that she does not recall this clause ever being included in any of these types of resolutions with open space components and wanted a better idea of the timing of when a decision would be made as far as how this would affect this approval. She also wanted to remind the Committee that these farms are consistent with the Monmouth County Park System's open space acquisition plan. She stated that in the back of the Klein farm it is really for stream protection and it is not necessarily for trails for recreation purposes. She asked that the Committee keeps that in mind. The landowners are not willing to accept public access on the property, only a conservation easement at the present time. It is not an activity type of trail as it has no plans for that at this time.

Daniel Pace from the Mercer County Agriculture Development Board stated that following up on Ms. Craft's discussion regarding the Legislature. He asked where the wind, solar and biomass bill it stood with the Assembly. Ms. Craft stated that she thought it would be on the Assembly docket for today.

Dr. Dey asked if the Committee could have a discussion on the wind, solar and biomass bill in closed session today. Ms. Craft stated that the Committee could have a discussion on the issue in open session since it does not warrant a closed session discussion. Dr. Dey stated that he was told that wind, solar or biomass facilities could be constructed on any farm and they could make an agreement with the farm owner and cover that farm with solar panels, not a preserved farm but a nonpreserved farm. Ms. Craft stated that this bill addresses several areas of interest. The first issue amends farmland assessment to allow landowners to continue to qualify for farmland assessment for the land that is dedicated to solar, wind or biomass facilities with very certain conditions. The first condition is that you couldn't have more than ten acres occupied by these facilities. Second is there has to be a ratio of land in agricultural production to the land in energy generation and that ratio is 1 to 5. The total power generation is capped at 2

megawatts. Those are the limits under farmland assessment. The second issue the bill addresses is what can happen on a preserved farm. The Bill allows a landowner to construct these energy generation facilities on a preserved farm, with the approval of the Committee, but you can build the facility to equal the previous calendar year's energy demand plus ten percent (10%) or, alternatively, you can use up to one percent (1%) of the farm area for these facilities. A caveat on the agricultural need plus ten percent is that they have excluded from that calculation what you could put on any buildings that exist today. The third issue is the bill affords commercial farm owners the right to farm protection to these uses. She stated that the CADB's need to be aware of the fact that right to farm requests or construction of these kinds of facilities will be coming to the CADBs. With respect to biomass facilities, biomass was defined in the bill along with its agricultural product residue, like cornstalks in a field, or a byproduct like manure, which is considered an agricultural byproduct. However, it does not include waste from grocery stores or solid waste from sewage treatment plants. The material can only be farm-based biomass that is generated on a farm. Ms. Craft stated that staff will assist counties to guide everyone through the various provisions of the Bill.

Ms. Craft stated that the Department of Agriculture is charged with developing regulations regarding the construction of biomass facilities. SADC staff will be working with the Department to develop those regulations because in conjunction with that the SADC will be obligated to adopt an agricultural management practice regarding energy generation from biomass facilities. The SADC will also have to adopt regulations to evaluate applications to place these facilities on preserved farms within the context of the statute.

Former SADC Member Bill Fox addressed the Committee regarding agri-tourism. He stated that he has been involved with the state agricultural conventions for many years representing Ocean County. For the past five years the convention has passed a resolution urging that agri-tourism be allowed on preserved farms in a similar manner as to what is permitted on nonpreserved farms. He stated that no action has been taken by the Committee to accomplish that request. He stated that he was at the State Board of Agriculture yesterday and asked the question regarding agri-tourism on preserved farms and he felt that the State Board of Agriculture supports agri-tourism on preserved farms but directed him to the Committee for its thoughts. He stated that he reviewed the Department's website and looked up agri-tourism and it states agricultural tourism in New Jersey is affordable, family-orientated recreational and educational activities and opportunities to learn about production of food and agricultural products and the State's rich farming heritage, while helping to encourage the preservation of agricultural lands. Activities include hay rides, corn mazes, pick-your-own operations, farm stands, school tours, agricultural fairs, farm festivals, winery tours and horse back riding. There are also several historical attractions where visitors can learn about New Jersey agriculture. He stated that what this information doesn't say is that you cannot do this on preserved farms. Mr. Fox listed other activities that were listed on the website and stated that these are all on nonpreserved farms. He stated that there is a great disparity between preserved

and nonpreserved farms and it gets down to economic viability. If you have two farms side by side and they are both growing corn, one is preserved and the other isn't, the person on the nonpreserved farm has a distinct economic advantage to be able to use his open space, vista's etc. to attract people to his farm. He stated that many of these farms are trying to create an atmosphere so that families will come to the farms and enjoy the various activities. However, if you are a preserved farm you do not have that opportunity. He stated that this needs to be corrected and he would ask Secretary Fisher and the Committee to direct staff to aggressively get into agri-tourism and resolve how to make it happen on preserved farms. If it is an interpretation of the rules, then interpret them such that it can happen. If something is wrong and it's a problem with the law, then seek legislation to change the law. He stated that owners of preserved farms are at a real disadvantage when it comes to agri-tourism.

Mr. Danser and Mr. Germano stated that they thought agri-tourism was allowed on preserved farms. Mr. Danser stated that some of those activities do occur on preserved farms in Middlesex County. He stated that the Stults farm does pick-your-own and hay rides and other activities on Halloween and there has never been a question, problem or an issue.

Ms. Craft stated that as with a lot of issues there is the matter of degree. She stated that there is a lot of agri-tourism activities happening on preserved farms all over the state. There is not a blanket prohibition to conduct agri-tourism activities. She stated that there is a limit, however. If you want to build a banquet hall for wedding activities, that is something that would not be allowed on a preserved farm. You have to reconcile the area of activities that people would possibly want to do under agri-tourism to what the deed of easement allows. To the extent that what they are doing is agricultural in nature and agricultural marketing, they are not in violation. If they want to do something that is completely nonagricultural just to get people to their farm in order to make money that is not necessarily going to be approvable. This is one of the issues that the SADC's subcommittee needs to look at because we are conflicted between two provisions of the deed of easement, one is you can do agricultural production and agricultural marketing, etc. and the other one says you can do recreational uses as long as you use the property in its current condition.

Mr. Germano stated that the Committee was invited to the winery in New Egypt with an approximate 3 acre parking lot and they are marketing their product. Ms. Craft responded that the Committee approved the construction of that winery and they do have wine festivals and events because they are marketing their products. She stated that the SADC drew the line saying that if you turn this into a corporate retreat center or a wedding hall, they will be in violation. The SADC was very clear on those issues and the landowner appreciated the clarity and to her knowledge is operating in compliance with that. This is an example of what is acceptable on a preserved farm but there are certain activities that are not acceptable on a preserved farm.

Mr. Waltman stated that if you look at the Mount farm you couldn't find a more successful agri-tourism operation and they have preserved much of their farm. The other issue that arises is right to farm protection. He stated that there is a winery in Hopewell Township, which is not preserved and they have done a lot of agri-tourism there but the minute they wanted to build a banquet hall for weddings the Township, appropriately stepped up and had a right to decide whether it would provide the owner a variance and ended up turning it down. As long as they were marketing their product it was acceptable and should come under right to farm protection but when you get beyond that with nonagricultural activities the question becomes do we have the right to step in and shield them from that regulation and we don't have that right.

Mr. Siegel stated that there is always going to be a great deal of discretion and always going to be a case-sensitive, fact-sensitive situations that the Committee will have to address and sometimes a cookie-cutter rule can sometimes do more harm than good. He felt that it is good to allow a citizen board to have discretion. It has to be for an agricultural purpose. This is something that landowners need to think about before accepting taxpayer funds. From the perspective of our taxpayer support it is an extremely important sector. The more people you can attract to preserved farms like Terhune Orchards (the Mount farm), which he feels has become a state-wide model, there will be stronger support for the program.

Chairman Fisher stated that the early participants in the program probably never contemplated this issue and he feels that a statement needs to go to anyone considering preservation that they have to think about what the limitations are that this Committee can render on their future as a farming operation. He doesn't think it is fair to encourage people to preserve their land and then know that if you are just going to be a commodity grower that it is going to be difficult to be able stay in agriculture in a state like New Jersey.

Dr. Dey commented that it was his recollection that the SADC staff and parts of this Committee have been working on an agri-tourism agricultural management practice (AMP) for a few years. He stated that he didn't think that a rough draft has been circulated very far. He thought that was a different committee than the present committee.

Ms. Craft stated that with respect to the AMP, when she began with the SADC there had been an effort made and we worked with a sub-committee along with farmers and the NJ Farm Bureau for some period of time. We got to a point where it seemed very apparent to her that the agricultural community was not ready to agree to a set of standards to put into an AMP. She stated that the subcommittee went pretty farm to try and draft some standards but then it got to an area where it wouldn't work for this farm or that farm, etc. and there was a lot of hesitancy on doing anything. She stated that the double edge sword to this AMP is that once it is adopted it sets the standard and in the absence of an AMP farmers can come and seek site-specific AMP protection under the Right to Farm Act. She stated that at the present time the SADC is very busy with soil disturbance issues and also trying to deal with some of the deed of easement

issues and once staff can get past all these issues it would be great to move forward with an AMP. Staff is also tied up with the solar and wind issues, which limits staff's ability to spend researching and being pro-active regarding agri-tourism right now.

Mr. Schilling stated that the opposition to the draft AMP from the subcommittee is due to the range of activities. You cannot have one AMP that will be applicable to a range of activities. It was getting too prescriptive and it was becoming very impractical. The realization was that rather than having some sort of quantitative standard there has to be a more fair and impartial process for evaluating the applicability of those activities, given the deed of easement.

NEW BUSINESS

A. Resolution for Certification – Amended Agricultural Development Area Amendment – Middlesex County

Note: Mr. Danser recused himself from any discussion/action pertaining to this agenda item to avoid the appearance of a conflict of interest. Mr. Danser is the Chairperson of the Middlesex County Agriculture Development Board who took action at the county level on this issue.

Mr. Bruder referred the Committee to Resolution FY09R6(1) for a request by Middlesex County to amend its agricultural development area (ADA) map to include Block 52, Lots 4.16 and 4.22 in the Township of Monroe, which is an 11.59 acre farm. He reviewed the specifics of the request with the Committee and stated that staff recommendation is to approve the amended ADA map for Middlesex County as presented and discussed.

It was moved by Ms. Murphy and seconded by Dr. Dey to approve Resolution FY09R6(1) certifying the amended Agricultural Development Area Map for the County of Middlesex, to include Block 52, Lots 4.16 and 4.22, located in Monroe Township, as presented and discussed, subject to any conditions of said resolution. The motion was approved (Mr. Danser recused himself from the vote.) (A copy of Resolution FY09R6(1) is attached to and is a part of these minutes.)

B. Renewals, Terminations and Withdrawals of Eight Year Programs

Ms. Craft referred the Committee to the Eight Year Program Summary for FY 2009, showing a renewal of an eight year program for the Roland DeWilde Farm, SADC # 1712-03F-01/17-0049-8F, consisting of 108.93 acres, in Quinton Township, Salem County. She stated that the soil and water conservation cost share grant eligibility for this renewal is at \$40,893.00, subject to available funding. She stated that this property was permanently preserved in February, 2003.

Ms. Craft stated that there were five (5) terminations of eight year programs as follows:

1. William J. and Patricia A. Augustine
SADC # 0436-12F-01/04-00019-8Y

- Winslow Township, Camden County, 69.01 Acres
Soil and Water Conservation Cost Share funds remaining at time of Termination: \$33,802.00 (\$0.00 expended)
2. Leslie C. Rea Farms, Inc.
SADC #0512-02F-01/05-0007-8Y
W. Cape May Boro, Cape May County, 71.47 Acres
Soil and Water Conservation Cost Share funds remaining at time of Termination: \$29,470.00 (\$0.00 expended)
 3. Leslie C. Rea Farms, Inc.
SADC #0512-01F-01/05-0008-8Y
W. Cape May Boro, Cape May County, 12.06 Acres
Soil and Water Conservation Cost Share funds remaining at time of Termination: \$7,236.00.00 (\$0.00 expended)
 4. John S. Park
SADC #1707-02F-01/17-0020-8Y
Oldmans Township, Salem County, 33 Acres
Soil and Water Conservation Cost Share funds remaining at time of Termination: \$7,626.07 (\$12,173.93 expended)
 5. Jeffrey M. and Deborah B. Lester
SADC #1711-08F-01/17-0026-8Y
Pittsgrove Township, Salem County, 63.18 Acres
Soil and Water Conservation Cost Share funds remaining at time of Termination: \$32,636.00 (\$0.00 expended)

Ms. Craft stated that there were no withdrawals of eight-year programs. She indicated that this was for the Committee's information only and that no action is required.

Ms. Reade stated that she is aware that the NRCS in Salem and Gloucester County have been interested in getting people to sign up for eight-year programs just in case, even though there is no funding available and the county agriculture development board has been discouraging people from doing that because they are likely not to be receiving any funding. If there is funding available for this program it is a very important program in the rural counties where they are engaged in production agriculture. It pays for infrastructure improvements that are needed on farms, some of which, like tile drainage, are not available from any other agency. She realizes there is a limited amount of funding to go around but some of the rural counties, where agriculture is important, also don't have cost share funding and are using Installment Purchase Agreement. This is a very important way to provide funding to farms.

Ms. Craft stated that with respect to the DeWilde farm listed on the eight year program summary sheet, this farm is already permanently preserved so this farm would be in the highest category to receive funding once it is available. Ms. Reade stated that she is concerned with the ones that are not renewing and also people are coming in and being offered by NRCS to sign up for the eight year program in case funding should become

available but the CADB director is turning them away indicating that there is no funding available.

Ms. Craft stated that there will be approximately \$250,000.00 beginning July 1st. At the next SADC meeting we will hopefully be approving the next farms that are in line for this funding. She stated that we had to approve a portion of the funding the SADC received from the NJ DEP and the Department of Agriculture for FY09. If we had obligated that money and the farmers didn't come in for payments in a timely manner we would have lost that portion of funding. We had to make sure that the money we had allocated was going to be obligated, used and spent before the timeframe expired. Now that the fiscal year is closing we can pull in the next \$250,000.00 to use. She stated that there is approximately an additional \$143,000.00 in the appropriation bill from old interest earnings so there will be about \$400,000.00 available. Once available, the SADC will notify everyone. She stated that some of the county administrators are worried about encouraging people to deed restrict their farm for eight years and then when they come in for a soil and water project and it doesn't get funded that presents a problem.

**C. Resolution for Approval: FY 2010 Planning Incentive Grant Program
Final Approval of the County Planning Incentive Program Application,
Including the Comprehensive Farmland Preservation Plan and Project Area
Summaries for Middlesex County**

Note: Mr. Danser recused himself from any discussion/action pertaining to this agenda item to avoid the appearance of a conflict of interest. Mr. Danser is the Chairperson of the Middlesex County Agriculture Development Board who took action at the county level on this issue.

Mr. Bruder referred the Committee to Resolution FY09R6(2) for the County Planning Incentive Grant Applications and Comprehensive Plans for Middlesex County. He reviewed the specifics with the Committee and stated that staff recommendation is to approve the applications and comprehensive plans as presented and discussed.

It was moved by Dr. Dey and seconded by Ms. Brodhecker to approve Resolution FY09R6(2) certifying the County Planning Incentive Grant Applications and Comprehensive Plans for Middlesex County as presented and discussed, subject to any conditions of said Resolution.

Ms. Craft stated that the first page of the resolution indicated an incorrect title line above the date. The words "2009 Funding Round for" should be removed and the title should read "FY 2010 PIG Program".

It was moved by Mr. Germano and seconded by Ms. Brodhecker to approve Resolution FY09R6(2) certifying the County Planning Incentive Grant Applications and Comprehensive Plans for Middlesex County as presented and discussed with the above noted correction to Page 1 of said resolution, subject to any conditions of said resolution. The motion was approved. (Mr. Danser recused himself from the vote.) (A copy of Resolution FY09R6(2) is attached to and is a part of these minutes.)

D. County Planning Incentive Grant (Informational Only)
1. New submission deadlines for final approval

Ms. Winzinger referred the Committee to the SADC Final Review Deadline Dates for FY 2010 Planning Incentive Grant Program for counties to send in their application packets and requests for final approval. She reviewed the specifics with the Committee and stated that this is for informational purposes and that no action was needed by the Committee. (A copy of the list of Deadline Dates for FY 2010 Planning Incentive Grant Program is attached to and is a part of these minutes.)

E. Request for Final Approval – County Planning Incentive Grant Program
1. Rowena Klein Farm, Upper Freehold Township, Monmouth County

Ms. Winzinger referred the Committee to Resolution FY09R6(3) for a request for final approval on the Rowena Klein farm, known as Block 34, Lot 11 p/o , located in Upper Freehold Township, Monmouth County. She stated that the property includes one two-acre nonseverable exception around an existing residence and that it also includes an eleven (11) acre severable exception in the northern part of the property that Monmouth County will purchase in fee and maintain as part of its park system and the Doctor's Creek Greenway. She stated that the Monmouth County Park System (MCPS) will grant the owner an irrigation easement from the existing pond/Doctor's Creek to the northern field of the property and that the owner will grant a fifteen (15) foot wide access easement to the MCPS so that park employees can access the eleven acres for maintenance purposes. She stated that there will be no public access via the driveway easement but the MCPS informed the SADC that it plans to eventually connect the eleven acre area with lands the County had previously purchased, or plans to purchase, as an easement or in fee as part of its network of trails and open space.

Ms. Winzinger stated that the MCPS is in the process of negotiating with the owner to allow it to use the existing driveway as access to the eleven acre exception and if this effort is successful the easement would be moved to the existing driveway. She stated that the county is exploring using an installment purchase agreement and if it is utilized it would require review and approval by the SADC.

Ms. Winzinger indicated that Ms. Brockwell from the Monmouth CADB commented earlier regarding additional language that was added to the resolution (Page 4, 5th "Be It Further Resolved") regarding approval being conditioned on determination of what provisions may be needed in association with the design, maintenance and management of the adjacent open space area. She stated that Ms. Brockwell asked that this language be addressed. Ms. Winzinger stated that this language is being recommended by staff to include in final approval resolutions until such time that the SADC trails subcommittee completes its analysis and recommendation to the SADC to address trails located on or adjacent to preserved farms. She stated that the generic language leaves the potential for establishing standards for trails to be addressed at closing provided that the SADC reaches a decision on the matter before closing occurs. She stated that staff made a determination this week to place this language in each one of the resolutions where we had a trail or open space associated with it since the issue is still pending in the Princeton Nurseries transaction. Mr. Germano asked if this was an "out" clause. Ms. Craft stated

that trails is another issue that we are trying to get to resolve. The issue being, historically in the beginning of the program, the Committee's position at that time was that trails do not belong on preserved farms because of potential right to farm conflicts it creates with agricultural production. In the last couple of years the SADC has received a lot of applications that are proposing a variety of trails, some are conservation easements, others are public access trails and the Committee didn't have any standards when considering those cases. She felt that the Committee needs to deal with the issue about what requirements, if any, will be placed on projects where a part of the farm is excepted from the application to provide for a trail involving public access. Ms. Craft stated that the trails subcommittee, which is comprised of Ms. Murphy, Mr. Danser, formerly Mr. Spinelli, and SADC staff, have met on several occasions. She stated that the Princeton Nurseries project in Monmouth County has raised concerns so we are just trying to be consistent. We are at a point where the subcommittee has recommended that staff coordinates with Monmouth County, and as she has discussed with the Park System Director, Mr. Trunser, to fashion some type of document that affords the farmer some level of protection and some level of predictability about how this open space is going to be managed, accessed, signage, spraying, closing trails, and how are we going to deal with all these issues. Ms. Craft stated that staff is trying to develop a process where there is some written agreement between the county and the landowner that obligates the county to manage the property in a certain manner such that the landowner is agreeable. She felt there should be consistency in addressing that issue with the county when passing final approval on an application while at the same time trying to establish standards on the Princeton Nurseries properties. She stated that staff is not aware of the nature of this easement. Ms. Brockwell stated that there is no public access contemplated at this time. She stated that public access may be possible in the future, but not at this time. The Doctor's Creek project is for watershed protection. It is not particularly conducive to a trail and there are some landowners in this area who want nothing to do with a trail system. The CADB feels that it must be respectful of the MCPS's plans. She commented that Monmouth County is trying to work cooperatively with its partners.

The Committee discussed the inclusion of the following paragraph in the resolution for final approval:

Be It Further Resolved, SADC's approval is conditioned on determination of what provisions may be needed in association with the design, maintenance and management of the adjacent open space area".

Ms. Craft stated that the issue is that the SADC is going to make a decision on whether or not to include certain provisions be made in the open space area documents to address maintenance, access, signage and the other issues previously noted, whether its fee taking or whether it's in conservation easement. The SADC's approval of the funding of the farm would be conditioned on certain issues being addressed on the open space property. The Committee needs to decide whether to pass this resolution as drafted or pass this resolution omitting that paragraph. Staff is trying to look forward in anticipation of standards being adopted prior to closing on the farm.

Ms. Murphy stated that she needed to make a correction when it comes to what is happening with the subcommittee, and felt the other subcommittee members will

probably agree that we aren't anywhere near consensus at this point and we haven't actually asked the staff as a subcommittee uniformly to develop anything. She stated that she thinks it is premature and not particularly fair to put the paragraph in with a condition for final approval when there is no consensus of the subcommittee and there is no policy at the committee level. Ms. Winzinger stated that is why the resolution indicates "may" because this farm might not close for two years. Ms. Murphy stated that many farms have been given approval with trails and had no conditions. She commented that why all of a sudden do we have to place conditions in the final approval in particular since there is no consensus. Ms. Craft stated that at Monday's meeting the subcommittee did agree and specifically confirmed that staff should work with Monmouth County on the Princeton Nurseries property in particular to develop the documents that staff feels will give a sufficient level of protection to the farmer. Ms. Murphy stated that she knows for a fact that the DEP representative did not say yes because the Department is vehemently opposed to that. Ms. Craft stated that DEP is one of three people on the subcommittee. Ms. Murphy stated that was not her understanding of what happened at the meeting. Ms. Craft stated that was the conclusion of the meeting. Mr. Germano confirmed that was the consensus of the group.

Chairman Fisher asked if there was anyone who wanted to make a motion. Ms. Murphy moved to pass a motion without the paragraph identified. Mr. Waltman seconded the motion. Chairman Fisher asked if there was any discussion. Dr. Dey wanted to confirm that everyone understands what that motion says. Chairman Fisher requested clarification. Ms. Craft stated that the motion would allow final approval to go forward without any provision that allows the SADC to assert any requirements concerning the trail up to the time that closing occurs. Mr. Waltman stated that he trusts that the landowner in her negotiations with the Park Service will be in a position to limit what can be done with the land after she no longer owns it in fee title. He does not think that the Committee needs to be conditioning its resolutions and agreements on the farmland preservation portion of this land. He doesn't think this body should continue to have or want to have a relationship with that back part of the land. If the farmer isn't comfortable with what goes on back there she is not going to agree to it with the park system. Ms. Winzinger commented what about the next farmer? Mr. Schilling stated that the Committee has had cases here, including the gentleman with his son last month that tried to come in and saying they preserved the property but there is something that we didn't quite understand or missed. He stated that the way this is written he doesn't think we would interfere but that we would give another layer of assurance that agricultural interests would be protected. He stated that he thinks this is a complex transaction so he is perfectly comfortable with having a level of oversight that would protect agricultural interests, without necessarily interfering with the transaction.

Chairman Fisher stated that we have a motion to delete the paragraph in question. Mr. Danser stated that he is going to vote against it and it has nothing to do with this paragraph being in or out. He stated that he thinks the access easement should be part of the severable exception and not part of the preserved farm.

A roll call vote was taken as follows on the motion to approve final approval without inclusion of the discussed paragraph:

Cecile Murphy	Yes
Brian Schilling	No
Alan Danser	No
James Waltman	Yes
Denis Germano	No
Ralph Siegel	Yes
Jane Brodhecker	No
Torrey Reade	No
Stephen Dey	No
Chairman Fisher	No

Yes Votes: 3 No Votes: 7 – Motion Fails

It was moved by Ms. Reade and seconded by Ms. Brodhecker to approve resolution FY09R6(3) as drafted, granting final approval of the Rowena Klein Farm, Block 34, Lot 11 (p/o), Upper Freehold Township, Monmouth County, 46 net acres, at a State cost share of \$15,000.00 per acre (60% of the certified market value and 60% of the purchase price, for a total grant need of approximately \$710,700.00 (includes a calculation of grant need using 47.38 acres for a 3 percent buffer), subject to any conditions of said resolution, and the SADC grant will be funded using \$710,700.00 of the County's competitive grant funds. Approval is conditioned on determination of what provisions may be needed in association with the design, maintenance and management of the adjacent open space area. A roll call vote as follows:

Cecile Murphy	No
Brian Schilling	Yes
Alan Danser	No
James Waltman	No
Denis Germano	Yes
Ralph Siegel	Yes
Jane Brodhecker	Yes
Torrey Reade	Yes
Stephen Dey	Yes
Chairman Fisher	Yes

Yes Votes: 7 No Votes: 3 –

The motion Carries. (A copy of Resolution FY09R6(3) is attached to and is a part of these minutes.)

Mr. Siegel offered a final comment on the issue. He stated that he voted with this to let the project go ahead because he just doesn't see this 11 acres being particularly relevant. He stated that he did not want this property to set a precedent. He stated that he understands the concerns and he thinks that staff needs to be hyper-specific in these situations. He stated that he doesn't agree entirely with some of the concerns he has heard from DEP. He noted that he knows of a farmer in Morris County who has extreme problems with motorcycles running across his farm fields. Motorcycles are not permitted in the park at all but he can't get anyone to correct the problem. This is a reality problem

and Green Acres and farmland preservation should not interfere with each other. Chairman Fisher commented that we are the other side, we are the farm side.

Ms. Murphy stated that that she agreed with Mr. Siegel and that we should all stay in our separate camps and work together to make deals happen but if restrictions are going to be placed on one side, they are going to be placed on the other side, everything goes both ways, its public dollars, public investments on both properties, we all have our missions to protect and our missions conflict a certain degree on these cooperative projects and if the agricultural program feels it necessary to put restrictions on the open space to protect its mission then the open space program will definitely be placing restrictions on the agricultural property to protect is mission. It is better that we accept that fact that we have to work together as some of our conflicts arise than to just start placing restrictions on each other's properties making it harder for our local partners to do what they do best.

Mr. Siegel stated we have a very successful trail in Morris County in terms of the permits that people apply for to hike on patriot's path. They get thousands of people hiking that trail every year and it goes through plenty of preserved property. The trail is well maintained, well delineated and the people know that you don't cross the stone wall and walk across the owner's farm. The trails are wide and they have stone walls. He stated that he is not familiar with the Doctor's Creek project at all but Mr. Kennedy showed him the trail corridor through Burlington County through the preserved farms and that seems to be another example of what we are talking about where the taxpayers see a benefit. It's a scenic trail corridor where they are surrounded by preserved farmland that maintains a vista that they will be able to hike there a thousand years from now.

**F. SADC Approved Appraiser List
(Recertification/Additions/Deletions)**

Mr. Burns referred the Committee to Resolution FY09R6(4), including Schedule A and B, listing those appraisers who attended the annual appraisal conference held in June and who are being recertified (Schedule A). The resolution also reflects those appraisers who did not attend the appraisal conference for two years and are being removed for that reason (Schedule B). He stated that Schedule C reflects appraisers requesting inclusion on the Approved Appraiser List. He stated that there are five appraisers listed that were previously removed from the list due to non-attendance at the appraisers conference. He stated that they have attended this year's conference. He stated that there are also four (4) new appraisers requesting inclusion on the Approved Appraiser List. He stated that staff recommendation is to approve Resolution FY09R6(4) to reflect the recertifications, deletions and new inclusions to the Approved Appraiser List as presented and discussed.

It was moved by Mr. Siegel and seconded by Dr. Dey to approve Resolution FY09R6(4) recertifying the list of appraisers as presented and discussed to the Approved Appraiser List (Schedule A) and deleting those appraisers on the Deleted Appraiser List (Schedule B), and approving the new and previously removed appraisers to the Approved Appraiser List (Schedule C). The motion

was unanimously approved. (A copy of Resolution FY09R6(4) is attached to and is a part of these minutes.)

**G. Deed of Easement Assessment Subcommittee
Agricultural and Horticultural Development Study
a. Service Agreement with Rutgers, New Jersey Agricultural Experiment
Station Cooperative Extension**

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

Mr. Baumley referred the Committee to the Memorandum dated June 23rd regarding the Deed of Easement Assessment Subcommittee (Agricultural/Horticultural Development): Phase II – Recommendation to Proceed with Literature Search. She stated that previously the Committee authorized two contracts with Rutgers University to conduct certain research in support of the SADC’s work on issues of soil disturbance on preserved farms. The Deed of Easement Assessment Subcommittee (DOE Subcommittee) (previously known as the Agricultural and Horticultural Subcommittee) is recommending certain areas of interest with which to focus the second phase of Rutgers’ literature review work. He stated that the June 23rd memorandum gives the specific recommendations of the DOE subcommittee. Mr. Baumley reviewed those recommendations with the Committee. He stated that the estimated cost provided by Rutgers to complete the second phase of the literature search is \$8,500.00. Mr. Baumley stated that he has reached out to Rutgers, as requested by the Subcommittee, regarding reducing the \$8,500.00 cost of the literature search since the search is limited to specific topics. He stated that he has not heard back from Rutgers as yet. He stated that the subcommittee’s recommendation is to proceed with Phase II of the literature search and to include the six suggested practices listed in the June 23rd memorandum as part of the literature search. Chairman Fisher suggested that the resolution say “not to exceed \$8,500.00” for the cost of the literature search.

It was moved by Dr. Dey and seconded by Mr. Danser to grant authorization to Rutgers University Agricultural Experiment Station to conduct phase II of the literature search, and to include the six suggested practices listed in the June 23rd memorandum as part of the literature search, at a cost not to exceed \$8,500.00. The motion was approved. (Mr. Schilling recused himself from the vote.) (A copy of the Memorandum dated June 23rd regarding the Deed of Easement Assessment Subcommittee (Agricultural/Horticultural Development): Phase II – Recommendation to Proceed with Literature Search is attached to and is a part of these minutes.)

**H. SADC Agricultural Mediation Program
1. Program Overview
2. Approval of Mediators**

Mr. Kimmel referred the Committee to a memorandum dated June 25th regarding the New Jersey Agricultural Mediation Program and Resolution FY09R6(5) for the renewal of the certification of the agricultural mediation program mediators, which includes the certification of a new mediator. The presentation has three purposes: 1) to provide a

general update on the program and to familiarize the Committee with the program and what it offers; 2) solicit ideas for additional conflict-resolution and conflict-prevention activities that the program could undertake and 3) officially recertify the Agricultural Mediation Program's roster of trained mediators and certify one new mediator, subject to any conditions listed. Mr. Kimmel reviewed the specifics with the Committee and stated that staff recommendation is to renew the certification of the agricultural mediation program mediations, as presented and discussed, subject to any conditions listed for recertification and to certify one new mediator as listed.

It was moved by Ms. Brodhecker and seconded by Mr. Danser to approve Resolution FY09R6(5) recertifying the Agricultural Mediation Program's roster of trained mediators as presented and discussed for Liza Clancy, Melvin Henninger, Norman Crawford, John Paschal, and Barbara Weisman and to recertify the following three individuals conditioned upon attending an upcoming refresher training course in 2009: Louis Baduini, Gordon Geiger and Kevin Kuhl, and to certify one new mediator, Loretta H. Yin, subject to any conditions in said resolution. The motion was unanimously approved. (A copy of Resolution FY09R6(5) is attached to and is a part of these minutes.)

Ms. Murphy and Mr. Danser stated that this seems like a great program. Mr. Danser stated that he was not aware of this program and that if it would not be too much of an expense that the SADC should advertise the program because it has a great potential of defusing issues at a much lower lever and whenever we can do that everyone benefits from it. Mr. Schilling stated that there has been three out of eight cases that have been mediated on average over the course of the last nine years and he always thought this was one of those great programs that no one really knows about. He stated that he has personally received calls over the years and he has sent some of those calls over to Mr. Kimmel and he feels that more awareness of this program is warranted because of the cost savings in establishing an agreement at the early stages rather than going to court. He stated that one of the programs the SADC had was to hold listening sessions on farmland affordability. He felt that a grassroots type of listening session is received very well in the agricultural community and provides a good perspective for the SADC. Mr. Schilling stated that following along with Mr. Fox's comments made earlier in the meeting, he always hears that preserved farms and unpreserved farms differ but he does not hear the specifics of what he would perceive to be legitimate cases where agri-tourism opportunities were denied on preserved farms. He stated that we have a growing number of areas of agri-tourism, equine and nursery, which seem to be the three areas with new issues arising and possibly a scaled back type of listening session on one or more of those areas would be, proactive in identifying where we can avoid right to farm or easement issues.

Dr. Dey stated that the equine industry seems to be the leading area as far as right to farm problems and over the past three years Mr. Kimmel and members of staff have presented several of the equine questions at the Horse Council, the Equine Advisory Board, and other meetings. He stated that staff has done an excellent job in getting out the mediation information to the equine industry.

Ms. Craft stated that she would like this to be a spring board into a much better education campaign to help us solve some of the various problems that arise, trails being one of

them. She felt that this would be a useful tool to address the policy on trails. She stated that there were discussions with staff last week and staff is aware that we need to do a much better job at communicating outside of the agency on so many areas. She stated that staff is preparing a news letter type communication, something short, friendly and easy to read. For those that are not able to access the internet or emails, staff will get the information out via regular mail. She stated that this is the kind of topic that we would want to highlight in an issue of the news letter to make the public aware. Mr. Schilling stated that staff could also reach out to the extension agents who are among the more trusted folks in the agricultural community. He stated that they have contacts and can see conflicts arise. He felt that greater awareness within the agents would be a very good idea.

PUBLIC COMMENT

Ryan Rapp of the Middlesex County Agriculture Development Board wanted to comment on the resolution dealing with the Klein farm. He stated that the one “no” vote and the rationale may be more than justified because it is his recollection that the SADC’s exception policy requires a severable exception to have its own access. Therefore the 15-foot wide access easement has to be part of the exception area. He stated that staff may want to revisit that policy as it pertains to that application.

Amanda Brockwell from the Monmouth County Agriculture Development Board stated that to continue on that note, her understanding of the policy was that if it contained a nonagricultural use it had to have its own access. She stated that Monmouth County is open and welcomes constructive criticism when it submits an application and if staff has suggestions it is willing to bring those to the landowner. She stated that the landowner will not receive payment on that access easement. She stated that she hopes the landowner is willing to move the access to the driveway because it will be better for everyone. She felt that the landowner has been provided with so much information that they become somewhat overwhelmed and she thinks that is part of why they are persistent/not understanding the placement of the access easement. She stated that she would like clear guidance regarding the clause in the resolution. She asked if the SADC will not provide a grant until a determination regarding a maintenance agreement is finalized? Ms. Craft stated that the clause means that if the Committee formally adopts a policy to be applied to applications that deal with corridor trails, if that policy is created by the time we want to go to closing, the SADC will apply that policy to this farm. If we don’t and you are ready to close and there is no resolution to this issue, the Committee will provide its grant to the county. We will not hold up your closing for this issue.

Ms. Brockwell stated that she understands everyone’s concerns with protecting the interests of the varying people involved. She wanted to stress that whatever kind of plan that comes together, whether we agree or not, we need to craft solutions for specific problems. She understands the concerns in terms of protecting the farmer and that is very legitimate and she wants to maintain the farmer’s ability to continue to have a viable operation as it is very important for their program as well. The point is to hopefully get something that is not going to be too restrictive so that we still have the ability to come up with a creative solution because over the life of our cooperation with the park system,

whenever an issue has arisen they have been resolved through site-specific solutions and problem-solving. She hoped that they are able to continue that.

Daniel Pace from the Mercer County Agriculture Development Board stated that he was in attendance at the subcommittee/trail meeting this past Monday. In Mercer County for the past 20 years the open space program and the farmland preservation program worked very closely together. Mercer County has been very successful in both programs and Mercer County is very concerned over the issue of trails.

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: Thursday, July 23, 2009 (Re-Organization Meeting), beginning at 9:00 a.m. Location: **Health/Agriculture Building, First Floor Auditorium**

CLOSED SESSION

At 11:36 Dr. Dey moved the following resolution to go into Closed Session. The motion was seconded by Mr. Danser and unanimously approved.

“Be it resolved, in order to protect the public interest in matters involving minutes, real estate, attorney-client matters and personnel, pursuant to N.J.S.A. 10:4-12, the NJ State Agriculture Development Committee declares the next one 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. Real Estate Matters - Certification of Values Planning Incentive Grant Program – 2009 County

It was moved by Mr. Danser and seconded by Dr. Dey to certify the development easement value for the following landowner as presented and discussed in closed session:

1. Burlington County/William Miller
Block 5, Lots 19 and 20.02, New Hanover Township, Burlington County,
19 Acres
(Note: Mr. Germano recused himself from any discussion/action pertaining to this agenda item to avoid the appearance of a conflict of interest. He indicated that he represents some of the Miller family members.)

The motion was approved. (Mr. Siegel was not present for this vote, Mr. Germano recused himself from this vote.) (A copy of the Certification of Value Report is attached to and is a part of the closed session minutes.)

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

1. Kin F. & Shao Ling Lum (Lum Farm)
Block 22, Lot 10, Cranbury Township, Middlesex County, 48 Acres
(Note: Mr. Danser recused himself from any discussion/action pertaining to this agenda item to avoid the appearance of a conflict of interest. He is the Chairperson of the Middlesex CADB.)
2. Sallie Jean Toscano
Block 25, Lots 42.01 and 42.02, Cranbury Township, Middlesex County, 42 Acres
(Note: Mr. Danser recused himself from any discussion/action pertaining to this agenda item to avoid the appearance of a conflict of interest. He is the Chairperson of the Middlesex CADB.)

The motion was approved. (Mr. Siegel was not present for this vote, Mr. Danser recused himself from this vote.) (Copies of the Certification of Value Reports are attached to and are a part of the closed session minutes.)

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

1. Burlington County/Bell Estate (Laks)
Block 604, Lot 7, N. Hanover Township, Burlington County, 125 Acres
2. Burlington County/Economakis/Thanopoulos
Block 701, Lot 10.01, Springfield Township, Burlington County, 89 Acres
3. Warren County/Wattles # 1 (Gurdon Wattles)
Block 1506, Lots p/o 2, 2.01, and 7, Mansfield Township, Warren County, 104 Acres
Certification of Value is contingent upon language in the access easement to the Audubon Society parcel restricting it from further development unrelated to the Audubon Society's open space use.
4. Warren County/Wattles # 2 (Gurdon Wattles)
Block 1506, Lots p/o 2, 6.01, 6.03, 8; Block 1505, Lot 1.01, Mansfield Township, Warren County, 99 Acres
5. Frank Demeter Farm # 1
Block 13, Lot 30, White Township, Warren County, 77 Acres
6. Frank Demeter Farm # 2
Block 13, Lot 23, White Township, Warren County, 56 Acres

The motion was approved. (Mr. Siegel was not present for this vote.) (Copies of the Certification of Value Reports are attached to and are a part of the closed session minutes.)

Municipal Planning Incentive Grant Program – 2009

It was moved by Dr. Dey and seconded by Mr. Danser to certify the development easement value for the following landowner as presented and discussed in closed session:

1. Robert Howard Boss (Estate of Henry Boss)
Block 15, Lots 7, Holland Township, Hunterdon County, 131 Acres

The motion was approved. (Mr. Siegel was not present for this vote.) (A copy of the Certification of Value Report is attached to and is a part of the closed session minutes.)

B. Anticipated Litigation

1. Contract Defaults from Pinelands Easement Purchase Rounds

It was moved by Mr. Danser and seconded by Dr. Dey to authorize the Office of the Attorney General to move forward with the necessary steps to seek full restitution for ancillary costs incurred during the processing of an application for the sale of a development easement against Walter Badaracco and the Ferrucci Brothers as presented and discussed in closed session. The motion was unanimously approved. (Copies of The Memorandum to the SADC Members dated June 16th and attached List of Pinelands Applicants in Default of Contract are attached to and are a part of these minutes.)

Ms. Murphy commented that she will vote yes but it would be extremely unfair to those landowners who paid the ancillary costs who defaulted but in general at Green Acres everything is a good faith effort and the reputation of our programs are so important. She stated that taking action to sue applicants for \$28,000.00 just doesn't look good. She would encourage staff to re-evaluate the policy of having that in the contract, but in this particular case it would be unfair to those who have sent in their checks to not pursue the others who have not paid. She stated that we need to preserve the reputation of the preservation program and put that on equal standing with the \$28,000.00, which is taxpayer dollars and it is important but it may not outweigh the importance of keeping that good faith with the community.

Mr. Danser stated that the down side to that is the message it sends that you could go all the way up to the day of closing and change your mind and the cost of the surveys and title searches and all the work that goes into that after the contract is signed...he feels the program is voluntary and you can back out at any time right up to when you sign a contract. Then the public begins to invest dollars in professional fees. Ms. Murphy stated that Green Acres hasn't found it to be a problem.

ADJOURNMENT

There being no further business, it was moved by Mr. Danser and seconded by Dr. Dey and unanimously approved to adjourn the meeting at 12:40 p.m..

Respectfully Submitted,

Susan E. Craft, Executive Director
State Agriculture Development Committee

Attachment

S:\MINUTES\Reg JUNE 25 09.doc