

**STATE AGRICULTURE DEVELOPMENT COMMITTEE (SADC)**

**REGULAR MEETING**

**REMOTE MEETING DUE TO CORONAVIRUS  
EMERGENCY**

**October 22, 2020**

Chairman Fisher called the meeting to order at 9:06 am.

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

Roll call indicated the following:

**Members Present**

Chairman Fisher  
Cecile Murphy  
Gina Fischetti  
Brian Schilling  
Martin Bullock  
Ralph Siegel  
Scott Ellis  
Denis Germano  
Pete Johnson  
Richard Norz (arrived at 9:13)

**Members Absent**

James Waltman

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

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## **Minutes**

### **A. SADC Regular Meeting of September 24, 2020 (Open Session)**

It was moved by Mr. Germano and seconded by Mr. Schilling to approve the Open Session minutes of the SADC regular meeting of September 24, 2020. Ms. Murphy abstained. The motion was unanimously approved by the remaining members.

### **Report of the Chairman**

Chairman Fisher noted the importance of farming and agriculture in the state and emphasized the role they have played during the COVID pandemic. He noted the diverse range of crops and activities that surround farming has contributed to the success of the industry. Since New Jersey is the most built out state in the country, the SADC has a lot to discuss in terms of the future of farming, the preservation program and permissible activities. The preservation program offers the ability for farms to remain multi-generational farms by both the funds and protections they receive and as such, the SADC must start to look towards the future of the program. Chairman Fisher will be forming a subcommittee to discuss the direction of the program over the next thirty years regarding policy and legislation. Members that have been asked to serve are Richard Norz, Martin Bullock, James Waltman, Ralph Siegel and Brian Schilling.

Chairman Fisher encouraged the members to review the articles included in the Communications section as it is a very thoughtful and comprehensive array of the agriculture taking place throughout the state.

### **Report of the Executive Director**

**NOTE. Mr. Norz joined the meeting during this report.**

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

Ms. Payne stated the SADC By-Laws created a standing subcommittee called "Legislation and Policy" and that will be used to convene this group. With staff, the group will walk through a full assessment of the program over the last 35 years and establish the direction for the next 35 years. The subcommittee will determine ways to assist partners in achieving their preservation goals in accordance with their comprehensive farmland preservation plans. They will also discuss climate change, how agriculture plays a role in those changes, and how to assist farmers in adapting. Ms. Payne stated staff will be preparing an overall snapshot and current dynamics of the program for the members to review and the subcommittee is targeted to meet in January 2021.

Ms. Payne stated the Garden State Preservation Trust met on October 13, 2020 and approved the SADC appropriations request for FY 2021. Staff is in the process of working with the Office of Legislative Services to get the appropriation bills drafted.

Ms. Payne also advised of a technical issue regarding online submission of annual monitoring reports. The partners have been notified and staff believes the issue will be resolved in the following weeks.

Ms. Payne confirmed the office move to Riverview is scheduled for November 23<sup>rd</sup> and advised that staff availability will be slightly limited during the week of the move.

### **Communications**

Ms. Payne reinforced the comments of Chairman Fisher regarding the packet of articles and encouraged the members to review them.

### **Public Comment**

There was no public comment.

### **Old Business**

#### **A. Soil Protection Standards – Best Management Practices**

Mr. Everett revisited the Soil Disturbance Land Use Chart which is based on the degrees of soil reversibility and rehabilitation. He discussed how the chart identifies land use practices and the soil protection classifications considered for each use.

Practices contained in the Permanent Soil Disturbance (Red) Category would count towards the proposed 8% or 6-acre disturbance maximum, whichever is greater, limitation towards the permitted soil disturbance. Staff has developed Best Management Practices (BMPs) for uses that fall under the orange and yellow categories. If the BMPs in the orange category are followed, landowners would be given an additional 5% allowance. If the BMPs in the yellow category are followed, there are no limits to those related practices. Mr. Everett stated it is important to note that it is not a requirement to follow these BMPs unless a landowner is approaching the allowable disturbance limit.

Mr. Everett stated the intention of today's discussion is to revisit the BMPs previously discussed with the committee as well as two new ones. Comments received on these items from the various presentations conducted and the subcommittee meeting have been included on the slides being shown today. Over the next couple of months, staff will review additional BMPs with the committee to solicit comments.

Ms. Doyle reviewed the specifics of the BMP for geotextiles and geomembranes with the committee. She stated that if the geotextiles or geomembranes are installed and maintained

in accordance with the BMP, they would be included in the yellow category and the area will not count towards the disturbance limit.

Mr. Johnson expressed concern about counting topsoil stockpiles related to installation towards disturbance. He also disagreed with requiring geotextiles be placed beneath gravel surfaces as it will be difficult to remove when trying to restore the area.

Mr. Norz stated that geotextiles and geomembranes are normal agricultural practices and does not think they should be included in these BMPs as it puts preserved farms at a disadvantage to unpreserved farms. Mr. Everett reiterated that these would be an unlimited practice if done properly and would not be considered DOE violations.

Mr. Norz did not feel that silage wraps, row coverings and biodegradable plastic mulch should be included in the BMPs. He commented on the reference to the BMPs being “living documents” and his concerns that future administrations would not see it that way, which could create a disadvantage for preserved farms. As such, he restated his disagreement with these practices being included in the BMPs.

Mr. Clapp reviewed the specifics of the BMP for unimproved travel lanes with the committee. Mr. Clapp stated if the unimproved travel lanes were installed in accordance with the BMP, they would be included in the yellow category, and not count towards the disturbance limit.

Mr. Clapp mentioned that the subcommittee did not feel the document for the unimproved travel lanes was a BMP and more of an outline as to how an unimproved farm lane would be defined. It was suggested to improve the definition of travel lanes and include additional design criteria and management practices. Mr. Germano stated he did not feel these BMPs should be sent out for comments until those items are addressed. Ms. Payne concurred.

Mr. Johnson stated that only parts of unimproved travel lanes that have had gravel added to wet areas should count as improved. Staff agreed.

Mr. Norz expressed concern with the 16-foot maximum width of the travel lanes as there are pieces of farm equipment that require wider travel widths. Mr. Clapp stated the 16-foot width was an NRCS standard but would assess the needs of currently used equipment.

Mr. Schilling reiterated the importance of adaptive management, as these BMPs may need to be revised as agricultural practices and needs change over time. Chairman Fisher expressed concern if someone’s operation requires something slightly different than the standard and would like to avoid a landowner getting caught in between the revision process of a BMP. Mr. Germano stated the farmer would abide by the rules that were in place at the time the improvements were made and could request SADC staff review of compliance, which would be documented. Therefore, it would be determined at that time if the improvements would count towards the disturbance maximum or not.

Mr. Clapp reviewed the specifics of the BMP for improved travel lanes with the committee. If the improved travel lanes are installed in accordance with the BMP, they would be

included in the orange category and would count towards the additional 5% disturbance allowance.

The subcommittee commented they would prefer the gravel road standard leave the topsoil in place and put the gravel above. Mr. Clapp reiterated the need to keep the gravel and soil separate and felt the installation of geomembranes would assist in this and help facilitate the eventual removal and remediation.

The subcommittee also asked staff to research whether hydrocarbons leach from recycled asphalt millings and staff determined that some pollutants can leach from the material, including polycyclic aromatic hydrocarbons.

Mr. Norz expressed concern with the maximum width of the travel lanes again, even with the proposed 2-foot-wide grass shoulders on each side. Mr. Norz also stated the removal of geotextiles can be a very difficult process and different areas of work, such as construction, should be consulted regarding this process.

Ms. Doyle reviewed the specifics of the BMP for temporary structures with the committee. She stated if the structures are installed and maintained in accordance with the BMP, they would be included in the yellow category, and therefore not count towards the disturbance limit.

Chairman Fisher and Mr. Germano suggested that the BMP should state that temporary structures must follow “applicable UCC standards” instead of referencing specific elements listed in the UCC code.

Mr. Schilling suggested the BMP should elaborate more on the 120-day vs. 180-day time limits on the temporary structures.

The subcommittee comments stated plants in hoop houses should be allowed to be grown in “bagged dirt”. SADC staff agreed plants could be grown in containers on top of undisturbed soil and geotextiles could be used in compliance with the other BMPs.

The subcommittee also stated temporary tents and porta-potties should be allowed for 180 days, but staff replied the 120-day limit is to allow for adequate time to revegetate the site. The subcommittee also suggested the porta-potties be allowed to be emptied as necessary, even when the soil is above moisture capacity. Staff agreed and recommended the BMP be amended to note that porta-potties should be located close enough to existing lanes to avoid site damage “to the extent practicable”

Mr. Norz stated he does not feel the high and low tunnels should be included in the BMPs as their use is considered a normal agriculture practice. Ms. Payne reminded the committee the Supreme Court requires the SADC to balance what is “normal” agriculture practices with the need to conserve the resources in perpetuity. Mr. Norz reiterated his concern that since low tunnels are typically up for 30 days, they should not be included.

Ms. Doyle reviewed the specifics of the BMP for unimproved livestock training facilities. She stated if the unimproved livestock training facilities are installed and maintained in accordance with the BMP, they would be included in the yellow category and the area will not count towards the disturbance limit.

Ms. Doyle reviewed the specifics of the BMP for improved livestock training facilities. She stated if the improved livestock training facilities are installed and maintained in accordance with the BMP, they would be included in the orange category and would count towards the additional 5% disturbance allowance.

Chairman Fisher asked if the footings at several existing horse parks would be allowed in these BMPs. Ms. Doyle explained the BMPs do not specify the footings and only the base underneath.

Staff then presented a video overview of the BMPs to be put on the SADC's website.

Mr. Siegel stated these videos may be perceived as a conflict with how farmers normally conduct business and a statement should be included in the presentations that these only apply to operations that are near their disturbance limit and do not affect most farmers. Mr. Schilling agreed and suggested to explain what being "eligible for BMP certification" means and reiterate the SADC is not referring to deed of easement violations.

Chairman Fisher further stated the importance of the appropriate delivery of these BMPs and the message that they are trying to help farmers maximize their operation and comply with guideposts.

Mr. Norz expressed objection to the installation of geotextiles under any surface based on the difficulty to remove the layer later. Mr. Norz also inquired as to why salt was disallowed as he believes it has the same effects on soil composition as nitrogen fertilizers. SADC staff noted they would conduct more research on that topic.

Mr. Norz asked staff about the relationship between these standards and other NRCS livestock standard practices. Mr. Everett stated NRCS practices should be exempt and will be addressed with the SADC in the future.

Mr. Siegel stated he believes the SADC needs bond counsel advice for farms that are in excess of the "10% compliance requirement" based on the private use standard when farms are under 60 acres. The Attorney General is unable to act as bond counsel but is responsible for hiring them and suggests the Attorney General's office research it. Mr. Stypinski stated he would report back with more information at the December meeting.

### **New Business**

#### **A. Right to Farm – OAL Final Decision – M. Ville, LLC, et al v. Monmouth CADB and Millstone Township**

**NOTE: Martin Bullock recused on this matter as he is a member of the Monmouth CADB**

Mr. Smith stated this Right to Farm case is up for Final Decision by the SADC and before a Final Decision is drafted, staff wanted to review the case and seek the committee's guidance.

Approximately five years ago, a complaint was filed by Millstone Township with the Monmouth CADB against M. Ville, LLC for conducting an illegal recycling operation on property that was farmland assessed. After the complaint was filed, the Monmouth CADB was required to determine if the operation was a commercial farm before it could consider the merits of the complaint.

M. Ville, LLC owns two adjoining, farmland-assessed lots. One lot is occupied by M. Ville's landscape and nursery business and had a wheat field. The other lot was cropped in hay. Both parcels were farmed by a tenant farmer who harvested the hay and wheat and who estimated that the harvest generated a value of \$2600 annually.

The Monmouth CADB questioned the information provided and did not feel there was enough tillable acreage to produce the stated amount of product. In its resolution the Monmouth CADB found there was insufficient evidence of agriculture production totaling at least \$2500.

The board's resolution was appealed by M. Ville to the SADC, which forwarded it to OAL. The Administrative Law Judge issued an initial decision rejecting the Monmouth CADB's conclusion and, based on documentation and testimony provided by M. Ville, determined commercial farm eligibility had been proven.

Mr. Smith drew attention to two issues in the case and the initial decision. The first being the strength of the evidence presented by Mr. Danser. In prior cases, the SADC has only accepted three types of proof regarding agriculture production: a receipt from a third-party purchaser, documentation for value of crops in the ground and a contract to purchase said crops, or documentation for the wholesale purchase of valuable nursery stock and the retail sale to third party purchasers. In the latter case, the SADC disallowed the sale of nursery stock to the landowner's own company, which is significant as it is the same scenario in M. Ville case where the tenant farmer uses the harvested hay and wheat for his own agricultural operation.

The second issue is that M. Ville and the tenant farmer are not operating as a single enterprise. M. Ville has a landscaping business and at the time of the complaint did not have any independent agricultural production associated with the landscaping business. The tenant was harvesting the crops for his own use that resulted in farmland assessment for the M. Ville property.

Mr. Germano agreed that the landowner and farmer were not operating as a single enterprise and also found the testimony in the OAL, as set forth in the judge's decision, to be inconsistent regarding the value received for the crops.

Ms. Payne stated that since the landowner is seeking Right to Farm protection for activities that are unrelated to the farming operation and is not conducting any farming activities, it does not meet the requirements for Right to Farm protection. The landowner and the tenant are not operating as a single enterprise and the alleged value received for the crops does not matter in this case.

Mr. Smith stated his intention was to draft a decision that says the proofs submitted by M. Ville, LLC were insufficient to prove agricultural production and there was not a single enterprise between the landowner and the tenant farmer and therefore, they are ineligible for Right to Farm protection.

## **B. Stewardship**

### **1. Rural Microenterprises: Equine Surgical Clinic – Perretti Farms, Upper Freehold Twp, Monmouth Co.**

**NOTE: Martin Bullock was recused from this matter as he is the adjoining property owner.**

Mr. Roohr presented a Rural Microenterprise (RME) request for an Equine Surgical Clinic to the committee. The Perretti Farm consists of 305 acres located in Freehold Township which includes two single family residential units, numerous barns and outbuildings, stables for 80 horses, an indoor riding arena and 150 acres of fenced paddocks. The contract purchaser, Dr. Patricia Hogan, operates an equine surgical clinic on the adjoining property that specializes in surgical treatment and corresponding rehabilitation of standardbred and thoroughbred racehorses. Additionally, Dr. Hogan and her husband have a breeding operation located on a property across the street from the clinic. Dr. Hogan has made an offer to purchase the Perretti Farm contingent on the ability to relocate the clinic to the farm.

The RME proposal is for a Class 2 business on the Perretti Farm, which would renovate approximately 2,500 square feet of the indoor riding arena into a surgical facility. Dr. Hogan also needs space in the indoor riding arena to check-in the horses, which would consist of washing areas and exam stalls. The RME regulations state improvements to a structure are limited to 2,500 square feet and staff is asking the committee to determine if the improvements needed for the check-in area would fall under standard improvements associated with average equine operations and thus not be included toward the 2,500 square-foot limitation.

Mr. Roohr showed the committee several examples of other equine operations that have similar improvements which Dr. Hogan is requesting for the check-in area. SADC staff finds these improvements are standard to equine activities and would not need to be included in the RME proposal and has requested confirmation of this from the committee.

It was moved by Mr. Germano and seconded by Mr. Schilling that the improvements to be made to the check-in area are ubiquitous enough to normal equine operations and should not be included in the RME application. A roll call vote was taken. The motion was unanimously approved by the members who had not recused.



## **2. Agricultural Labor Housing – Mada Farms, LLC (Verdi), Readington Twp., Hunterdon Co.**

Mr. Roohr referred the committee to a request for agricultural labor housing on a preserved farm with the primary operation being an equine farm and the secondary operation being the production of hops. The property has a 30-stall stable and an indoor riding arena, but it does not contain any housing opportunities on the premises. The landowners are requesting one 960 square-foot apartment unit for agricultural labor to be built in a new equipment barn they are planning to erect. The responsibilities of the ag laborer would consist of feeding and watering the animals, managing the stalls and harvesting and packaging of the hops. Staff's opinion is this qualifies for an agricultural labor unit and recommends approval contingent upon the Hunterdon CADB's approval at their next meeting.

It was moved by Mr. Germano and seconded by Mr. Norz to approve Resolution FY2021R10(1) for the Agricultural Labor Housing on Mada Farms, LLC. A roll call was taken. Mr. Ellis was absent for the vote. The motion was unanimously approved by the members present. A copy of Resolution FY2021R10(1) is attached to and is part of these minutes.

## **3. Renewable Energy Generation – Solar – Benioff Farm, Hopewell Twp., Mercer Co.**

Mr. Roohr referred the committee to a request for installation of ground-mounted solar array on a preserved farm. He reviewed the specifics of the application with the committee and stated that the request for approval meets all the requirements of the solar regulations.

It was moved by Mr. Siegel and seconded by Mr. Schilling to approve Resolution FY2021R10(2) for the ground mounted solar array at Benioff Farm. A roll call vote was taken. Mr. Ellis was absent for the vote. The motion was unanimously approved by the members present. A copy of Resolution FY2021R10(2) is attached to and is a part of these minutes.

## **C. Resolutions: Final Approval- County PIG Program**

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

**NOTE: Mr. Johnson recused on the vote and discussion of the Giberson Farms request as he is a member of the Burlington CADB.**

**NOTE: Mr. Norz recused on the vote and discussion of the Mill Lane Farms as he is a member of the Somerset CADB.**

It was moved by Mr. Germano and seconded by Mr. Ellis to approve Resolutions FY2021R10(3) through FY2021R10(4) granting approval to the following applications under the County PIG Program, as presented, subject to any conditions of said resolution.

1. Giberson, Daniel & Pamela (North Farm), SADC ID#03-0430-PG, Resolution FY2021R10(3), Block 1601, Lots 11, 12, 13.01 and 14, Southampton Twp., Burlington Co., 52.342 acres.

2. Giberson, Daniel & Pamela (Home Farm), SADC ID#03-0431-PG, Resolution FY2021R10(4), Block 1503.07, Lot 2 and Block 1602, Lot 1, Southampton Twp., Burlington Co., 22.896 acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolutions FY2021R10(3) through FY2021R10(4) is attached to and a part of these minutes.

It was moved by Mr. Germano and seconded by Mr. Schilling to approve Resolutions FY2021R10(5) through FY2021R10(6) granting approval to the following applications under the County PIG Program, as presented, subject to any conditions of said resolution.

3. Mill Lane Farm I, LLC (Doyle 44), SADC ID#18-0223-PG, Resolution FY2021R10(5), Block 12, Lots 44 & 44.04, Hillsborough Twp., Somerset Co., 76.955 acres.

3. Mill Lane Farm I, LLC (Doyle 28), SADC ID#18-0222-PG, Resolution FY2021R10(6), Block 11, Lot 28, Hillsborough Twp., Somerset Co., 59.113 acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolutions FY2021R10(5) through FY2021R10(6) is attached to and a part of these minutes.

#### **D. Resolutions: Final Approval- Direct Easement Purchase Program**

Ms. Miller referred the committee to three requests for final approval under the Direct Easement Purchase Program. She reviewed the specifics of the requests with the committee and stated that the staff recommendation is to grant final approval.

It was moved by Mr. Ellis and seconded by Mr. Siegel to approve Resolutions FY2021R10(7) through FY2021R10(9) granting approval to the following application under the Direct Easement Program, as presented, subject to any conditions of said resolution.

1. TALC, LLC (Shen), SADC ID# 21-0056-DE, Resolution FY2021R10(7), Block 501, Lot 3, Mansfield Twp., Warren Co., 157 acres.

2. Strober, Michael & Diane, SADC ID# 10-0189-DE, Resolution FY2021R10(8), Block 37, 3 and 3.10, Kingwood Twp., Hunterdon Co., 52.75 acres.

3. Wentzell, Kenneth, Wayne & Marlene, SADC ID# 17-0355-DE, Resolution FY2021R10(9), Block 32, Lot 6 and Block 28, Lot 20 and 20.01, Upper Pittsgrove Twp., Salem Co., 104.7 acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolutions FY2021R10(7) through FY2021R10(9) is attached to and a part of these minutes.

**E. Resolutions: Final Approval- Nonprofit Program**

Ms. Miller referred the committee to one request for final approval under the Nonprofit Program. She reviewed the specifics of the request with the committee and stated that the staff recommendation is to grant final approval.

It was moved by Mr. Germano and seconded by Mr. Schilling to approve Resolution FY2021R10(10) granting approval to the following application under the Nonprofit Program, as presented, subject to any conditions of said resolution.

1. Murphy, Richard (Murlan-TLCNJ FY17) SADC ID #21-0031-NP, Resolution FY2021R10(10), Block 301, Lot 6, Frelinghuysen Twp., Warren Co., 224.878 acres.

A roll call vote was taken. The motion was unanimously approved. A copy of Resolution FY2021R10(10) is attached to and a part of these minutes.

**Public Comment**

There is no public comment.

Chairman Fisher thanked the staff for all of their hard work and efforts in making these remote meetings successful.

**TIME AND PLACE OF NEXT MEETING**

**SADC Regular Meeting:** 9 A.M., Thursday December 3, 2020

Location: TBA

**ADJOURNMENT**

The meeting was adjourned at 12:24 p.m.

Respectfully Submitted,



Susan E. Payne, Executive Director

State Agriculture Development Committee