

STATE AGRICULTURE DEVELOPMENT COMMITTEE
Department of Agriculture
Market and Warren Streets
3rd Floor Division Director Conference Room
Trenton, NJ 08625

SPECIAL MEETING – VIA TELEPHONE CONFERENCING

APRIL 2, 2009

Chairman Fisher called the meeting to order at 3:03 p.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.”

MEMBERS PRESENT

Douglas H. Fisher, Chairman (Attended in person)
Brian Schilling (rep. Executive Dean Goodman)
Ben Spinelli (rep. DCA Commissioner Doria)
Cecile Murphy (rep. DEP Acting Commissioner Mauriello)
Denis C. Germano
Alan A. Danser
Jane R. Brodhecker
Torrey Reade

MEMBERS ABSENT

Ralph Siegel (rep. State Treasurer Rousseau)
Stephen P. Dey
James Waltman

Susan E. Craft, Executive Director (attended via telephone conferencing)
Jason Stypinski, Deputy Attorney General (attended via telephone conferencing)

Others present as recorded on the Attendance Sheet: Robert J. Baumley, Brian D. Smith, Charles Roohr, Patricia Riccitello and Sandy Giambrone, SADC staff (Note: SADC staff attended in person). Maura Tully, Esquire, Governor's Authorities Unit (Ms. Tully attended via telephone conferencing). There were no members of the public present.

PUBLIC COMMENT

None

OLD BUSINESS

A. Sunset of Special Valuation Provision: Garden State Preservation Trust Act, N.J.S.A. 13:8C-38j

Ms. Craft stated that SADC staff, at the March 26th meeting of the Committee, proposed an interpretation of the Garden State Preservation Trust (GSPT) Act as it relates to allowing the Committee, local governments and nonprofit organizations to utilize the dual appraisal process, as it has been used for many years. She stated that under the GSPT Act the SADC does current value appraisals that use current zoning and environmental constraints. The statute also directs to do those appraisals assuming zoning and environmental constraints in place as of January 1, 2004. The higher of those two values are utilized as a basis for negotiations with landowners. The SADC's practice has been to certify both of those valuation figures and then offer the higher of the two figures to the applicant.

Ms. Craft stated that the issue at hand is the fact that this statutory provision is expiring. She stated that a copy of the operative language has been provided to the Committee. That language basically states that the SADC is able to continue this dual process through June 30, 2009. The question is, process-wise, when do we stop this and how do we stop this. She stated that as the Committee looks at the operative excerpt from the statute, the most important language of that statute is underlined, which includes (in reference to the June 30, 2009 date), "when the Committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement or the fee simple title". She stated that is part of the operative language, what does "seeks to acquire" mean.

Ms. Craft stated that the second operative piece is "using constitutionally dedicated moneys in whole or in part.....". She stated that staff knows that this dual zoning provision is connected to the use of money. The language further states "it shall conduct or cause to be conducted an appraisal or appraisals", so that is important – when those appraisals are ordered and conducted. She stated that staff has been trying to reconcile

these three important provisions into something that will make sense and also that it gives sufficient notice to everyone that this provision will not go on forever unless the Legislature acts to change the law.

Ms. Craft stated that at the March 26th meeting of the Committee, staff proposed an interpretation that was essentially identical to that which was discussed with Green Acres, which was to require appraisals to have been authorized and commenced prior to June 30th and that those appraisals contain a valuation date of June 30th or earlier. She stated that staff has received some feedback on that interpretation from some counties, from the NJ Farm Bureau, the State Board of Agriculture, all of whom were concerned about 1) the logistics of actually being able to accomplish authorizing and commencing appraisals by June 30th, giving that it is already April and 2) giving more weight and appreciation of the fact that, particularly in the Highlands, this provision is the only mechanism available to landowners to capture any of the equity they had prior to the Highlands Act and to be flexible in this interpretation.

Ms. Craft stated that staff reconsidered the proposal to provide some flexibility but still be consistent with the statute.

Ms. Craft referred the Committee to the SADC Interpretation of the Alternative Appraisal Provision Within the Garden State Preservation Trust (GSPT) Act, dated March 30th. She stated that the representatives of the New Jersey State Board of Agriculture, the New Jersey Farm Bureau and several counties have all appreciated this version and are satisfied with this interpretation. She stated that Deputy Attorney General Jason Stypinski is present via telephone as is Maura Tully from the Governor's Authorities Unit. She stated that the Attorney General's Office is also comfortable with this version.

Ms. Craft asked if the Committee had any comments. There were no comments made. Ms. Craft reviewed the revised proposal with the Committee. She stated that under item "b" under section # 1, where it reads "all appraisals shall have a market valuation date no later than June 30, 2009", ensures that there is not a major difference between how appraisals are being accepted and handled under the Green Acres Program and the SADC – Farmland Preservation Program. If all the appraisals being submitted to Green Acres also require a valuation date not later than June 30th then we are building in a high level of consistency between the two agencies. This was a concern of the Attorney General's Office previously in that they did not want one agency having a radically different interpretation from the other agency. Ms. Craft reviewed the remainder of the proposal with the Committee. She stated that the last provision # 3 states that the applicant must use funding authorized under the GSPT Act, meaning all of the GSPT funding appropriated to date and the 2007 bond fund. If there is future funding allocated through the Legislature, it would have to address whether that funding brings with it this alternative appraisal provision. In the absence of knowing that we have to let counties and municipalities know that, even if they submitted applications for green light approvals to the SADC by June 30th and they got their appraisals in on time, if there is no

funding at the state level to provide a cost share grant, authorized under the GSPT Act, the SADC cannot recognize approval valuations based on 2004 zoning.

Chairman Fisher asked the Committee if it had any questions. There were none. He asked for a motion to adopt the SADC interpretation of the alternative appraisal provision as presented and discussed.

It was moved by Mr. Germano and seconded by Mr. Schilling to adopt the Sunset of Special Valuation Provision: Garden State Preservation Trust Act, N.J.S.A. 13:8C-38j, as presented and discussed. A roll call vote was taken as follows:

Douglas H. Fisher	Yes
Brian Schilling	Yes
Ben Spinelli	Yes
Cecile Murphy	Abstain
Denis C. Germano	Yes
Alan A. Danser	Yes
Jane R. Brodhecker	Yes
Torrey Reade	Yes

7 Yes Votes, 1 Abstention – The Motion Carries.

Mr. Schilling asked if this information would be communicated to the counties as soon as possible. Ms. Craft responded that it would be sent out right away to all of the funding partners and the public that the SADC has adopted this interpretation. Ms. Tully asked if the SADC would be waiting until the Governor's veto period ends or will staff send the information out now? Ms. Craft indicated that she would like to send the information out right away. She stated that staff could say that this was what was approved by the Committee and is subject to the Governor's veto period. Ms. Tully stated that staff could send the minutes over today for review by the Governor's Authorities Unit. Mr. Baumley indicated that in order to do that the Committee would have to approve the minutes of today's special meeting. He stated that if minutes are not approved to move forward right away, the minutes would then go before the Committee at its April meeting, and if approved they would go to the Governor's Office for review and approval, which would bring the expiration period into May.

It was the consensus of the Committee to approve the minutes of this meeting in order to begin the Governor's review period immediately.

It was moved by Mr. Germano and seconded by Mr. Schilling to approve the minutes of the Special Meeting of April 2, 2009. A roll call vote was taken as follows:

Douglas H. Fisher	Yes
Brian Schilling	Yes

Ben Spinelli	Yes
Cecile Murphy	Yes
Denis C. Germano	Yes
Alan A. Danser	Yes
Jane R. Brodhecker	Yes
Torrey Reade	Yes

8 Yes Votes (unanimous vote) – The Motion Carries.

Mr. Spinelli asked if it would be appropriate for the Committee to make a recommendation for the Legislature regarding extending the sunset provision of the Highlands Water Protection and Planning Act. Chairman Fisher indicated that this issue came up at the Committee's last meeting. He asked if there was a bill either being introduced or was introduced regarding this? Ms. Craft stated that it was her understanding that there were several bills that would deal with this issue but none are slated for any hearings of any kind. Ms. Reade stated that this would be something that needs a lot more discussion. Mr. Spinelli suggested that it could be put on the agenda for the April meeting. Chairman Fisher indicated that no action would be taken on that today and it would be put on the agenda for discussion at the next meeting of the Committee.

CLOSED SESSION

There was no closed session portion of this meeting.

ADJOURNMENT

There being no further business, it was moved by Ms. Brodhecker and seconded by Ms. Reade and unanimously approved to adjourn the meeting at 3:21 p.m.

Respectfully Submitted,

Susan E. Craft, Executive Director
State Agriculture Development Committee

Attachments