

**STATE AGRICULTURE DEVELOPMENT COMMITTEE**  
**Department of Agriculture**  
**Market and Warren Streets**  
**1<sup>st</sup> Floor Auditorium**  
**Trenton, NJ 08625**

**REGULAR MEETING**

**April 24, 2015**

Chairman Fisher called the meeting to order at 9:02 a.m. 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**

Douglas H. Fisher, Chairman  
Maria Connolly (rep. Acting DCA Commissioner Richman)  
Brian Schilling (rep. Executive Dean Goodman)  
Renee Jones (rep. DEP Commissioner Martin)  
Alan Danser, Vice Chairman  
Peter Johnson  
Jane Brodhecker

**Members Absent**

Ralph Siegel (rep. State Treasurer Sidamon-Eristoff)  
Denis C. Germano, Esq.  
James Waltman

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

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**Others present as recorded on the attendance sheet:** Timothy Brill, Steve Bruder, Daniel Patrick O'Connell, Matthew DiStaulo, Heidi Winzinger, Cindy Roberts, Stefanie Miller, Paul Burns, Hope Gruzlovic, Jeffrey Everett, David Kimmel, Charles Roohr, Dan Knox, Sandy Giambrone and Patricia Riccitello, SADC staff; Robert Vivian, N.J. Department of Agriculture, Office of the Secretary; Michael Collins, Esq., Governor's Authorities Unit; Tom Beaver, New Jersey Farm Bureau; Donna Rue, Rue Brothers Farm, Monmouth County; Daniel

Pace, Mercer County Agriculture Development Board; Brigitte Sherman, Cape May County Agriculture Development Board; Katherine Coyle, Morris County Agriculture Development Board; Tara Kenyon, Somerset County Agriculture Development Board; Martin Bullock, State Board of Agriculture Member; Richard A. Norz, President, State Board of Agriculture, and Robert A. Swanekamp Sr., Vice President, State Board of Agriculture.

### Minutes

#### A. SADC Regular Meeting of March 26, 2015 (Open and Closed Sessions)

It was moved by Ms. Brodhecker and seconded by Mr. Danser to approve the Open Session and Closed Session minutes of the SADC regular meeting of March 26, 2015. The motion was approved. (Ms. Connolly abstained from the vote.)

### REPORT OF THE CHAIRPERSON

Chairman Fisher made the following comments:

- Soil Disturbance

Chairman Fisher stated that this is the third meeting where he wanted to discuss soil disturbance. The first meeting the draft regulations were floated and he immediately heard from the agricultural community that there were huge concerns. Then we went to sending out that floated document and heard even greater concerns from across the agricultural community. Then at the annual State Agricultural Convention a resolution was passed directing that there should be a subcommittee comprised of SADC members, State Board of Agriculture members and the agricultural community to discuss the subject.

Chairman Fisher stated that the subcommittee met and created a document, which he believed the Committee received yesterday. That document also listed the members of the subcommittee. That discussion also triggered other discussions by that committee and by the State Board of Agriculture, looking for more dialogue between the SADC and the general agricultural community – better communication, more discussion, timeliness of actions, impacts of SADC actions. They want to help the Committee look at its own role in terms of the impacts it has and the mission that it has and an understanding of how it can help the agricultural community. After all, we need farmland but we need farmers and the

two go hand in hand. That is where he thinks they are looking for better interactions and intersections with the SADC. The Committee, as members, are dedicated and do an extraordinary amount of work trying to deal with the issues that come before it. But the general agricultural community has asked for more interaction to help guide the Committee in its deliberations and decisions. Chairman Fisher stated that was all he wanted to discuss today, other than to help create some refinements within the agency to better serve, because that is what we are all here for. The draft soil disturbance regulations have been removed from the website so there is no soil disturbance document there now. He is sure that the agricultural community would like to and is discussing the concerns on a very broad platform. The document that is here, that the Committee has, gives some very specific recommendations of what the agricultural community would see as an answer to the questions that you all have asked on the SADC.

#### **REPORT OF THE EXECUTIVE DIRECTOR**

Ms. Payne made the following comments:

- Soil Disturbance

Ms. Payne stated that, as Secretary Fisher has indicated and we have consistently been reporting, the State Board of Agriculture created its subcommittee. The Committee has been provided the list of those on the subcommittee along with a copy of the resolution that was passed at the State Agricultural Convention. The subcommittee was created to give the SADC feedback on the issue. That feedback was approved by the State Board and staff provided it to the Committee yesterday. Also, they passed a motion to have representatives of the State Board of Agriculture sit down with representatives of the SADC and staff to talk about this further. The Committee has not had a full discussion of this yet. At the subcommittee level it came up and we made a presentation and it really has not been discussed. Anything that the Committee wants to say or contribute, you are always welcome to do that. Ms. Payne stated that from an administrative standpoint, what she would suggest is that we take the State Board's summary points and go back to our soil disturbance subcommittee and really go into these in depth and then perhaps that is the group that would wind up meeting with the State Board representatives to go into this deeply and see what their subcommittee would recommend back to the SADC. That is her thought about how to move forward. If the Committee wants to handle it any differently staff is here to take direction.

- Resignation of Farmer Member of the SADC

Ms. Payne stated that the Committee received a copy of Ms. Reade's resignation letter. Ms. Reade is looking to retire from farming and sell her farm. Ms. Reade felt it was best that another representative of the agriculture community fill the seat. The State Board of Agriculture, statutorily, has the role of recommending candidates to fill farmer positions on the SADC and to make those recommendations to the Governor. Upon the Governor's approval, she believes nominees also need Senate consent as well. The State Board of Agriculture made two recommendations to the Governor's Office on Wednesday – Roger Kumpel from Burlington County and Scott Ellis from Mercer County. Clearly we would like to see this move forward as quickly as possible, particularly given the discussion regarding soil disturbance. We want to make sure we have full farmer membership represented as we go through that process.

Secretary Fisher called for a motion to have a letter sent to Ms. Reade thanking her for her years of service to the SADC.

It was moved by Mr. Danser and seconded by Ms. Jones to authorize SADC staff to send a letter of thanks to Ms. Reade for her many years of service to the SADC. The motion was unanimously approved.

### COMMUNICATIONS

Secretary Fisher stated that the SADC will be getting communications addressed to the members not just at the meeting but as they come in. Ms. Payne stated what staff has been doing is trying to provide the Committee copies of correspondence as they come in on hot topics. This is definitely not every piece of communication that comes in of course but staff did include in the members' packet a copy of the letter that was sent to all of the towns that have wineries on preserved farms that are potentially affected by the recent law regarding special occasion events. Mr. Johnson asked if the SADC could investigate the possibility of getting a sub for the farmer members of the SADC. It seems that many of the other members have subs who show up who are really not totally abreast of what all of our issues are so he knows it can take a long time to get somebody placed here. Ms. Payne asked if he was looking for alternates for farmer members. Mr. Johnson replied yes, that is a better word. Ms. Payne stated that she thought it would require a statutory change. Mr. Johnson said he didn't know. Ms. Payne stated that the statute talks about the four farmer members. Mr. Johnson stated he has asked before if staff could investigate if that is possible. Ms. Payne stated that she thought there was a bill introduced to

accomplish that and she doesn't know what the status of that is.

Mr. Schilling stated that it occurs to him that the five ex-officio members are named in the statute. He doesn't know where or at what point there is any explicit language saying that there is the ability to have a designee. He was wondering if it was a heavy lift for a statutory change or if there is some other level at which that decision could be made. He isn't sure where it says it in the statute.

Mr. Stypinski stated that basically the Commissioners can designate people to serve in their stead. That is in the statute – N.J.S.A. 4:1C-4b, but then the public members and the farmer members do not have that ability. It is an appointment process.

Chairman Fisher stated that when we get to the New Business section of the meeting Mr. Johnson can make a motion that he is requesting that statutory change. If it is voted on and approved by this Committee, then the Legislature will make the decision as to whether or not they want to put in a bill to make the statutory change. Mr. Johnson asked if the word "alternate" was the correct language. Chairman Fisher responded yes, it would be an alternate with the same rights and privileges.

### **PUBLIC COMMENT**

Chairman Fisher stated that three members of the State Board of Agriculture are present – the State Board President, Vice Chair and a Member. They asked if they could come in and make a presentation to the Committee. Chairman Fisher opened up the public portion of the meeting and he called on State Board President Richard Norz.

Mr. Norz stated that they want to first commend everyone on the SADC and its staff for all the hard work and time that they put in. He knows that it is a tremendous amount of work. In December, when they heard the draft soil disturbance proposal as the rest of the state did, the State Board received a tremendous amount of feedback from different people in agriculture throughout the state. The New Jersey Farm Bureau also received a lot of comments. Concern climaxed at the State Agricultural Convention with the resolution pointed directly at the soil disturbance issue. The State Board took it very seriously and formed a committee on the recommendations of the 100+ delegates of the Agricultural Convention throughout the state of many different county boards of agriculture and commodity groups. The committee that was formed had more than 30 members from various commodity groups, producing a very good representation

of New Jersey agriculture.

Mr. Norz stated that when they were going through this process, they looked very closely at the legislation that made up the SADC originally, and the deed of easement is really what their basis was for the document addressing soil disturbance that the Committee has before it today. That is just a little information for the Committee as to where that all came from. The State Board feels that the document that was produced has some good recommendations to be able to address the concern, and he knows the pending lawsuit was in there and they also considered that very heavily with this. They believe that if this is the direction that is able to be taken going forward, that it will protect the public while still being able to keep the farmer sustainable. That was their main goal in doing all this.

State Board of Agriculture Vice President Robert Swanekamp Sr. addressed the Committee. Mr. Swanekamp stated that one of the things that this group felt strongly about, as Secretary Fisher mentioned, is the need to communicate. The line of communication between the SADC's goings on and the State Board's goings on is broken. His four years on the State Board, other than getting the monthly report from Ms. Payne or her representative, they really didn't understand what you folks are doing. He thinks that needs to change. Very simply and it doesn't have to be a monthly thing, it could be quarterly or a bi-yearly situation where representatives from the State Board and the SADC sit down and talk to touch base. By doing so, obviously he thinks you could move forward aggressively preserving farmland like you are charged to do and do it smoothly and efficiently. The State Board could help the SADC and the SADC could help the State Board achieve these goals. He hopes the SADC will consider that in its deliberations in doing this document. Mr. Swanekamp stated that with he and Mr. Norz being 4<sup>th</sup> year members, they are ready to step down but there are folks coming up on the State Board who are just as talented and interested and willing to put in the hours and time to achieve these goals. He stated that they are here to answer any questions that anyone may have, if not today then certainly you can reach out to them at any time and they would be more than happy to have a dialogue.

There were no questions for the members of the State Board from the Committee.

Donna Rue from Rue Brothers Farm stated that the SADC gave approval for their parcel with Holland Greenhouses last month and they found out there was a 45-day wait limit for the Governor's Office to approve the resolutions. She asked if

they would be getting a letter saying that everything has been approved. They only have the resolution from the last meeting. She asked what the next step is.

Mr. Roohr stated that the signed resolutions went out yesterday. The Governor's review period expires on May 8<sup>th</sup>. Ms. Rue asked, so after May 8<sup>th</sup> they should get something that says everything is approved? Ms. Payne stated staff can send a letter when the expiration period is over. Ms. Rue stated that it has affected Casey Jansen's funding opportunity and it is going to probably kick us back a year again. Because of the 45-day waiting period, the lenders won't do anything until we get this letter. Ms. Rue stated that they are going forward and closing but as far as ordering the greenhouse, everything is stopped.

Chairman Fisher stated that the Committee approved it and there is this 45-day period for the minutes. Ms. Payne stated that she needs to correct everyone here. The SADC has a meeting, then it sends its minutes of that meeting to the Governor's Office. There is a 15-day clock for the Governor to veto any action. That is the date when you know that our decision is final. The 45-day period is if anyone, Ms. Rue, Casey or anyone wants to appeal the Committee's decision in court. They are two separate things. So staff can provide to you either a letter or email that lays all of that out so that you are clear.

Ms. Rue stated that she had a solar energy question. On her preserved farm, they have no exception for buildings, houses, etc. If they wanted to put solar on one of the personal houses or on the barn, do they have to come to the SADC to get approval or is that solar approval from the SADC for a solar field? Ms. Payne stated that it is the construction of all renewable energy facilities on preserved farms under the law. Ms. Rue stated that even if it is their personal house and they wanted to put panels on it they would need approval from the SADC because it is on the farm and there are no exception areas. Ms. Payne stated that is correct. Ms. Rue asked if they were in an exception area, could they go ahead without getting SADC approval? Ms. Payne responded no. The statute requires that to be reviewed as well. Mr. Roohr stated that if the panels are going to go on top of an existing structure, it is an administrative review so it is quicker. If they go in the ground you would have to come before the Committee. The way the legislation reads is that they all have to come before the Committee. However, the Committee delegated authority for roof-mounted systems to be decided by staff so it is quicker. Chairman Fisher asked if there were ever any roof-mounted systems that have been denied. Mr. Roohr stated that so far no roof-mounted systems have been denied and no ground-mounted systems have been denied. All the

applications have to come to the State first and if the county has participated in the cost share, it gets a 30-day review.

Tom Beaver from the New Jersey Farm Bureau stated that Mr. Norz and Mr. Swanekamp did an excellent job framing out where this subcommittee's work has taken us. He wanted to offer the Farm Bureau's support for the subcommittee's report. They were very active in that process and he thinks the outcome puts it in a great direction to have some dialogue. The Farm Bureau commends the SADC for its decision to remove the specter of the original proposal to allow for more engagement from the industry. He gives a lot of credit to SADC staff because even though the concerns related to the original proposal were very well known, the work that was done to lead up to that will be very valuable as they continue with this dialogue and process. The Farm Bureau looks forward to being involved and engaged.

Chairman Fisher stated that before we get started on new business, he asked if there was any motion that anyone wanted to make. Mr. Johnson stated that he would like to make a motion that farmer members of the SADC each have an alternate with all the rights and privileges of the Committee to attend the regular meetings of the SADC, upon resignation or absence of farmer members of the regular Committee.

It was moved by Mr. Johnson to have farmer members of the SADC each have an alternate with the rights and privileges of the Committee members to attend the regular meetings of the SADC, upon resignation or absence of farmer members of the regular Committee.

Mr. Stypinski asked if Mr. Johnson was making a motion for that to happen or for the Legislature to tackle making the statutory change. Mr. Johnson stated yes, the statutory change or whatever the appropriate thing is. Mr. Danser stated that the motion is for you, Mr. Stypinski, to review it and if it needs statutory action to recommend that to the Legislature as a request of this Committee. Mr. Stypinski stated OK. He stated that he didn't know if he could recommend that but he thinks that someone would recommend that.

Ms. Brodhecker seconded the motion.

Mr. Schilling stated that there are so many reasons that this is a good idea. He thinks it would be more efficient moving issues forward, getting the input of the industry. He stated that this is sort of a no-brainer. Mr. Schilling stated that the Committee talked

about this in the past and he was hopeful that it may be something in our authority to do but he didn't expect that it would be. Ms. Payne stated no – and one of the roles of the Committee is definitely to make recommendations to the Legislature. If the Committee would like to we can work on that language and bring it back to the Committee and work with the State Board to make sure that it covers the bases and we can make that recommendation. Chairman Fisher stated that this is really simple. It just says that there is a substitute who is here. If you open this any broader then it is going to be a whole other can of worms. He thinks you could make the motion and vote on it. He asked, can't they vote on something with the language we are going to provide or do we have to provide the language first? Mr. Stypinski stated that he could advise the Committee in Closed Session, not Open Session, to discuss the legalities of the issue.

Chairman Fisher stated that Mr. Johnson still made his motion, there was a motion and a second that a request for an alternate delegate to the Committee, farmer member, be sent to the Legislature to ask for legislative consideration, and then we will have a discussion on the legalities in Closed Session.

The motion carried.

## **NEW BUSINESS**

### **A. Resolution for Certification**

#### **1. Agricultural Development Area Map Amendments**

##### **a. Morris County**

Mr. Brill referred the Committee to Resolution FY2015R4(1) for a request by the Morris CADB to amend its Agricultural Development Area map to include parcels, one in Mendham Borough and one in Harding Township, Morris County, as outlined in the draft resolution before the Committee. He reviewed the specifics of the request and stated that staff recommendation is to grant approval.

It was moved by Mr. Danser and seconded by Ms. Jones to approve Resolution FY2015R4(1) certifying the amendment to the Morris County Agriculture Development Board's Agricultural Development Area map to include the Scott Farm, known as Block 501, Lot 23 in Mendham Borough, Morris County, and the Simon Farm, known as Block 10, Lots 18 and 18.02 in Harding Township, Morris County, as presented and discussed, subject to any conditions of said resolution. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey. The motion was unanimously approved. (A copy of Resolution FY2015R4(1) is attached to

and is a part of these minutes.)

b. Hunterdon County

Mr. Brill referred the Committee to Resolution FY2015R4(2) for a request by the Hunterdon CADB to amend its Agricultural Development Area map to include a parcel in Readington Township, Hunterdon County, known as the Cole Farm, as outlined in the draft resolution before the Committee. He reviewed the specifics of the request and stated that staff recommendation is to grant approval.

It was moved by Ms. Jones and seconded by Mr. Danser to approve Resolution FY2015R4(2) certifying the amendment to the Hunterdon County Agriculture Development Board's Agricultural Development Area map to include a parcel in Readington Township, Hunterdon County, known as the Cole Farm, Block 67, Lot 12 and Block 68, Lots 2 and 14, as presented and discussed, subject to any conditions of said resolution. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey. The motion was unanimously approved. (A copy of Resolution FY2015R4(2) is attached to and is a part of these minutes.)

**B. Resolutions for Final Approval – Municipal PIG Program**

Ms. Payne stated that so that the public understands, SADC staff is making an effort to make the meetings a little more efficient. Staff will start to abbreviate presentations at the meeting a little. All of the details will still be in all the public documents but for the CADB coordinators present at the meetings, you may hear a more abbreviated version than you are used to and that is by design. Staff has asked the Committee that if it wants to see more detail then staff will be happy to provide that, but we are just trying to keep the meetings more manageable in length.

SADC staff referred the Committee to three applications for final approval under the Municipal Planning Incentive Grant Program. Staff reviewed the specifics of each application with the Committee and stated that staff recommendation is to grant final approval.

It was moved by Ms. Jones and seconded by Mr. Danser to approve Resolution FY2015R4(3) through Resolution FY2015R4(5) granting final approval to the following applications under the Municipal Planning Incentive Grant Program, as presented and discussed, subject to any conditions of said resolutions. These approvals are considered

final agency decisions appealable to the Appellate Division of the Superior Court of New Jersey:

1. Lambert Farm LLC, SADC # 10-0355-PG (Resolution FY2015R4(3))  
Block 3, Lot 16, West Amwell Township, Hunterdon County, 53 Net Easement Acres  
State cost share of \$6,780 per acre (60%) for a total grant need of approximately \$359,340 (Schedule B), pursuant to N.J.A.C. 2:76-6.11 and the conditions contained in Schedule C. The property includes a 5.5-acre nonseverable exception limited to two single-family residential units and a 0.4-acre nonseverable exception for an existing cellular installation limited to zero residential units. The property has zero housing opportunities, zero agricultural labor units and no pre-existing nonagricultural uses outside of any exception areas.
2. John and Miriam Jacobson, SADC # 10-0352-PG (Resolution FY2015R4(4))  
Block 5, Lot 1, Alexandria Township, Hunterdon County, 30 Net Easement Acres  
State cost share of \$6,900 per acre (60%) for a total grant need of approximately \$207,000 pursuant to N.J.A.C. 2:76-6.11 and the conditions contained in Schedule C. The property has one 2.4-acre nonseverable exception area for and limited to one single-family residential unit, zero single-family residence, zero agricultural labor units, and no pre-existing nonagricultural uses on the area to be preserved outside of the exception area.
3. Joseph P. Nichols and Victoria A. Nichols, SADC # 08-0163-PG (Resolution FY2015R4(5))  
Block 2801, Lots 45 and 49, Franklin Township, Gloucester County, 41.686 Net Surveyed Easement Acres  
State cost share of \$3,500 per acre (67.30% of the certified market value) for an estimated total grant need of \$145,901 pursuant to N.J.A.C. 2:76-6.1 and the conditions contained in Schedule C. The property includes a 4.0-acre nonseverable exception limited to one single-family residential unit. The property has one existing single-family residential unit, zero agricultural labor housing and no pre-existing non-agricultural uses on the area to be preserved outside of the exception area.

Chairman Fisher stated that for the abbreviated presentations, nothing is in question that staff needs to bring to the attention of the Committee. It is all pretty much written in terms of the three appraisals, but if there are specific questions that the Committee has as it is looking at these farms, members are welcome to ask staff. Chairman Fisher felt that

