

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

**REGULAR MEETING**

**June 25, 2015**

Chairman Fisher called the meeting to order at 9:09 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  
James Requa (rep. DCA Commissioner Richman)  
Brian Schilling (rep. Executive Dean Goodman)  
Cecile Murphy (rep. DEP Commissioner Martin)  
Alan Danser, Vice Chairman  
Ralph Siegel (rep. State Treasurer Sidamon-Eristoff)  
James Waltman  
Peter Johnson

**Members Absent**

Jane Brodhecker  
Denis C. Germano, Esquire

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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, Heidi Winzinger, Cindy Roberts, Stefanie Miller, Paul Burns, Jeffrey Everett, David Kimmel, Charles Roohr, Alison Reynolds, Esq., Gerry Taylor, Sandy DeVincent, David Clapp, Pat O'Connell, Matthew DiStaulo, Matthew Calcagno, Sandy Giambrone and Patricia Riccitello, SADC staff; Michael Collins, Esq., Governor's Authorities Unit; Harriet Honigfeld, Monmouth County

Agriculture Development Board; Daniel Pace, Mercer County Agriculture Development Board; Tara Kenyon, Somerset County Agriculture Development Board; Brian Wilson and Tim Willmott, Burlington County Agriculture Development Board; Liz Thompson, New Jersey Farm Bureau; Katherine Coyle, Morris County Agriculture Development Board; Dr. Paul Gottlieb, Rutgers University; Lori Rue, Rue Brothers Farm, Monmouth County; Mark Villinger, Kyle McLaughlin and Rebecca Ziefle, Ocean County Agriculture Development Board; and Michell Hartung and Kenneth Lea, landowners, Pohatcong Township, Warren County.

### **Minutes**

#### A. SADC Regular Meeting of May 28, 2015 (Open and Closed Sessions)

It was moved by Mr. Requa and seconded by Mr. Schilling to approve the Open Session and Closed Session minutes of the SADC regular meeting of May 28, 2015. The motion was approved. (Mr. Danser and Mr. Johnson abstained from the vote.)

### **REPORT OF THE CHAIRPERSON**

Chairman Fisher deferred comments to the Executive Director.

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

Ms. Payne made the following comments:

- Retirement of SADC Agriculture Retention Program Manager Tim Brill

Ms. Payne stated that as she mentioned last month this will be the last meeting that Tim Brill will be attending as he will be retiring effective July 1<sup>st</sup>. Ms. Payne read a resolution recognizing Mr. Brill and his service to farmland preservation. Mr. Brill has been with the SADC for the past 16 years and has dedicated his entire career to preserving New Jersey's farmland, historic and open space resources, starting with the City of Bridgeton and then continuing on to Cumberland County for a total of 30+ years of service. Mr. Brill leaves behind a legacy of 2,132 farms covering 162,280 acres that have been preserved under the State Farmland Preservation Program during his tenure, as well as comprehensive

farmland preservation plans developed by 18 counties and 47 towns that target an additional 280,000 acres of farmland. Ms. Payne stated that the SADC offers its sincere thanks to Mr. Brill on behalf of all the farmers and citizens of New Jersey now and in the future who will benefit from his tireless efforts and that the SADC wishes him all the best in his future endeavors and a long and happy retirement.

Mr. Brill stated that it has been a real privilege to serve the program in a number of capacities over the years. He does look at the teamwork that has gone into this program and the partnerships with landowners, counties and municipalities, along with the nonprofit groups, as being the real legacy that will sustain the program going forward. We are obviously at a critical point in the program's development but he looks forward to looking at bigger and better things in the years to come; a lot of new tools are coming on the floor. It is great, as he travels around the state, to see the impact that this program has had. When he first became involved in the program in Cumberland County, there was a real impermanent syndrome associated with agriculture and he doesn't see that any more. He thinks that now that we have preserved roughly one-third of the state's agricultural resources, people realize that agriculture will always be a part of the Garden State and he thinks the future endeavors, with the changes in agriculture that are inevitable in the future, will continue to sustain the industry going forward. Mr. Brill stated it has been a pleasure working with everyone.

- Soil Disturbance Subcommittee

Ms. Payne stated that the Soil Disturbance Subcommittee met last week with three members of the State Board of Agriculture. It was a very productive and open exchange of ideas on the issue. The State Board meeting was yesterday and some of the folks who attended our meeting spoke very positively about the meeting. They were very appreciative about having the opportunity to sit face-to-face with the SADC. They look forward to continuing to work with the SADC on this issue. Mr. Danser, who sits on the subcommittee, stated that he felt that the meeting went very well. It was a good start and a frank discussion and they all recognize that it is a tough topic but he doesn't know what would happen to have it go any better. It was a very good meeting. Mr. Johnson, who also sits on the subcommittee, stated that he was curious to see where we are going next. Ms. Payne stated that the subcommittee will need to meet again and give direction. We continue, at the staff level, to reach out to all kinds of experts in the agricultural community to try to get more one-on-one feedback. She would like to get feedback from the CADBs, and she always offers to come and talk and

discuss it with them. Staff hasn't had much feedback from them on the issue. Ms. Payne stated that she thought that was her charge, to go out and try to understand the full range of concerns from the agricultural community, as well as the environmental community, and bring those back to the subcommittee and then to the SADC. Chairman Fisher stated that we will be listening a lot and try to see where we can get some consensus on some of the issues and the board will make its determination on what it may or may not do. In addition to the soil disturbance issue, the State Board indicated it wanted to meet more frequently with the SADC to understand what is on our plate and what we are working on so that things don't come up and surprise them. Ms. Payne stated that under Tab 2 in the members' binders, she has provided the same list that was provided to the State Board last week. It is to give the Committee a snapshot of the projects that staff is working on so you know what is on the SADC's plate. The State Board would like to meet again in a month or two and further the discussion and we will see where we are on other things such as the rules we need to do for alternative energy. This is to keep the Committee informed as well.

- New Jersey Pinelands

Ms. Payne stated that the New Jersey Pinelands Commission, originating out of one specific case, has begun to look at the issue of agritourism in the Pinelands. The Pinelands Commission is looking at two things: what the Pinelands regulations allow in terms of agritourism activities and what the regulations allow in terms of nonagricultural uses on farms from a zoning perspective. The two things are somewhat distinct. They are looking at both preserved and unpreserved farmland. Roger Kumpel, Bill Kutz and Ms. Payne, along with representatives from the New Jersey Farm Bureau, met with the Pinelands Commission's Executive Director recently. Ms. Payne stated that the SADC expressed its offer to help in any way it can but we definitely wanted to make sure that they are aware of the fact that the SADC already adopted an agricultural management practice for on-farm direct marketing and that there is a little bit of concern regarding re-creating the wheel and creating a different set of standards to apply in the Pinelands and the kind of situation it puts a farmer in if he is in the Pinelands and trying to take advantage of Right to Farm protections. Right to Farm protects farmers in the Pinelands for the activities they want to do, unless that activity is contrary to the regulations in the Pinelands because it is a State agency. A farmer cannot violate a State law or regulation and be eligible for Right to Farm protection so if there is something that the Pinelands Commission says you cannot do that carries the weight of the State regulation.

Ms. Payne stated that she has been invited to come down and provide a more detailed presentation on the on-farm direct marketing AMP. That will probably be scheduled for late July. Mr. Schilling stated that there may be some value in sitting down with Rutgers to talk about some of the work that Rutgers has done to help them understand the broader context of agritourism and economic development. Ms. Payne stated that she would be happy to reach out to them and let them know that Rutgers would be a great resource to meet with them, if that hasn't happened already. Mr. Schilling stated that he was thinking specifically to sit down with SADC staff and others here to give staff some background that may be useful to pass on. Ms. Payne stated absolutely. She explained that the Pinelands Commission is considering a pilot program; their statute and regulations allow them to adopt regulations as a pilot for different uses and it is a five-year period. Many activities associated with marketing on farms would not be permitted under the current regulations of the Pinelands Commission. Ms. Payne stated that staff also pointed out to them something that staff has observed over the years regarding the different zones in the Pinelands. There is the agricultural production area, which is most of the farmland, but then there is the special agricultural production area, which is mostly berry production. The Pinelands regulations do not allow retail marketing on farms in the whole special agricultural production area so we have pointed that out to them.

- Burlington County 30<sup>th</sup> Anniversary Event

Ms. Payne stated that this was a beautiful event that she attended a week ago. It was held at the Smithville Mansion in Eastampton, celebrating 30 years since the first farmland preservation acquisitions in the State. Secretary Fisher attended and made remarks and there was an auction of artwork featuring artists from all over the county. They had gone out to preserved farms and did either photographs or paintings and had a beautiful art display. It was a lovely evening. She thanked everyone who was able to attend the event.

- Land Link

Mr. Everett stated that the SADC had a \$50,000 grant from the federal government and the National Institute of Food and Agriculture. Dave Kimmel has been engaged with NOFA, NJ for three years to try to facilitate the linkages between landowners and farmers, with particular emphasis on beginning farmers. That project has concluded. The last piece was a land-linking component because

up until this time Land Link has been limited to tabular listings of farm opportunities that may or not be stale so we wanted to give a spatial component to that. That is now up online at NJlandlink.org and there are now live entries on there. Staff will do a press release shortly. This is something we are very proud of and we are probably the first in the country that has this type of product. Staff has heard a lot of positive comments thus far and there is no cost to New Jersey taxpayers for this. The next iteration for this would be through a grant that NOFA NJ applied for, for phase II, and we hope to add soils from the USDA, NRCS's web soil survey along with different GIS components that will help farmers and landowners make decisions related to the land itself. Ms. Payne stated that since the Committee saw the demo of it a while back, there were added educational documents to help a landowner walk through how to use the website. We think it is very user-friendly at this point so it is going live. Staff offered yesterday to see if we could do a demo for the State Board of Agriculture at an upcoming meeting. She thought that would be a great idea.

Mr. Johnson stated that the Burlington County Freeholders had an interesting meeting last night with a packed house. They have re-established the four cent dedicated tax for farmland preservation, historic and open space presentation in Burlington County. The support was overwhelming from all walks of life. This was very good news for the program.

### **COMMUNICATIONS**

Ms. Payne reminded the Committee to take home the various articles provided in the meeting binders. Ms. Payne stated that there are a lot of articles regarding pipelines to keep the Committee up to date. In terms of where pipelines go, when a pipeline has an existing right of way most often times the pipeline companies come in and they want to do a parallel expansion of the right of way, so if they have 25 feet now they may want to come in and do another 25 or 50 feet. We see a lot of that and it makes sense. The PennEast pipeline project is a new pipeline, so there is no existing right of way. That project raised the issue of, instead of cutting across most of the farms, co-locating pipelines with existing electric utility easements that already exist on those farms. PennEast, to their credit, embraced that approach. They dramatically changed what their original proposed alignment was for that project to co-locate with existing overhead utility lines to the extent that they can.

Ms. Payne stated that the New Jersey Natural Gas project, which is another new project that will be coming through Northern Burlington County into Ocean County into the

Joint Base, is definitely raising a lot of concerns. First, it is probably the most contiguous preserved area in the State, in terms of farmland preservation, TDR and open space. It is highly intact and they are trying to get this pipeline through that area. They are aware of the fact that under State law they cannot cross preserved farmland unless they have overriding federal authority to do so. This is not a FERC project so they do not have that overriding federal authority. Therefore, the pipeline company proposed to put it in the road right of way and use county roads. Burlington County passed a resolution vehemently opposed to putting the pipelines in the roads. There was an open house held in North Hanover Township and immediately following that the SADC got a call from the Office of Legislative Services saying that several legislators have contacted them interested in putting together legislation to provide relief to allow pipelines across preserved farmland. One proposal that has surfaced would require co-location. If there are electric utility lines going across preserved farms already, this would allow pipeline companies to go in the similar alignment. The SADC hasn't seen any drafts of those bills yet but that is what we are hearing from the legislative side. One of the legislators is definitely trying to keep these pipelines from going through people's front yards. The County's resolution does not say it should go through preserved farms, it is just opposing the proposed alignment using county roads.

Mr. Brill stated that the proposal is to run the pipeline from Chesterfield Township through the Joint Base and connect with New Jersey Natural Gas infrastructure in Ocean County. The purpose of the project is to give New Jersey Natural Gas service territory in Monmouth and Ocean Counties a secondary means of supply for most of their gas. It is a growing area and they realized the vulnerability related to the Hurricane Sandy situation that created concerns for a lot of people in Monmouth and Ocean Counties. Regarding the other proposals, New Jersey Natural Gas evaluated five or six different routing options, including a State highway option on Route 68 that has been supported by a lot of people.

#### **PUBLIC COMMENT**

None

#### **NEW BUSINESS**

- A. Presentation of Rutgers University, New Jersey Agricultural Experiment Station Research Findings on Preserved Farmland Programs  
Dr. Brian Schilling and Dr. Paul Gottlieb**

Ms. Payne stated that she has been aware of the fact that Dr. Schilling and his colleagues at Rutgers have been spending considerable time and energy researching the different aspects of preserved farm programs, not just in New Jersey. We have a light agenda today so Ms. Payne thought it would be an opportune time to have Dr. Schilling and Dr. Gottlieb share some of their research and findings.

Dr. Schilling stated that his day job is as an Extension Specialist and Professor in the Department of Agriculture, Food and Resource Economics, as is Dr. Gottlieb, who is the Chair of that department. Kevin Sullivan, whom some of you may know, is one of the Research Analysts at the Experiment Station. Dr. Schilling thought that today's presentation would provide a mile-wide and relatively shallow overview of what they have done over recent years. A lot of what he will talk about today is based on the USDA grant that the SADC, and Ms. Payne in particular, was very helpful in them getting through one of the competitive programs under the USDA. They have colleagues who are from Delaware and Maryland along with a very prominent colleague, Dick Essex, who is one of the forefathers of farmland preservation in the nation. The National Agricultural Land Study from the 1970s and 1980s really set the stage for a lot of the efforts nationally. Dr. Essex was part of that.

Dr. Schilling stated that all we have to do to rationalize why we have farmland preservation and other agricultural retention policies is to look at the various mapping in the presentation that shows how the state has changed over the past several decades. The maps show how much development there is, which often comes at the expense of farmland. There are three primary policies in the state that really anchor agriculture retention, farmland assessment being the earliest one from the 1960s, and then Right to Farm and the Farmland Preservation Program, which came out of 1983 jointly passed laws.

Dr. Schilling stated that New Jersey, to the amazement of others outside of the state, is really one of the national leaders in farmland preservation. Over the past 30 plus years we have hit so many milestones that we are the envy of the nation. With more than 215,000 acres under easements, it is a remarkable accomplishment.

Dr. Schilling stated that the reason farmland preservation is so popular – and it is in a majority of states, not just New Jersey – is that it has certain advantages over other techniques such as zoning or other regulatory based programs, in the sense that participation is voluntary and compensated. You don't have concerns about takings issues and so forth. Using easements establishes a non-possessory interest. That means that landowners keep ownership of that land. It is productive, it contributes to tax rolls and



there are stewards of land. Also, it is permanent, which makes it much more attractive with the IRS if you are looking at donations of easements, but also with voters because when they authorize the use of tax funds, they know they are getting something that is permanent. There are instances where easements can be broken but for the most part it is very stable and legally defensible. The disadvantages are that it is very costly. New Jersey and some other states are really becoming victims of our growing success. We have such a large enrollment of landowner easements that now many of the programs are shifting toward the burden of monitoring the easements and enforcing them when necessary. Also, it is hard to achieve large contiguous preserves. That is why he thinks New Jersey is very innovative with the Planning Incentive Grant Program and the county planning efforts because even though we have voluntary participation it makes contiguous blocks very hard to achieve. The very good planning that underlies our program really helps smooth us toward that direction.

Dr. Schilling stated that 27 states have farmland preservation programs that rely on purchasing of easements. Nationally, these programs have preserved about 2.5 million acres. About two-thirds or 61% of all farmland that is preserved under easements is here in the Northeast. We have spent about \$6 billion. One program, in Montana, has preserved farmland but their authorization expired and there are four other states at the moment that are looking at establishing programs. Dr. Schilling stated that Ms. Payne has networked regionally and nationally so he thinks she would agree that a lot of states that are early in their programs or looking to establish their programs really look to places like New Jersey, Maryland and a few other states for guidance.

Dr. Schilling stated that New Jersey has preserved about one-third of its farmland base. This is far and away the highest percentage in the United States. When he travels regionally or nationally people are amazed to hear that one out of every three acres of farmland in this state has been preserved in perpetuity. Dr. Schilling stated that the reason for the presentation today, as well as a lot of the research that his office has done over the years, dates back to 2004. Some of those who attend this meeting regularly have heard reference to a series of efforts, a task force that the SADC put together and some listening sessions that SADC staff hosted across the state looking at issues of farmland affordability and accessibility. At that time the talks were about hard issues with very little data. We know that farmland preservation keeps land available for agriculture. We know that it could provide some needed capital in farms through easement payments. We hear and hope that it helps promote the affordability of farmland and maybe it helps in the generational transfer of farms from today's owners to new generations. We know what farmland preservation should do but the question of is it happening remains.

Dr. Schilling stated that a lot of the thinking behind this research really started in 2004 with those task force meetings and then sitting here as a member of the Committee for the past eight years has opened his eyes to a lot of the questions that landowners, counties and we on the Committee have. We started preserving land in 1985 so we are among the nation's oldest programs in terms of longevity. We have had the opportunity for land to be preserved and then sold to new owners. What are the implications of succession in ownership? One of the purposes of the Agriculture Retention and Development Act (ARDA) was to help strengthen the agricultural industry, not only to stop land from being developed but also to help support the viability of farming. Is it doing that? Then are landowners happy with the decisions that they made to preserve their land? A lot of times, sitting here in Trenton, we hear grievances or challenges to certain things but a lot of times we are dealing with conflict and controversy rather than maybe the silent majority that have perspectives on the program. We just don't know.

Dr. Schilling stated that the study that he, Dr. Gottlieb and other colleagues from the region worked on was based on a comprehensive survey where they talked to more than 500 owners of farmland preserved in New Jersey and Delaware and one of three programs in Maryland. Maryland has a program like ours that is primarily farmland preservation-based but they also have two other programs that are a little different. One is the Maryland Environmental Trust and the other is the Rural Legacy Program that preserves farmland but they are also geared to trying to protect other natural, historic and culturally sensitive resources.

Dr. Schilling stated that the first question they tried to understand was who owns preserved farmland and what are they doing with it. He stated that Delaware established its program in the 1990s and Maryland was a little before the SADC in the early 1980s. When you look at those they interviewed, about 200 New Jersey farmers and 300 or so from the other states, about 70 percent of folks are actually first-generation owners. These are the people who actually made the decision to sell their development rights or in other states it is more common to donate a portion of their development rights. What is important to look at is, that means something on the order of 30 percent are people who either inherited the land already preserved or purchased it. If you were to look only in New Jersey, the percentage of folks who inherited or purchased preserved farmland is a little bit higher. The second question they often get is what are they doing with the land, are they farming it or not? Dr. Schilling stated that they asked people what was happening on the land and he thinks it is on the order of 99 percent of the folks who responded said they are farming this land or having someone farm it. So that is a good thing. The concern that preserved farmland is sort of leaking out of agriculture is really probably more the exception than the rule. About 60 percent of folks are operating the

preserved land; the other 40 percent are making it available for people to farm through a lease or other arrangement.

Dr. Schilling stated that another way to look at this is that if you look at the New Jersey and Maryland programs, the Maryland Environmental Trust and the Delaware program, what they tried to do was say OK, how much of the land is actually being farmed and is it changing as the land is being transferred to new owners? In New Jersey, about 80 percent of the preserved farmland owned by folks they spoke to is in active agriculture. This means they are not farming woods or wet areas or steep slope areas, because we do preserve farms that have portions that are not farmable. The point he wanted to draw attention to is that when the land is sold to someone else or someone else inherits it, they are not stopping the farming, so there is no difference that they saw between folks who preserve their land and those who either purchased or inherited the land in terms of how much of the land is being farmed

Ms. Murphy asked when the survey was done, did the interviewers push the interviewees about what it means that the land is being farmed, because some people would say they have three goats that they sell to their neighbor at the end of the year for farmland assessment purposes. Dr. Schilling stated that Mr. Essex is one of the most rigorous survey guys that he has seen and there was a lot of training of the enumerators so that they weren't just asking questions like you get on phone calls all the time that they don't really know what they are asking. They really made sure that they understood what it meant to farm the land and they understood very thoroughly how to explain it to those being polled and they were very clear about what it meant to be farming the land. Dr. Schilling stated that another question they often get, especially from some folks in D.C. is whether or not a lot of our agriculture retention efforts are helping the new generation of farmers coming in, young and beginning farmers. He stated that technically Farm Credit and some of the federal loan programs and federal policies define young farmers as under 35 years of age. Rutgers uses 40 because that is what Delaware used and when Rutgers used 35 it didn't see much. They asked people who purchased preserved farmland, how old they were when they made that purchasing decision. So what is seen here is that relative to the people who actually sold their development rights or donated them, the people coming in as purchasers of preserved farmland tend to be more young people. That is a very positive finding. To be clear, in New Jersey for example, only about 9 percent of folks who preserved their farmland were considered young farmers, yet those purchasing, it was about 14 percent. Ms. Payne asked, does that mean that the balance or 86 percent were over 40 who purchased preserved farmland? Dr. Schilling stated that was correct. If you look at land ownership structure in the United States, it is tremendously skewed to over 65 and even over 75.

