

STATE AGRICULTURE DEVELOPMENT COMMITTEE
Department of Agriculture
Market and Warren Streets
1st Floor Auditorium
Trenton, NJ 08625

REGULAR MEETING

November 12, 2015

Chairman Fisher called the meeting to order at 9:05 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
Brian Schilling (rep. Executive Dean Goodman)
Pamela Weintraub (rep. DCA Commissioner Richman)
Cecile Murphy (rep. DEP Commissioner Martin)
Ralph Siegel (rep. Acting State Treasurer Scudder)
Alan Danser, Vice Chairman
Denis C. Germano, Esq.
Peter Johnson
James Waltman
Jane Brodhecker

Members Absent

None

Susan E. Payne, Executive Director
John Doyle, Deputy Attorney General

Others present as recorded on the attendance sheet: Heidi Winzinger, Stefanie Miller, Cindy Roberts, Paul Burns, Dan Knox, Jeffrey Everett, Hope Gruzlovic, Brian Smith, Esq., David Kimmel, David Clapp, Charles Roohr, Alison Reynolds, Esq., Pat O'Connell, Matthew DiStaulo, Steven Bruder, Sandy Giambrone and

Patricia Riccitello, SADC staff; Michael Collins, Esq., Governor's Authorities Unit; Daniel Pace, Mercer County Agriculture Development Board; Brian Wilson, Burlington County Agriculture Development Board; Tom Beaver, New Jersey Farm Bureau; and Donna Rue, Rue Brothers Farm, Warren County.

Minutes

- A. SADC Regular Meeting of September 24, 2015 (Open and Closed Sessions)

It was moved by Ms. Murphy and seconded by Mr. Danser to approve the Open Session and Closed Session minutes of the SADC regular meeting of September 24, 2015. The motion was approved. (Mr. Germano, Mr. Schilling and Ms. Weintraub abstained from the vote.)

REPORT OF THE CHAIRPERSON

- Allocation of Corporation Business Tax (CBT) Funds for Farmland Preservation, Historic Preservation and Open Space

Chairman Fisher stated that now that the elections are over and the Legislature is back in session, discussions regarding allocations for CBT funds for farmland preservation, historic preservation and open space are expected to continue.

REPORT OF THE EXECUTIVE DIRECTOR

Ms. Payne made the following comments:

- American Farmland Trust 2015 Purchase of Agriculture Conservation Easements Report

The American Farmland Trust issued its 2015 Purchase of Agricultural Conservation Easements (PACE) survey, comparing the 28 states with state-level farmland preservation programs. It is a great report and staff will make it available via the SADC's website. New Jersey is ranked third in the nation in the number of farms eased as of January 2015 with 2,300-plus easements, fourth in acres preserved at more than 212,000 at the time of the report, and first in terms of public investment in farmland preservation. These are impressive statistics for a small state.

- Special Occasion Events Registrations

Ms. Payne stated that regarding special occasion events at wineries, all the wineries that conduct special occasion events outside of exception areas were required to register with the SADC by October 15th. Staff has received five registrations with the promise of one being sent next week. Staff has reached out to the New Jersey Winery Growers Association to see if they can help reach out to the wine growers and reiterate the importance of submitting the documentation as required under the pilot program. There are around 18 to 20 preserved farms that have wineries on them. As we move forward, we will keep collecting this information so that when the pilot gets closer to the end we will have information to provide.

- Right to Farm Guidance Documents

Ms. Payne stated that the SADC has developed a variety of documents under the acquisition program for subdivisions, agricultural labor housing and exception areas. We are maintaining that model of a guidance document for the Right to Farm Act. Right to Farm and other Stewardship staff have created documents – one on the Agricultural Mediation Program and one on the Right to Farm Act. These are intended to be thumbnail primers to provide landowners and CADBs basic information, and there is much more information provided on our website. Folks can also call the SADC if they need more information. Ms. Payne stated that staff is trying to create a document that is easy to read and understand to help educate the public, and Right to Farm is one of the important areas.

- SADC Staff Presentation to Rutgers Agricultural Extension Agents

Ms. Payne stated that Mr. Everett made a presentation to the Rutgers Agricultural Extension agents within the last month. It was not an in-depth Right to Farm presentation as there wasn't enough time for that, but he made a presentation on everything that the SADC is doing other than acquisition. Everyone understands that we run a farmland preservation program but we are trying to get the word out about agricultural mediation and Farm Link, along with our efforts to try to help farmers implement USDA practices on the ground. The fact that we have David Clapp now on staff to help farmers solve on-farm erosion and management issues, we are trying to get that word out so people understand that they can call us for that kind of help. Ms. Payne stated that her understanding is that the presentation was very well received and appreciated. Mr. Schilling stated he felt that it should

happen more because he gets a lot of calls for basic questions that they could cut off at the pass, so to speak, with this type of information. Ms. Payne stated that the SADC would be happy to do that to whatever extent the agents want to have staff back to talk about anything more in-depth.

- RFT Presentation

Ms. Payne stated that in other presentations, Mr. Smith and Mr. Kimmel attended a CADB coordinators meeting. The CADB coordinators get together to talk about big issues that we are all dealing with so they invited SADC staff to come and talk about Right to Farm and some of the mechanical and logistical legal issues that the CADBs are seeking guidance from the SADC on how to handle, such as receipts – trying to confirm \$2,500 worth of income and the like. Her understanding is that also went very well.

- Rutgers Equine Science Center Presentation

Ms. Payne stated that Mr. Smith went to the Equine Science Center to participate on a panel before a very substantial equine-related audience. They covered everything from insurance to practices. Again, they were looking for information on Right to Farm as it relates to equine. Mr. Smith made a very well-appreciated presentation on Right to Farm basics, along with the fact that we have an adopted equine agricultural management practice.

- Comment Letter to the Highlands Council – Farmland Preservation Funding Program

Ms. Payne stated that staff emailed the Committee a copy of a comment letter to the Highlands Council on their proposed rule. The Highlands Council is proposing a Highlands Open Space partnership funding program. Basically, they have about \$18 million from mitigation payments for utility projects that have gone through the Highlands and they are proposing to use that money to partner with all types of preservation efforts in the Highlands to provide up to a 50 percent cost share. Ms. Payne stated that the SADC's comment letter is directed at clarifying a lot of things but basically this would be a great opportunity for towns and counties located in the Highlands to potentially tap into this Highlands funding to help them cost share on acquisitions under our program. The SADC is very much looking forward to that and it is our hope that the Highlands Council can clarify some of the logistical issues that we raised in our comment letter.

- New Jersey Conservation Foundation/Nature Conservancy – Conservation Blueprint

Ms. Payne stated that the SADC has been asked to participate in a discussion that is being headed up by the New Jersey Conservation Foundation and the Nature Conservancy. These two organizations are getting together to try to foster a conversation on a conservation blueprint for New Jersey's future. Ms. Payne stated that she made a presentation to them at their last meeting, just to get them orientated on farmland preservation. We will be monitoring that as it moves forward. She thinks the idea here is to try to provide some GIS platform so that you can understand when you look at a piece of land whether there are other funding partners who may be interested in preserving that land with you. In these times of what will be more limited funding than what we are used to, this may be increasingly important.

COMMUNICATIONS

Ms. Payne reminded the Committee to take home the various articles provided in the meeting binders.

PUBLIC COMMENT

None

OLD BUSINESS

A. Stewardship

1. Division of the Premises – Affirmation Resolution
Gibbs Farm, Allamuchy Township, Warren County

Mr. Roohr referred the Committee to Resolution FY2016R11(1) involving a division of the premises request for the Keith and Maryann Gibbs farm in Allamuchy Township, Warren County, comprising Block 304, Lot 8; Block 401, Lot 3; and Block 501, Lot 4.

This was before the Committee at both its July and September meetings for a request for a division of the premises. The property consists of three lots, each separated by a road. It was preserved as a Direct Easement application to the SADC in 1999 by the former owners, Frank and Joan Gibbs. In April of this year the owners transferred title to Block

401, Lot 3, to Lavanta Stables, LLC, whose principal owner is Mark Willekes. The transfer was done without the approval of the SADC for a division of the premises.

Mr. Roohr stated that the property in question is about a 52-acre piece. The Gibbs did not realize they had to have approval by the SADC prior to the transfer. The request is to divide off this 52-acre piece from the remaining roughly 200 acres. At last month's meeting the Committee approved the request for the division but there was no resolution prepared to reflect that. Today's resolution is an affirmation of what staff believes the Committee's motion was plus the discussion that led up to the motion. The big topic of conversation had to do with the lesser soil qualities on Parcel B. As a result of that, some of the conditions that are in this approval resolution, which are not normally in our division approvals, are things like the infrastructure that the landowner proposes. The purchaser agreed to put the majority of his infrastructure on the rock outcrop and not on the tillable acres of the farm. That was a positive step. Another condition is that a farm conservation plan be developed and implemented within 36 months. There is a significant amount of field drainage and a condition is that this be maintained. There was also in the motion a requirement that there be a house size limitation of 4,000 square feet of heated living space. The final condition is that there be no further divisions of Parcel B, the 52-acre piece. With that, staff believes the resolution reflects the Committee's motion and discussion. Ms. Payne stated that the Committee will need to vote on this affirmation resolution.

Ms. Murphy stated that she wanted to go on record as saying she thinks this is a very bad idea. Just the idea that we would go against our past precedent and approve something that has worse quality characteristics than ones that we have denied, she feels exposes the SADC to criticisms. She also thinks that having a justification in the resolution that the intensification of agriculture is one of the reasons – first of all, it creates an incentive for people to intensify agriculture and use up more of the land with structures, usually with greenhouses and things like that. Also, she doesn't see how it is very enforceable. Ms. Murphy stated so we approve this and it is based on the intensification of the agriculture. What happens if the purchasers then have say, financial troubles and they cannot go ahead and intensify the operation? Does that mean you tell them the subdivision is null? How can we follow up and enforce something? Our subdivision approvals have always been based on the characteristics of the land as it is, not on factors that we have no control over and in some cases the purchaser may not have control over. What if they don't get planning board approvals or something for some of the things they want to build?

Chairman Fisher called for a motion to approve the resolution.

It was moved by Mr. Danser and seconded by Mr. Johnson to approve Resolution FY2016R11(1) approving the division of the premises subject to the conditions as follows:

- New infrastructure to be constructed on Parcel B, with the exception of the septic field, stormwater retention basin and outdoor riding arena, will be constructed on the area of unrated soils designated as rock outcrop on the NRCS soils map, as shown in Schedule "B," and as depicted in the engineering drawings submitted by Careaga Engineering, as shown in the attached Schedule "C";
- The outdoor riding arena shall be located in an area not classified as prime soils;
- Within 36 months of this approval, a farm conservation plan for the Premises, developed in accordance with USDA-Natural Resources Conservation Service standards, shall be devised and implemented on Parcel B, and a copy of the implemented plan shall be supplied to the SADC;
- The extensive field drainage currently existing on Parcel B will be maintained to assure maximum field productivity of the existing tillable acreage of Parcel B, and an operations and maintenance plan for same shall be incorporated into the farm conservation plan;
- No further divisions of the premises will be permitted on Parcel B;
- A maximum house size limit of 4,000 square feet of heated living space shall be applied to the exception area of Parcel B.

The SADC finds that the division as described in said Resolution with accompanying conditions serves to increase the agricultural viability of Parcel B by allowing increased agricultural investment on soils that, in their natural state, are already highly constrained in their agricultural capability. This approval is not transferrable to another purchaser. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey.

Chairman Fisher stated that you talk about the intensification of agriculture. Certainly we have to look to that at times as well, and we should, if we can keep these properties in agriculture. These are expensive properties and this is a good example of matching up the potential of that property based on the industry that it is catering to. Mr. Danser stated that he thinks that noting the intensity is something that we have looked at before. We have looked at it in South Jersey when it is a smaller vegetable farm or blueberry project or something like that. We have done it when the intensity did not entail buildings. This one may or does. He isn't saying that is automatically correlated.

Mr. Waltman stated that he would repeat the comments he made at the last meeting. He is concerned about this body not acting in a consistent manner. He spoke against this at the last meeting and he will vote against it today.

Ms. Payne stated that one of the basic components of the conversation is reflected in the first “Be It Further Resolved” on Page 5 of the resolution. These are highly constrained agricultural soils. That “Be It Further Resolved” says “that the division as described herein with accompanying conditions serves to increase the agricultural viability of the Parcel B by allowing increased agricultural investment on soils that, in their natural state, are already highly constrained in their agricultural capability.” Ms. Payne stated that this is somewhat consistent with our thinking in the Casey Jansen case and in the Metropolitan Farms case. These soils are not productive soils so from a precedent standpoint she wanted to point that out. She thinks that the only way this gets to “yes” is that these soils are so constrained now that constructing these buildings on them is the only way to increase the agricultural productivity of the property. Mr. Waltman stated that the conclusion then is if this property came to us in the first instance in that size with poor soils there is no way we would spend taxpayer money to preserve it. That is the point – that over time we make sure we are preserving the priority parcels.

Roll call vote was taken as follows:

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| Douglas H. Fisher, Chairperson | Yes |
| Cecile Murphy (rep. DEP Commissioner Martin) | Oppose |
| Pamela Weintraub (rep. DCA Acting Commissioner Richman) | Yes |
| Ralph Siegel (rep. Acting State Treasurer Scudder) | Abstain |
| Brian Schilling (rep. Executive Dean Goodman) | Abstain |
| Jane R. Brodhecker | Yes |
| Alan A. Danser, Vice Chair | Yes |
| James Waltman | Oppose |
| Peter Johnson | Yes |
| Denis C. Germano, Esq. | Abstain |

Vote Carries: 5 Yes Votes 2 Oppose Votes 3 Abstentions

NEW BUSINESS

A. Resolution for Final Approval – Municipal PIG Program

SADC staff referred the Committee to one request for final approval under the Municipal

Planning Incentive Grant Program. SADC staff reviewed the specifics with the Committee and stated that the recommendation is to grant final approval.

It was moved by Mr. Waltman and seconded by Mr. Danser to approve Resolution FY2016R11(2) granting final approval to the following application under the Municipal Planning Incentive Grant Program, 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:

1. Robert J. Kupelian, SADC # 17-0139-PG
Block 2003, Lot 22, Pittsgrove Township, Salem County, 36.5 Gross Acres
State cost share of \$4,950 per acre (61.11 percent of the certified easement value and purchase price), for a total grant need of \$180,675.00 pursuant to N.J.A.C. 2:76-6.11 and the conditions contained in Schedule C. The property includes zero residential opportunities, zero agricultural labor units, no pre-existing nonagricultural uses and no exceptions.

The motion was unanimously approved. (A copy of Resolution FY2016R11(2) is attached to and is a part of these minutes.)

B. Resolutions for Final Approval – County PIG Program

SADC staff referred the Committee to eight requests for final approval under the County Planning Incentive Grant Program. SADC staff reviewed the specifics with the Committee and stated that the recommendation is to grant final approval.

It was moved by Mr. Danser and seconded by Mr. Germano to approve Resolution FY2016R11(3) granting final approval to the following application under the County Planning Incentive Grant Program, 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:

1. Dana Burke and Barbara Dinsmore – Burke Dinsmore Farm #1
(SADC #21-0560-PG)
Block 9, Lot 51.01, Harmony Township, Warren County, 81 Gross Acres
State cost share of \$2,500 per acre (71.43% of the certified easement value and purchase price) for a total grant need of \$206,000 pursuant to N.J.A.C. 2:76-6.11 and the conditions contained in Schedule C. The property includes one

approximately 1-acre nonseverable exception area for and limited to one future single-family residential unit and for future flexibility of use. The property includes zero housing opportunities, zero agricultural labor units and no pre-existing nonagricultural uses on the area to be preserved outside of the exception area.

Discussion: The County has requested to encumber an additional 3 percent buffer for possible final surveyed acreage increases; therefore, 82.4 acres will be utilized to calculate the grant need.

Ms. Murphy stated that she would be voting no on the Burke/Dinsmore #1 farm. She knows that the County did try to work with the landowner to get a connection between the two State holdings but she cannot vote to permanently preserve and block off a connection that can't be made otherwise. Ms. Miller stated that they tried to get a trail easement. Ms. Murphy stated they also tried to get it in fee but the landowner didn't want to do it. Hopefully we can avoid these things in the future with that coordination effort that Ms. Payne mentioned in her Executive Director's report. Mr. Waltman asked if there was any opportunity in the future once the property has been preserved to add a trail easement. Ms. Payne responded no. Mr. Siegel asked if there's an existing trail or if it is a planned trail. Ms. Murphy stated that she believes there is a county trail but there are parts that don't exist on either side and if they don't get them they would move up on the road, which obviously is not ideal. She stated that it would be a good connection not only for recreational purposes but also for wildlife. Mr. Siegel stated that it bothers him that we're having a conflict between preservation operations, however we do not have a vetting process on preserved farms to see what proposed or possible future recreational uses may occur before we preserve farms. Ms. Murphy stated that she thinks it's symptomatic of a larger issue that hopefully will be addressed. Mr. Danser stated that we've approved lots where we've approved the farmland part and Green Acres approved the woods part and it's been a great partnership. He doesn't know why that didn't happen here. If it had, as far as he's concerned, it would have been preferable. But at this point he feels that we have to vote on the application before us and not understand exactly how we got to this point instead of one of the alternatives.

Chairman Fisher asked for a roll call vote as follows:

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| Douglas H. Fisher, Chairperson | Yes |
| Cecile Murphy (rep. DEP Commissioner Martin) | Oppose |
| Pamela Weintraub (rep. DCA Acting Commissioner Richman) | Yes |
| Ralph Siegel (rep. Acting State Treasurer Scudder) | Yes |

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|---|--------|
| Brian Schilling (rep. Executive Dean Goodman) | Yes |
| Jane R. Brodhecker | Yes |
| Alan A. Danser, Vice Chair | Yes |
| James Waltman | Oppose |
| Peter Johnson | Yes |
| Denis C. Germano, Esq. | Yes |

Motion passes – 8 Yes votes 2 Oppose Votes (A copy of Resolution FY2016R11(3) is attached to and is a part of these minutes.)

It was moved by Mr. Germano and seconded by Mr. Danser to approve Resolution FY2016R11(4) through Resolution FY2016R11(8) granting final approval and amended final approval to the following applications under the County Planning Incentive Grant Program, as presented and discussed, subject to any conditions of said resolutions. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey:

1. Dana Burke and Barbara Dinsmore – Burke Dinsmore Farm #2, SADC #21-0561-PG (Resolution FY2016R11(4))
Block 9, Lot 51.02, Harmony Township, Warren County, 18 Gross Acres
State cost share of \$3,950 per acre (64.75% of the certified easement value and purchase price) for a total grant need of \$69,164.50 pursuant to N.J.A.C. 2:76-6.11 and the conditions contained in Schedule C. The property includes one approximately 1-acre nonseverable exception area for and limited to one future single-family residential unit and for future flexibility of use. The property includes zero housing opportunities, zero agricultural labor units and no pre-existing nonagricultural uses on the area to be preserved outside of the exception area.

Discussion: The County has requested to encumber an additional 3 percent buffer for possible final surveyed acreage increases; therefore, 17.51 acres will be utilized to calculate the grant need.

2. Sam and Jean Race, SADC # 21-0570-PG (Resolution FY2016R11(5))
Block 16, Lot 42, White Township, Warren County, 85.1 Gross Acres
State cost share of \$3,750 per acre (65.79% of the certified easement value and purchase price) for a total grant need of \$309,000 pursuant to N.J.A.C. 2:76-6.11 and the conditions contained in Schedule C. The property included one approximately 4-acre severable exception for an existing duplex residential unit

and for future flexibility of use, and one approximately 1.5-acre nonseverable exception area for and limited to one future single-family residential unit. The portion of the property outside the exception area includes zero residential opportunities, zero agricultural labor units and no pre-existing nonagricultural uses.

Discussion: At the time of application and certification of an easement value the Property included an approximately 4-acre severable exception for an existing duplex residential unit and for future flexibility of use, and one approximately 0.5-acre nonseverable exception area for and limited to one future single-family residential unit, resulting in approximately 80.6 net acres to be preserved. Subsequently the landowners requested to enlarge the 0.5-acre nonseverable exception area to 1.5-acres. It is the opinion of the SADC review appraiser that this change does not impact the SADC certified development easement value. The County has requested to encumber an additional 3 percent buffer for possible final surveyed acreage increases; therefore, 82.4 acres will be utilized to calculate the grant need.

3. Oscar and Lorraine Unangst, SADC # 21-0574-PG (Resolution FY2016R11(6)) Block 47, Lot 5, White Township, Warren County, 87.4 Gross Acres State cost share of \$2,575 per acre (71.03% of the certified easement value and purchase price) for a total grant need of \$229,149.25 pursuant to N.J.A.C. 2:76-6.11 and the conditions contained in Schedule C. The property includes one approximately 1-acre nonseverable exception area for and limited to one future single-family residential unit and for future flexibility of use. The portion of the Property outside of the exception area includes one single-family residential unit, zero agricultural labor units and no pre-existing nonagricultural uses.

Discussion: The County has requested to encumber an additional 3 percent buffer for possible final surveyed acreage increases; therefore, 88.99 acres will be utilized to calculate the grant need.

4. John H. Smith and Jean M. Smith (Windy Acres North Farm), SADC #21-0530-PG (Resolution FY2016R11(7)) – **Amended Final Approval**
A portion of Block 14, Lot 9, Harmony Township
Block 12, Lot 20, White Township
Warren County, 77 Net Acres
The SADC amends the application configuration and the cost share of the Windy Acres North Farm final approval Resolution #FY2015R4(7) and approves a revised cost share grant to Warren County for the purchase of a development

