

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

February 26, 2009

Chairperson Purcell called the meeting to order at 9:06 a.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

Monique Purcell, Chairperson (rep. Acting Agriculture Secretary Alfred Murray)
Ralph Siegel (rep. State Treasurer Rousseau)
Brian Schilling (rep. Executive Dean Goodman)
Ben Spinelli (rep. DCA Commissioner Doria)
Cecile Murphy (rep. DEP Acting Commissioner Mauriello)
Denis C. Germano
Jane R. Brodhecker
Torrey Reade
Stephen P. Dey

MEMBERS ABSENT

Alan A. Danser
James Waltman

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

Others present as recorded on the Attendance Sheet: Robert J. Baumley, Heidi Winzinger, Brian D. Smith, Charles Roohr, Daniel Knox, Bryan Lofberg, Paul Burns, Edgar Madsen, Edward Ireland, Timothy Brill, Steve Bruder, David Kimmel, Cassandra McCloud, Gail Harrje, Patricia Riccitello and Sandy Giambrone, SADC staff, Daniel Pace, Mercer County Agriculture Development Board, Robert Resker, Warren County Agriculture Development Board, Nicki Goger, New Jersey Farm Bureau, Ryan Rapp, Middlesex County Agriculture Development Board, William Millette, Hunterdon County Agriculture Development Board, Harriet Honigfeld, Monmouth County Agriculture Development Board, Barbara Ernst, Cape May County Agriculture Development Board, Jennifer McCulloch, Morris County Agriculture Development Board, Glonanne Robbi, East Amwell Township, Hunterdon County, David Roskos, Esquire, Attorney for the Diocese of Trenton, Trenton, NJ, Ingrid Vandegaer, New Jersey Conservation Foundation, Maura Tully, Esquire, Governor's Authorities Unit.

MINUTES

A. SADC Regular Meeting of January 22, 2009 (Open Session)

Ms. Reade indicated that on page twelve of the open session minutes during the discussion on the Smaniotto farm division of premises request, the name of the Cumberland County Agriculture Agent was misspelled. The minutes reflected Wess Cline. The correct spelling is Wesley Kline. She asked that this be corrected.

It was moved by Mr. Schilling and seconded by Mr. Germano to approve the open session minutes of the SADC regular meeting of January 22, 2009 with the above noted correction. The motion was unanimously approved.

B. SADC Regular Meeting of January 22, 2009 (Closed Session)

Ms. Murphy indicated that there needed to be a correction to the portion of the minutes involving Princeton Nurseries. She asked that action on the closed session minutes be tabled until she had an opportunity to make her comments in closed session.

It was moved by Ms. Brodhecker and seconded by Dr. Dey to table action on the Closed Session Minutes of January 22, 2009 until Ms. Murphy had an opportunity to discuss needed corrections to the minutes in closed session. The motion was unanimously approved.

REPORT OF THE CHAIRPERSON

Chairperson Purcell stated that the State Board of Agriculture has nominated Assemblyman Douglas Fisher for the position of Secretary of Agriculture. She stated that at the agricultural convention that was held a few weeks ago in Cherry Hill, the Governor gave his verbal support to Mr. Fisher to assume that role. She stated that there

is currently a vetting process taking place and it is anticipated that Mr. Fisher will begin his position as Secretary of Agriculture within the next week or so and he would be chairing the next meeting of the SADC.

Chairperson Purcell stated that regarding the deficit, it continues to grow. She stated that the current projected deficit for this fiscal year is up \$4.6 billion. The Governor has suggested furloughs for state employees to occur in May and June at one day for each of those two months. She believes that the Legislature has already signed off on that suggestion. She stated that the budget message is to be delivered on March 10th by Governor Corzine. Chairperson Purcell stated that additionally, for fiscal year 2010 the budget deficit was projected to be \$4 billion but now that has increased to \$7 billion. She indicated that state revenues are plummeting and the outlook is somewhat bleak. Mr. Siegel stated that for the first time ever, New Jersey's revenues have dropped from one year to the next.

REPORT OF THE EXECUTIV DIRECTOR

Ms. Craft discussed the following with the Committee:

- 2009 Agricultural Convention

Ms. Craft stated she attended the convention of the State Board a couple of weeks ago and she felt it was very well run. There was a lot more participation among the State Board members, discussing and introducing resolutions. She stated that there were a number of legislators in attendance. She stated that there was a discussion regarding future funding and support for the Governor's call for a bond question to be placed on the ballot this fall. She stated that it was good to see that the funding issue was very much at the front of the radar screen of every legislator that spoke at the convention. She felt it was very encouraging. She encouraged county agriculture development board members to attend these conventions because it is a great opportunity to network and meet farmers and interface with them.

- New Jersey Conservation Foundation Land Trust Rally

Ms. Craft stated that this rally is scheduled for March 7th. She stated that SADC staff will be in attendance participating on a panel discussing the Planning Incentive Grant rules and helping the nonprofit community and the agriculture development board administrators and municipal program administrators to understand the day to day details of that.

- FY 2009 Appropriations

Ms. Craft stated that the appropriation bills for fiscal year 2009 are drafted and pending sponsorship by the Legislature. She encouraged the counties to reach out to their

legislators to sponsor the bills.

COMMUNICATIONS

Ms. Craft encouraged the Committee to take home the various articles provided in the meeting binders.

PUBLIC COMMENT

None

NEW BUSINESS

A. Resolution for Certification

- 1. Agricultural Development Area Amendment**
Sussex County

Ms. Brodhecker recused herself from any discussion/action pertaining to this agenda item to avoid the appearance of a conflict of interest. Ms. Brodhecker is the Chairperson of the Sussex County Agriculture Development Board.

Mr. Bruder referred the Committee to Resolution FY09R2(1) for a request by the County of Sussex to amend its agricultural development area (ADA) map to include the following farms:

1. Tri-Farms, Inc. Farm
Block 2, Lot 2, Block 166, Lot 1, Andover Borough
Block 27, Lot 6.02, Green Township
Sussex County
2. Washer Farm
Block 1, Lot 2, Andover Borough
Block 34, Lots 13, 13.01 and 33; Block 21, Lots 7 and 7.01; Block 28, Lots 1, 1.02, Green Township
Block 380, Lot 2, Byram Township
Sussex County

He reviewed the specifics of the request with the Committee and stated that staff recommendation is to certify the amendment to the Sussex County ADA map as presented and discussed.

It was moved by Mr. Germano and seconded by Ms. Murphy to approve Resolution FY09R2(1) certifying the amendment to the Sussex County Agricultural Development Area map to include the following two properties, subject to any conditions of said

Resolution:

1. Tri-Farms, Inc. Farm
Block 2, Lot 2,; Block 166, Lot 1, Andover Borough
Block 27, Lot 6.02, Green Township
Sussex County
2. Washer Farm
Block 1, Lot 2, Andover Borough
Block 34, Lots 13, 13.01 and 33; Block 21, Lots 7 and 7.01; Block 28, Lots 1,
1.02, Green Township
Block 380, Lot 2, Byram Township
Sussex County

The motion was approved. (Ms. Brodhecker recused herself from the vote.) (A copy of Resolution FY09R2(1) is attached to and is a part of these minutes.)

B. Renewals, Terminations, Withdrawals of Eight Year Programs

Ms. Craft referred the Committee to the summary report for the renewals, terminations and withdrawals of eight-year programs. She stated that there were two terminations of eight year programs. The first is for Salvatore Salamone and Karen Wenk, SADC #1007-08M-01/10-0005-8M, Township of Delaware, Hunterdon County, 14.85 acres, with a soil and water conservation cost share grant eligibility of \$8,910.00. She stated that no soil and water funds were expended. The second termination is for the Peter and Charles Rowe, SADC # 1418-02M-01/14-0003-8M, Township of Mendham, Morris County, 7.44 acres, with a soil and water conservation cost share grant eligibility of \$4,464.00. She stated that no soil and water funds were expended. Ms. Craft stated that there were no renewals or withdrawals of eight-year programs. She indicated that this was informational and that no action was needed by the Committee.

C. Deed Restrictions Impacting Development Easement Value

1. Armand T. Christopher, Jr., Delaware Township, Hunterdon County

Ms. Craft indicated that this issue would be discussed in closed session to afford the Committee an opportunity to seek advice from counsel. Once that discussion has occurred it would be brought back into open session for any action to be taken. She asked if anyone from the public wanted to provide any comments at this time. There were no comments.

D. Nonprofit Grant Program – Requests for Preliminary Approval

Mr. Knox referred the Committee to the Preliminary Approval Summary dated February 26th for the Nonprofit Grant Program, along with resolutions for three applications

seeking preliminary approval as follows:

1. New Jersey Conservation Foundation/Truskowski # 1 Farm
Block 58, Lot 26, Franklin Township, Warren County, 115 Acres
2. New Jersey Conservation Foundation/Truskowski # 2 Farm
Block 58, Lot 28, Franklin Township, Warren County, 29 Acres
3. Hunterdon Land Trust Alliance/Silva Farm
Block 10, Lot 43, Holland Township, Hunterdon County, 93 Acres

Mr. Knox reviewed the specifics of each request with the Committee and stated that staff recommendation is to grant preliminary approval for these applicants as presented and discussed.

It was moved by Dr. Dey and seconded by Mr. Germano to approve Resolution FY09R2(2), FY09R2(3), and FY09R2(4) granting preliminary approval to the following applications, subject to any conditions of said Resolutions:

1. New Jersey Conservation Foundation/Truskowski # 1 Farm (Resolution FY09R2(2))
Block 58, Lot 26, Franklin Township, Warren County, 115 Acres
2. New Jersey Conservation Foundation/Truskowski # 2 Farm (Resolution FY09R2(3))
Block 58, Lot 28, Franklin Township, Warren County, 29 Acres
3. Hunterdon Land Trust Alliance/Silva Farm (Resolution FY09R2(4))
Block 10, Lot 43, Holland Township, Hunterdon County, 93 Acres

The motion was unanimously approved. (A copy of Resolutions FY09R2(2), FY09R2(3) and FY09R2(4) is attached to and is a part of these minutes.)

E. Direct Easement Purchase Program - Requests for Final Approval

1. Fleming/Erickson Farm, Egg Harbor Township, Atlantic County
2. Holly Acres, LLC Farm, Elk Township, Gloucester Co. & U. Pittsgrove Township, Salem County
3. Sorbello Farm, South Harrison/Woolwich Townships, Gloucester County
4. Hitchner Farm, Pilesgrove Township, Salem County
5. Langone Farm, Tewksbury Township, Hunterdon County

Mr. Knox referred the Committee to the summary and resolutions for five applicants under the Direct Easement Purchase Program seeking final approval. He discussed each landowner with the Committee and stated that staff recommendation is to grant final

approval to all five landowners.

It was moved by Mr. Spinelli and seconded by Ms. Brodhecker to approve granting final approval to the following landowners as presented and discussed, subject to any conditions of said resolutions:

1. Cynthia Erickson (formerly Fleming)(Resolution FY09R2(5))
Block 8503, Lots 12, 3, 15, 17, 19, 20, 21
Egg Harbor Township, Atlantic County
72 Acres
Development easement at a value of \$3,200.00 per acre on the non-riparian claim area for approximately \$179,200.00, based on 56 acres, subject to the conditions contained in Schedule B of said Resolution, subject to verification that the non-tideland surveyed acreage is within ten (10) percent of 56 acres.
2. Holly Acres, LLC (Resolution FY09R2(6))
Block 43, Lots 4 and 6, Elk Township, Gloucester County
Block 18, Lots 62 and 63, U. Pittsgrove Township, Salem County
145 Total Acres
Development easement at a value of \$8,500.00 per acre, for a total of approximately \$1,232,500.00, subject to the conditions contained in Schedule B.
3. Sorbello Farm (Resolution FY09R2(7))
Block 17, Lots 2 and 3, South Harrison Township
Block 39, Lots 2, 3 and 4, Woolwich Township
Gloucester County
166 Total Acres
Development easement at a value of \$15,000.00 per acre for approximately \$2,490,000.00 based on 166 acres, subject to the conditions contained in Schedule B.
4. Gary and Shirley Hitchner (II) Farm (Resolution FY09R2(8))
Block 91, Lot 22
Pilesgrove Township, Salem County
102 Net Acres
Development easement at a value of \$8,500.00 per acre for approximately \$867,000.00 based on 102 net acres, subject to the conditions contained in Schedule B.
5. Langone Farm (Resolution FY09R2(9))
Block 31, Lot 12.01
Tewksbury Township, Hunterdon County

45 Net Acres

Development easement at a value of \$20,500.00 per acre for a total of approximately \$922,500.00, subject to the conditions contained in Schedule B and the use of Highlands Funding.

The motion was unanimously approved. (A copy of Resolutions FY09R2(5), FY09R2(6), FY09R2(7), FY09R2(8) and FY09R2(9) is attached to and is a part of these minutes.)

F. Amended Final Approval Request

1. Louis G. Piancone, Bedminster Township, Somerset County

Ms. Winzinger referred the Committee to Resolution FY09R2(10) for a request by Louis G. Piancone to amend his 2008 County Easement Purchase application to include a five percent impervious coverage limitation on Block 8, Lots 14 and 15 (net 70.5215 surveyed acres). She stated that the County and the landowner acknowledge this is a bargain sale and the landowner intends to claim a charitable income tax deduction for the difference between the sale price of the deed of easement and its full fair market value. Mr. Piancone and his attorney feel they must obtain restrictive language in the Deed of Easement limiting the amount of impervious cover to five percent to ensure that the bargain sale is tax deductible for IRS purposes. She stated that this property is also in the Highlands and there is language in the Highlands Act that asks that the SADC work with farmland preservation applications within the Highlands to limit impervious cover to no more than five (5) percent. Utilizing federal farm and ranch lands funding in the Highlands helps achieve that goal.

Ms. Winzinger reviewed the specifics with the Committee. She stated that the landowner and his attorney are very clear on all the specifics related to this request for impervious cover. She stated that staff recommendation is as follows:

1. The Committee approves the request of Louis G. Piancone to amend the 2008A County Cost Share Easement Purchase application and include a 5% impervious coverage limitation on Block 8, Lots 14 and 15 (net 70.5215 surveyed acres), located in Bedminster Township, Somerset County based on the following:
2. The placement of a permanent restriction limiting impervious cover on the Property to not exceed five percent is consistent with the SADC's mandate contained in the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-6w to establish incentives for any landowner in the Highlands Region that is seeking to preserve land under the farmland preservation program to permanently restrict the amount of impervious surface and agricultural cover on the farm to a maximum of five percent;
3. The Owner has agreed to provide a 2.78 percent charitable donation (\$1,000 per

acre) provided that there is a favorable ruling by IRS that the charitable donation is acceptable;

4. The Owner has been advised by his tax attorney that a five percent impervious cover restriction is necessary for the purpose of obtaining a favorable ruling by IRS for charitable donations; and
5. The SADC grants an amended final approval to a cost share grant to Somerset County for the purchase of a development easement on the Piancone Farm, comprising 70.5215 surveyed acres, at a State cost share of \$21,000 per acre for an total of \$1,480,951.50, which is 58.33% of the certified market value of the development easement and 60% of the purchase price and total cost of \$2,468,252.50.

It was moved by Mr. Germano and seconded by Mr. Siegel to approve Resolution FY092(10) granting amended final approval to the Louis G. Piancone farm, Block 8, Lots 14 and 15, Bedminster Township, Somerset County, 70.5215 net acres as follows:

1. The Committee approves the request of Louis G. Piancone to amend the 2008A County Cost Share Easement Purchase application and include a 5% impervious coverage limitation on Block 8, Lots 14 and 15 (net 70.5215 surveyed acres), located in Bedminster Township, Somerset County based on the following:
2. The placement of a permanent restriction limiting impervious cover on the Property to not exceed five percent is consistent with the SADC's mandate contained in the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-6w to establish incentives for any landowner in the Highlands Region that is seeking to preserve land under the farmland preservation program to permanently restrict the amount of impervious surface and agricultural cover on the farm to a maximum of five percent;
3. The Owner has agreed to provide a 2.78 percent charitable donation (\$1,000 per acre) provided that there is a favorable ruling by IRS that the charitable donation is acceptable;
4. The Owner has been advised by his tax attorney that a five percent impervious cover restriction is necessary for the purpose of obtaining a favorable ruling by IRS for charitable donations; and
5. The SADC grants amended final approval to a cost share grant to Somerset County for the purchase of a development easement on the Piancone Farm, comprising 70.5215 surveyed acres, at a State cost share of \$21,000 per acre for a total of \$1,480,951.50, which is 58.33% of the certified market value of the development easement and 60% of the purchase price and total cost of \$2,468,252.50.

The motion was unanimously approved. (A copy of Resolution FY09R2(10) is attached to and is a part of these minutes.)

G. Planning Incentive Grant Program - Requests for Final Approval

1. Carolyn Headley, Janet Bricker and William Cobb (Cobb/Headley Farm)
Denville Township, Morris County

Ms. Winzinger referred the Committee to Resolution FY09R2(11) for a request for final approval on the Carolyn Headley, Janet Bricker and William Cobb (Cobb/Headley Farm) located in Denville Township, Morris County under the new County Planning Incentive Grant Program. She reviewed the specifics with the Committee and stated that staff recommendation is to grant final approval as presented and discussed.

It was moved by Ms. Murphy and seconded by Ms. Brodhecker to approve Resolution FY09R2(11), granting final approval to the following landowners as presented and discussed, subject to any conditions of said Resolution:

Carolyn Headley, Janet Bricker and William Cobb
(Cobb/Headley Farm)
Block 21101, Lot 2, Denville Township, Morris County, 21 Acres
State cost share of \$31,925.00 per acre (59.67% of the certified market value and 59.12% of the purchase price) for a total grant need of approximately \$670,425.00, and that to account for any potential increase in the final surveyed acreage, a three (3) percent buffer will be applied to the funds encumbered, which would allow for a maximum SADC cost share of \$690,537.75.

The motion was unanimously approved. (A copy of FY09R2(11) is attached to and is a part of these minutes.)

H. Fee Simple Auction Approval (11 Farms)

1. Sassi Farm, Carney's Point Township, Salem County
2. Schroeder Farm, Pittsgrove Township, Salem County
3. Heil Farm, Alloway Township, Salem County
4. Case Farm, West Amwell Township, Hunterdon County
5. Holcombe Farm, W. Amwell Township, Hunterdon County
6. Segreaves Farm, Alexandria Township, Hunterdon County
7. Riback Farm, Lebanon Township, Hunterdon County
8. Jayne Farm, Greenwich/Pohatcong Twps./Alpha Borough, Warren County
9. Eagle Valley Farm, Mansfield Township, Warren County
10. Erb Farm, Chesterfield, N. Hanover and Springfield Twps., Burlington County
11. Limm Farm, N. Hanover Township, Burlington County

Mr. Knox referred the Committee to the resolutions for the sale of real property for eleven farms. He stated that staff is seeking Committee approval for the resale of these farms. He stated that the Committee discussed the issue of selling these farms with a reserve at its last meeting. He stated that staff is looking to sell these properties as has been done in the past with a minimum offer. There will be two auctions held in May and two in June. Mr. Knox reviewed each farm with the Committee. He stated that staff is placing an additional condition on each resale that there be no further division of the premises as well as other conditions identified in the resolutions.

Mr. Knox stated that in the past the SADC fully disclosed the minimum bid. There was some discussions with the Office of the Attorney General on different ways the SADC could sell the properties – with an undisclosed minimum bid, with a right of reserve or with just a minimum bid. He stated that the advice of the Attorney General’s office was that we could sell with a right of reserve for lower than the lowest appraised value as long as there are rules in place for that. When staff came to the Committee last month with the “range of values”, the minimum bids were disclosed on the SADC’s website in error. That triggered internal discussions as to whether that information should have been disclosed or not. The resolution that staff has come to is that it has been disclosed already to some people so we would have full disclosure for these auctions. Ms. Craft stated it was her goal to not disclose the minimum bid to try and increase interest and inadvertently the information was placed on the website so some public received benefit from that and in order to treat everyone fairly the SADC will be disclosing the minimum bids on these eleven farms but that the SADC would not be disclosing that information going forward for future auctions. Mr. Knox stated that these farms will be leased so that anyone who purchases any of the farms would be buying them subject to the existing lease.

Mr. Knox stated that staff recommendation is to authorize the resale of the properties as presented and discussed, subject to any conditions in the resolutions as follows:

It was moved by Mr. Schilling and seconded by Ms. Murphy to approve Resolutions FY09R2(12) through Resolution FY09R2(22) authorizing the sale of real property on the following farms as presented and discussed, subject to the conditions listed in each resolution:

1. Sassi Farm (Resolution FY09R2(12))
Block 231, Lot 4, Carney’s Point Township, Salem County, 82 Acres
2. Schroeder Farm (Resolution FY09R2(13))
Block 303, Lots 8, 36, 37, 38; Block 802, Lot 1, Pittsgrove Township,
Salem County, 80 Acres
3. Heil Farm (Resolution FY09R2(14))
Block 26, Lots 2, 3; Block 27, Lot 12, Alloway Township, Salem County,

143 Acres

4. Case Farm (Resolution FY09R2(15))
Block 7.01, Lot 8.02, W. Amwell Township, Hunterdon County, 87 Acres
5. Holcombe Farm (Resolution FY09R2(16))
Block 8, Lot 28.03, W. Amwell Township, Hunterdon County, 73 Acres
6. Segreaves Farm (Resolution FY09R2(17))
Block 9, Lot 9, Alexandria Township, Hunterdon County, 136 Acres
7. Riback Farm (Resolution FY09R2(18))
Block 57, Lot 2; Block 36, Lot 26, Lebanon Township, Hunterdon County, 94 Acres
8. Jayne Farm (Resolution FY09R2(19))
Block 40, Lot 2; Block 41, Lots 1, 14, Greenwich Township
Block 102, Lot 2, Block 103, Lot 1, Block 101, Lot 16.01, Pohatcong Township
Block 100.01, Lot 10.01, Alpha Borough, Warren County, 127 Total Acres
9. Eagle Valley Farm (Resolution FY09R2(20))
Block 601.01, Lot 23, Mansfield Township, Warren County, 77 Acres
10. Erb Farm (Resolution FY09R2(21))
Block 1103, Lot 6, Chesterfield Township
Block 604, Lot 9, block 605, Lot 2, Block 607, Lots 2, 3, North Hanover Township
Block 2304.01, Lot 8, Springfield Township, Burlington County, 134 Total Acres
11. Limm Farm (Resolution FY09R2(22))
Block 800, Lot 48, N. Hanover Township, Burlington County, 180 Acres

The motion was unanimously approved. (Copies of Resolutions FY09R2(12) through FY09R2(22) are attached to and are a part of these minutes.)

I. Nonprofit Grant Program – Request for Final Approval

1. D&R Greenway/St. Michael's Orphan Asylum and Industrial School (St. Michael's Farm) (Diocese of Trenton current owner), Hopewell Township, Mercer County (Fee Simple)

Note: Deputy Attorney General Jason Stypinski stated that he has a conflict of

interest regarding this issue. He stated that he was previously worked for Mr. Roskos, who is the attorney for the applicant. He indicated that any requests to the Attorney General’s regarding this issue would be handled through Deputy Attorney General William Schnurr.

Mr. Knox referred the Committee to Resolution FY09R2(23) for a request for final approval on the D&R Greenway/St. Michael’s property. He stated that D&R Greenway Land Trust (D&R) is the contract purchaser of the fee simple interest of the St. Michael’s property, which includes the subject 213 acre farm. He stated that this project is larger than what the SADC’s interest is. It is a partnership with Green Acres for open space as well. He stated that this is a nonprofit fee simple acquisition and that if and when D&R sells the property, the SADC will receive a percentage back. He stated that D&R took a ten acre severable exception on this property that was going to be sold to a YMCA. That deal has fallen through and D&R is now contemplating taking a 2-3 acre nonseverable exception for flexibility and for a future farm stand. They would then add 7-8 acres back into the farm application. If there is an impact on value as a result of this, staff might have to come back to the Committee for approval. He stated that in January 2008 D&R accepted the SADC certified fee simple value of \$29,000 per acre. D&R informed the SADC that the cost share participants for this project would be as follow, based on approximately 213 acres:

| | | |
|----|-------------------|-----------------------|
| 1. | Hopewell Township | \$1,100,000.00 |
| 2. | Mercer County | \$ 997,657.00 |
| 3. | D&R Funds | \$ 990,843.00 |
| 4. | SADC Funds | <u>\$3,088,500.00</u> |
| | Total | \$6,177,000.00 |

Mr. Knox stated that the above figures could change somewhat if the additional acres are put back into the application but the per-acre value will not change. If the additional acreage comes back into the application D&R cannot receive more than \$3.25 million which is the amount that has been allocated for this project. Mr. Knox stated that D&R has advised the SADC that the property is subject to several areas of environmental concern, having two dump sites on the property, and that D&R and the current owner, the Diocese of Trenton are in the process of resolving those issues and obtaining “No Further Action” (NFA) letters from the New Jersey Department of Environmental Protection. He stated that since they have been identified and the SADC is giving a fee simple grant, even though it is not in title, there are also concerns on what impact this may have on values when the appraisals were done. Staff is saying that the SADC will not close on this transaction until the applicant has received the NFA letters and the SADC and the Office of the Attorney General has had an opportunity to review that and is comfortable with it. If there are certain conditions that the SADC finds unacceptable, we will not be able to close on the property.

Mr. Knox stated that staff recommendation is that the Committee grant final approval to this application and that the SADC funding allocated to the project be available for two years from the date of this final approval (February 26, 2011) with the following contingencies.

1. The SADC shall provide a cost share grant for an approximate total of \$3,088,500 not to exceed \$14,500 per acre (50% of the certified fee simple per acre value), or \$3.25 million to the D&R Greenway Land Trust for the fee simple acquisition of the St. Michaels farm, subject to the conditions contained in Schedule B of resolution;
2. SADC review and approval of the NJDEP NFA letters indicating that the environmental concerns have been adequately addressed and confirmation that the environmental concerns do not have a negative impact on the value of the farm or future farming activities; and
3. In the event that D&R has not rectified all outstanding environmental concerns and submitted to the SADC a complete closing packet for the fee simple acquisition of the St. Michael's farm by February 26, 2011, the funds allocated to D&R for the Hopewell Township Project Area may be subject to reprogramming by the SADC

Ms. Murphy inquired if there was a memorandum of agreement with site remediation on the property? Mr. Roskos, attorney for the applicant stated that there is an approved remedial action work plan with DEP.

Ms. Craft stated that the question was raised as to whether the SADC could close before the clean-up was complete. She stated that staff discussed possibly escrowing money or escrowing the entire closing. She stated that staff discussed this at length with Deputy Attorney General Schnurr. The issue is, should the SADC close before it is certain the property is cleaned up and before it is sure if there are any post clean up requirements? She felt that this would be an unacceptable level of risk, especially for the Attorney General's office. Staff has indicated to D&R and the Diocese that the funding is secure. The purpose of the SADC's action today is to reiterate for the Diocese and D&R that we are not looking to pull the funding but are looking to give them time to get the environmental issues resolved completely and then close. That is why staff is recommending final approval, to encumber the funding, which has been appropriated by the legislature and signed off by the Governor and is waiting to be spent.

Dave Roskos, attorney for the Diocese addressed the Committee. He stated he would like to understand the review of the NFA. He stated that they have gone through tremendous due diligence with these two farm dumps and they think they know exactly what they are dealing with. They got an estimate which was done by their own environmental experts with a \$100,000.00 contingency in it and that was less than \$500,000.00. They had it

vetted with DEP and they added an additional \$94,000.00. He stated it was his thought that they could do an escrow arrangement and he understands that Ms. Craft indicated that the SADC could not do an escrow. He stated that there are two ways that you can deal with this problem. One is that they could close with D&R today and ask D&R to give an open mortgage and then when the NFAs are received he assumed that they could grant the SADC the deed of easement and then the SADC in turn would then release the funds to D&R and they would satisfy the open mortgage. He asked if there would be a problem with that arrangement. Linda Meade from D&R stated that they are a nonprofit organization and they would be responsible for a \$3.25 million mortgage to pay off and if they were unable to access the SADC funding, they would be left with a substantial mortgage, which would put them out of business. She felt that would be an issue for D&R and she would like to find another way around this. Mr. Roskos stated that the Diocese's contract is with D&R and then D&R contracts with the SADC and he has stayed away from this process until now so he needs to understand the process better.

Ms. Craft suggested that Mr. Roskos identifies the specific series of events that the Diocese wants the SADC to approve. She stated that if the SADC can get that in writing the SADC would be glad to review it with the Attorney General's office and then give a written answer. Mr. Roskos stated that he would have a great deal of interest in seeing the project agreement between D&R and the SADC, which has not been prepared as yet. He asked if some of these issues could be dealt with in the project agreement. He stated that his concern is that if for whatever reasons other funding sources dry up over the next several months and the Diocese needs a DEP permit and a wetlands permit to clean up one of the dumps, his experience has been with DEP that nothing gets processed quickly. Mr. Roskos stated that he has a contractor ready to begin the cleanup and he has an approved remedial action work plan, but he may be held up by land use because he cannot get a wetlands permit. Ms. Craft stated that what has to happen is that the Diocese and D&R need to resolve how this transaction needs to happen and provide that to the SADC in detail in writing and then the SADC can give a solid answer. He stated that he needs to know that the commitment between the SADC and D&R is iron-clad so that when he moves forward he is relying on the agreement. Ms. Craft stated that she would encourage Mr. Roskos to engage with D&R's attorney so that they can get access to whatever appropriate information they are legally able to get access to through D&R. She stated that the SADC's nonprofit grant program provides a grant to the nonprofit, and as long as that transaction is acceptable the SADC can proceed. She stated that none of the transactions happen without the collaboration of all the parties and to that end we have had several meetings of all the parties to try and address those concerns. Ms. Meade stated that one of the things she wanted to make the Committee aware of is that this entire project, which includes both the SADC portion and the Green Acres portion, is an \$11 million purchase. She stated that D&R raised over \$3 million privately, the economy has dropped considerably and D&R is anxious to close as soon as possible. She stated that the contract between D&R and the Diocese has been extended from the original contract that has a deadline of April 15th for closing. It was D&R's hope to resolve these issues and be able to close but at this point in time there is no resolution to how it is going to

come up with that \$3.25 million and whether or not D&R's board is going to be willing to take on a mortgage and a note that it would be responsible for if SADC funding does not come through.

Ms. Meade stated that in looking at item # 2 in the resolution before the Committee, which reads: "SADC review and approval of the NJDEP NFA letters indicating that the environmental concerns have been adequately addressed and confirmation that the environmental concerns do not have a negative impact on the value of the farm or future farming activities", the question would be that once DEP issues the NFA is there a chance that there would be a dispute between the SADC and DEP? Ms. Craft stated that one of the SADC's concerns is that an NFA can state that everything has been cleaned and it's good to go, or it can be that there were major problems discovered and additional testing may be required for a number of years. In that case, the SADC has to have the right to reassess that value.

Ms. Craft stated that on page two of the resolution under the "Now Therefore Be It Resolved" section, item # 3 should readthe funds allocated to D&R for the Hopewell Township Project Area "may" be subject to reprogramming by the SADC.....the resolution incorrectly reads "shall". She stated that the resolution will be corrected to reflect this. She stated that this means that if the applicant gets held up in obtaining a wetlands permit for say eighteen months, it can come back to the SADC and ask for an extension of this deadline.

It was moved by Mr. Spinelli and seconded by Mr. Siegel to approve Resolution FY09R2(23) granting final approval to the D&R Greenway Land Trust/St. Michael's nonprofit fee simple application, Block 16, Lot 4, Hopewell Township, Mercer County, 213 net acres, subject to the following and subject to any other conditions of said resolution:

1. The SADC shall provide a cost share grant for an approximate total of \$3,088,500 not to exceed \$14,500 per acre (50% of the certified fee simple per acre) value, or \$3.25 million to the D&R Greenway Land Trust for the fee simple acquisition of the St. Michaels farm, subject to the conditions contained in Schedule B of resolution;
2. SADC review and approval of the NJDEP No Further Action letters indicating that the environmental concerns have been adequately addressed and confirmation that the environmental concerns do not have a negative impact on the value of the farm or future farming activities; and
3. In the event that D&R has not rectified all outstanding environmental concerns and submitted to the SADC a complete closing packet for the fee simple acquisition of the St. Michael's farm by February 26, 2011, the funds allocated to D&R for the Hopewell Township Project Area may be subject to reprogramming by the SADC.

The motion was unanimously approved. (A copy of Resolution FY09R2(23) is attached to and is a part of these minutes.)

PUBLIC COMMENT

None

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: **Thursday, March 26, 2009 - Health/Agriculture Building, First Floor Auditorium.**

CLOSED SESSION

At 10:38 a.m. Mr. Siegel moved the following resolution to go into Closed Session. The motion was seconded by Mr. Schilling and unanimously approved.

“Be it resolved, in order to protect the public interest in matters involving minutes, real estate, attorney-client matters and personnel, pursuant to N.J.S.A. 10:4-12, the NJ State Agriculture Development Committee declares the next one hour to be private to discuss these matters. The minutes will be available one year from the date of this meeting.”

ACTION AS RESULT OF CLOSED SESSION

A. Closed Session Minutes of the SADC Regular Meeting of January 22, 2009

It was moved by Ms. Murphy and seconded by Dr. Dey to approve the Closed Session Minutes of the SADC Regular meeting of January 22, 2009 with the amendment as discussed in closed session. The motion was unanimously approved.

B. Real Estate Matters

1. Direct Easement Purchase Program

It was moved by Mr. Siegel and seconded by Dr. Dey to certify the development easement values for the following landowners as presented and discussed in closed session:

1. Mercer County (former Batog & Meshechek)
Block 44, Lots 23, 26, 29, Robbinsville Township, Mercer County, 50 Acres

The motion was unanimously approved. (A copy of the Certification of Value Report is attached to and is a part of the closed session portion of the minutes.)

2. **Nonprofit Grant Program**

Note: Ms. Brodhecker recused herself from any discussion/action pertaining to the nonprofit grant program certification reports to avoid the appearance of a conflict of interest and left the room. Ms. Brodhecker is the Chairperson of the Sussex County Agriculture Development Board. There are two Sussex County certifications being presented that require Committee action. Action for the nonprofit grant program certifications is being taken as a group vote.

It was moved by Mr. Siegel and seconded by Mr. Germano to certify the development easement value for the following landowners as presented and discussed in closed session:

1. New Jersey Conservation Foundation/Kern Farm
Block 38, Lots 3, 3.01, U. Pittsgrove Township, Salem County, 52 Acres
2. Ridge and Valley Conservancy, Inc./Manak Farm
Block 801, Lot 8, Fredon Township, Sussex County, 61 Acres
3. The Land Conservancy of New Jersey/Bain Estate
Block 26, Lots 14, 16, 20.10, Frankford Township, Sussex County, 123 Acres
4. Land Conservancy of New Jersey/Dower
Block 26, Lot 16, Peapack Gladstone Boro, Somerset County, 47 Acres
Note: Certification is contingent upon there being no residential structures permitted on the exception and that the existing house not be replaced or expanded beyond 5,000 square feet of heated living space.

The motion was approved. (Ms. Brodhecker recused herself from the vote and left the room.) (A copy of the Certification of Value Report is attached to and is a part of the closed session portion of the minutes.)

3. **Planning Incentive Grant Program**

It was moved by Dr. Dey and seconded by Ms. Brodhecker to certify the development easement values for the following landowners as presented and discussed in closed session:

1. Timothy and Michelle Doyle
Block 6202, Lot 9, Franklin Township, Gloucester County, 85 Acres

2. John and Bernadette Petruski
Block 17101, Lots 26, 27, Jackson Township, Ocean County, 37 Acres
3. Richard Sette
Block 22701, Lot 13, Jackson Township, Ocean County, 32 Acres
4. David S. Slack
Block 41, Lot 5, Greenwich Township, Warren County, 115 Acres

The motion was unanimously approved. (Copies of the Certification of Value Reports are attached to and are a part of the closed session portion of the minutes.)

C. Deed Restrictions Impacting Development Easement Value

1. Armand T. Christopher, Jr., Delaware Township, Hunterdon County

Ms. Craft stated that there was information provided to the Committee regarding the Armand T. Christopher application, located in Delaware Township, Hunterdon County, comprising 56 acres. She stated that the application came to the SADC in one form without the inclusion of two subdivided lots. It has received final approval from the SADC and when the landowner attempted to get percolation for his house, which was located on a nonseverable exception area, he was unable to obtain a favorable percolation. He needed to go outside of the exception area and to be preserved to an adjacent area that was previously subdivided into two separate lots. She stated that the Committee had not yet adopted a septic policy at that time and the landowner amended his application to include the two subdivided lots into the application, which triggered a re-appraisal of the property. During that re-appraisal process it was determined that a conservation easement was placed along the Alexaucken Creek had been placed there as a condition for the landowner receiving subdivision approval for those two lots and as a result of that conservation easement there was an apparent, very limited ability for the landowner to cross the conservation easement to develop the rear of the property. That draws into question the validity of the appraisals. She stated that the Committee discussed this issue in closed session over a year ago and as a result of that discussion SADC staff met with the Township to identify what the possible alternatives were. She stated that without any more direct communication to the SADC, the Township and landowner agreed to attempt to repeal that conservation restriction and in doing so repealed the subdivision. In June of last year the SADC was notified that the case was being taken to court. In December 2008 staff was notified that they had gone through the entire repeal process and that the Court has now approved a rescission of that subdivision and that conservation easement. Ms. Craft stated that staff recommendation, because this is an old Planning Incentive Grant application, determined that there are two choices. One is the SADC can entertain an amendment to the application to try and rectify the application to its current form, which is no subdivided lots or conservation easement. That would require new updated appraisals, new certification and final approval; or the SADC could strictly apply Policy P-50, which states that if you didn't do all of your

appraisal amendments prior to July 2007, you would have to proceed with new funding and a new appropriation.

Ms. Craft stated that the Committee has had the opportunity to take advice from the Attorney General's Office on this issue and as a result of that discussion staff recommendation is to allow the Township to amend the application to reflect the property's current conditions, allow the Township to use its old existing Planning Incentive Grant funding to complete this transaction, require the municipality to conduct new updated appraisals that would need to be re-certified by the Committee, and that the limit of the SADC's contribution would be the amount of funds that were previously identified for this transaction.

It was moved by Mr. Spinelli and seconded by Dr. Dey to allow Armand T. Christopher, owner of Block 58, Lots 9, 9.01 and 9.02 (formerly) and Block 58, Lot 9 (reconsolidated) and the Township of Delaware to amend the Christopher application to reflect the property's current conditions, allow the Township to use its old existing Planning Incentive Grant funding to complete this transaction, require the municipality to conduct new updated appraisals that would need to be re-certified by the Committee, and that the limit of the SADC's contribution would be the amount of funds that were previously identified for this transaction (\$219,133.20) and then amend final approval that was previously approved accordingly. The motion was unanimously approved.

PUBLIC COMMENT

None

ADJOURNMENT

There being no further business, it was moved by Dr. Dey and seconded by Ms. Murphy and unanimously approved to adjourn the meeting at 12:33 p.m.

Respectfully Submitted,

Susan E. Craft, Executive Director
State Agriculture Development Committee

Attachments