#700

MEETING MINUTES
MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD
Washington Township Senior Center
East Springtown Road, Rock Spring Park, Long Valley, NJ
June 8, 2006

The meeting was called to order by Chairman Roehrich at 7:32 p.m. Members present:

Laura Akin
Aimee Ashley Myers
Loren Pfeiffer
Jay Thomson
Kenneth Wightman

Also in attendance:

Peter Nitzsche, Morris County RCE
Sara Jane Noll, Chester Township Liaison
Kevin Martin Walsh, Washington Township Liaison (arrived at 8:00 p.m.)

Staff in attendance:
Walter P. Krich
W. Randall Bush
Frank Pinto
Katherine Coyle
Peter Williams
Kelli O'Connor

COMPLIANCE WITH THE OPEN PUBLIC MEETINGS LAW

Adequate notice of this meeting in compliance with the Open Public Meetings Act has been provided and filed with the Town of Morristown, the Morris County Clerk, the Daily Record and the Star Ledger.

APPROVAL OF MINUTES

On motion of member Wightman, seconded by member Ashley Myers, the board approved the minutes of the May 11, 2006 regular meeting. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

OPEN TO PUBLIC FOR NON-AGENDA ITEMS

There were no comments from the public.

REPORT OF DIRECTOR

"Top 5". Mr. Pinto directed the board members to the "Top 5" of the Month & Project Status Report. The top five project activities for the months of May/June were: 1) SADC 2008 Round: process new applications, schedule site visits, 2) RTF: De Groot request for SSAMP, Chester Stevens conflict resolution, Barbara Hertz conflict resolution and request for SSAMP, 3) Closing: Borinski Farm; Closing preparations: Thebault, 4) Pres. Lands: monitoring, and 5) SADC 2007 Round: offers to Devine and Hideaway, contracts.

Project Status Report. Mr. Pinto and Ms. O'Connor informed the board that the Borinski Farm closing took place on May 31, 2006 and discussed the status of all pending applications. They informed the board members that the next closing would likely be the Chester Township/Tranquility Farm.

DOT Eminent Domain Action in ADA - Linz Farm, Washington Township. Mr. Pinto informed the board that the New Jersey Department of Transportation (DOT) plans to exercise eminent domain involving the Linz Farm in order to facilitate a wetlands mitigation project. Because the Linz Farm is located within Morris County's agricultural development area (ADA), pursuant to N.J.S.A. 4:1C-19 and N.J.A.C. 2:76-7.1, et seq., the DOT must file a "Notice of Intent" with the CADB and the State Agriculture Development Committee (SADC), to allow both agencies to review the impact of the proposed action and submit comments and recommendations. Mr. Pinto directed the board members to their meeting packets, which contained a copy of a letter to the DOT from Ms. Coyle advising the DOT of the statutory requirements.

RIGHT TO FARM

Status of Pending Cases: Request for SSAMP – Ceemacfarm, LLC, Boonton Twp. Ms. Coyle provided the status of the pending matter and informed the members that no documents had been submitted to the board by the applicants.

Complaint – Chester Stephens – Mt. Olive Twp. Ms. Coyle reminded the board members that at the board's May 11, 2006 meeting, the board reviewed a complaint filed by Mt. Olive Township against Mr. Chester Stephens alleging that rough-cut trees from other properties are being delivered to the Stephens property. The trees are then processed and sold. According to the complaint, these activities are not permitted in the RR-A zone. The board discussed the complaint and decided that the activities in question do not qualify for the protection of the Right to Farm Act and are outside the purview of the Morris CADB. On May 12, 2006, Ms. Coyle advised Mt. Olive Township and Mr. Stephens in writing of the board's decision (copies of the correspondence were enclosed in the meeting binders). Ms. Coyle informed the board that Mr. Stephens had contacted her and stated that he wished to appeal the board's decision to the SADC. He also requested that the Morris CADB memorialize its decision via a formal vote and asked that the matter be placed on the June 8, 2006 agenda.

On motion of member Wightman, seconded by member Akin, the board agreed that bringing rough-cut trees from other properties and processing them for sale does not qualify for the

protection of the Right to Farm Act and is outside the purview of the Morris CADB. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

At this point, member Wightman left the meeting room.

Request for a SSAMP – De Groot & Sons, Inc. – Pequannock Twp. Ms. Coyle informed the board members that De Groot & Sons, Inc. had applied for a site-specific AMP. Following the review of the application, Ms. Coyle contacted the applicant's attorney requested that the applicant provide additional documentation to allow the board to determine whether the farm meets the eligibility criteria of the Right to Farm Act. In response to Ms. Coyle request, the applicant submitted additional information: proof that De Groot & Sons, Inc. is currently receiving Farmland Assessment, copies of receipts for sales of agricultural or horticultural products providing proof of farm income of at least $2,500 per year, and a list of practices and activities that the applicant wishes to be addressed by the site-specific AMP. The board reviewed the information, which was included in the meeting packets.

On motion of member Pfeiffer, seconded by member Ashley Myers, the board agreed that the De Groot & Sons, Inc. agricultural operation is a "commercial farm" as defined by the Right to Farm Act, N.J.S.A. 4:1C-9 and the SADC's Right to Farm Rules, N.J.A.C. 2:76-2.1.
A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson and Roehrich
Nay: None Abstain: None

At this point, member Wightman returned to the meeting room.

Complaint & Request for a SSAMP – Barbara Hertz – Lincoln Park Borough. Ms. Coyle informed the board members that on May 11, 2006, Lincoln Park Borough had filed a complaint with the board against Ms. Barbara Hertz regarding litter, refuse or rubbish on the Hertz property. Because the complaint concerned activities that are not addressed by an agricultural management practice recommended by the SADC or a site specific agricultural management practice adopted by the board, pursuant to the Right to Farm Act and the SADC's Right to Farm Rules, on May 12, 2006, the complaint was forwarded to the SADC requesting the SADC's determination of whether the disputed agricultural operation constitutes a generally accepted operation or practice.

On May 15, 2006, the board received a request from Ms. Hertz for a site-specific AMP (copy of the application was enclosed in the meeting binders). Ms. Coyle contacted Ms. Marci Green, Chief of Legal Affair for the SADC, requesting guidance regarding addressing both the complaint and the site-specific AMP request.

On May 18, 2006, Ms. Coyle received correspondence from Ms. Green (copy of the correspondence was enclosed in the meeting binders) advising the board to collapse the complaint and the site-specific AMP request in to a single matter. Since both matters concern the same issue, it would be duplicative for the SADC and the CADB to review the matters

simultaneously and to hold separate public hearings. Based on Ms. Green's recommendation, the board agreed to combine the complaint and the site-specific AMP request in to a single matter and address them concurrently.

Ms. Coyle also advised the board that on June 2, 2006, the board received a revised request for a site-specific AMP, a copy of which was enclosed in the meeting binders.

Ms. Coyle informed the board that following the review of the application for a site-specific AMP, she contacted Ms. Hertz asking her to submit additional information to allow the board to determine whether the farm meets the eligibility criteria of the Right to Farm Act. Specifically, Ms. Coyle asked Ms. Hertz to submit documentation (receipts) proving agricultural product income in the amount of at least $2,500 per year (in order to meet the RTF Act's definition of a "commercial farm," the farmer must annually produce agricultural or horticultural products worth $2,500 or more). Ms. Hertz informed Ms. Coyle that she did not have receipt. Instead, Ms. Hertz submitted a copy of 2005 IRS Schedule C-EZ, Net Profit from Business, showing gross income of $2,750. Ms. Hertz stated that she operates a Community Supported Agriculture (CSA) business, through which she sells shares for agricultural products (berries including blackberry, currant, elderberry, gooseberry and raspberry. Ms. Hertz submitted a copy of her CSA farm share contract, as well as a list of farm shares sold in 2005 totaling $715. In her application for a site-specific AMP, Ms. Hertz stated that the following products were produced on her farm: tree fruit, bush berry fruit, maple syrup, garlic and herbs, vegetables, honey and bees wax.

The board reviewed the information submitted by Ms. Hertz. The board agreed that Ms. Hertz' 2005 IRS Schedule C-EZ, Net Profit from Business, cannot be used as proof that the farm produces agricultural or horticultural products worth $2,500 or more annually, as it does not provide information about the source of income (income from products vs. income from services). Only income from agricultural or horticultural <u>products</u> can be used to satisfy the RTF Act's income requirement.

Member Pfeiffer asked Ms. Hertz whether she had receipts for the sale of CSA farm shares. Ms. Hertz stated that she did not. Member Roehrich asked Ms. Hertz about other sources of agricultural income aside from the CSA's farm shares. Ms. Hertz stated that she sells honey, bees wax and maple syrup, however that she does not have receipts for those sales. Mr. Pinto and member Thomson informed the board that they had conducted a site visit of Ms. Hertz' farm – Ms. Hertz had submitted an application to preserve her farm through the Easement Purchase Program. During the site visit, they did not see evidence of commercial farming. The board members viewed photographs taken by Mr. Pinto during the site visit. Chairman Roehrich asked Mr. Pinto whether he saw beehives on the farm. Mr. Pinto stated that he did not. Ms. Hertz stated that he hives had to be moved due to a bear and mite problem. Member Thomson asked Ms. Hertz about her production of honey, maple syrup, tree fruits, berries and vegetables. Ms. Hertz stated that the maximum number of active hives at any time is 5 colonies. She stated that she produced about 5 quarts of maple syrup, 4 quarts of tree fruits and 12 jars of berries per share in 2005. The maple syrup, tree fruits, berries, garlic, and herbs were part of the CSA's farm shares. The honey was sold separately. Member Thomson asked about the vegetables produced on the farm. Ms. Hertz stated that 2006 is the first year during which she will be growing

vegetables. She will operate a separate CSA for vegetables in 2006. Ms. Coyle asked Ms. Hertz how many vegetable shares she had sold. Ms. Hertz stated that she had sold no vegetable shares as of the date of the meeting. The board members discussed Ms. Hertz's agricultural production and agreed that she did not adequately prove that she produces $2,500 worth of agricultural products per year. The income from the 2005 fruit CSA' sales totaled $715. Ms. Hertz did not provide sufficient proof that she produces $1,785 worth of agricultural products aside from the CSA shares. In addition, based on Mr. Pinto's and member Thomson's site visit, there appears to be very limited evidence of commercial farming currently occurring on the farm.

Having considered the documents submitted and the testimony presented by Ms. Hertz, on motion of member Akin, seconded by member Wightman, the board agreed that Ms. Hertz' agricultural operation is not a "commercial farm" as defined by the Right to Farm Act, N.J.S.A. 4:1C-9 and the SADC's Right to Farm Rules, N.J.A.C. 2:76-2.1.
A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

Because Ms. Hertz' operation is not a "commercial farm," it does not meet the eligibility criteria of the Right to Farm Act and it is not entitled to the protection of the Act. The Morris CADB lacks jurisdiction over the operation. Accordingly, the Morris CADB is unable to pursue Ms. Hertz' application for a site-specific AMP and to address the complaint filed against her by the Borough of Lincoln Park. All activities occurring on Ms. Hertz' property are outside the purview of the Morris CADB and remain under municipal jurisdiction.

CORRESPONDENCE

The board members reviewed several newspaper articles enclosed in the meeting packets.

OPEN TO THE PUBLIC

Mr. Ricci Desiderio addressed the board regarding the difficulties he is experiencing as a result of the storm water regulations. Mr. Joseph Dunn informed the board that while agriculture is exempt for the Highlands regulations, it is not exempt from the Storm Water Management Rules. Ms. Sara Jane Noll stated that she would set up meeting with Mr. Desiderio and Chester Township's Engineer to address Mr. Desiderio's problems.

Ms. Hertz discussed her use of the plastic jugs for collection of rainwater.

EXECUTIVE SESSION

On motion of member Wightman, seconded by member Akin, the board closed the open portion of the meeting and voted to conduct an executive session to discuss matters related to the acquisition of real property and the status of pending litigation.

RETURN TO MEETING

The meeting reopened to the public at 10:13 p.m.

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

Resolution 2006-17: Preliminary Approval of an Application to Sell a Development Easement – **Irma Delli Santi**. On motion of member Wightman, seconded by member Ashley Myers, the board adopted Resolution 2006-17. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

Resolution 2006-18: Preliminary Approval of an Application to Sell a Development Easement – **Eric Turnquist**. On motion of member Pfeiffer, seconded by member Wightman, the board adopted Resolution 2006-18. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

Resolution 2006-19: Preliminary Approval of an Application to Sell a Development Easement – **Washington Township (Fairmount Farm)**. On motion of member Akin, seconded by member Ashley Myers, the board adopted Resolution 2006-19. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Wightman and Roehrich
Nay: Thomson Abstain: None

Resolution 2006-20: Preliminary Approval of an Application to Sell a Development Easement – **William Byrne**. On motion of member Pfeiffer, seconded by member Akin, the board adopted Resolution 2006-20. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

Resolution 2006-21: Preliminary Approval of an Application to Sell a Development Easement – **Morris Land Conservancy / Estate of Herman J. Koehler**. On motion of member Thomson, seconded by member Ashley Myers, the board adopted Resolution 2006-21. A roll call vote was taken.
Aye: Ashley Myers, Pfeiffer, Thomson and Roehrich
Nay: Akin and Wightman Abstain: None

On motion of member Thomson, seconded by member Pfeiffer, the board agreed to not approve the application of **David and Geralyn Hickey**. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

On motion of member Thomson, seconded by member Pfeiffer, the board voted to not approve the application of **William and Delores Martin**. A roll call vote was taken.
Aye: Pfeiffer, Thomson and Wightman
Nay: Akin, Ashley Myers and Roehrich Abstain: None
The motion failed.

On motion of member Akin, seconded by member Thomson, the board voted to not approve the application of **Frank and Margaret Scudese**. A roll call vote was taken.
Aye: Akin, Thomson and Wightman
Nay: Ashley Myers, Pfeiffer and Roehrich Abstain: None

The motion failed.

On motion of member Thomson, seconded by member Pfeiffer, the board voted to remove the application of **David and Angela Barth** from the "Waiting List" of applications to be considered for preservation at a later date. A roll call vote was taken.
Aye: Pfeiffer, Thomson and Wightman
Nay: Akin, Ashley Myers and Roehrich Abstain: None

The motion failed.

On motion of member Thomson, seconded by member Ashley Myers, the board agreed to remove the application of **Borgenicht/Purple Horse Farm** from the "Waiting List" of applications to be considered for preservation at a later date. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

On motion of member Thomson, seconded by member Ashley Myers, the board agreed to remove the application of **George and Jody East** from the "Waiting List" of applications to be considered for preservation at a later date. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

On motion of member Akin, seconded by member Thomson, the board agreed to remove the application of **Borgenicht/Fairview Avenue Farm** from the "Waiting List" of applications to be considered for preservation at a later date. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

On motion of member Ashley Myers, seconded by member Akin, the board agreed to remove the application of **Don Storms** from the "Waiting List" of applications to be considered for preservation at a later date. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

On motion of member Thomson, seconded by member Ashley Myers, the board agreed to remove the application of **Benjamin and Denise Guaimano** from the "Waiting List" of applications to be considered for preservation at a later date. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

On motion of member Thomson, seconded by member Akin, the board agreed to remove the application of **Herbert and Gloria Glatt** from the "Waiting List" of applications to be considered for preservation at a later date. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

On motion of member Thomson, seconded by member Ashley Myers, the board agreed to remove the application of **Barbara Hertz** from the "Waiting List" of applications to be considered for preservation at a later date. A roll call vote was taken.
Aye: Akin, Ashley Myers, Pfeiffer, Thomson, Wightman and Roehrich
Nay: None Abstain: None

ADJOURNMENT

There being no further business, on motion of member Thomson, seconded by member Akin, the meeting was adjourned at 10:31 p.m.

Respectfully submitted,

Katherine Coyle
Assistant Director