

Garden State Preservation Trust
May 11th, 2005
Meeting Minutes

Chairman Davidson called the meeting to order at 10:30 a.m. Ralph Siegel, Executive Director, read a statement certifying compliance with the Open Public Meetings Act. Roll call was taken. Public members present were: Dennis Davidson, Chair; Maureen Ogden, Herbert Wegner and Cooper Morris. Ex-officio members present were: Susan Craft (for Agriculture Secretary Charles Kuperus), David Scanlan (for DCA Commissioner Susan Bass Levin) and John S. Watson Jr. (for DEP Commissioner Bradley M. Campbell). Robert DiVincent, vice chair, and David Rousseau (for State Treasurer John E. McCormac), were absent.

OPENING REMARKS

Chairman Davidson said he was honored to have served as chairman for the past year and thanked the members for the privilege.

Chairman Davidson said the GSPT Act requires the Trust staff to list State-owned surplus land to identify parcels that might be eligible to be included in the parks recreation system or preserved in some other form. He discussed parcels in Bordentown Township buffering Black's Creek adjacent to the Johnstone Training Center, in Hopewell, in the Sourland Mountains and at the High Fields Lindbergh estate in East Amwell and Hopewell. Chairman Davidson directed the staff to develop such a list, perhaps with assistance from the Department of Agriculture and the Department of Environmental Protection.

APPROVAL OF MINUTES OF APRIL 14 2005 MEETING

Chairman Davidson called for a motion to approve the minutes from the April 14th meeting.

Mr. Siegel informed the Trust of minor changes that had been made to the draft minutes delivered to them the previous week concerning Michael Catania's remarks.

Ms. Ogden asked how Mr. Catania had come to see the unapproved minutes. Mr. Siegel said he provided them to Mr. Catania because he had been mentioned in them.

Moved by Ms. Craft
Seconded by Ms. Ogden
Approved 7-0

Chairman Davidson said the next agenda item called for election of officers but he asked to postpone that item to give Vice Chairman DiVincent and Mr. Rousseau a chance to arrive.

EXECUTIVE DIRECTOR'S REPORT

Mr. Siegel reviewed the fiscal status of the Garden State Farmland Preservation Trust Fund. He estimated a balance of \$239 million with expenditures of \$80 million and a forecasted closing balance on June 30 of about \$158 million. The FY2006 opening balance on July 1 is expected to be \$187 million when interest and the dedicated funds

are added. Then in December the fund will take in its share of the Series 2005A and Series 2005B bond issues, a sum of at least \$240 million in bond proceeds, bringing the available balance to \$427 million.

Ms. Siegel said the \$98.5 million appropriation of new funds, if approved, would leave \$131 million in new GSPT funds to be appropriated in FY2007, 2008 and 2009.

PRESENTATION OF FARMLAND PRESERVATION PROGRAM APPROPRIATIONS REQUEST FOR FY2006

Susan Craft, serving in her capacity as executive director of the State Agriculture Development Committee, outlined the SADC appropriations recommendations totaling \$141.7 million.

After summarizing her background before becoming the executive director in January, Ms. Craft updated preservation statistics as of April 30:

- 1,247 farms preserved.
- 136,000 acres preserved in 139 municipalities and 18 counties.
- \$716 million spent, with 66%, about \$475 million, in SADC funds.
- 207 applications pending representing more than 15,000 acres

Ms. Craft said the biggest problem facing the program is time delay in closing on farmland preservation deals. She said after an application is filed there is a delay of a year or more before the funding process begins. She said her staff was working on plans to speed the system.

Ms. Craft said she would like to see an effort to reach out to landowners to market the programs and to educate applicants. She said many local agencies are opting for Planning Incentive Grants (PIGs) just for the shortened time frame and flexible deadlines.

Ms. Craft outlined changes at the SADC with creation of a chief of acquisition and a stewardship manager posts, and plans to assign to staff members to field offices in the Highlands region and in Bridgeton. She said SADC has 35 positions including five vacancies. Ms. Craft said she is interviewing applicants and hopes to fill the vacancies soon.

Ms. Craft said major policy issues facing the SADC include impervious coverage on preserved farms, affordability of preserved farms, and establishment of “agricultural management practice” (AMP) policies for equine farms, farm markets, farm tourism and greenhouses. AMP’s guide the application of the State Right to Farm Law, which is adjudicated by the SADC.

On appropriations, Ms. Craft addressed the allocation of funds for State Direct Easement Purchase and State Fee Simple Purchase programs to three regions of the state. She said the Highlands Water Protection and Planning Act of 2004 stipulated the SADC could not expend less in any one county than the average expended annually in that county from FY2002 through FY2004. She said using regional funding for the State programs would provide the flexibility to manage expenditures and comply with the Highlands Act.

Ms. Craft said the reallocation of prior GSPT appropriations totaling \$43.1 million included PIG allocations that were being withdrawn because they were not expending their funds and closing on farms. She said this practice would continue and

would send a signal to PIG municipalities their funds will be reallocated if they are not used in a timely manner.

Mr. Watson complimented Ms. Craft on her presentation. He explained reprogrammed funds come from preservation projects for specific farms which for some reason could not be completed. Ms. Craft concurred.

Mr. Wegner complimented Ms. Craft on her presentation. He applauded the SADC's idea to have regional field offices and the outreach efforts to farmers.

RESOLUTION # 05-004

Resolution Of The Garden State Preservation Trust To Approve Farmland Preservation Program County Easement Purchase, Pinelands County Easement Purchase, State Direct Easement And Fee Simple Purchase Projects, and Planning Incentive Grant Allocations for Fiscal Year 2006

Moved by Mr. Wegner

Seconded by Mr. Watson

Approved 5-0 with abstentions by Ms. Craft and Mr. Morris

Mr. Morris abstained because of a conflict of interest.

RESOLUTION # 05-005

Resolution Of The Garden State Preservation Trust To Approve Farmland Preservation Program Nonprofit Grants for Fiscal Year 2006

Moved by Mr. Scanlan

Seconded by Ms. Ogden

Vote tally was 4-0 with 3 abstentions by Ms. Craft, Mr. Morris and Chairman Davidson when Mr. Watson made a motion to table.

Seconded by Mr. Scanlan

Voice vote to table was unanimous with Ms. Craft, Mr. Morris and Chairman Davidson abstaining.

Mr. Siegel said the motion to approve Resolution #05-005 had been tabled by a vote of a simple majority.

SADC UPDATE ON IMPERVIOUS COVERAGE POLICIES

Chairman Davidson asked Ms. Craft about rules regarding impervious coverage. Ms. Craft said she was attending the impervious cover committee meeting the next day (May 12) and would have more to report at the next GSPT meeting.

Chairman Davidson asked Ms. Craft if she would address the issue for the Trust.

Ms. Craft said the issue is whether it is appropriate to limit the area for construction of agricultural facilities on preserved farms. She said critical newspaper articles and local controversies have occurred because of public opposition to development on preserved farms. Ms. Craft said she was sure many of these controversies occurred because of a lack of understanding about what it means to

preserve a farm, and that farmland preservation is not an open-space preservation program. She said farmland preservation is an effort to conserve agricultural resources and agricultural business operations.

Ms. Craft said the question becomes: What is the appropriate level of regulation? She said there are three competing dynamics. First, there is the public perception farms should remain largely open space. Second, there is a fundamental concern about the fact the public has invested in farmland preservation to conserve the water and the soil. Third, there are landowner concerns that agriculture as an industry is changing dramatically and there is a need for farmers working on preserved land to conduct a variety of agricultural operations.

Ms. Craft said it is hard to put a regulation into place today that will function well in perpetuity. For example, Ms. Craft said federal funds available for farmland preservation come with rules requiring a non-negotiable limit to the percentage of a farm's acreage that can have impervious coverage.

Ms. Craft said there are a lot of nuances that need to be considered before establishing such regulations and limits. She said her goal is to bring the issue to resolution by the end of the year.

Chairman Davidson asked about the impervious coverage limits imposed by federal agencies as a condition of receiving federal grants.

Ms. Craft responded said the coverage limit ranges from two percent to five percent depending on the size of the farm, the type of soil and geographical factors such as steep slopes. She said for farms under 50 acres, a minimum of one acre of impervious cover is permitted automatically.

Ms. Craft noted the farmland preservation program is voluntary and relies on farmers who are willing to apply for preservation. She said these farmers are not receptive to impervious coverage limitations on their business operations.

Ms. Ogden questioned the relationship of impervious cover regulations and underground aquifers. Ms. Craft said she was not aware of whether the SADC had studied the relationship between available land base and aquifers. She said in her opinion it made sense to have limitations where water-quality issues are critical but not everywhere. Ms. Craft said in these cases additional compensation for use limitations might be considered.

Amy Hansen from the New Jersey Conservation Foundation came forward and asked to address the matter. Chairman Davidson opened the meeting to public comment on the impervious coverage issue.

Ms. Hansen told the Trust her organization supports a tighter cap on impervious coverage on preserved farms. She discussed certain tax deductions and IRS rules, and she said unless impervious coverage limits are in place, the full or partial donation of certain farmland for preservation may not qualify as a tax deduction.

Ms. Hansen then produced a copy of a March 9, 2001, letter from Stephen J. Small, Esq., of Boston to James P. Wyse, Esq., of Warren, N.J., in which Small concludes that he does not believe the SADC Deed of Easement used to preserve farmland qualifies for tax deduction under IRS rules.

Ms. Hansen presented this letter to Mr. Siegel to enter into the public record for the GSPT meeting of May 11.

(Note: GSPT staff has been aware of the existence of this letter for more than a year but has been unable to secure a public copy of the document which would be outside the confines of attorney-client privilege. A proposed expenditure to retain Mr. Small has not been approved. The presentation of this letter to the executive director during a public meeting now plainly places this document into the public record.)

EXECUTIVE DIRECTOR'S REPORT CONTINUED

Mr. Siegel said the staff had remained ready to add the Green Acres Local and Nonprofit recommendations for FY2006 to the agenda at the last minute. He said despite the best efforts of the Green Acres staff final decisions had not been completed on time for this meeting and that another one would need to be scheduled in June.

Mr. Watson said that the Green Acres request was complete and was awaiting review by Commissioner Campbell. He said the recommendations would be ready in time for a June meeting.

Chairman Davidson suggested a Wednesday, June 8, meeting date and members replied positively, so he set the date.

Mr. Siegel said the Governor had signed the New Jersey Historic Trust appropriations totally \$18 million in three bills on May 4.

Mr. Siegel said the House Interior Appropriations Subcommittee had zeroed out land preservation funding for the Department of the Interior. He said this had no effect on the U.S. Department of Agriculture, which provides grants to the SADC.

Mr. Siegel said the letters had gone out warning members of the Congressional delegation about proposed changes to tax deductions for land donations. He said he is in the process of preparing letters to all New Jersey nonprofits.

Mr. Rousseau arrived for the meeting at 11:45 a.m.

Chairman Davidson returned the agenda to the tabled resolution and elections.

RESOLUTION # 05-005

Resolution Of The Garden State Preservation Trust To Approve Farmland Preservation Program Nonprofit Grants for Fiscal Year 2006

Moved by Mr. Scanlan

Seconded by Mr. Watson

Approved 5-0 with 3 abstentions by Ms. Craft, Mr. Morris and Chairman Davidson

Mr. Morris and Chairman Davidson abstained because of a conflict of interest.

ELECTION OF OFFICERS FOR 2005

The Chairman, Mr. Davidson, opened the floor to accept nominations for the position of chairman of the Garden State Preservation Trust for 2005.

Mr. Rousseau nominated Mr. DiVincent

Ms. Craft seconded

The Chairman asked if there were any additional nominations.

There were none.

The Chairman then called for a roll call vote.

Approved 8-0 to elect Mr. DiVincent chairman for 2005.

The Chairman opened the floor to accept nominations for the position of vice chairman of the Garden State Preservation Trust for 2005.

Ms. Craft nominated Mr. Davidson to be vice chairman for 2005.

Mr. Rousseau seconded.

The Chairman asked if there were any additional nominations.

There were none.

The Chairman then called for a roll call vote.

Approved 8-0 to elect Mr. Davidson vice-chairman for 2005.

Chairman Davidson opened the floor to accept nominations for secretary/treasurer for 2005.

Mr. Rousseau nominated Mr. Siegel for re-election to be secretary/treasurer for 2005.

Mr. Watson seconded.

Chairman Davidson asked if there were any additional nominations.

There were none.

Chairman Davidson then called for a roll call vote.

Approved 8-0 to elect Mr. Siegel secretary/treasurer for 2005.

Mr. Siegel asked for approval to submit expedited minutes on election results and on Resolutions #05-004 and #05-005 to the Governor's Counsel's Office to speed introduction of appropriations legislation.

Moved by Mr. Wegner

Seconded by Ms. Ogden

Approved unanimously by voice vote.

EXECUTIVE DIRECTOR'S REPORT CONTINUED

Mr. Siegel advised members of clippings in their meeting books and a draft copies of the Annual Report for FY2004. He apologized for the draft not being available for the April meeting but some important financial tables could not be finished. He said the report was tentatively scheduled to go to the printer within two weeks and he asked members to contact him prior to Friday May 20 with comments, suggestions or requests for additional time to review the report.

Mr. Siegel addressed the Code of Ethics and said the draft the members had received was subject to review by the Executive Commission on Ethical Standards and by the Office of the Attorney General. He said questions centered on public members and permissible outside activities.

Mr. Rousseau, Ms. Ogden and Mr. Wegner discussed which activities might be allowable. Ms. Ogden noted newspaper articles a few years ago had implied conflicts of interest were a problem on local land preservation boards.

TRUST MEMBER COMMENTS

Chairman Davidson asked if there were any additional comments from the Members. There were none.

PUBLIC COMMENTS

There were no additional public comments

ADJOURNMENT

Chairman Davidson adjourned the meeting at 12:20pm

Respectfully submitted

Ralph Siegel
executive director
board secretary

June 8, 2005