

AGRICULTURE COMMITTEE MEETING

Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey
June 16, 2015 - 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Ed McGlinchey (Chairman), Sean Earlen, Ed Lloyd, Mark Lohbauer (Alternate)

MEMBERS ABSENT: Paul E. Galletta and Richard Prickett

STAFF PRESENT: Executive Director Nancy Wittenberg, Larry Liggett, Susan R. Grogan, Charles Horner, Paul D. Leakan and Betsy Piner. Also present by telephone was Mr. Christopher Howard with the Governor's Authorities Unit.

Chairman McGlinchey called the meeting to order at 9:41 a.m.

1. Adoption of minutes from the May 1, 2015 Agriculture Committee meeting

Commissioner Lohbauer moved the adoption of the minutes from the May 1, 2015 Committee meeting. Commissioner Earlen seconded the motion. The minutes were adopted, with Commissioners Lohbauer, Earlen, and Lloyd voting in favor. Chairman McGlinchey abstained as he said he had not had time to review the minutes.

2. Continued discussion of proposed pilot program for special events and expanded economic opportunities on agricultural lands

Prior to the meeting, staff distributed to all in attendance, two documents dated June 12, 2015 related to a Pilot Program for Special Events and Activities on Farms: 1) List of Meeting Participants, and 2) Issues and Suggestions Identified at Meetings with Interested Parties. (Attachments A & B to these minutes)

Referencing the two documents provided this morning, Ms. Wittenberg noted that she and Ms. Grogan had met with multiple groups concerning issues related to a pilot program for special events and activities on farms. She said Ms. Grogan had compiled a comprehensive list of the issues raised at these meetings and noted that, although many different viewpoints were expressed, they fell into a number of categories, each of which represents a major decision point for the Commission. For example, should a pilot program include all agricultural lands? All farms? Only Pinelands Development Credit (PDC) deed restricted farms? What activities should be regulated? What type and scale? Ms. Wittenberg asked, following a response to the threshold questions, what standards should apply?

Ms. Grogan said the list demonstrates how many threshold questions have arisen and that through these meetings, she and Ms. Wittenberg learned how complicated the issue quickly becomes. She said the issue of “right to farm” is one with which the Commission is not typically concerned but it was an issue for several groups. She said the meetings had been very informative but the list of issues and suggestions does not identify who said what as staff wanted to focus on the breadth and depth of the issues. She said perhaps the first question for a pilot program might be which farms to include. The management areas provide descriptions of permitted uses but there are farms in sensitive areas outside of the Agricultural Production Area (APA), including the Preservation Area District (PAD), Forest Area (FA) and Special Agricultural Production Area (SAPA) and would the Commission want to include those in a pilot program?

Chairman McGlinchey said a farm is a farm no matter where it’s located and just because a property is in the APA, it might not be a farm.

In response to Commissioner Lloyd’s question about how many acres in the various management areas, Mr. Liggett said roughly half of the APA is farmed. For the SAPA, it is more difficult to determine what is being actively farmed since there are bogs plus the supporting reservoirs.

Mr. Leakan presented the management areas on the SmartBoard (from the Commission’s web site): http://www.state.nj.us/pinelands/infor/fact/PMA_Fact_Sheet.pdf and noted there are some 68,000 acres in the APA and 37,500 in the SAPA.

Chairman McGlinchey noted that in terms of PDC allocations, uplands in the APA were more valuable.

Ms. Grogan said the program should be limited to areas that the Commission has targeted for agriculture. The CMP makes a clear distinction regarding permitted uses in the APA and SAPA. For the latter, there are no low intensity recreation use or farm markets permitted.

Chairman Lohbauer asked if festivals were permitted in the SAPA, for example, at Whitesbog.

Mr. Liggett examined the Land Capability Map and noted that Whitesbog was likely located in the PAD.

Commissioner Earlen asked if staff were aware of other festivals.

Ms. Grogan responded that that staff knew about larger events but, from their recent meetings, had learned of other activities. She said there is a big range of ongoing activities such as paintball, obstacle courses, camps and bus tours. She said the concern has evolved from special events to include ongoing activities.

Ms. Wittenberg referenced SADC’s interest in weddings on preserved farms and a bill in the legislature regarding rural microenterprises for non-agricultural activities on farms.

Commissioner Earlen said he would be interested in a pilot program that applied to all farms and was inclusive of everyone.

Mr. Liggett said some zones might permit certain activities on farms in any case, such as the Rural Development Area (RDA).

Commissioner Lohbauer said he thought a pilot program would simply regulate recreation activities on farms and develop standards. He said he didn't realize it would apply to events and festivals.

Chairman McGlinchey said he felt it had to be comprehensive to include such things as wine tastings at vineyards.

Commissioner Lohbauer said a wine tasting or a wedding was likely conducted in an enclosed area, not out in the vineyards.

Ms. Grogan suggested perhaps this is the real threshold question. Maybe the pilot program should deal only with recreation activities on farms. However, the series of meetings has raised an awareness of all these other activities so the Commission must decide how narrow or broad the pilot program should be.

Chairman McGlinchey said there is a wide variety of activities termed "recreation".

Commissioner Earlen asked, "What is the difference between 5,000 people at a cranberry festival vs. 5,000 people at a soccer field?"

Commissioner Lohbauer said he felt the question is, "What is the impact on the land from these activities?"

Chairman McGlinchey said staff deals more with these issues than the Commission, and Commissioner Earlen added that the Committee needed to provide the staff with direction.

Commissioner Lloyd said the issues should be looked at as broadly as possible to see what impacts are out there. He said he wanted a chance to look at the material provided this morning and think about how to categorize the issues. He said he wanted to have a sense of what is going on.

Commissioner Lohbauer said the impacts have to be a primary driver. Also, there is the equity issue. He said there are those who have benefitted from the PDC and SADC programs.

Ms. Grogan said there are different deed restrictions for the two programs.

Commissioner Lloyd said PDC deed restrictions and the conservation easements are separate from the Commission's regulations.

Ms. Grogan said a PDC deed restriction does not change the permitted uses for a farm in the APA or SAPA. The language of the deed restriction mirrors that of the CMP's permitted uses. The Commission may wish to look at the wording in the deed restrictions and tighten the definitions. Also, definitional changes regarding recreational uses may be needed, including providing additional examples.

In response to Commissioner Lohbauer's comment that such changes would require a rule change, Ms. Grogan said the pilot program itself will require a rule change.

The Committee discussed the relationship between a pilot program and the municipalities in terms of granting variances for special event permits.

Ms. Grogan said she had assumed that through a pilot program, an individual would obtain a Certificate of Filing from the Commission and then go to the municipality to secure a special event permit that would then be reviewed by the Commission. Because of the variety of activities, there is a concern that 53 municipalities might want to offer 53 types of activities. The Commission will need to determine matters such as whether the pilot program should be mandatory for municipalities and whether a preserved farm should be treated differently from one that is not, perhaps with a PDC obligation as an offset for additional activities.

Chairman McGlinchey said that many municipalities don't take advantage of all the permitted uses allowed by the CMP. Some are optional. He said he thought the towns should have the opportunity to weigh in on these special events and activities.

Ms. Grogan said a number of people had asked if the municipalities would be able to address their own concerns, particularly for traffic and signage.

Commissioner Lloyd said perhaps the threshold should be the number of individuals involved in an event or activity. He said he wanted to know where to draw the line and agreed that the municipality should have some involvement.

Chairman McGlinchey said the size of the farm should be considered. He said a six or seven acre farm can receive farmland assessment but questioned whether it should be allowed to conduct special events vs. a 200-acre farm that can better accommodate activities.

In response to Commissioner Lloyd's question regarding the next steps in the process, Ms. Wittenberg said the most recent meeting had been the most interesting. Staff was asked why it was reinventing the wheel rather than just referring to the SADC Agricultural Management Practice for On-Farm Direct Marketing.

Ms. Grogan suggested that SADC be invited to a future meeting to explain its program and answer some of the Committee's questions.

In response to Commissioner Earlen's request for a list of known events such as wineries, festivals and corn mazes, Ms. Grogan said staff would try to develop such a list.

In response to Chairman McGlinchey's statement that it is nice for farmers to produce extra income at the end of the season with a corn maze, Ms. Wittenberg said no one is objecting to farms making money but the opportunities must be those that fit the Commission's parameters.

Chairmen McGlinchey asked what happens to the farm when the next generation has no interest in wanting it to continue.

Ms. Wittenberg responded that there is that struggle now, e.g. regulatory issues related to farm markets. Also, she also reminded everyone that the Commission will need to monitor and evaluate a pilot program.

Ms. Grogan said staff wanted the pilot program to be broad enough to have a variety of farms participate. Staff knows there are existing activities and the pilot program will allow an evaluation of impacts on neighbors, soil compaction and other issues.

Commissioner Lohbauer said the program should focus on negative impacts and equities. He said the Commission wants to celebrate agriculture and some of these activities can happen only on a farm. The Commission wants to promote agriculture.

Mr. Liggett said some old agriculture-related buildings outlive their usefulness and the CMP says they cannot be used for non-agricultural uses. SADC uses the "exception area" concept, designating certain pieces of the land outside the easement area, typically for residential use. He said the Commission might want to do something similar, as it did for solar energy facilities. The Commission encourages farmers to invest in solar energy and up to 20% of a parcel but no more than ten acres can be used for solar energy production as a principal use.

Ms. Grogan added that solar facilities must avoid prime soils and areas of high ecological value.

Mr. Liggett said he didn't think farmers should be punished for using abandoned buildings, adding that maybe there should be a maximum exception area established with a cap on permitted uses within it. He said it seems that bed-and-breakfasts could be appropriate.

Chairman McGlinchey said that because these issues are so important, for now he felt the Committee should meet frequently.

Mr. Liggett offered to send statistics related to agricultural uses. He noted that some 5,000 acres of FA is farmed.

Ms. Grogan said that some time ago, Franklin and Buena Vista townships had redesignated farmed areas in RDA and FA to APA to allow farmers to take advantage of the PDC program. Similarly, Hammonton redesignated PAD to SAPA for the same reason.

Mr. Liggett said there are 10,000 acres of farmed lands in RDA. Redesignating those lands to APA would allow those landowners to participate in the PDC program.

Chairman McGlinchey said some farmers don't want to lose the development opportunity as the PDC program has never compensated them appropriately.

Commissioner Earlen said he thought if the Committee had a list of the activities occurring on farms it would be helpful and that farms in all management areas should be included in a pilot program.

Commissioner Lohbauer said the threshold question for him was whether the activity promotes agriculture, no matter in which management area it is located.

Commissioner Lloyd said there may be activities the Committee does not want to see expanded so it would be helpful to have as many activities in the pilot program as possible.

Chairman McGlinchey reminded those present that a pilot program is not permanent.

Ms. Grogan suggested the Committee take some time to absorb the issues discussed today and she would try to develop a list of activities, albeit some would be anecdotal. She said she would re-send the SADC PowerPoint presentation and find out when SADC staff might be available to attend a future meeting. Meanwhile she encouraged the Committee to contact her with questions and concerns as staff will continue to gather information. She noted the presence of Mr. Jeff Everett, with the SADC, in the audience.

3. Public Comment

Mr. Jay Mounier, a resident of Franklin Township, said the Commission must take into account that different management areas require different treatment. He said he had not heard much discussion that one must consider the importance of including traditional land uses such as roadside sale of farm products. He provided an example of a cranberry farmer within the SAPA who can bring school buses to his farm for educational activities but cannot sell cranberries at the side of the road. He said education is important but such school outings are not something that happened 50 years ago. Also, he said that competitive motor vehicle activity has been a traditional Pinelands activity and asked if it should be included in a pilot program. The Commission should try to see what will work and what won't work and make decisions at the conclusion of the pilot program.

In response to Mr. Mounier's question if the documents provided this morning would be available to those who had participated in the meetings, Ms. Grogan said they would be provided and also posted on the web site.

Mr. Jeff Everett, Chief of Agricultural Resources, SADC, encouraged the Commission to contact him regarding these agricultural issues. He said SADC monitors some 200,000 preserved farmland acres throughout the state and he wanted the Commission to avail itself of the research already done. Mr. Everett noted that On-Farm-Direct-Marketing applies to all farms, not just preserved farms. He said that agriculture is expanding beyond its traditional functions throughout the nation, and the Commission was not alone in dealing with these issues. The states of Maryland and New York have been particularly active.

Ms. Fran Brooks, a resident of Tabernacle Township, thanked Ms. Grogan for today's handouts, noting that they demonstrate how complicated these issues are. She asked about the relationship between special events and the soccer tournaments being conducted on the Tuckahoe Turf Farms. She asked if there were already a separate set of criteria applicable to Tuckahoe Turf.

Mr. Horner said that Tuckahoe Turf Farm is separate and apart from this general issue. He said an application was filed and the Town of Hammonton imposed certain conditions. Staff determined that there was no substantial issue with the application and the soccer tournaments would be allowed to proceed for a 3-year period while the Commission develops its pilot program. At the end of that period, the issues will be addressed.

Ms. Brooks asked if the Project Review staff was looking at the impacts from those activities and had a monitoring program been established. She also asked what research methods staff is using.

Mr. Horner said the lengthy Hammonton Planning Board Resolution granting the approvals for the soccer activities on the farm lists such details and he would be happy to share it with Ms. Brooks following the meeting.

Dr. Emile DeVito, a member of the New Jersey Conservation Foundation and the Pinelands Preservation Alliance, said he was glad to hear Commissioner Lohbauer address the equity issue. He said when public funds are used to preserve lands, appraisers base the value the public pays for easements on the expectations as to how lands will be used. He said soccer tournaments generate multiple hundreds of thousands of dollars and the playing fields land is worth far more than any development potential had it not been preserved.

Mr. Horner asked the Committee to consider what activities constitute land development as that triggers an application to the Commission. He asked if it is the length of time that an activity occurs. Is it the intensity? Should an antique car show conducted for one day a year require application to the Commission?

Chairman McGlinchey said that like enduro races, a carnival or car show or some such activity could apply for a permit and then the Commission would be able to track it.

Mr. Horner responded that the CMP requires a permit for an enduro; a carnival is not specifically listed. He said staff has discussed how exemptions may apply once the Commission has gone through this pilot program process. He said there may be a list of activities that are exempt because they are so innocuous and others that require a permit. He said, in the past, the Commission has written letters such as to a farmer wishing to hold a corn maze for 4 weeks in October. Such letters indicate to the farmer that the Commission does not consider it development unless the municipality does.

Commissioner Lloyd said that it would be good to have a list of such examples.

Ms. Grogan responded that it might be possible to the extent that staff can recall but it might be that only anecdotal information would be available.

Commissioner Lohbauer suggested there be a means of memorializing such examples.

Commissioner Lohbauer thanked the staff for efforts in providing the information presented.

The meeting adjourned at 11:06 a.m. (moved by Commissioner Lohbauer and seconded by Commissioner Lloyd.)

Certified as true and correct:



Betsy Piner
Principal Planning Assistant

Date: July 7, 2015