

SUSSEX COUNTY AGRICULTURE DEVELOPMENT BOARD

MINUTES

MARCH 21, 2011

The meeting opened at 7:35 p.m. by Chairperson Brodhecker in the Freeholder Meeting Room at the Sussex County Administrative Center, One Spring Street, Newton, New Jersey. The meeting was held in compliance with the Open Public Meetings Act, N.J.S.A. 10:4-1 of 1975, as amended. Notice has been forwarded to the newspapers and posted on the bulletin board maintained at the Sussex County Administrative Center for public announcement.

ROLL CALL:

MEMBERS PRESENT: Jane Brodhecker, Chairperson
Lori Day, Vice Chairperson
Brian Hautau
Fred Hough
Jim Hunt
Cece Pattison
Joan Snook Smith

MEMBERS EXCUSED: None

STAFF PRESENT: Donna Traylor, CADB Coordinator
Dennis McConnell, Esq., County Counsel
Antoinette Wasiewicz, Recording Secretary

ALSO PRESENT: Michael Lavery, Esq.
Richard Clark, Esq., Attorney for M. Messler
Mr. & Mrs. Lou Tommaso
Tom Brodhecker
Phil Brodhecker
Phillip Yetter, Hampton Township Mayor
Dan Coranato, Hampton Township
Mike Pierson, Hampton Township
Gary Pohorely, SADC
Mike Messler, Green Township

Chairperson Brodhecker welcomed Brian Hautau back to the Board. Brian had been a member previously and then was off for awhile. He replaces a long-time member, Warren Welsh who recently passed away.

MINUTES CORRECTION/APPROVAL:

Minutes were not available.

The Agenda was amended to 6, A – Messler, Green Township – SSAMP Public Hearing and then 6, B - Concerned Residents of Hampton Twp. V. Twp. of Hampton and Hampton Twp. Committee, Discussion for Determining Primary Jurisdiction.

CORRESPONDENCE:

A. GREEN TOWNSHIP RESOLUTION FOR TOMMASO, 2/14/11:

On February 14, 2011 the Green Township Committee passed a Resolution to provide funding toward the Lou Tommaso Farmland Preservation Easement at a cost of \$113,525.00 and an additional \$250.00 per acre, the difference between the two appraisals, for a total contribution of \$125,275.00. This application was part of last year's Farmland Preservation Round for the County. This is also the first time the County was fortunate enough to have a municipality put their Open Space/Farmland Preservation dollars towards a County acquisition.

B. CRISMAN DEED CHANGES, R. VALENTI, 3/1/11:

There has been some correspondence between County Counsel and Richard Valenti, Esq., Counsel for the Crisman's, due to some issues with their deeds. They are trying to get all the language correct so that the Crisman deeds render title consistent with the designated sellers under the contracts that they have for Farmland Preservation with the County. They are working with Joseph DelBagno of the Title company. These changes need to be made before closing.

C. SUPPORT LETTER FROM LAND CONSERVANCY OF NJ, 3/1/11:

There was a letter of support from the Land Conservancy of New Jersey relative to funding for Farmland Preservation and Open Space.

D. "THE FOOD SHOW" EXHIBITION, FOODSHED ALLIANCE, 3/11:

The Foodshed Alliance is sponsoring, "The Food Show," an art exhibition that reflects the beauty and abundance found in farms and farmers' markets in the area of the Ridge and Valley in Northern New Jersey. The exhibition dates are March 5 – June 24, 2011 at the RVC & Foodshed Center in Blairstown, NJ.

E. HAMPTON TOWNSHIP ORDINANCE #2011-01, 3/16/11:

A copy of the Hampton Township Ordinance has been received. The Ordinance was adopted by the Township Committee on March 8, 2011

F. HAMPTON ORDINANCE 2011-01 INFORMATIONAL LETTER, R. MORGENSTERN, 3/18/11:

Robert T. Morgenstern, Attorney for Hampton Township wrote to the Sussex County Agriculture Development Board acknowledging that they will be reviewing Hampton Township's newly adopted Ordinance No. 2011-01 at their meeting on March 21, 2011.

Mr. Morgenstern asked the SCADB to note explanations to specific sections of the ordinance.

G. RAIN BARREL WORKSHOP FLYER:

Rutgers is sponsoring a "Build-Your-Own Rain Barrel Workshop" on Tuesday, March 29, 2011, 6:00-8:00 p.m. The workshop is being held at the Hillside Park Building in Andover, NJ. The cost is \$45.00 for the barrel and materials. Registrations can be made online at www.water.rutgers.edu

RIGHT TO FARM:

A. MESSLER, GREEN TOWNSHIP – SSAMP PUBLIC HEARING:

Donna Traylor turned the meeting over to special counsel, Michael Lavery, Esq. who will present to the Board some information that they will need in order to make some decisions this evening.

Michael Lavery said he is an attorney with the firm of Courter, Kobert & Cohen in Hackettstown, NJ. He presently serves as the attorney for the Warren County Agriculture Development Board. Mr. McConnell asked him to step in as conflict counsel on this matter. Mr. Lavery reviewed the package on Friday and contacted Richard Clark, attorney for Mike Messler. He was unsuccessful in reaching Green Township Attorney, Mr. Aaroe.

Mr. Lavery said there was a recent site specific case that was heard in Warren County.

In that case, the Appellate Division determined that individuals surrounding this particular site were entitled to notice. There is no statutory case law or administrative code requirement that notice be provided, but when dealing with these types of issues in Warren County, they have the applicant or the Board send out the 200' notice normally sent out on a Land Use Application. The language that the Appellate Division used was, "Board shall provide notice to affected property owners when an application is made, as in this case by the farmer. Failure to do so, in clear terms describing with particularity the subject of the application and the consequences of the determination to be made, may deprive a determination of its binding effect on those individuals." The Court also added a footnote to that and said, "While the issue of notice was not squarely before them, the Board should decide on a case-by-case basis whether a personal notice is required or whether a published notice is adequate."

Mr. Lavery said he hopes this case goes smoothly but there are a lot of substantial issues and it is important that we dot every "i" and cross every "t." He believes notice is required for this case, especially since there was a Use Variance granted originally. Mr. Clark agreed to prepare the notice and after the wording is approved by Counsel, he will send it out in advance of the next meeting

Donna Traylor said that typically the Board meets on the third Monday of the month. In April, the SCADB meeting is scheduled for April 18 but she will be away that week. The Board was not comfortable with the idea of having the meeting without Donna. There was a very lengthy period of trying to coordinate a date for the April meeting with all the parties involved and the availability of the Freeholder Meeting Room. It was agreed to hold the April meeting on Tuesday, April 26 during the early afternoon. The exact time will be set after determining the availability of the Freeholder Meeting Room.

B. CONCERNED RESIDENTS OF HAMPTON TWP. V. TWP. OF HAMPTON AND HAMPTON TWP. COMMITTEE, DISCUSSION FOR DETERMINING PRIMARY JURISDICTION:

Chairperson Jane Brodhecker turned the meeting over to Vice Chairperson Lori Day. Ms. Brodhecker recused herself and left the room. Lori Day turned the meeting over to County Counsel.

Dennis McConnell, Esq. said there is a matter known as, "Concerned Residents of Hampton Township v. Hampton Township and Hampton Township Committee." There is a Court Order and Decision by Judge Bonzanelis in that matter. Judge Bonzanelis is seeking to vest this Board with primary jurisdiction. He is asking whether this Board has primary jurisdiction under the Right to Farm Act. Mr. McConnell said he forwarded this issue to Brian Smith, SADC Counsel because it is a Right to Farm issue. A response was received from Brian Smith on February 17. Mr. Smith pointed out that under the Agriculture Retention and Development Act; the Board has the obligation to review ordinances. Under 4:1C-15, subsection F, it says, "Monitor and make appropriate recommendations to the Committee and to the County and Municipal governing bodies and Boards with respect to Resolutions, Ordinance, Regulations and Development Approvals which would threaten the continued viability of agriculture activities and Farmland Preservation Programs within Agriculture Development Areas." Mr. McConnell suggested that the Board consider that he respond to Judge Bonzanelis and point out to him that under this Act, the Board does have jurisdiction. Mr. McConnell said that in the event the Board takes jurisdiction, that if there is an appeal from that, it would go to the State and then the Appellate Court. To help the Board with its decision, Mr. McConnell explained that the Right to Farm Act deals with specific instances of a farmer being hammered by a particular act from the municipality or complainant. It is a complaint process. He added that if the Hampton ordinance was passed and a farmer had a particular problem with it, the farmer could file a complaint with this Board under the Right to Farm Act. A brief discussion followed.

MOTION:

A motion was made by Brian Hautau that this Board accept the responsibility of having primary jurisdiction to review the Hampton Township Ordinance under the Agriculture Retention and Development Act. The Motion was seconded by CeCe Pattison and carried unanimously.

Jim Hunt asked for a clarification of what will be required from this Board. Mr. McConnell said this Board will review the Ordinance and make comments and recommendations.

Mr. McConnell asked the Board to recommend that Staff advise Judge Bonzanelis regarding the decision made by this Board.

MOTION:

A motion was made CeCe Pattison that Staff advise Judge Bonzanelis of the Board's decision to accept the responsibility of having primary jurisdiction under the Agriculture Retention and Development Act regarding Hampton Township's Ordinance. The motion was seconded by Brian Hautau and carried unanimously.

Vice Chairperson Lori Day turned the meeting back over the Chairperson Jane Brodhecker.

AG. AGENT'S REPORT:

Donna said that Steve Komar was in South Jersey today and obviously did not get back in time for this evening's meeting. She asked Lori Day to report on "Annie's Project."

Lori said "Annie's Project" so far has been extremely interesting. There is a lot of discussion on the benefits of promoting your farm to go public, as far as farm stands and/or how to sell product to various outlets. They also covered marketing, Face Book and Twitter. This week's topic is on Estate Planning. Lori was one of the speakers for media releasing through television, radio and newspaper.

OLD BUSINESS:

A. AGRITOURISM PROJECTS (SPRINGFEST REPORT):

Donna asked Brian Hautau to report on Springfest. Brian said that there was a very good turnout and that the general mood of the participants was much better than it had been over the last few years. They were very interested and asked questions. Donna said she brought about 64 boxes of handout material and had only five boxes leftover.

The Birding and Nature Festival is planned for June 11 and 12 at the Fairgrounds. Carol Decker will be the keynote speaker at the luncheon on the 12th.

The Farmers Market is now being run by the Sussex County Board of Agriculture and the Farmers Market Committee. The Farmers Market will be opening on April 16 and will run through October 29, every Saturday from 9:00 a.m. to 2:00 p.m. Donna is still doing the marketing and advertising as well as arranging for special demonstrations.

B. EVERETT FARM, FRANKFORD TOWNSHIP – UPDATE:

Donna said that several weeks ago she and Jane Brodhecker were invited to visit the Everett farm. The Everetts also invited the municipal officials. They are under discussion with Bill Paterson and other officials regarding the problems that Frankford Township has with the use of the barn. Donna provided images from her visit to County Counsel to illustrate how the Everetts are using their barn.

Jane Brodhecker said the Everetts said they use the barn when their family visits. They say the family does not sleep there overnight. Donna said they put in two bathrooms in the barn; one downstairs and one upstairs. There is also a full kitchen downstairs and a full deck off the second story. The Township officials said when they did a previous visit that there were beds upstairs. There were no beds there when Donna and Jane visited. There are about a dozen stables on the first floor and a kitchen/bathroom living arrangement. The second story has a loft that can be used for storage and it has a walkout to the deck. There is also a second bathroom and shower. The Township has issues relative to permits and usage. The County is trying to determine if this is a violation of the easement restrictions.

C. UPDATE ON CLOSINGS AND FINAL APPROVALS:

The Freeholders gave final approval to the George Sella and Louis Tommaso applications on March 9. We still do not have a decision on the federal funding for the Lou Tommaso project. Once he closes on the farm as the contract purchaser, they will continue with the process to see if there are federal funds available.

Four final approvals have been received from the SADC relative to the \$2 million block grant. County Counsel sent the SADC all the information that was required to receive the closing checks. Three of the four were on parcels that the County pre-acquired. Additionally, the Melton Farm #1 and #2 should close later this week.

Donna provided the Board with a list of closings to date. The County closed on 158 farms totaling approximately 16,413 acres. She also included information on the Open Space program.

NEW BUSINESS:

A. PRESENTATION BY KATHY CAFASSO ON AGRICULTURAL LEARNING CENTER AT THE FAIRGROUNDS:

Kathy Cafasso said that right after the Fair in 2010, she wrote a four-part proposal for an agricultural learning center at the Fairgrounds. The purpose was to provide students and educators with informative experiences relating to agriculture. Ms. Cafasso said this was something she heard Warren Welsh speak about for many years. In 2005-2006, Lois Pellow was the Fair President and she put together a committee to work on the concept. At the end of 2010 the initial proposal was accepted by the Fair's

Agriculture Committee and the Executive Committee. A Steering Committee has been formed with Joan Snook Smith, Lois Chammings, Jane Phillips, Cathy Farrell and Kathy Cafasso. All of these people have a background in education and dealings with the Fair and/or Agricultural.

Ms. Cafasso said there is a Pre-K, Kindergarten program beginning in May. The program is called, "Down on the Farm" and will use the Farm Fun Building. Currently, five districts with over 300 kindergarten students will participate.

She is working on a Grade 4 program in October called, "Agricultural Time Machine." They will be making use of the Snook Museum and one other building to talk about what agriculture was like and also what is being done today.

A teacher workshop is scheduled for October to demonstrate how to incorporate agriculture into the classroom curriculum. There will be a competition for middle/high school students to produce a plywood panel with a painting representing "Sussex County Agriculture: Past & Present" with the panels being used to decorate fair buildings. Also, there will be a reading incentive program which will be offered to children in Sussex County up to Grade 5. Additional programs and activities are planned for the future.

MOTION:

A motion was made by Joan Snook Smith that the Board send a letter of support to Cathy Cafasso for the Agriculture Learning Center at the Fairgrounds. The motion was seconded by CeCe Pattison. All were in favor, with an abstention from Lori Day. Motion carried.

B. PRELIMINARY CHART FOR 2011 FARMLAND PRESERVATION APPLICATIONS:

Donna provided the Board with a Chart outlining the applications received for the 2011 County Round to date. There may be more applications coming in since they are accepted through the first week of April. The Chart will be updated for the April meeting and the Board will decide which farms they will visit in May. Rudy has started working on the point values.

PUBLIC COMMENT:

Gary Pohorely said the SADC has not heard anything yet from the Governor's Office regarding the Farmland Preservation Program. He said it is important for all counties to continue to send the SADC applications because when the Governor's Office checks with them, they can say there is more and more need for this funding.

April 9 is the last day for commenting on the Solar Agriculture Management Practice. Comments should be sent to the SADC. The SADC staff is also working on an AMP for Wind Generation.

ADJOURNMENT:

All business having been completed, a motion to adjourn the meeting was made by Joan Snook Smith. The motion was seconded by Brian Hautau and carried unanimously. The meeting adjourned at 9:05 p.m.