

SUSSEX COUNTY AGRICULTURE DEVELOPMENT BOARD

MINUTES

APRIL 26, 2011

The meeting opened at 2:15 p.m. by Chairperson Brodhecker in the 3RD Floor Conference 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
Jim Hunt
CeCe Pattison

MEMBERS EXCUSED: Fred Hough
Joan Snook Smith

STAFF PRESENT: Donna Traylor, CADB Coordinator
Rudy Dragan, Acting Recording Secretary
Steve Komar, County Agricultural Agent

ALSO PRESENT: Michael Lavery, Esq., Special Counsel for Right to Farm
issue
Richard Clark, Esq., Attorney for Messler
Jan Michael and Joanne Marie Messler, Green Township
Brian Smith, SADC

MINUTES CORRECTION/APPROVAL:

A motion was made by CeCe Pattison to approve the minutes of February 22, 2011, as presented. The motion was seconded by Jim Hunt. All were in favor, with an abstention from Lori Day and Brian Hautau. Motion carried.

The Agenda was amended to Right to Farm issue 6, A and then 6, B.

CORRESPONDENCE:

A. ANNUAL APPRAISAL WORKSHOP, SADC, 3/25/11:

The SADC has scheduled its annual Appraiser's Conference from 9:00 a.m. to 12:30 p.m. on Wednesday, June 8, 2011 at the Mercer County Community College Conference Center, West Windsor, NJ. Attendance at this session satisfies one of the SADC's requirements for remaining on the list of Approved Appraisers and also for appraisers applying for inclusion on the Approved Appraiser List.

The SADC's Policy requires an appraiser to attend at least one annual conference over a two-year period. An Agenda with topics for discussion were also received.

B. FARMLAND PRESERVATION FUNDING UPDATE, SECRETARY FISHER, 4/7/11:

A memo was received from Douglas Fisher reporting that the funding issue has been resolved and the SADC is prepared to seek Garden State Preservation Trust approval of its funding request for its various programs at the GSPT's May 4th meeting. The next step will be to secure legislative approval of appropriation bills. If the bills are approved by the Legislature in June, funding will be available late summer.

Donna added that Sussex County has been submitting applications against the original \$2 million block grant which was previous funding for Farmland Preservation. We've come to the point where we are at or just above the \$2 million, so now applications that we're submitting would be against this new funding.

C. RESPONSE LETTER TO JUDGE BONZONELIS, D. MC CONNELL, 4/11/11:

Dennis McConnell wrote to Judge Bonzonelis and advised him that at the March meeting of the Sussex County Agriculture Development Board, the Board concurred with the position set forth in the State's correspondence of February 17th in that the Board has the right to review the Hampton Township Ordinance regulating farm stands under the Agriculture Retention and Development Act rather than the Right to Farm Act.

RIGHT TO FARM:

A. MESSLER, GREEN TOWNSHIP – SSAMP PUBLIC HEARING:

Michael Lavery, Esq. from the firm of Courter, Kobert & Cohen was appointed Special Counsel because Mr. McConnell had a conflict of interest on this matter. At the last

meeting it was determined that Notice to property owners was required on this application. Mr. Clark's office prepared the notice and sent it out. Also, Mr. Clark was to speak to the Green Township Zoning Board because of feedback from them on the application. Most of the issues were resolved at the Board level and a letter dated April 18 was received from Mr. Aaroe, the Planning Board attorney, advising that they approved the riding ring. At the meeting, the Zoning Board did not address the issue on the number of horses allowed. However, Mr. Aaroe's letter said the number of horses was limited to 12. The Resolution that was approved by the Board in January 2007, said 15 horses were permitted on the site. Mr. Lavery said the number of horses permitted in Mr. Aaroe's letter is an error.

Mr. Lavery said he received a call from Mr. Clark who said the only remaining issue was the number of horses allowed on the premises. Mr. Lavery called Mr. Aaroe to ask why that issue was not addressed at the meeting; and Mr. Aaroe said that was probably something for which an application would have to be filed.

The applicant is asking this Board to approve 18 horses v. the 15 they were previously approved. Mr. Lavery said initially the notice said it was for the construction of a riding ring and any other variances that might be required. The riding ring has been approved. He does not believe another notice would be required for simply the number of horses. Mr. Lavery said he does not know how the Zoning Board arrived at the number of horses. He said this matter could have been simplified if Green Township had attended today's meeting.

Donna Traylor read from the Residential District in the Green Township Ordinance. The minimum lot size for keeping and raising horses or other large animals shall be 3.5 acres which minimum tract shall permit the keeping and raising of two horses or other large animals. At least two acres of the tract shall be pastured, freely accessible to the animals. One acre of freely accessible pasture land shall be required for each additional horse or other large animal beyond the first two large horses or other large animals permitted on a tract of 3.5 acres. Donna said they may have arrived at 15 horses from the 16.3 acres that are farm assessed. The Equine AMP is not as specific as the Green Township Ordinance.

Mr. Lavery said notice is not mandated by Statute. The reason that he asked for notice on this case was because a previous court case said it might be a good idea to notify the neighbors, as in land use board issues. He said this Board has a couple of options. It could send the case back to the Green Township Zoning Board where Mr. Messler would have to file for a variance to increase from 15 to 18 horses; or the Board could approve the request for 18 horses and within 45 days they will know whether or not Green Township has any objection to it. Steve Komar said from the manure management perspective, 18 horses can be managed with rotation and limiting the horses' time out in the pasture.

Jan Michael Messler and Joanne Marie Messler were sworn in by Mr. Lavery. When asked, Mr. Messler said that out of 16.3 acres he has about 14 acres of pasture. Jim Hunt asked if there were any objections from the neighbors. Richard Clark, Esq. said no one appeared here and no one attended the Green Township meeting. Mr. Messler testified before the Green Township Zoning Board and there were two exhibits showing

the proposed structure and the location. The application submitted to Green Township was for 18 horses. At the meeting, Green Township said they did not have any problems with 18 horses and they weren't going to put that in the letter because it was not a Zoning Board application. Mr. Clark said this Board decides on the activity and number of horses permitted and he did not see the need for the applicant to apply for a variance from Green Township. He is requesting from this Board the approval for a Site Specific AMP for 18 horses.

There was some discussion on the actual operation, the amount of pasture, number of paddocks, stalls and manure management.

MOTION:

A motion was made by Brian Hautau to authorize the Mezzlers to have 18 horses on this farm as long as they follow Ag. Management Practices as per the Manure Management Plan. They are not to exceed 18 horses and all the conditions in italics contained in Mr. Aaroe's letter will be cited for the Resolution. The motion is also based on the fact that all the horses are not being pastured; they are being supplemental dry fed and the management of 8/10ths of an acre per horse can be achieved via all these practices and plans. The motion was seconded by Lori Day and carried unanimously.

Donna Traylor will draft the Resolution and it will be approved at the next meeting.

B. CONCERNED RESIDENTS OF HAMPTON TWP. V. TWP. OF HAMPTON AND HAMPTON TWP. COMMITTEE (UPDATE):

Jane Brodhecker recused herself from this discussion and left the room.

Donna Traylor reported that Dennis McConnell sent a letter to Judge Bonzonelis regarding this issue (Correspondence 5-C.) She read the letter into the record.

Donna said that we have not heard from Judge Bonzonelis on this issue and that unless we hear otherwise, we would anticipate discussing this Farm Stand Ordinance at the May SCADB meeting.

The meeting was opened to the public.

Richard Clark said he represents the Concerned Residents of Hampton Township. He said he never received a copy of Mr. McConnell's letter. He expected this issue to be discussed at today's meeting and said he wanted to submit the presentation he prepared. Donna said she would stamp the package in with today's date and make copies of it for the CADB to review. Unless Judge Bonzonelis says otherwise, the CADB will hear this under the Ag. Retention Act at the May meeting.

Not hearing any other comments from the public, the meeting was closed to the public and Jane Brodhecker was summoned back to the meeting.

AG. AGENT'S REPORT:

Steve Komar reported that tomorrow night there will be a webinar on Social Media which will include making a Facebook page. The webinar is part of Annie's Project. The next topic will be presented by a lawyer and will focus on deeds and transferring titles, etc.

Steve also reported that they've received a \$112,000 agritourism grant from SARE to develop educational materials. He also received a copy of the contract for a birdseed (Nyger) project. There are only two groups trying to grow this experimental crop. Lori requested information on farming rat control.

OLD BUSINESS:

A. AGRITOURISM PROJECTS:

Donna reported that the Farmers Market opened two Saturdays ago. The first Saturday was busy but the following week was very slow, probably due to the rain. There are nine farmers in the building and there are a number of others to be added as more product becomes available. The Sussex County Board of Agriculture is taking the reins on the Farmers Market as far as Rules and Regulations and organization. Donna is still working on marketing and advertising.

A change in legislature is being proposed regarding signage on highways which would include agritourism entities. They are changing the law so that there is going to be more distance from highway. Also, the annual contract will be significantly less for agritourism entities. Donna said the notice was in the New Jersey Register on March 7.

The Birding and Nature Festival will be held on June 11 and 12. Donna will try to incorporate an agritourism component from the Farmers Market standpoint. A bird walk on two farms including a winery is planned.

The Birding and Nature Festival is being held at the Conservatory at the Fairgrounds. There are about a dozen field trips set up for all day Saturday and half a day on Sunday. Carol Decker will be the speaker on Sunday during the Luncheon.

Donna said that Rudy is in the process of gathering information to be included on the sussexfarmvisits website.

B. EVERETT FARM, FRANKFORD TOWNSHIP UPDATE:

Dennis McConnell sent a letter to the Everett's regarding a potential violation on their preserved farm. Frankford Township has been sending them letters on their own issues. Donna received a copy of a letter that went between Frankford and the Everett's attorney. Their attorney said his clients have been away and they would be back yesterday. They will be moving the trailer that was iced in.

County Counsel submitted a letter to their attorney, John McDermott outlining the places in the easement where they are in violation. If the Everett's do not attend to

this in the very short timeframe, County Counsel will be reaching out to State Counsel to advise him of this situation and to see what actions need to be taken.

C. UPDATE ON CLOSINGS AND FINAL APPROVALS:

Donna said there have not been any closings since the last meeting. At last check, the County closed on 160 farms with 16,458 acres preserved. Sussex County ranks at six or seven Statewide for preserved acres.

The contracts went out to Mr. Sella and Mr. Tommaso several weeks ago. They have three more weeks to return the contracts. In the interim, she sent out requests for quotations for survey work. She also reviewed the Frankford Township Comprehensive Farmland Plan. Frankford is the first of the County's municipalities that is looking to do their own Planning Incentive Grant. She believes it is on the State's Agenda for Thursday.

Donna said there are four imminent closings at the State. Three are on pre-acquisitions of farms that the County has done. According to County Counsel we are very close to receiving a reimbursement for the Hautau #2 farm in Frankford, the Chirip farm in Green and the Turr farm in Wantage. We are also close to closing on the Afran farm in Wantage, the three Crisman farms in Fredon, the Gordon farm in Hampton and the Manek farm in Fredon.

NEW BUSINESS:

A. SURVEY CONTRACTS FOR SELLA AND TOMMASO:

Donna reported that requests for quotations have gone out for Sella and Tommaso. The County Engineer's office received the quotes and did a summary. It appears that the low bid is from Mike Paul and he will be doing those two survey contracts. Hopefully, this will be on the Freeholder Agenda for the first meeting in May. Mr. Paul's bid was for \$10,200. The next lowest bid was for \$17,900.

B. PRELIMINARY CHART FOR 2011 APPLICATIONS (UPDATE):

The Board was provided with an updated Preliminary 2011 County Round Application Points chart. There are 12 applications which include two new applications that came in since the last meeting. Donna said the Board needs to set a date for the farm visits so that they can rank the farms at the May 16 meeting. After a brief discussion they agreed to do the farm visits on May 16, the day of the ag. meeting. The Board will meet Donna at the County building at 9:00 a.m.

Donna reported that the State has reached out to her because they are working on an Agritourism AMP and in order to get a better understanding of farm stands, they are going throughout the State to tour different farm stands. In Sussex County they will visit six farms: Windy Brow, Dan Ray Farm, Ideal Farm, Valley View Farm, Tranquility Farm and Pittenger Farm.

The State contacted Donna saying the County can potentially recoup 50% of some eligible ancillary costs. She's been gathering the paperwork for that and hopefully the County will get some more money to go back for easements.

Donna asked CeCe to update the Board on some goings on with the Farm and Horse Show. CeCe said that last summer the auditors for the Farm and Horse Show advised the different divisions to consolidate, preferably by October 1. The various Committees asked for more time and planned to consolidate by January 1. The Horse Show division refused to consolidate. They said they wanted their own books and they wanted to be able to write their own checks. Attorneys and a mediator have been hired to resolve the disagreement.

Unknown to the Farm and Horse Show Committee, the Horse Show members started their own Northwest Jersey Horse Show Association. They plan to bring about a lawsuit to get the horse area of the property.

PUBLIC COMMENT:

Brian Smith, Chief Counsel, SADC said that Susan Payne wants the staff members from the SADC to fan out to the different counties. He volunteered to cover Sussex County and Gary Pohorely will now cover Hunterdon County.

Mr. Smith said that on April 8 there was a 2,000th Preserved Farm Ceremony. On April 28th the SADC will be recommending funding allocations and preliminary approvals for the FY 11 Non-Profit Program. He said \$8.2 million has been allocated for the Non-Profit Programs, which is the largest amount ever.

With regard to soil and water cost shares, the SADC still has \$220,000 in unspent funds that the administration has frozen. This is from older bond money and Governor Christie wants to look at the money to see if it can be used to reduce the State's debt. The SADC wrote to the Treasury asking that the money be unfrozen. The State's Soil Committee already has the candidate farms, so it's not like the State is looking for people to spend the money on; they know who they can give the money to. The SADC continues to accept applications for soil and water grants but there is no source of funding in the future for the program.

The SADC will be sending out a newsletter to all CADBs. The newsletter will go out every other month. The current issue features the Solar AMP and the Right to Farm case involving the winery in Mercer County. There is also a new online guidance library.

Mr. Smith stressed that the purpose of the SADC's visit to the farms is not for enforcement purposes. They are trying to develop an AMP for farm markets and they want to get a handle on how big farm markets are. They know they vary in size and they want to get a feel for the average size of a farm market, the parking area, how much area is used for display, etc. Mr. Smith said the Farm Market AMP will supersede local enforcement.

He also talked about the Van Ness Award. The New Jersey Horse Council sent him an e-mail asking the SADC for a letter of support Dr. Dye's nomination for the Van Ness Award. The SADC drafted a letter of support .
for Susan Payne's signature and sent it to the NJHC.

ADJOURNMENT:

All business having been completed, a motion to adjourn the meeting was made by CeCe Pattison. The motion was seconded by Brian Hautau and carried unanimously. The meeting adjourned at 4:10 p.m.