

SUSSEX COUNTY AGRICULTURE DEVELOPMENT BOARD

MINUTES

APRIL 15, 2013

The meeting opened at 7:30 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
Jim Hunt
Cece Pattison
Joan Snook Smith

MEMBERS EXCUSED: None

STAFF PRESENT: Donna Traylor, CADB Coordinator
Antoinette Wasiewicz, Recording Secretary
Rudy Dragan, Planning Aide
Steve Komar, County Agricultural Agent

ALSO PRESENT: Freeholder Liaison Rich Vohden
Paul Matos, Wantage Township
Gary Werner, Esq., Attorney for Paul Matos

MINUTES CORRECTION/APPROVAL:

A motion was made by CeCe Pattison to approve the Minutes of January 22, 2013, as received. The motion was seconded by Lori Day. All were in favor, with an abstention from Lori Day. Motion carried.

A motion was made by Lori Day to approve the Minutes of February 19, 2013, as received. The motion was seconded by Brian Hautau. All were in favor, with an abstention from CeCe Pattison. Motion carried.

The Agenda was amended to Old Business, C.

CORRESPONDENCE:

A. MOBILE FARM MARKET, WANTAGE TOWNSHIP, 3/7/13:

An e-mail was received from Jim Doherty, Wantage Township Administrator, regarding the Hardyston YMCA's proposal to create a Mobile Farmers Market. There were some concerns and input was requested from various people, Donna included. It was decided that each driver would require a Peddler's Permit which also involves a criminal background check. A food handling license would not be needed as long as they were just selling fresh fruit. Value added products would require a food handling license. The State said they would not have Right to Farm protections because the YMCA is not a farm.

B. FINAL APPROVAL: KLEIN, FREDON TOWNSHIP, SADC, 3/11/13:

Max and Ingrid Klein received Final Approval from the SADC. Donna said she is still trying to determine if the Certified Surveyor list is available and cannot proceed until she gets the list.

C. JERSEY GROWN BRAND FOR BEDDING PLANTS, NJ DEPT. OF AG.:

A statement went out announcing that Jersey Grown will now include annual bedding plants. To be a Jersey Grown annual, plants have to have enough healthy roots to hold their root ball intact when removed from their growing container; have a canopy large enough to cover the soil when viewed from above; be no taller than three times the container depth; foliage should be in a normal state of growth and not overly hardened or stunted; should be free of all disease; containers should be free from the presence of any foreign plants, leaves, grasses, etc.; and bedding plant package must have a care cultured tag and identification tag specifying common name and the botanical genus and species of the plant in the package.

D. CALL FOR APPLICATIONS, SADC, 3/11/13:

An e-mail was received from the SADC advising that the Governor did sign the Bills into law to appropriate \$83.1 million for farmland preservation. The SADC called for applications and advised that any applications associated with the new funding should be sent to the State as soon as possible.

E. PINKPANK APPLICATION, SADC, 3/13/13:

A letter was received from the SADC regarding the Pinkpank Farm in Vernon Township. Several months ago, two applications were sent to the SADC under the Direct Easement Program, one for Pinkpank and the other for Tore Andersen. At this time the SADC has reviewed the Pinkpank application and said that program funding has been allocated to applications with higher quality scores. They also said that the SADC has special funding for farms in the Highlands Preservation Area, but they are unable to recommend its use for this property. The property's soils are rocky with shallow depth to bedrock, making them severely limited for agricultural production.

F. WORKING LANDS FOR WILDLIFE, D. MULL, NRCS, 3/20/13:

The present sign-up deadline for the Working Lands for Wildlife Program is April 19 but they are probably going to extend this. Currently this is for land that has potential habitat for golden winged warbler and bog turtle. The NRCS asked Donna to make this information available to farmers when she does her farm monitoring.

G. OUTREACH PRESENTATION ON PROPOSED RULES, SADC, 4/1/13:

Correspondence was received from the SADC regarding an outreach presentation on the proposed rules for the new AMP for On-Farm Direct Marketing Facilities, Activities and Events and the Right-to-Farm Process Rules. Donna said she invited the State to come to the May meeting for a presentation. The presentation is quite lengthy and Donna suggested that the meeting begin at 7:00 p.m. rather than 7:30 p.m. The Board of Agriculture has been asked to join the meeting. Board members suggested the meeting start at 6:30 p.m. Lori Day suggested the notice say, "The meeting will start promptly at 6:30 p.m." Donna asked the members to bring their copy of the AMPs to the meeting.

H. VERNON VALLEY FARM INQUIRY, 3/18/13:

Donna said Vernon Valley Farm, located on Sandhill Road in Vernon wants to apply for farmland preservation and then use the proceeds to purchase the farm next to them. However, the farm they wish to purchase is already preserved in a municipal open space program and is under a Green Acres Deed of Easement. Donna said she explained to the landowner that because it is a different program and is permanently preserved with different land use restrictions, it can't be sold to an individual for profit.

The landowner responded with a lengthy letter saying they should be able to buy that farm. Dennis McConnell will address this.

I. SADC OPEN HOUSE FOR FARM OWNERS, 3/18/13:

The SADC is hosting two Open House Events in the northern section and they are doing an outreach for farms they feel are appropriate for the Direct Easement Program. An Open House is scheduled for Monday, April 22, from 4:00-8:00 p.m. at Warren County Department of Land Preservation, in Oxford and Wednesday, May 1, from 4:00-8:00 p.m. at the Morris County Cultural Center on Mendham Road in Morristown. Donna said she will be on vacation during that time and that Rudy will attend the Open House on April 22.

J. AG. LEARNING CENTER DOWN ON THE FARM DATES:

The Agricultural Center at the Fairgrounds will be hosting their "Down on the Farm" program for kindergarteners on May 14, 15, 21, 22, 23, 24, 28, 29 and 30. On May 22, 23 and 29th, they will have second graders visiting a new program "Passport to Plants."

K. ARTICLES OF INTEREST:

Donna discussed some articles related to the Pipeline Reforestation Plan, Travel & Tourism Grant for New Jersey Wineries, Farm Assessments, High Farmland Value-Low Farmland Rent and the Stillwater Township Open Space Brochure.

RIGHT TO FARM:

A. WANTAGE: CRIGGER ROAD ISSUE:

Donna reported that the manure pile that was reported on the farm on Crigger Road turned into wood chips. Donna said she wrote to the landowner who called her immediately. They had a long discussion where she explained that after Sandy, the municipality had wood chips available from downed trees and she brought in the wood chips to help with some construction projects. They have very little soil and thought they could use the wood chips to help the soil along. The person who made the complaint called Donna and she passed the information on.

B. ML SHERMAN FARM, LEWISBURG ROAD, WANTAGE:

Donna said she received a call from the landowner of ML Sherman Farm in Wantage. They were cited by the town because they had a garbage truck on their property. They said in the future, they will have pigs on the farm and they want to use the garbage truck to gather food waste for the pigs. Donna called Patrick Stefanelli, Administrator and then called Dave Kimmel at the State Right to Farm. This farm will not get Right to Farm protection until they have an agricultural operation that warrants use of the

truck. Currently, they are hauling food and other waste for Ag. Choice. Ag Choice is not an agricultural operation.

AG. AGENT'S REPORT:

Steven Komar reported that he made tenure and the Board offered their congratulations. The County and the Freeholders are allowing them to use the property that is adjacent to Rutgers Extension office building as a teaching garden. They will work cooperatively with the Homestead to make a horticultural therapy garden for the Homestead residents.

This year they are doing a clinic on grafting tomatoes. They will graft heirloom tomatoes to rootstock that are more resistant to diseases, which results in an increase in yield. He said some hothouse tomatoes work well with grafting.

Steven said they are teaching an agritourism class on campus this fall. Also, about 20 people participated in pesticide training. Testing was conducted by DEP.

OLD BUSINESS:

A. AGRITOURISM UPDATE:

Statistics have come in for Springfest. There were approximately 8,000 visitors of which 400 were children under 12. They said 40% of the visitors that cast ballots for the sheds were from out of the county. There were nine landscape companies that participated, 80 commercial vendors and 12+ educational and non-profit exhibits. Donna said she had two tables there, one for agritourism and one for the Birding and Nature Festival.

The recent Sussex County Journal had a nice article on spring lamb and highlighted the Glenmalure Farm in Wantage.

Donna said the Highlands approached her about continuing her work for agritourism in Northern New Jersey and Sussex County. She was asked to prepare two grants for agri and eco tourism which total several hundred thousand dollars. She hopes to have more information on the grants in time for the May meeting. Donna said she just submitted her last request for reimbursement for the Agritourism Phase II Grant.

There is still some money available for the Commercial Kitchen and Donna asked Steve to pass this on to the farmers.

B. FPP UPDATES (APPRAISALS, SURVEYS, CLOSINGS, TOMMASO, MONITORING, UPDATED PRESERVED FARM OWNER CHART:

Rudy made some changes to the Preserved Farmer Owner Changes chart. This will be an ongoing process.

Jane Brodhecker just signed the closing paperwork for Tommaso. Donna went over the funding sources for this acquisition.

Donna said she did receive the updated appraisals on Goldman. They were sent to the State and were certified. An offer was made to Mr. Goldman and he did accept the offer.

Rudy has been working on the preliminary points for the applications received so far. There are many other applications coming in. Currently, there is one application in Hardyston, one in Sandyston and three in Wantage. Also, Holly and Will Sytsema are giving serious consideration to applying as is Karen Opilla in Frankford. The applications in Wantage are in the same area and they may begin a new project area.

Donna asked Freeholder Liaison Rich Vohden to talk about the Farmland Preservation and Open Space funding in the County Budget. Freeholder Vohden said the Freeholders did not cut the funding but that in five years the tax base has gone down 18%; 5.9% just last year. This, of course, will bring down the amount of funding for both programs.

C. MATOS VIOLATION UPDATE:

Donna said all Board members should have received an e-mail with the chronology of events regarding the Matos Violation, since November 2012 and a proposed Resolution regarding same. Donna reviewed the items on the chronology.

At the February meeting, the Board granted approval for Ag. Labor Housing based on the review of all the data by County Counsel. Information was provided to County Counsel and on February 26, Donna submitted a lengthy e-mail to Gary Werner explaining that there were deficient items on the application. A response was received stating that this Board granted approval for a 1,200 sq. ft. house but he requested a change to 1,450 sq. ft. Donna advised Mr. Werner that a site visit was needed and ultimately, a site visit was done on March 26. Both cabins were measured at the site visit and the hunting cabin was found to be 13' 5"x50'. The second structure was 13' 4"x23'. The space between the structures is 5'x24'. There was some discussion about the buildings being merged. The Board members suggested that Mr. Matos contact Wantage Township Building and Zoning to confirm that the two buildings could be merged, to advise them that this building was for Ag. Labor Housing, and to remind them that this property is farmland preserved and is on one lot. It has a non-severable exception of three acres that potentially could house the landowners at some point in time. The applicant was given a deadline of April 2 to provide the balance of information to the Board; however, the information was not received until April 9. Donna reviewed some of the corrections that had to be made on the application.

Donna said she received an e-mail from the State today. The State is looking for information on the number of hours per week the ag. laborer will work and they are

looking for a W3 form. It was also questioned why the laborer's mailing address is listed as Newark, NJ when he is employed at Roy Road Farms, LLC in Wantage.

Patrick Stefanelli, the Wantage Township Building Official has been working with Mr. Matos and he will be issuing a UCC Building Permit for the renovation to join the two existing buildings as one.

The meeting was opened to the public.

Gary Werner read a letter from Mr. Matos' accountant. He read, "Roy Road Farms, LLC is registered as an employer of an agricultural employee in full compliance with the Federal Fair Labors Standards Act, United States Department of Labor, and the New Jersey Department of Labor and Workforce Development Regulations, which includes a need for workers compensation coverage." Mr. Werner said the farm does have this Workers Compensation Coverage. Mr. Werner continued, "In order for Roy Road Farms, LLC to be compliant at the Federal level, agricultural payroll wise, they need only file an annual Form 943, which is an Employers Annual Federal Tax Return for agricultural employees by December 31 of the year in question." In this case it would be January 31, 2014 and at that time a 2013 W2 would be issued. New Jersey does not require quarterly reports and the report that Mr. Werner submitted was sent to him by the accountant because that's all that has been filed with the State of New Jersey. It shows that the farm has been registered and that this employee is working for the farm.

Regarding the mailing address, Mr. Werner said the Ag. Labor Housing is not yet approved and in order to be approved, they have to demonstrate the need. If the Ag. Labor Housing is approved, he believes the laborer will change his address to the farm. Right now he has a sister and a brother living at the Newark address. Mr. Werner said the Newark address was on his advice because he feared another violation if he listed Roy Road Farms as the address before approval was granted.

Mr. Werner said when Chuck Rohr spoke at the February meeting, he said for owners of preserved farms who are not the original owners, there is no program or educational process in place for such individuals to learn precisely what it is they are supposed to do. Mr. Werner said Mr. Matos, as an owner of a construction company, is well aware of the need for forms, permits and regulations. He asked the local officials what he was permitted to do and was told as long as he didn't build a foundation, that he could put a structure in the non-preserved portion of the farm. He put a slab down with two modular units on it because he thought that's what was allowed. Mr. Werner added that he had permits for all of this. When it became clear that is not what was permitted, he has been trying to comply.

Donna said on November 15, 2011, she conducted a monitoring visit with Paul Matos. Donna asked about the structures and followed it up on December 8 with a letter asking him to provide information. Donna told him at that point it appeared there was a violation because the buildings were not supposed to be there and what they were

being used for was not within the Deed of Easement. In November 2011 he was put on notice and on January 10, 2012 he sent a letter saying it was a 300 sq. ft. hunting cabin and the second building is 185 sq. ft. and that neither building was used for residential purposes. In 2012 he put in a septic system for something he was told in the previous year, he was not permitted to do.

Mr. Werner said Mr. Matos is trying to rectify this situation. He added that he has not seen the Resolution that the Board has before them this evening. Donna said she would read the Resolution.

Jane Brodhecker asked how long the ag. laborer has been working on this farm. Mr. Werner said the man worked on the farm last year but his hours have been increasing and at some point last year, he began living there full time. Mr. Matos said the employer was paid through the construction company. He said the man began living there about the first or second week of September 2012.

The meeting was closed to the public.

Donna read the Resolution to approve Ag. Labor Housing on the Roy Road Farms, LLC in Wantage Township. CeCe Pattison asked if there came a time when Mr. Matos needs two farm laborers, does he have to come back before this Board. Donna said she believes he would have to come back before this Board but she would have to double check this. Jane Brodhecker noted the date of January 1 for the annual notarized certificate from the landowner about the use of the ag. labor housing and February 1 for the W2. She asked if both requirements could be on the February 1.

The meeting was opened to the public.

Mr. Werner said he had the same concerns with the two dates and that they should both be the February date. He asked if the annual certificate could be a certified form instead of a notarized form. A certification is legally binding. He also asked that the language, "Nothing in the foregoing is meant that the farmhand labor must be the same person all year round." be used.

Mr. Matos gave an example of what happens if in two months, his laborer quits. Joan Snook Smith said it wasn't necessary to add anything because the Resolution does not say the same full time employee, it says one person.

Freeholder Liaison Rich Vohden asked if this will impact the exception area. Donna said as long as Wantage Township approves, it should not.

The meeting was closed to the public.

Joan Snook Smith suggested that only the date change be made to the Resolution. The wording regarding the employee is general enough.

MOTION:

A motion was made by Brian Hautau to approve the Resolution to allow Ag. Labor Housing on the Paul Matos farm using February 1 as the due date for the annual notarized certificate and the W2 form. The motion was seconded by Joan Snook Smith. A roll-call vote was taken. All were in favor.

Mr. Matos was reminded that he needs to provide a Conservation Plan within four months.

The Agenda was amended to Ag. Agent's Report.

D. KOLICH VIOLATION UPDATE:

Donna said she did a lot of research with Hampton Township to try to determine if there is any documentation for a legal apartment that existed prior to the time of closing for farmland preservation. During the Board's inspection and the baseline inspection with the State and County, there was no apartment. Documents were received from the applicant's attorney and nothing was found to conclusively say there was an apartment on the property. A variance would have been needed and there was no variance on record. This information was submitted back to the attorney. Donna said at one point, the landowner may have to come before this Board.

E. TENNESSEE GAS PIPELINE UPDATE: SHAFFER:

It appears that the new loop will go through Montague even though there is no existing right-of-way easement on this deed restricted property. Tennessee Gas Pipeline has been doing archeological work. The Montague Township Historical Society wants to make sure Mr. Shaffer is aware that he has certain rights as a landowner when an archeological survey is occurring on his property. Alicia Batko provided Mr. Shaffer information through Donna, who sent it to Mr. Shaffer.

F. PSE&G UPDATE – REVIEW PROCESS FOR NON-AGRICULTURAL DEVELOPMENT PROJECTS IN ADA'S:

PSE&G is doing a review process for properties in the County Ag. Development Area. This does not mean preserved farms but anything that has been designated a part of the ADA. This information will come to this Board for an action.

The Birding and Nature Festival will be held on June 8 and 9 at the Fairgrounds.

NEW BUSINESS:

A. FINAL REVIEW AND APPROVAL: GOLDMAN FARM PARTNERSHIP, FRANKFORD TOWNSHIP:

The State certified the Goldman Farm Partnership appraisal for \$4,900.00 per acre. The offer was presented to the landowner and a letter was received accepting the offer. This is for approximately 92 acres; there are no exceptions or RDSOs. There is an existing house. A Resolution for final review and approval was prepared and read at the meeting.

MOTION:

A motion was made by Joan Snook Smith to accept the Resolution for Final Approval of the Goldman Farm Partnership for Farmland Preservation as read. The motion was seconded by Lori Day. A roll-call vote was taken. All were in favor.

Donna said as soon as she gets the certification list for surveyors, she can get the Klein and Goldman farms surveyed and move toward closing.

B. DRAFT RESOLUTION SUPPORTING SUSTAINABLE STATE FUNDING FOR PRESERVATION AND STEWARDSHIP OF OPEN SPACE, PARKS, FARMLAND AND HISTORIC SITES IN NEW JERSEY:

Donna said when the money lapses for Farmland Preservation, there is an organization that tries to get another dedicated funding going. They sent out this Resolution and asked that all Freeholders, Planning Boards, Ag. Boards, Open Space Committees, etc. pass it. Sussex County's Planning Board and Open Space Committees have already passed this Resolution. Donna read a Resolution to the Board members. It was noted that the Board name had to be corrected on the Resolution.

MOTION:

A motion was made by CeCe Pattison to approve the Resolution to support sustainable State funding for Preservation and Stewardship of Open Space, Parks, Farmland and Historic Sites in New Jersey with the Board name corrected. The motion was seconded by Joan Snook Smith and carried unanimously.

PUBLIC COMMENT:

None

ADJOURNMENT:

All business having been completed, a motion to adjourn the meeting was made by Jim Hunt. The motion was seconded by Lori day and carried unanimously. The meeting adjourned at 10:00 p.m.