

SUSSEX COUNTY AGRICULTURE DEVELOPMENT BOARD

MINUTES

JUNE 16, 2014

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
Peter Southway

STAFF PRESENT: Autumn Sylvester, Program Manager
Rudy Dragan, Planning Aide
Antoinette Wasiewicz, Recording Secretary

ALSO PRESENT: Richard Vohden, Freeholder Liaison
Steven Komar, Rutgers Cooperative Extension
Stefanie Miller, SADC
Wesley Demarest, Wantage Township
Lisa Chammings, Stillwater Township

MINUTES CORRECTION/APPROVAL:

Minutes were not available.

PRESENTATION;

A. NJ AGRICULTURAL MEDIATION PROGRAM HANDBOOK – STEPHANIE MILLER, SADC – REGIONAL PROJECT MANAGER:

Stephanie Miller, SADC Regional Project Manager attended this evening's meeting to talk about a handbook/guide on the mediation program offered by the SADC to help resolve conflicts outside of the Right-to-Farm process. This is a free mediation program. The SADC hires an independent mediator. Ms. Miller said the decision is not binding but hopefully the parties can come to a resolution without the cumbersome Right-to-Farm process.

Lori Day said they received something similar to this many years ago but it was more like a brochure. She also said that the Board received some mediation training.

Joan Snook Smith asked if this handbook would be given to the people having the conflict. Ms. Miller said, "Yes" and that additional handbooks are available as needed. Dave Kimmel is the contact person for the program.

The Agenda was amended to New Business, B – Demarest Right-to-Farm request.

CORRESPONDENCE:

A. NJ FARM BUREAU – OPEN SPACE FUNDING:

Autumn said she sent the Board the June 6 issue of New Jersey Farm Bureau because it provided an update on Open Space Funding in the State Legislature. The State Appropriations Committee moved a bill to resume funding for the Open Space, Farmland, and Historic Preservation tax. It would be using the Corporate Business Tax for the upcoming fiscal years to generate additional funding and revenue. It was estimated to be \$100 to \$150 million annually. This will greatly increase additional funds for farmland preservation.

B. FSA COUNTY COMMITTEE NOMINATIONS:

There was an article in the NJ Herald which was an announcement that the Farm Service Agency is looking for nominations for the County Committee. Forms can be downloaded online at the website listed.

C. TENNESSEE GAS PIPELINE APPELLATE DECISION:

The NJ Herald also had an article related to the Tennessee Gas Pipeline Appellate Decision. The Federal Court ruled that the Federal Utility Regulator (FERC) did not appropriately follow environmental protection laws when they approved the Tennessee

Gas Pipeline crossing into New Jersey. Tennessee Gas Pipeline submitted their Environmental Reports but they did not do it comprehensively. The Court ruled that because it was done piecemeal, it was not done appropriately. For future gas pipeline development, companies will have to look at it comprehensively instead of piece by piece.

D. SENATE BILL 1050;

Senate Bill 1050 is to extend the appraisal process for farmland or land acquisitions in the Highlands region. This will use the appraisals from 2004 and today and take the highest. This is also at the State Appropriations Committee level.

AG. AGENT'S REPORT:

Steve Komar reported that the educational program begins in the fall. They have scheduled a couple of agritourism farm visits. The next thing they will focus on is the Community Square Agriculture (CSA.) They are working on budgets for that. There are three County Agent positions being filled across the State. He will keep the Board up to date as more information becomes available.

OLD BUSINESS:

A. AGRICULTURE UPDATE:

i. 2014 Harvest Festival Update – Autumn reported that the County will continue with the 4th Annual Harvest Festival. It is scheduled for October 11 from 10:00 a.m. – 4:00 p.m. A “Save the Date” is being sent out to past participants to get an early start. It is hoped this will help to get a larger number of vendors. The name of the festival was “Harvest, Honey and Garlic Festival.” It may be changed to “Harvest Festival.”

When asked, Autumn said there is no funding for this event. There has been funding for past years through the Farm Bill Agritourism Marketing Grant. It was too late to submit a grant application and the budget line item for this has a zero balance. Lori suggested they use Social Media for advertising.

B. FPP UPDATES:

i. Outstanding issues – Farm Applications – Autumn said Dennis McConnell sent the State a metes and bounds survey for the Mulvaney Farm but an actual draft of the easement is required. He is preparing that.

ii. Appraisals – The appraisers have received word to begin the appraisal work. They have 60 days to complete the work. Nine farms are being appraised by Ron Rebish and Bob Cooper. Mulvaney would be the 10th farm.

Chairwoman Brodhecker asked that the list of farms to be appraised be sent out to the Board members since a few members missed the last meeting.

NEW BUSINESS:

A. SCADB DRAFT LETTER – REVIEW WITH COUNTY COUNSEL;

Jane Brodhecker recused herself from this discussion.

Autumn reported that Dennis McConnell reviewed the letter written by Lori Day regarding the SADC's Decision on the Brodhecker Farm Right-to-Farm issue. He asked Autumn to edit the letter and okayed the revised version today.

A copy of the letter was distributed to the Board members. They reviewed the letter and offered their comments and suggestions. There was also some discussion on the State's handling of this issue. Autumn reported that Mr. McConnell's said the letter could come from the SCADB or Lori personally. It was decided that the letter would come from Lori on behalf of the Board. Autumn said after she will get the letter to Lori for her signature after she makes the changes discussed this evening. Autumn will get the letter to Trenton in time for the next SADC meeting.

Peter Southway suggested that Mr. McConnell look at the Right to Farm law before this letter goes out. He questioned the legality of the State overturning the SCADB's decision. The law specifically says that if a County grants an approval and it does not pose a threat to public health and safety, nobody can change it. The Legislature granted the right to the County board not to the State law. If the State says the County erred in the application of the law, they can overturn a decision under an appeal. The judge said the County was correct. In the DenHollander case, the Supreme Court reiterated that it is the County Board that has the right, not the State Board. The Board requested that Mr. McConnell attend the next SCADB meeting.

B. DEMAREST RIGHT-TO-FARM REQUEST;

Autumn reported that she and Rudy received an e-mail from Mr. Demarest advising that he had some issues with Tennessee Gas and Pipeline regarding the planting of trees. Mr. Demarest said the issue is between Tennessee Gas Pipeline and NJDEP. Autumn said since wetlands have been disturbed, DEP was requiring Tennessee Gas and Pipeline to do a reforestation of the wetlands. Mr. Demarest provided a map of his property which showed the wetlands.

Wesley Demarest said his property has a total of 12 acres of which 7 acres are tillable. It has been farmed continuously by his family for over 150 years. His issue is not so much with the farmland, it is with the pipeline and the DEP requirement that they reforest within 150' of the wetlands. The area that is being reforested has never been forested. Mr. Demarest said he tried to stop them and was told check his contract. He said he does not have a contract with the pipeline; it is an agreement for an easement. There is nothing in the agreement about replanting, reforestation or wetlands preservation.

When they started to plant another field, he asked that they stop and they complied. The trees being planted are hardwoods, white pine and hemlock and they are 9' apart. He believes that is a little too close. Mr. Demarest has been advised by his attorney that he should contact the SCADB for a letter of Right to Farm. He said that will go a long way easing DEP. He said he is not averse to the planting of fruit tree or berries bushes. He does not want to lose his property to hardwood forest. Even sugar maples would require a long-term growth period before he could harvest the maple syrup---at least 12-15 years.

Mr. Demarest said the extreme field to the left on the map is where they want to continue the reforestation up toward Route 519. They have already forested the center field (45' x 250'.) This isn't a significant amount of land but if they continue with the other field, he will lose about an acre.

Lori asked if Mr. Demarest has an aerial photograph of the property before it was cleared. Mr. Demarest said he has a photograph from 2012, before the pipeline was put in. When asked, he said he does not have a current aerial photograph. He has photograph of his current crop production. Lori said Mr. Demarest should submit the before (pipeline) and after photographs to DEP. Mr. Demarest said he needs to submit them to Kimber Morgan. When asked if he has been dealing with DEP, Mr. Demarest said he has been dealing with Tennessee Gas Pipeline and they are relaying the information that they are being stalemated.

Autumn advised Mr. Demarest that Dennis McConnell, County Counsel will be in contact with him. She said she already sent Mr. McConnell his letter and that she will send him the aerial photographs tomorrow. Mr. McConnell will advise Mr. Demarest on the formal process.

Mr. Demarest asked if opening a farm stand requires anything from Right-to-Farm. He was advised that it does not but that he does have to comply with town regulations. Jim Hunt said Right-to-Farm comes into play when there is an issue. Brian Hautau said when there is a complaint about a farmer's farming practices, then it becomes a Right-to-Farm issue.

Mr. Demarest said he is not sure what kind of backtracking DEP takes with wetlands preservation. Autumn said they use a banking system where if wetlands are disturbed in one area, they have them restored in a different area. Mr. Demarest said both the wetlands are seasonal.

Peter Southway asked who the contact at the Department of Agriculture is. Autumn said she wasn't sure but would find out. Mr. Southway said this might easily be resolved if someone from the Department of Agriculture called DEP. He said even if it is wetlands, they are not allowed to encroach upon land that has been farmed for 150 years. The farm predates the wetlands regulations.

Autumn said she would contact Mr. Demarest tomorrow with the contact at the Department of Agriculture. Dennis McConnell will also be in contact with him. Mr. Demarest thanked the Board for their help.

The Agenda was further amended to New Business, C – Chamblings Farm – Field Restoration.

C. CHAMMING'S FARM – FIELD RESTORATION:

Autumn advised the Board that she has been copied on e-mails from Lisa Chamblings about her field restoration. Steve Komar said the Board first discussed this issue in December 2013. At that time, Steve said he would make recommendations. He visited the farm last week and made a written recommendation.

Ms. Chamblings said she would like to share Steve's letter with PSE&G because at the December meeting they seemed agreeable to working with Rutgers Cooperative Extension. She said the first time they showed her the field on Friday, they said it was ready for topsoil. She said it was quarry processed stone (QP) and it was to grade with the field. They did one grade stake in the very beginning. It looks like they scraped about 6" of topsoil off the field to the sides. They then scraped the QP into the topsoil when they plowed during the winter. They wanted to use the topsoil that was mixed with the QP. She now has to replace the 6" of topsoil because they wanted to use compost material from Grinnell.

Today she met with Greg, from PSE&G, and he agreed that the topsoil could not go over the QP. Ms. Chamblings also advised him that the fabric is also there. She also pulled up about 5' of copper ground wire from the old towers from the middle of the field. He said their bulldozers will remove it.

There was some discussion between the Board members about places to get the proper topsoil. Ms. Chamblings also suggested that they bring in a soil conditioner to run her soil through the soil conditioner and put it back on her fields. There are about 3.5 to 4 acres that need the topsoil.

Rudy asked if she has received any compensation for crop loss. Ms. Chammings said that in September she received one payment for crop loss. She has not addressed any of the crop loss from the current crop of hay she's taken out from either side of the right-of-way. She is trying to get an established amount that she's taken out from the surrounding acres. When asked, Ms. Chammings said the best yield is three years after the planting. Mr. Southway said orchard grass should be established in 18 months to two years. Ms. Chammings thanked the Board and Steve Komar for their help.

The Agenda returned to Correspondence.

PUBLIC COMMENT:

None

ADJOURNMENT:

All business having been completed, a motion to adjourn the meeting was made by Joan Snook Smith. The motion was seconded by Jim Hunt and carried unanimously. The meeting adjourned at 8:45 p.m.