

SUSSEX COUNTY AGRICULTURE DEVELOPMENT BOARD

MINUTES

SEPTEMBER 20, 2010

The meeting opened at 7:43 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
Cece Pattison
Jim Hunt
Joan Snook Smith
Warren Welsh

MEMBERS EXCUSED: Fred Hough

STAFF PRESENT: Donna Traylor, CADB Coordinator
Antoinette Wasiewicz, Recording Secretary

ALSO PRESENT: Michael Messler, Green Township

MINUTES CORRECTION/APPROVAL:

A motion was made by Jim Hunt to approve the minutes of December 21, 2009 with the corrections noted below. The motion was seconded by Lori Day. All were in favor, with abstentions from Jane Brodhecker, Joan Snook Smith and Warren Welsh.

The minutes were corrected from what was originally sent to the Board to show that Jane Brodhecker left the meeting before the start of the Brodhecker Farm, LLC Request for Site Specific AMP. Lori Day pointed out that on Page 14, second from last paragraph, "they're" should be changed to "they are." Motion carried.

A motion was made by Lori Day to approve the Minutes of January 19, 2010 as presented. The motion was seconded by CeCe Pattison. All were in favor with an abstention from Jane Brodhecker. Motion carried.

A motion was made by CeCe Pattison to approve the Minutes of April 19, 2010 as presented. The motion was seconded by Joan Snook Smith. All were in favor with an abstention from Jane Brodhecker. Motion carried.

The Agenda was amended to Right to Farm, C.

CORRESPONDENCE:

A. POCHUCK VALLEY FARM ROW REQUEST, SADC, 7/26/10:

A copy of a letter to Steven Losey, Sussex County Road Supervisor from the SADC was received. The SADC is in the process of acquiring a development easement on Pochuck Valley Farm on Routes 517 & 565 in Vernon Township. The SADC's Agreement with the owner contains a provision that the acreage to be acquired not include acreage for rights-of-way (or provision for widening or improving rights-of-way) along any federal, state, county or municipal roads which abut the property. Mr. Losey was asked to advise the SADC whether there is an intent or need by the County to widen the road in a manner that will impact the property.

B. SOLAR, WIND & BIOMASS ENERGY ON FARMS, 8/04/10:

P.L. 2009, c. 213, which affects the ability to install solar, wind or biomass energy generation systems on farms, was signed into law in January 2010. The law provides for the installation of solar, wind and biomass energy generation systems and identifies limits and criteria for these activities on preserved farms, and to qualify for farmland assessment and right-to-farm protection on both preserved and non-preserved farms.

The SADC provided questions and answers to provide more information on the new law and the SADC's responsibilities for implementation purposes. Donna reviewed the information in this document in detail.

C. SOUTHWAY FARM WAIVER REQUEST, 8/5/10:

The New Jersey Conservation Foundation wrote to Tom Drewes, State Conservationist with the USDA-NRCS advising that the 330-acre farm known as Southway 1, 2, 3 and 4 is being preserved through the Sussex County Farmland Preservation Program. The NJCF would like to substitute the Southway 2 and 3 farms under their 2005 FRPP Grant, which must close by September 2010. They requested a waiver from the 50% prime/statewide soils requirement for Southway 2 and 3 and listed the reasons for the request.

This farm has final approval from the Sussex CADB, the survey is complete and the closing can take place by September 30, 2010, the grant deadline. The Southway's have agreed to a 2% impervious cover limitation.

D. STEHLI TREES EASEMENT DONATION, 8/9/10:

A letter was received from the Land Conservancy of New Jersey on behalf of the owners of Stehli Trees in Vernon. Permanent preservation for this property has been outlined in a Trust agreement created by the previous owner. There are provisions of the Trust allowing continued use as a tree farm, as a managed forest property, or for conservation and open space purposes. The current landowners would like to carry out the wishes of their mother and hope that Sussex County is interested in holding the easements. Sandy Urgo will be working on behalf of the Township and the landowners.

E. APPLICATION FOR ENERGY GENERATION FACILITIES ON PRESERVED FARMLAND, SADC, 8/17/10:

An e-mail has been received from the SADC advising that the application form to install energy generation equipment on preserved farms has been posted to their website. A copy of the application was sent as an attachment.

F. RTF PROTECTION FOR SOLAR AND WIND ENERGY GENERATION, 8/24/10:

A memo was received from the SADC indicating that they received a question from a County Agriculture Development Board (CADB) regarding the ability of CADBs to consider requests for Site Specific Agriculture Management Practices (SSAMPs) for solar, wind or biomass energy generation prior to the SADC's adoption of the rules. The SADC sought the advice from the Attorney General's office and they were advised that CADB's may not consider SSAMP requests for solar, wind or biomass energy generation until the SADC has adopted AMPs. This will allow the SADC to solicit the expertise of the Board of Public Utilities in the development of the AMPs and it will prevent CADBs from issuing SSAMP decisions that could be inconsistent with AMPs subsequently adopted by the SADC.

G. FP FUNDING ALLOCATIONS FOR FY 2011:

At its July 22nd meeting, the SADC established funding allocations for FY 2011. In total, \$75 million is proposed to be used from the funds approved in the November 2009 referendum, combined with another \$9.2 million from cancelled projects and \$6.3 million in SADC Fee Simple revenues, for a total FY 2011 request of \$88.5 million. A spreadsheet was included which outlined the allocations.

Under the County PIG program, the SADC allocated \$39 million, which includes a \$1.5 million in "Base Grant" funds for each county that demonstrated a funding need for FY 2011. They also established a \$15 million Competitive Grant Fund, with a \$3 million cap in competitive funds per county. This will result in a potential maximum of \$4.5 million per county under the program.

The SADC added that closings associated with FY 2011 funds cannot occur until the funding is appropriated and made available by the Department of Treasury. They asked all municipalities, counties and nonprofits to finalize any outstanding projects

slated for closing in a timely manner in order to expend any outstanding funds currently encumbered.

H. FY 2012 PIG ANNUAL SUBMISSIONS, 8/30/10:

A memo was received from the SADC reminding county and municipal PIG applicants of the approaching FY 2012 program in order to ensure all necessary documents are submitted by the December 15 deadline.

I. OUTSTANDING YOUNG FARMER OF THE YEAR, 9/16/10:

A memo was received from the New Jersey Department of Agriculture announcing that they are accepting nominations for the 2012 Outstanding Young Farmer (OYF) Award. A program overview and Official State Nomination Form was included. The submission deadline for nominations is January 15, 2011. Joan Snook Smith suggested Tore Anderson. Lori Day said she will talk to Todd Applebaum to see if he meets the criteria. Donna said she would like to have names for nominations at the December meeting.

Donna discussed a notice received from the NJ Department of Agriculture regarding regulations adopted in March 2009 that require all livestock farm owners to responsibly manage the manure generated on their operations. This includes farms with horses, dairy cows, cattle, swine, goats, poultry and all other domesticated species defined as livestock. The notices included General Requirements, Key Deadlines and contacts for additional information.

RIGHT TO FARM:

A. TRANSCRIPTION OF TAPED MEETINGS, FRANK MC GOVERN, 7/20/10:

A copy of a letter to Brian Smith, Esq., SADC from Francis McGovern has been received. Mr. McGovern is trying to coordinate getting the complete records together for Brodhecker Right to Farm. He spoke to County Counsel about obtaining transcripts. It was suggested that he use the recordings of the meetings which he obtained through an OPRA Request. Mr. McGovern asked Brian Smith if he had any objections to having the recordings transcribed by a certified transcriber.

B. BRODHECKER RIGHT TO FARM TRANSCRIPTS, FRANK MC GOVERN, 7/29/10:

Donna received a letter from Frank McGovern advising that the last set of Minutes he received was for the August 17, 2009 meeting. He asked if Minutes were available from any subsequent meetings and if so, to provide him with copies.

Three more sets of Minutes have been approved and they will be forwarded to Mr. McGovern.

C. MESSLER, GREEN TOWNSHIP (FOR DISCUSSION ONLY):

Donna said this issue came to her attention this afternoon. She said a number of years ago, under a previous owner, this farm was approved for Farmland Preservation, it was appraised and an offer was made. There were some issues between the landowner and the municipality and the landowner pulled his application.

This equine operation is 22.3 acres on one block, one lot. The lot has two types of zoning, the front 6.3 acres has a commercial warehouse in the industrial zone and the balance is agriculturally zoned. Donna added that agriculture is an allowable use in the industrial commercial zone. Approximately 16 acres are farm assessed with 9.7 acres in permanent pasture, five acres are in woodland and 1.3 acres is devoted to boarding and training. Donna said that this is not a formal right to farm issue but the question that will come up could potentially have right to farm protection.

Mr. Messler would like to have an indoor arena, which would be an 80' wide x 130' long and 34' high pre-engineered Clearspan non-permanent structure. Due to maximum 2% lot coverage, they are limited to the size of the area, as an 8,000 sq. ft. barn already exists, utilizing most of what the municipality is considering allowable for an accessory building. The area would be used solely for training and riding. There will not be any bleachers, viewing stands, admission fees or events.

Green Township is suggesting to the landowner that they request a variance or subdivide the property at an estimated cost of \$20,000. The landowner does not have that in his budget. Currently, he has dual use approved by the township. The area would be an excess of all setbacks and not visible to any existing neighbors, buildings or residences. Mr. Messler said not having this structure would cause a hardship during the winter months and inclement weather.

The meeting was opened to the public.

When Michael Messler was asked to describe the building, he said it was a pre-engineered, aluminum truss structure which would be erected on the site. He described in detail the size and construction of the structure. He said it is considered temporary because it doesn't require footings or any type of structure on the ground other than a piling at the point where the trusses meet the ground. Mr. Messler added that it is recognized by the federal government as non-permanent per the tax codes. It is depreciable by 100% the first year and is considered temporary because it is easily erected and taken down. The outside walls are a heavy gauge, white opaque tarp. The flooring would be crushed stone, followed by quarry process and then a sand mixture.

Mr. Messler said he presented the application to the township, who said he could not do this because it would exceed lot coverage. He said he has a 12,000 sq. ft. warehouse and an 8,000 sq. ft. barn. The township is considering the barn to be the accessory structure to the commercial building (warehouse.) At 2% coverage, the 8,000 sq. ft. barn uses all but 3,500 sq. ft. available for an accessory structure.

Donna said something similar came up a number of months back which caused Green Township to revisit their ordinance dealing with impervious coverage for ag. buildings. Mr. Messler said the ordinance is for 2% for less than 15 acres of agriculture property.

There is 5% maximum for properties over 15 acres. Donna said Mr. Messler is farm assessed on 16 acres, leaving about 6 acres for commercial use when the zoning laws say he needs 10 acres for commercial use.

Donna will contact Dave Kimmel at the SADC to see if this is something that would be covered under Right to Farm. She asked Mr. Messler to find out the number of acres under commercial assessment.

AG. AGENT'S REPORT:

Steve Komar did not attend this evening's meeting.

OLD BUSINESS:

A. UPDATES ON HIGHLANDS AGRITOURISM PROJECT, COMMERCIAL KITCHEN, FARMERS MARKET BUILDING:

Donna reported that many farmers have been using the Commercial Kitchen. She is in the process of ordering equipment but the County is requiring her to get several quotes.

Over the last number of months, the County has reached out to the County Board of Agriculture to assume more responsibility in certain aspects of the Farmers Market at the Fairgrounds. The Board of Agriculture is presently organizing a subcommittee that will work just with these issues for the Farmers Market Building. It will be comprised of three Board members, three members of the present Farmers Market and Mark Masilli from the Fairgrounds and Donna as ex-officio members. The farmer members are Ray Eisel of DanaRay Farm, Pat Kelly from Glen Malure and Natalie Burger from Hidden Pastures Alpacas. The Board of Agriculture meets next Monday and there will probably be discussion on choosing the subcommittee members.

Donna said there has been a consistent flow of business throughout the summer at the Farmers Market. She tried some different advertising this year and will probably use the New Jersey Herald, some local magazines and Edible Jersey for advertising next year. Jim Hunt reported that business was better this year than last year but that the business has dropped off since the Fair. The Farmers Market will remain open through October 30.

The Four Seasons of Agriculture brochure is in the process of being updated. Rudy has already contacted 100 of the 115 farms presently on the brochure. Donna said she hopes to have the update to the printer so that they can be handed out at the Harvest Festival.

B. UPDATE ON SURVEYS, APPRAISALS, CLOSINGS:

There have not been any closings since the last meeting. The Lewis farm in Stillwater will close tomorrow. Donna said there are over 15,000 acres preserved and at some point this fall she would like to do a 15,000 acre celebration.

C. SUSSEX COUNTY HARVEST FESTIVAL:

The Harvest Festival is scheduled for October 23. Donna passed out Registration forms to the Board members and asked them to forward one to anyone that is involved in Agri, Eco or Heritage Tourism. The Festival is free of charge to the public and vendors. Donna said she would like to have a Farmers Market there but the farmers feel they should maintain their presence at the Farmers Market Building; however they are free to set up a table at the Festival as well. The Farm Fun Building will be open plus the Soil Conservation District will have their Soil Tunnel. Peters Valley is holding their 40th Anniversary dinner and auction. There is a charge for the dinner. Donna plans to reach out to local farmers for donations of products to be prepared by "Kraves."

Donna said she is attending a New Jersey Outdoors Environmental Expo this Saturday and Sunday in Monmouth County. Many of the Ecotourism entities will be there so she will hand out Registration forms.

NEW BUSINESS:

A. CHRISMAN EXCEPTION CHANGE REQUEST:

At the last meeting there was a discussion on the Chrisman Brothers #2 farm. They already have a one-acre, non-severable exception and they want to change it to three acres. It was left up to them to go to the appraisers for a letter saying whether or not the change would impact the value of the easement. They brought in letters from both appraisers a few days ago which said the change would not impact the easement value. Donna said she needs the Board's approval on this change.

MOTION:

A motion was made by Lori Day to approve the change on the Crisman Brothers #2 farm from a one-acre, non-severable exception to a three-acre, non-severable exception. The motion was seconded by CeCe Pattison. A roll call vote was taken, all were in favor.

Donna added that the Crisman's attorney, Mr. Valenti put in an addendum which calls existing single family houses "non-ag. use." This will be removed because the houses are not considered non-ag. use. Once these three contracts are signed, Donna can send out the quotes for surveys.

B. FRANKFORD TOWNSHIP FARMLAND PRESERVATION PLAN AND MEETING:

Donna said up until now, it was only County Agriculture Development Boards that were in charge of preservation programs. When the State changed the process a few years ago, they also created programs with funding available for municipalities. To

date, there have been no municipalities in Sussex County that created an Ag. Advisory Committee, did a preservation plan and preserved farms on their own.

A letter was received from Frankford Township saying that it is their intent to submit their draft Comprehensive Farmland Preservation Plan and their Planning Incentive Grant application to the State. They advised that they were required to notify the CADB 90 days before the December 15 deadline. Donna has been invited to attend their first meeting on Tuesday, September 28, 2:00 p.m. at the Frankford Township Municipal Building. Board members may attend if they wish.

Donna reported that Frankford Township is using Land Conservancy of New Jersey as their consultant and that Sam Castimore will be the Chair of the Agriculture Advisory Committee.

C. SOUTHWAY #1 AMENDMENT – EXCEPTION:

About a year ago, two of the Southway applications were amended to make one-acre exceptions two-acre exceptions. According to Peter Southway, an amendment was made on Southway #1 to include a one-acre, non-severable exception around the home. Donna said she went through the file and found that the application came in without exceptions. It went to the appraisers and was certified without exceptions. The information that went out requesting quotes for surveyors also did not have exceptions. When the survey was done, it showed a one-acre, non-severable exception around the house. Donna spoke to Peter Southway, who said that he did have a one-acre, non-severable exception. (Dennis McConnell's office never sent her a copy of the amendment.) Donna said she needs approval from the Board for this change.

MOTION:

A motion was made by Lori Day to approve an amendment to allow for a one-acre, non-severable exception around the existing home on the Peter Southway #1 farm. The motion was seconded by CeCe Pattison. A roll call vote was taken. All were in favor.

Since the Farm Bureau convention will interfere with the November CADB meeting, it was agreed to cancel the November meeting. If something vital comes up, some other arrangements will be made.

Joan Snook Smith suggested that the Board receive copies of the correspondence with their meeting notices so that they can be reviewed prior to the meeting. This should greatly shorten the amount of time spent on the correspondence portion of the meeting. It was agreed that the correspondence will be e-mailed to the Board.

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 Joan Snook Smith and carried unanimously. The meeting adjourned at 9:40 p.m.