

SUSSEX COUNTY AGRICULTURE DEVELOPMENT BOARD

MINUTES

NOVEMBER 16, 2015

The meeting opened at 7:35 p.m. by Vice Chairperson Day 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: Lori Day, Vice Chairperson
Brian Hautau (7:41 p.m.)
Jim Hunt
Cece Pattison
Joan Snook Smith
Peter Southway

MEMBERS EXCUSED: Jane Brodhecker, Chairperson

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

ALSO PRESENT: Jeff Everett, SADC
Stefanie Miller, SADC

MINUTES CORRECTION/APPROVAL:

A motion was made by Cece Pattison to accept the Minutes of September 21, 2015 as presented. The motion was seconded by Jim Hunt. All were in favor, with abstentions by Lori Day and Joan Snook Smith. Motion carried.

CORRESPONDENCE:

A. ARTICLES OF INTEREST:

Autumn provided the Board with articles relating to a Geotourism project to highlight the Delaware River Valley and the passage of the County and Newton Green Ballot questions.

B. NEW RIGHT-TO-FARM AND MEDIATION FAQ SHEETS:

Autumn reported that she received the New Jersey Right-to-Farm Act and the New Jersey Mediation Program FAQ Sheets from the SADC.

AG. AGENT'S REPORT:

Steve Komar reported that a list of future meetings will be posted online. A pesticide class is planned. Information will be sent to the Board members.

OLD BUSINESS:

A. FY 2013 APPLICATION UPDATE:

The Mulvaney application received Green Light Approval on October 5. The contracts have been received from the attorney. Autumn said she will send them out tomorrow.

B. SYBERG UPDATE;

The Syberg farm should close by the end of November. Autumn said she received the final closing documents from The Land Conservancy and that County Counsel reviewed and approved them.

NEW BUSINESS:

A. SOIL DISTURBANCE LISTENING SESSION WITH SADC STAFF:

Jeff Everett, from the SADC, said currently, one of the most pressing topics at the SADC is Soil Disturbance. He displayed some photographs of a farm in Hunterdon County. About five years ago there was a 120-acre farm that was used for pasture. A nurseryman bought it. The new owner excavated down to the bedrock and removed the soil layers from about 20 acres of land. He wanted to level the land for hoop house construction. Mr. Everett said the SADC has been in court with this owner for five years. They prevailed in Superior Court; they held that it was a Deed of Easement violation. The Appellate Division also said it was Deed of Easement violation. Mr. Everett said there are more and more greenhouses being built as a way to control climate and that guidelines are needed.

Mr. Everett also said he and Susan Payne have been speaking before the counties to solicit opinions as to whether or not the State should have regulations dealing with this issue. He said the State Board has a sub-committee that dealt with this issue at last year's Ag. Convention. They also have a Soil Disturbance sub-committee at the SADC dealing with this. Other states are trying to deal with this issue.

The first draft of the Soil Disturbance Regulations limits the cut and fill to 10% for permanent structures. That was taken off the table. Some farmers were angry about having any kind of limit. They said when they bought their farm, a number limit was not in the Deed of Easement. Other farmers felt there should be a limit. Some counties didn't want to comment until another draft of the regulations came out; some counties wanted to comment before the draft because they wanted to help form the draft.

Brian asked about the types of soils that were on the property. Mr. Everett said it was prime soil and Quakertown series. The judge took that into consideration because the farm was evaluated under the prime soils scores and ranked and now those attributes were removed. Jim asked what the reasoning for removing the soils was. Mr. Everett said the farmer wanted the land "pancake" flat. Joan asked if the regulations were modeled from other states. Mr. Everett also said a lot of it came from other states and a lot of it came from their Best Farming Practices. There was some discussion about the fact that the farmer mixed all the soils up. Peter said the real issue is dependent on the Supreme Court decision.

Peter said the existing Deeds are going to be very difficult to hold to new standards that are put in place. He recommended that the SADC should let the Supreme Court make its decision and then write the soil disturbance rules patterned off of the judge's decision. He does believe it is a good idea for the SADC to have a Soil Disturbance Policy of some kind and a guideline. There have been one or two greenhouse operators who have come before this Board, and they were told there was a limit to impervious coverage. The Federal government uses a 7% limit for impervious coverage. Peter also said the problems occur most often with the second or third owners. For that reason, he said he would not create a sub-section that has a grandfathering clause. Ultimately, the courts will decide whether or not the rules will apply to a previous deed. He also said that the draft talks about a committee, but it is not defined anywhere. He suggested that the word "committee" should be changed to "grantee." Peter also commented on the issue of livestock on premises and heavy use areas. He said the heavy use area typically is not because the livestock carrying capacity exceeds the premises; it's used because the livestock is held in a small area. He also said the document doesn't have anything in it about dispute resolution.

Jim asked for a description of disturbance. Peter said the definition of disturbance is soil compaction, soil movement, placement of asphalt, concrete, gravel, millings or other similar materials, unless identified as an exempt agricultural practice. Unpaved farm lanes and hoop houses are not generally considered soil disturbances. There was some discussion about the need to educate landowners who are buying farms that

have already been preserved. Mr. Everett said there aren't many attorneys who specialize in farmland preservation restrictions.

Mr. Everett distributed his business card with his contact information to the Board members in the event they wished to offer comments anonymously. The Board thanked him for taking the time to speak to them.

B. 2016 FARMLAND PRESERVATION APPLICATION RANKINGS AND DISCUSSION:

Autumn said she is having some technical issues with the GIS modeling program and that a lot of data was lost. Peter Southway made a motion to move this item until the technical issues are resolved. The motion was seconded by Brian Hautau and carried unanimously.

Joan asked about the status of the farmland preservation application for the Fairgrounds property. Autumn said that today she received an email from Bob Canace. The municipality granted approval but she did not get the email early enough to put it on this month's Ag. meeting agenda. When asked about the money the County will contribute, Autumn said the County is putting in 25%, \$29,000.

Jim asked about the status of the DanaRay farm. Autumn said they are still waiting for the certified market values to come in.

PUBLIC COMMENT:

None

ADJOURNMENT:

All business having been completed, a motion to adjourn the meeting was made by Brian Hautau. The motion was seconded by Joan Snook Smith and carried unanimously. The meeting adjourned at 8:20 p.m.