

SUSSEX COUNTY AGRICULTURE DEVELOPMENT BOARD

MINUTES

DECEMBER 20, 2010

The meeting opened at 7:40 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  
Fred Hough  
Jim Hunt

MEMBERS EXCUSED: Joan Snook Smith  
Warren Welsh

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

ALSO PRESENT: Richard Vohden  
Gary Pohorely, SADC  
Tom Brodhecker, Hampton Township  
Mike Messler, JMM Realty Holdings, LLC  
Lou Tommaso, Pittenger Farm, Green Township

Chairwoman Brodhecker announced that Joan Snook Smith's mother passed away and that she has our sympathies. Also, Warren Welsh is not doing well. Donna added that Lettie called and left a message for her saying that Warren spent a good part of the

month at Morristown Hospital and that he is now at rehab at Barn Hill. Ms. Brodhecker said that both families would appreciate our prayers.

**MINUTES CORRECTION/APPROVAL:**

A motion was made by CeCe Pattison to approve the Minutes of June 21, 2010, as presented. The motion was seconded by Lori Day. All were in favor, with abstentions from Jane Brodhecker and Fred Hough. Motion carried.

A motion was made by Fred Hough to approve the Minutes of July 22, 2010, as presented. The motion was seconded by Jim Hunt. All were in favor, with abstentions from Lori Day and CeCe Pattison. Motion carried.

A motion was made by Lori Day to approve the Minutes of September 20, 2010, as presented. The motion was seconded by Jim Hunt. All were in favor, with an abstention from Fred Hough. Motion carried.

A motion was made by Jim Hunt to approve the Minutes of October 18, 2010, as presented. The motion was seconded by CeCe Pattison. All were in favor, with an abstention from Fred Hough. Motion carried.

**CORRESPONDENCE:**

A. SOIL DISTURBANCE ON PRESERVED FARMS, CUMBERLAND CADB, 10/27/10:

A copy of a letter from the Cumberland CADB to Susan Craft regarding Soil Disturbances on Preserved Farms has been received. The Cumberland CADB experienced extensive delays in receiving green light approval on certain farms due to requests from the SADC for additional information relating to greenhouses, hoop houses and other structures. Their Board is concerned about the addition by the SADC to its criteria for evaluation, stating that official policy or procedure which requires a farm preservation application to provide this information does not exist. Also, the structures are accepted agricultural practices which are heavily utilized in Cumberland County. The Cumberland CADB does not believe that such information is relevant to the preservation of farmland and that it unnecessarily intrudes upon the operation of the agricultural business.

B. SCADB REAPPOINTMENTS, 11/9/10:

Correspondence has been received from the Sussex County Clerk of the Board, advising that at a meeting held on November 8, 2010, the Freeholder Board reappointed Joan Snook Smith, Jane Brodhecker and Charlotte Pattison as members of the Sussex CADB for three year terms effective immediately and expiring on September 30, 2013.

C. KRIEGE REIMBURSEMENT, SADC, 11/18/10:

Donna said that since the last meeting, she met with Jane Brodhecker, County Counsel, Susan Craft, Executive Director of the SADC and some of her staff to discuss

reimbursement from the State for Greentree, which went in as four applications. The County was reimbursed on three of the four applications. There were some issues with obtaining the landowners signature for the fourth application. The signature was eventually received and it was immediately sent to the State. A year and a half later, a letter was received from the State with four pages of requests. The issue was discussed at the meeting and a letter was received from the SADC apologizing for the misunderstanding.

D. EIS FOR TENNESSEE GAS PIPELINE, SADC, 11/16/10:

A copy of a letter from the SADC to the Federal Energy Regulatory Commission has been received. The SADC has been advised that the Federal Energy Regulatory Commission (FERC) invited comments on a Notice of Intent to Prepare an Environmental Impact Statement for the Planned Northeast Upgrade Project (Tennessee Gas Pipeline.) The project may involve construction activities on New Jersey farmland either preserved or lands identified for inclusion in an agricultural development area.

The SADC offered their comments, addressing relevant state statutes, regulations and SADC policies governing the eminent domain takings of preserved farms and of properties within an ADA necessitated by the construction of power generating projects within and outside of preexisting utility company easements.

E. SADC NON-PROFIT FP APPLICATIONS, LAND CONSERVANCY OF NJ, 11/30/10:

Correspondence was received from Sandy Urgo, Land Conservancy of New Jersey, advising that they are submitting six applications for Non-Profit Cost Share Grants to the SADC for FY2011 funding. The applications are for the Cold Springs and Syberg Farms in Stillwater Township; the Golden View, Carriage Tree House and Meadow View Farms in Frankford Township; and the Wintergreen Tree Farm in Lafayette Township. Ms. Urgo added that TLC-NJ staff would be happy to attend a SCADB meeting to provide an overview of these farms. The Board said they would like an overview from Ms. Urgo.

F. COST SHARE FOR FARM ENERGY AUDITS, NORTH JERSEY RC&D:

A flyer was received from North Jersey RC&D announcing that Cost Share for Farm Energy Audits is now available for New Jersey farms. Farmers who participate in EQIP-CAP can receive a one-time payment to develop an Energy Management Plan for the headquarters area of their operation, including any major energy systems such as irrigation, vegetable processing, milking parlors, cooling and storage. The plans will include an evaluation of the energy efficiency of the existing equipment by category, environmental factors and a summary of recommendations and potential savings. Interested parties should contact EnSave at 1-800-732-1399 or visit their website: [www.nj.nrcs.usda.gov](http://www.nj.nrcs.usda.gov).

G. FRANKFORD TWP. PIG & DRAFT PLAN, TLCNJ, 12/14/10:

A memo was received from the Land Conservancy of New Jersey advising that on behalf of Frankford Township they have submitted the FY2012 Planning Incentive Grant application for funding through the SADC's PIG program. The Land Conservancy also submitted the Township's Draft Comprehensive Farmland Preservation Plan.

H. EXCEPTIONS ON EARLY FP, WARREN CADB, 12/15/10:

The Warren CADB passed a Resolution requesting the SADC to honor exceptions on early farmland preservation easements based on a report from Dr. William H. Pettit, Jr. The Warren CADB is in agreement with the theme of the report which says that early program participants were deprived of the opportunity to have an exception area on their premises. The Resolution urged the SADC to institute whatever policy or legislative steps that are necessary to provide redress for these landowners.

I. GRANT UPDATE, SUNSET VIEW FARM, 12/15/10:

A letter was received from Linda Grinthal, Sunset View Farm in Lafayette Township, advising that their grant application for educational projects funding was not approved. They were invited to reapply in the spring however; and were given very specific suggestions as to what might help them to be approved next time. Ms. Grinthal thanked the SCADB for their support and said she hopes she can count on their support in the future.

**RIGHT TO FARM:**

A. WANTAGE TOWNSHIP – VIERA (POULTRY ISSUE) – UPDATE:

Donna reminded the Board that the County Health Department came before them during the October meeting regarding an issue with the Viera farm in Wantage Township. The Health Department filed an official Right to Farm complaint and they also filed a Violations Notice to the landowner. Donna has not heard anything new on this issue since the October meeting.

B. GREEN TOWNSHIP – MESSLER – DETERMINATION OF ELIGIBILITY FOR RIGHT TO FARM PROTECTION:

There was a request from Mr. Messler to make a determination whether his farm in Green Township is eligible for Right to Farm protection. To qualify as a Commercial Farm the landowner has to present documentation showing that agriculture is a permitted use on the property under the municipal zoning ordinance. The farmer must show that the agricultural operation is in compliance with standards contained in Ag. Management Practices or it is a general accepted agricultural practice. The land has to be eligible for differential property taxation under Farmland Assessment and the landowner must produce receipts of \$2,500.00 or more annually for the agricultural enterprise.

The Board was provided with some of the documentation which was provided by Mr. Messler and Green Township. There is a commercial farm certification form for Block 31, Lot 1.01 and it shows 16.3 acres, which is qualified for farm assessment. The

entire lot is 22.3 acres; there is 6 acres that has a dual use of commercial warehouse. The zone is AI-10, Agriculture Industrial 10.

Documentation shows 16 acres as being farm assessed. Donna requested assessment information for the other 6 acres since it is the same Block and Lot. Initial information provided was a letter from Oliva Stables, LLC, who was the landowner prior to Mr. Messler. The letter stated that Oliva Stables has earned income of more than \$2,500.00 from these endeavors. Donna asked Mr. Messler to provide additional information. The land is leased to Rose Wilbraham and she provided bank receipts for two months of boarding for the property operating at 134 Airport Road for September and October of this year totaling \$2,963.00.

Donna said the only thing the Board is voting on is whether JMM Realty Holding, LLC meets the requirements to have Right to Farm Protection. Donna prepared a Resolution of support and distributed it to the Board.

**MOTION:**

A motion was made by Lori Day to accept the Resolution recognizing JMM Realty Holding, LLC as a Commercial Farm. The motion was seconded by Fred Hough and carried unanimously.

Donna said Mr. Messler can now formally submit a request for a Site Specific Ag. Management Practice. Mr. Messler is looking for the ability to construct an indoor riding arena without getting a Use Variance. Donna said she needs to discuss this with the State because the Ag. Management Practice for equine says indoor arenas are a normal part of equine use, but it does not say whether or not it absolves a landowner from having to get a Use Variance. This case is further complicated because there is an accepted dual use of the property from a previous Use Variance. Donna also mentioned that County Counsel is looking into asking the landowner to cover the cost of a transcriber for the Public Hearing.

The meeting was opened to the Public.

Mr. Messler asked if there was anything he could do to assist in the process. Donna said that he needs to provide her with a formal request for a Site Specific Ag. Management Practice. Mr. Messler said he had one with him and he submitted it to the Board.

The meeting was closed to the Public.

Chairwoman Brodhecker asked Vice Chair Lori Day to take over the role as Chair to discuss the next Right to Farm issue. Ms. Brodhecker recused herself and left the room

C. CONCERNED RESIDENTS OF HAMPTON TOWNSHIP VS. TOWNSHIP OF HAMPTON AND HAMPTON TOWNSHIP COMMITTEE:

Donna said a few weeks ago, County Counsel presented her with a three-page document which was presented to the Board this evening. The document is from the

Superior Court of New Jersey from Judge Bozonelis. Donna gave a brief history of the issue.

In 2007 and 2008 Hampton Township reviewed their ordinance dealing with farm stands. There were many revisions to the ordinance and there were many comments on the ordinance from this Board. The ordinance that was passed was very different from the original version but it still did not satisfy many of the concerns the Board had as well as many of the residents of Hampton Township, since a Civil Action was brought forward.

Donna read the second item in the Civil Action from the Concerned Residents of Hampton Township vs. Township of Hampton and the Hampton Township Committee, which dealt with whether the SCADB has jurisdiction to review the Ordinance under provisions of the Right to Farm Act. The review cannot commence until, on or after February 1, 2011. In the interim, the Hampton Township Committee may amend the provisions of the ordinance. Donna said she has not yet had the opportunity to discuss this with County Counsel.

The meeting was opened to the public.

Tom Brodhecker, Brodhecker Farm said there are eight people listed as the Concerned Residents. He is not one of the eight listed, but said he is involved with them. There were many more than eight that wanted to be listed. Mr. Brodhecker said in the last 18 minutes of Judge Bozonelis' decision, he said the SCADB will be charged with addressing the items that are under the State Right to Farm Ordinance. He said he has a video of the proceedings and is willing to share it with the Board. He said this is a very important issue for a County Ag. Development Board and/or the State Ag. Development Board because the Judge said that if this Board reviews the ordinance, their decision will be final.

Donna said she will talk to County Counsel to find out how to obtain the video so the Board members can view it. Jim Hunt requested copies of the current Ordinance.

Lou Tommaso, Pittenger Farm, Green Township had some questions regarding Green Township's Right to Farm Ordinance. Donna said that needs to be addressed under "Public Comment" at the end of the meeting, since it is unrelated to the Hampton Township farm stand ordinance.

The meeting was closed to the public. Jane Brodhecker was called back to the meeting and she resumed her duties as Chairperson.

#### **AG. AGENT'S REPORT:**

Steve Komar reported that Annie's Project will begin in February 2011. This project is a six-week course geared toward women in agriculture. There are also plans for a webinar on U.S.D.A. laws and getting recipes certified.

A formal Rutgers Agritourism working group has been started. Their website is being revamped to include agritourism and results of their research.

**OLD BUSINESS:**

A. OUTSTANDING YOUNG FARMER NOMINATIONS (T. APPLEBAUM, D. TALLAMY AND T. ANDERSON):

Donna reported that she provided the State with the names of Todd Applebaum, Duce Tallamy and Tore Anderson for the Outstanding Young Farmer award. Donna's assistant, Rudy, reached out to the men and all said they were interested in the nomination.

B. AGRITOURISM PROJECTS (HARVEST FESTIVAL, NEW BROCHURE, FARMERS MARKET,) FUNDING FOR T&T GRANTS:

The Harvest Festival was a success with about 2,000 attendees. About 50 vendors, farmers and educators participated. The event coincided with a large Poultry Show. The Snook museum, the Antique Engine museum and the Farm Fun buildings were open. Donna said Lori Day represented Space Farms, Steve Komar represented Rutgers and CeCe Pattison helped the Heritage and Agriculture Association. The festival was funded in part by the Highlands Council Agritourism grant, which provided the advertising. The Highlands Council had a table and many farmers express their appreciation for the Commercial Kitchen funding. Peters Valley was also very pleased with the event and they were grateful to the farmers who donated product for their 40<sup>th</sup> Anniversary Dinner.

The Board members were provided with a copy of the new "Four Seasons of Agriculture" brochure. The new brochure is in full color for the first time thanks to a grant from the Division of Travel and Tourism. Information regarding Barn Quilts was included in the brochure. Donna thanked Rudy for calling everyone on the brochure. Donna said she hopes to have the information in the brochure onto the existing Agritourism website soon. The Christmas tree growers were provided with brochures for distribution and a survey, which will provide information helpful to receiving grants. Other vendors on the brochure will also be provided with a supply of brochures and a survey at the appropriate season.

Donna reported that the Travel and Tourism grant is done and that the deadline for the new grant has been extended to January 10, 2011.

A Farmers Market subcommittee has been formed through the Sussex County Board of Agriculture. It includes three present members of the Sussex County Farmers Market, three members of the Sussex County Board of Agriculture and a current president of the County Board of Agriculture. The ex-officio members are Donna and Mark Masilli, the manager of the fair.

County Counsel met with the subcommittee two weeks ago when it was explained what the County needs the Board of Agriculture to do, such as taking over the day-to-day operations, protocols, criteria, etc. The County will continue to do the marketing and advertising. The subcommittee was presented with the lease and sublease which is in effect for the next 25 years. They were asked to review the lease and it was suggested

that they have an attorney review it as well. County Counsel is looking into having a local attorney review the leases pro bono.

The \$575.00 profit from the Birding and Nature Festival has been sent to the Board of Chosen Freeholders with a letter saying that the money is only to be used as a match for future grants for agri and ecotourism projects proposed through the Sussex County Office of Conservation and Farmland Preservation.

**NEW BUSINESS:**

A. 2010 FP APPRAISALS, SURVEY WORK, COUNTY PIG:

The farms selected this year: Sella, Lewis, Tommaso, Spinks and Southway are currently being appraised. The Tommaso farm is being appraised using the federal standards because it appears that farm will be eligible for Federal Farm and Ranch Protection monies. Lou Tommaso as the contract purchaser has agreed to the additional restrictions. The appraisals are due Christmas Day so we should have them the following Tuesday. They will then go to the review appraiser. The legal meeting with County Counsel and landowners will probably be held in January.

Donna said she received proposals from nine surveyors for the surveys for the previous round: Crisman 1 and 2 and Crisman et al in Fredon; and Gordon, in Hampton. The surveys were awarded to B. M. Paul Land Surveying, who came in with the lowest package quote. The award was done less than a month ago and Mr. Paul is just about done with the surveys. Once submitted to the Planning office, they will go to the Engineering Department for review. Three Crisman farms will be submitted for SADC reimbursement.

The County Incentive Planning Grants were due to the State on December 15. Donna said the County's grant was there by the 13<sup>th</sup>. The County Planning Incentive Grant and all ten project areas were updated. Any closings that were funded with 100% County dollars were on the list of eligible farms, so they can be submitted to the State for reimbursement.

B. FEDERAL FUNDING UPDATES: SOUTHWAY, TOMMASO (GREEN LIGHT APPROVAL):

Of the four Southway farms, two are under Federal funding. There were some issues with getting to closing because Mr. Southway did his subdivision without an attorney and did not realize that the deeds had to be recorded. Today, County Counsel said he received a call from Mr. Southway's attorney asking if all four farms could close by the end of this year. Donna is not sure if the County is able to close with the landowner and then get reimbursement by the federal government.

The Tommaso farm is also under Federal funding and green light approval has just been received from the State.

The Board was provided with a list of preserved farmland by Municipality as of the end of November. There are a total of 154 farms with 16,234 acres preserved.

C. 2011 SCADB MEETING DATES:

The Board was provided with a list of meeting dates for 2011. In January and February, the third Mondays are holidays. Those meetings will be held the following day, Tuesday, January 18 and Tuesday, February 22. Beginning in March, the meetings will be held on the third Monday of every month at 7:30 p.m.

**MOTION:**

A motion was made by Lori Day to approve the 2011 Schedule of Meeting Dates for the Sussex County Agriculture Development Board. The motion was seconded Fred Hough and carried unanimously.

**PUBLIC COMMENT:**

Lou Tommaso, Pittenger Farm, Green Township asked the Board if they could review the new Green Township Right to Farm Ordinance to make sure it falls within the parameters of the State Ordinance. One of the changes he has concerns with is the elimination of ag. labor housing. Donna said she just received a copy of a Green Township Ordinance from Pat Fisher as part of another package but asked Mr. Tommaso to check if the adoption date was October 22. Donna will make sure the Board members receive a copy of the Ordinance for review.

Gary Pohorely, SADC said that proposed regulations regarding solar energy will be published in January 2011. There will be a 60-day comment period after publication.

Also, there is no news regarding the funding that was approved by voters in November 2009; however, the State is still taking applications.

**ADJOURNMENT:**

All business having been completed, a motion to adjourn the meeting was made by Lori Day. The motion was seconded by Fred Hough and carried unanimously. The meeting adjourned at 9:30 p.m.