

MINUTES
MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD
30 Schuyler Place, 2nd Floor, Morristown, New Jersey
February 7, 2019

The meeting was called to order by member Thomson at 7:32 p.m. Members present:

Rick Desiderio
Thomas Galfo
Gregory Keller
Harvey Ort (arrived at 7:34 pm)

Members with an excused absence:

Aimee Ashley Myers
Dale Davis

Also in attendance:

Kurt Alstede
Rebekah Alstede
Sarah Alstede
William Asdal
Anthony Sposaro, Esq.
Susan Rubright, Esq.
Lindsay Cambron, Esq.
Matthew Posada, Esq., Township of Chester

Staff in attendance:

Christine Marion
Staci Santucci, Esq.
Katherine Coyle

The meeting began with the Pledge of Allegiance.

COMPLIANCE WITH THE OPEN PUBLIC MEETINGS LAW

Member Thomson, as temporary Chairman, announced that in compliance with the Open Public Meetings Act, adequate notice of the meeting had been provided and filed with the Town of Morristown, the Morris County Clerk, the Clerk of the Board of Chosen Freeholders, the Daily Record, the Star Ledger and posted on the Morris County website.

RIGHT TO FARM

At this point, member Ort left the meeting room and member Thomson took over as temporary Chairman.

Alstede Farms, Chester Township – Complaint.

The Board directed Ms. Coyle to read the February 5, 2019 Staff Report into the record. Susan Rubright, Esq., on behalf of William Asdal, and Anthony Sposaro, Esq., on behalf of Kurt Alstede, stipulated to the exhibits of the Staff Report. The Staff Report was entered into evidence as Exhibit B-1.

Ms. Coyle informed the Board regarding a communication submitted by Mr. Asdal earlier in the afternoon – a complaint alleging violations of the Deed of Easement on the Alstede farm. The complaint was submitted to the CADB and the SADC by Mr. Asdal. Ms. Rubright indicated that the communication is not related nor relevant to the RTF complaint. In addition, she stated that the complaint was submitted by Mr. Asdal as a private citizen.

Ms. Rubright addressed the Board first. She stated that the CADB does not have jurisdiction to hear the RTF complaint because the parcels in question are not eligible for Farmland Assessment (FA). The three lots along Route 24 are routinely used to provide parking for cars. She further stated that the RTF Act requires that each lot in the Farm Management Unit (FMU) must individually be eligible for FA and that it is the landowner's responsibility to prove eligibility for FA. Because the lots are not eligible for FA, the operation is not eligible for RTF and the CADB should dismiss the complaint.

Mr. Sposaro addressed the Board next. He stated that the Chester Township Tax Assessor had filed an appeal with the Morris County Board of Taxation to change the assessment for the 3 lots to FA. Mr. Sposaro believed that the CADB should wait for the FA determination. Lot 28.02, which consists of 5.107 acres and contains a year-round farm market (taxed commercial) was deemed by the Tax Assessor to qualify for FA for 0.7087 acres. Mr. Sposaro stated that there is no case law that addresses RTF eligibility of lots such as 28.02 where only a small portion is taxed as FA and a farm market is not eligible for FA because it is open year-round. He asked that counsel be allowed to brief the Board regarding this matter.

Ms. Rubright and Mr. Sposaro disagreed regarding the eligibility of lot 28.02 for FA and RTF.

Mr. Sposaro offered into evidence a January 1, 2019 Notice of Property Tax Assessment for 2019 listing Lot 28.02 as QFARM. The document was marked as Exhibit F-1.

Member Keller asked Ms. Rubright whether she agreed that lots must be eligible for, but need not receive FA to be eligible for RTF. Ms. Rubright agreed, but stated that each lot in the FMU must be eligible for FA, and that the lots were not eligible at the time.

Member Keller pointed out that on October 31, 2018, the Tax Assessor determined that 3 lots, 27, 29 and 30 were not eligible for Farmland Assessment and would remain ineligible until 2021.

Mr. Sposaro indicated that the Tax Assessor had changed her mind and had initiated an appeal before the County Board of Taxation. Mr. Sposaro reiterated that the CADB should wait for the final FA determination.

Mr. Sposaro offered into evidence a December 28, 2006 Deed of Easement for Hideaway Farm #1, which includes Block 15, Lots 28.01 and 28.02 (Chester Township) and Block 19, Lot 11 (Chester Borough). The document was marked as Exhibit F-2.

The Board discussed the following potential actions:

1. Dismiss without prejudice;
2. Adjourn pending County Tax Board determination; and
3. Adjourn pending County Tax Board determination and allow Counsel to brief the Board regarding the farm market and FA/RTF.

On motion of member Desiderio, seconded by member Keller, the Board voted to adjourn the matter pending County Tax Board determination and allow Counsel to brief the Board regarding the farm market and FA/RTF. A roll call vote was taken.

Aye: Desiderio, Galfo, Keller and Thomson

Nay: None Abstain: None

Alstede Farms, Chester Township – Request for SSAMP. Ms. Santucci and Ms. Coyle informed the Board that the matter had been adjourned at the request of the farmer.

Mr. Alstede, Ms. Rebekah Alstede, Ms. Sarah Alstede, Mr. Asdal, Mr. Sposaro, Ms. Rubright, Ms. Cambron and Mr. Posada departed at 9:05 pm.

The Board took a 5 minute break.

At this point, member Ort returned to the meeting room and took over as Chairman.

NEW BUSINESS #1

Resolution 2019-05: Hoppy Valley Farm, Washington Township: Petition for Creation of a Term Farmland Preservation Program.

Mr. Jarred Bush introduced himself, his wife, Ms. Ann Bush, and their daughter, Julia Mae Bush. Mr. and Ms. Bush own Hoppy Valley Farm located in Washington Township. Mr. Bush presented to the Board their plans for the farm.

Ms. Coyle informed the Board that Mr. and Ms. Bush had submitted a petition to enroll their farm into the Term Farmland Preservation Program (for 16 years). Enrollment will make the farm eligible for state soils and water conservation cost-share funding.

On motion of member Keller, seconded by member Galfo, the Board adopted Resolution 2018-05. A roll call vote was taken.

Aye: Desiderio, Galfo, Keller, Ort and Thomson
Nay: None Abstain: None

The Bush Family departed at 9:27 pm.

APPROVAL OF MINUTES

On motion of member Galfo, seconded by member Desiderio, the Board members approved the December 13, 2018 meeting minutes. A roll call vote was taken.

Aye: Desiderio, Galfo, Keller, Ort and Thomson
Nay: None Abstain: None

OPEN TO THE PUBLIC

There were no comments from the public.

CLOSED SESSION

Pursuant to P.L. 1975 Ch. 231, the Open Public Meetings Act, Secretary Ort announced that in compliance with the Open Public Meetings Act, the Morris CADB considered closing the open portion of the meeting in order to discuss matters related to the purchase, lease or acquisition of real property, and litigation in Closed Session. On motion of member Ort, seconded by member Galfo, the Board voted to conduct a Closed Session. A roll call vote was taken.

Aye: Desiderio, Galfo, Keller, Ort and Thomson
Nay: None Abstain: None

RETURN TO MEETING

The meeting reopened to the public at 9:55 p.m.

ACTIONS RESULTING FROM CLOSED SESSION

Windfall Farm, Washington Township. On motion of member Galfo, seconded by member Desiderio, the Board directed staff to send a letter to the landowners per the Board's discussion in Closed Session. A roll call vote was taken.

Aye: Desiderio, Galfo, Keller, Ort and Thomson
Nay: None Abstain: None

Palmer/Dorlan Farm, Washington Township. On motion of member Galfo, seconded by member Desiderio, the Board directed staff to send a letter to the landowner per the Board's discussion in Closed Session. A roll call vote was taken.

Aye: Desiderio, Galfo, Keller, Ort and Thomson
Nay: None Abstain: None

REPORT OF DIRECTOR & ATTORNEY

Legislative Updates. Legislative updates were shared with the Board via email prior to the meeting.

CORRESPONDENCE

Ms. Coyle informed the Board members regarding a card sent to the Board by W. Randall Bush. The card had been lost in the mail, but was luckily found. Mr. Bush thanked the Board for the many years of working together to preserve farmland in Morris County and for the Board's warm farewell during his last meeting representing the Board.

NEW BUSINESS #2

Mr. Desiderio addressed the Board regarding septic permits and the effect of the DEP/Highlands septic regulations on preserved farmland in the Highlands. The Board agreed to ask Freeholder Liaison, Stephen Shaw, to contact legislators regarding the issue. Ms. Santucci stated that she would discuss it with Freeholder Shaw.

OLD BUSINESS

Member Thomson addressed the Board regarding the Roberts Rules of Order regarding quorums. Mr. Thomson stated that the rules allow the Board to make its own rules regarding what constitutes a quorum. Ms. Santucci stated that she would review the rules and the CADB Bylaws.

OPEN TO THE PUBLIC

There were no comments from the public.

ADJOURNMENT

There being no further business, on motion of member Keller, seconded by member Galfo, the meeting was adjourned at 10:16 p.m.

Respectfully submitted,



Katherine Coyle
Director