

## **WARREN COUNTY AGRICULTURE DEVELOPMENT BOARD**

Department of Land Preservation  
P.O. Box 179  
500 Mt. Pisgah Avenue  
Oxford, NJ 07863

### **Meeting Minutes August 16, 2012**

The regular monthly meeting was held at the office of the Department of Land Preservation, 500 Mt. Pisgah Avenue, Oxford, New Jersey. The meeting was called to order by Chairman Schnetzer at 7:34 p.m. An announcement was read as required by the Open Public Meetings Act, N.J.S.A. 10:4-6-21.

Members present: Lou Baduini, Frank Gibbs, Joe Gourniak, Sam Race, Joel Schnetzer, Mike Toretta  
Wendy Willever

Members absent: None

Others present: C. Tierney, T. Kaminski, Staff; Max E. Spann Sr., Max E. Spann Jr.; Jeff Fiedler; Peter M. Peck, Joanne & Don Cunningham, Knowlton Township; Frank Desiderio, Deputy Mayor, Frelinghuysen; Gary Pohorely, SADC.

Chairman Schnetzer led the Pledge of Allegiance.

**Minutes** of the regular session meeting held on July 19, 2012 were approved on a motion by Mr. Race and seconded by Mr. Baduini. Mr. Toretta abstained. Motion carries.

**Correspondence:** noted

**Public Input (Non-agenda Items):** None

#### **Old Business**

**Smith/Rasa Farm** – Mr. Lavery submitted the old title work on July 6, 2012. He called Mr. Jerry Lohman to check on the status, but he was out and staff was going to get back to him.

#### **Wattles Presentation**

The Wattles Property consists of two lots, the Easterly lot is 98 acres and the Westerly lot is 112 acres totaling 220 acres.

##### Feidler Presentation

Mr. Jeff Feidler, owner of Feidler Real Estate made a presentation to the Board on how Feidler would market the Wattles property for auction. Marketing techniques include real-estate signs, hand distribution of listing flyers to key businesses within the community, in Newspaper Advertising, direct email and postal mailing marketing campaign, brochures, the Feidler website as well as various internet sites that specialize in farms and international advertising. For Sales Commission, Mr. Feidler would either require the purchaser to pay a 10% premium above the high bid or have the seller pay the 6% commission of the high bid price plus \$7,500 in upfront marketing fees.

Mr. Feidler proposed a three month marketing campaign that would cost \$10,000 - \$15,000 and proposed to have the auction the first week of December or third week of January and wanted to wait to

have the auction until after the election in November. Mr. Feidler thinks that Wattles could sell for \$7,000 an acre.

Mr. Feidler has stated that he has sold a few other farms, but would like the opportunity to auction the Wattles property.

Mr. Feidler seemed hesitant about asking for a reserve price for the property but would oblige what the Board wanted.

#### Max Spann Presentation

Mr. Max Spann, Jr. of Max Spann Real Estate & Auction Company stated that his company is the largest real estate/auction company in New Jersey to sell preserved farms. Mr. Spann proposed that a 30 day time frame for marketing was appropriate and felt that longer than that, the property would become old news. Mr. Spann would utilize a printed, direct mailing of 10,000 – 15,000 brochures and emailing to client base, the real-estate internet sites that specialize in farms, and farm newspapers like the Lancaster Farmer. Mr. Spann handed out his marketing packet to members of the Board.

Mr. Spann stated that he felt the best time for the auction would be before Christmas or late January into February. Mr. Spann thought that there was much local interest in the farms.

The Board asked about putting on a reserve and Mr. Spann stated there were three ways to approach the selling price: 1) an Absolute Auction (no reserve price) 2) Subject to seller Confirmation Sale 3) Published minimum price (felt that it had to be set at an enticingly low amount). Mr. Spann stated that for a Buyer's Premium on government programs, all marketing costs are absorbed by the agency and no commissions are paid by the seller.

Mr. Spann felt that the Wattles property would sell between \$4,900 - \$6,000 based on recent comparable sales.

Both Mr. Feidler and Mr. Spann stated that they need 2-3 weeks to prepare and referred to auctions where farms did not sell and that sold for much less than originally purchased.

Chairman Schnetzer expressed to both Mr. Feidler and Mr. Spann his opinion that there should be a reserve put on the property.

The options would be either to sell both lots separately or as a whole which would depend on the bid and what brings in the highest amount.

#### **New Business:**

#### **Memorialization of Certification of Commercial Farm Resolution #12-13 - Peter M. Peck, BL 61 L 13, Knowlton Township**

Mr. Race made a motion to memorialize the Resolution #12-13 as presented to the Board regarding last month's action of Certification of Commercial Farm. Mr. Gourniak seconded the motion.

Roll Call:

Mr. Schnetzer – yes; Mr. Race – yes; Mr. Baduini – yes; Mr. Toretta – abstained; Mr. Gibbs – yes;  
Mr. Gourniak – yes; Ms. Willever – yes

Motion passes.

**SSAMP Determination - Peter M. Peck, BL 61 L 13, Knowlton Township**

Mr. Lavery swore in Mr. Peter M. Peck and requested that he state his full name. Mr. Peck presented his May 2, 2012 survey of his property with his proposed horse barn prepared by Mr. Wayne Jarvis. Mr. Lavery labeled this as Article-A1. The proposed horse barn is 132' in length by 36' width with the rear extension 36' length and 36' width and the front extension 6' length and 24' width with approximate height of 24+/- feet for the whole building.

Mr. Peck stated that he is seeking relief from zoning ordinance #11-109A under the Right to Farm Act, N.J.S.A. 4:1C-1 et seq. in which the ordinance requires a site plan first be submitted and approved by the Approving Board before a building permit is issued. Mr. Peck was issued a zoning permit denial by Mr. Rabtzow, the Knowlton Township Zoning Officer referencing violation of Zoning Ordinance, Section 11-299B(6) in that a site plan was required. Mr. Peck stated that site plans are not required for farms in excess of 50 acres (zoning ordinance #11-110D (Exceptions)), but his farm is 39 acres and therefore a site plan is required and it would cost his \$250 for the application fee and \$8,000 for the site plan fee. It is \$200/acre under 50 acres for a site plan.

Mr. Lavery pointed out that this was an unusual situation and that zoning ordinance (i) #11-110E – "Review shall not be required for the construction of an accessory building or structure in residential zones where, in the opinion of the Zoning Officer/Code Enforcement Official, the building or structure meets all of the requirements of this chapter and will not have an adverse impact on surrounding properties..." and (ii) the Zoning Officer will at their discretion waive the site plan. Mr. Lavery stated that at last month's meeting Mr. Rabtzow stated that he did not feel comfortable waiving the site plan and would rather defer the decision to the CADB and was in support of Mr. Peck.

Mr. Peck stated that he was in compliance with all other ordinances which included set backs. Zoning Ordinance # 11-299 B refers to the allowance of erecting accessory agricultural structures provided that they meet the all requirements.

Mr. Lavery stated for the record that Mr. Peck's preserved farm consists of the exception area, an existing building for hay, and the proposed barn.

No one from Knowlton Township showed up in opposition to Mr. Peck.

Mr. Lavery stated that proper notification was provided to Knowlton Township, the SADC, and neighbors within 200 feet of Mr. Peck's property of his Site Specific Hearing.

Mr. and Mrs. Cunningham are neighbors of Mr. Peck who own Block 61 Lot 13.06 and are concerned about run off affecting their proposed well that is within 40 feet of their property line because of a steep slope on Mr. Peck's property that leads to their property. They wanted to make sure their well was protected and if Mr. Peck was going to install a barrier to prevent run-off and how much fertilizer was going to be used. Mr. Peck stated that he uses fertilizer for his hay field. Chairman Schnetzer stated to the Cunninghams that hay has the least amount of run-off of fertilizer due to absorption and that every preserved farm is required to have a conservation plan and that they should be contacting NRCS over their concerns.

Mr. Gibbs made a motion for a Site Specific Determination on Block 61, Lot 13, Knowlton Township, owner Mr. Peter M. Peck regarding Mr. Peck's application for relief from Zoning Ordinances Section 11-109A and Section 11-299B (6) that requires a site plan and that Knowlton Township issue a building permit as long as Mr. Peck complies with all Knowlton Township's zoning ordinance setback requirements and height restrictions on his proposed building. Mr. Gourniak seconded the motion.

Roll Call:

Mr. Schnetzer – yes; Mr. Race – yes; Mr. Baduini – yes; Mr. Toretta – yes; Mr. Gibbs – yes;  
Mr. Gourniak – yes; Ms. Willever – yes

Motion passes.

Mr. Lavery advised Mr. Peck to hold off on starting the construction of the proposed building until the memorialization of the resolution at next month's meeting and that Knowlton Township would have 45 days from the memorialization to appeal the CADB's decision.

### **Boslet Certification of Commercial Farm, Knowlton Township, Block 65 Lot 1**

*Adjourned*

Ms. Willever proposed a new policy to the Board to have all applicants that apply for Certification of Commercial Farm submit Schedule F from their tax return for documentation of \$2,500 income for qualification. After a brief discussion, Ms. Willever made a motion to require all applicants that apply to this Board for Certification of a Commercial Farm provide Schedule F of their tax return for documentation of the \$2,500 income for qualification. Mr. Gourniak seconded the motion.

Roll Call:

Mr. Schnetzer – yes; Mr. Race – yes; Mr. Baduini – yes; Mr. Toretta – yes; Mr. Gibbs – yes;  
Mr. Gourniak – yes; Ms. Willever – yes

Motion passes.

Mr. Lavery discussed with the Board if an applicant objected to this new requirement and provided some other legitimate documentation of qualified income if it would be suitable to the Board. The Board agreed it would be willing to look at the substitutions submitted by the application if necessary.

**Administrator's Report:** Mr. Tierney briefly went over the important matters on the report.

New Application

- Cooke – Hope & Frelinghuysen Twp. (Approx. 59 acre County-PIG)

Awaiting Green Light Approval:

- McCullough – Washington Twp. (Approx. 44 acre County-PIG): Applicant's received another one year extension on subdivision approval in May; SADC requesting information.
- Steckle – Harmony Twp. Muni-PIG (Approx. 60 acres)
- May – Hope Twp., Non-Profit (Approx. 22.8 acres)
- Star D Farm – Harmony Twp., Non-Profit (Approx. 46.74 acres)
- K-J Farm – Harmony Twp., Non-Profit (Approx. 104.72 acres)
- Sunny Hill Farm – Harmony Twp. & Lopatcong Twp., Non-Profit ( Approx. 30.647 acres)

Active Projects:

#### County Applications

- Bowers – Pohatcong Twp. (Approx. 50 acres): Waiting for certification of FRPP appraisal.
- Carson – Frelinghuysen Twp. (Approx. 297 acres): CMV shared with landowner; waiting for decision.
- Di Risio – Mansfield Twp. (Approx. 67 acres): Waiting for CMV.
- Gardner – Franklin Twp. (Approx. 108 acres): CMV shared with landowner; waiting for decision.
- Martin – White Twp. (Approx. 86 acres): Under final legal review; waiting to close.

- McConnell – Oxford Twp. (Approx. 52 acres): Received Green Light on 7/12/12; Waiting for BOCF Resolution to authorize appraisals.
  - Pruden – Hope Twp. (Approx. 162 acres): Received Green Light on 6/26/12; Waiting for BOCF Resolution to authorize appraisals.
  - Schnetzer – Franklin Twp. (Approx. 62 acres): Property is being surveyed; 5-acre exception area on estate portion removed and amended appraisal letters sent to SADC; waiting for final approval.
  - Smith/Rasa – Special Counsel is pursuing this.
- Municipal Applications
- Bertholf – Knowlton Twp. (Approx. 61 acres): SADC re-certification of \$5,300/acre & amended final approval on SADC September Agenda 9/27; being surveyed.
  - Cherry Hill Farm (Cullen) – Blairstown Twp. (Approx. 19 acres): Withdrawn.
  - Domingues – Greenwich Twp. Muni-PIG (Approx. 63 acres); CMV issued and Twp. negotiating with landowner.
  - Erhardt – White Twp. Muni-PIG (Approx. 27 acres): Received Green Light Approval on 6/22/12; Township ordering appraisals.
  - Linz – Frelinghuysen Twp. (Approx. 129 acres): Waiting to close.
  - Ritter – Knowlton Twp. Muni-PIG (Approx. 9 acres): Received Green Light Approval on 7/3/12; Appraisals in process.

#### *Closings*

- Drake – Allamuchy Twp., (Approx. 198 acres): Closed on 8/7/12!
- C. Race – Blairstown Twp. (Approx. 45.82 acres): Closed on 8/2/12!
- D. Race – Blairstown Twp. (Approx. 30 acres): Closed on 8/2/12!

#### **Public Comment:**

Gary Pohorely, SADC gave a brief history of the Garden State Growers case since the NJ Superior Court decision was published in the newspaper on August 15. Mr. Pohorely stated that in 2007 Mr. Den Hollander excavated 14 acres of preserved property to build Hoop Houses and since that section of the property was on a mild slope, the area dug out was 12 feet deep. In 2008, the SADC sued Garden State Growers. The NJ Supreme Court found Mr. den Hollander liable for the removal of the soil on his preserved farm. The Court will decide at a later time what kind of restitution will be required of Mr. den Hollander. Garden State Growers has a right to appeal the decision.

Mr. Desiderio, Deputy Mayor of Frelinghuysen has two lots in the township that they would like to put in preservation and asked the Board what was the best way to preserve it that would be of the least cost to Frelinghuysen Township. Chairman Schnetzer directed him to set up a meeting with Mr. Tierney to discuss the options. Mr. Tierney briefly went over the options of County PIG and Municipal PIG applications.

#### **Executive Session**

Mr. Race made a motion to go into Executive Session which was seconded by Mr. Gourniak. Motion passes and Mr. Lavery stated that the Board went into Executive Session at 9:34 pm to discuss contractual matters regarding the auction of the Wattles property.

Mr. Baduini made a motion to come out of Executive Session which was seconded by Mr. Gourniak and the motion passes. Mr. Lavery stated that the Board came out of Executive Session at 10:15 pm where contractual matters regarding the auction and the reserve amount for the price per acre was discussed as well as attorney/client privilege matter regarding the den Hollander case that wasn't stated previously upon entering into Executive Session. Mr. Lavery stated that the minutes of the Executive Session will be available to the public at a time when the Board deem's there if no harm to the public.

Mr. Baduini made a motion to go forward with the sale of the Wattles property at this time and to set a reserve price per acre of \$6,700 on Wattles Easterly and \$7,000 on Wattles Westerly farm and to have a sealed bid the third Thursday of October where the bid would be for the first lot, a bid for the second lot and a bid for both lots. Mr. Gourniak seconded the motion.

Some members were concerned that the property should be sold now because of the deterioration of the buildings and possible vandalism. Some members felt that the sale should be held off a couple of years to try to get more money for the property because of the current poor state of the economy.

Roll Call:

Mr. Schnetzer – yes; Mr. Race – no; Mr. Baduini – yes; Mr. Toretta – no; Mr. Gibbs – no;  
Mr. Gourniak – yes; Ms. Willever – yes

Motion carries.

The Board discussed with Mr. Tierney and Mr. Lavery about the County conducting a sealed bid process and having one of the two presenters conduct the auction. Mr. Tierney is to inquire with Mr. Pessolano and Mr. Marvin about the County doing a sealed bid. The Board wanted a month to think about the bidding.

Mr. Gourniak made a motion to select Fiedler to auction off the Wattles Property at the option with the commission structure that required the purchaser pay the 10% premium above the high bid if the previous proposed motion of having the County do a sealed bid is not approved by the Administration. Mr. Baduini seconded the motion. Mr. Race felt that the Board should stick with Max Spann because of their long history and experience in selling many preserved farms.

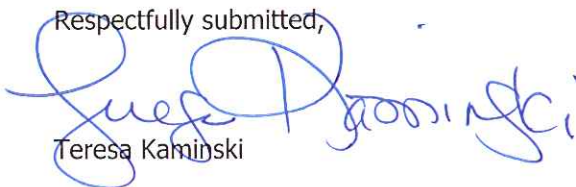
Roll Call:

Mr. Schnetzer – yes; Mr. Race – no; Mr. Baduini – yes; Mr. Toretta – yes; Mr. Gibbs – yes;  
Mr. Gourniak – yes; Ms. Willever – abstained

Motion carries.

**Adjournment:** A motion for adjournment was made by Mr. Baduini and seconded by Mr. Toretta. Motion carries. Chairman Schnetzer adjourned the meeting at 10:40 p.m.

Respectfully submitted,



Teresa Kaminski