

Garden State Preservation Trust

April 14th, 2005

Meeting Minutes

Chairman Davidson called the meeting to order. Ralph Siegel, Executive Director, read a statement certifying compliance with the Open Public Meetings Act. Deputy Attorney General Aimee Manocchio-Nason, attending in place of DAG Cliff Rones, acknowledged compliance. Roll call was taken. Public members present were: Dennis Davidson, Chair; Maureen Ogden, Herbert Wegner and Cooper Morris. Ex-officio members present were: David Rousseau (for State Treasurer John E. McCormac), Susan Craft (for Agriculture Secretary Charles Kuperus), David Scanlan (for DCA Susan Bass Levin) and Joanna Dunn-Samson (for DEP Commissioner Bradley M. Campbell). Robert DiVincent, vice chair, was absent.

OPENING REMARKS

Chairman Davidson welcomed Ms. Craft as the new ex-officio representative for the Secretary of Agriculture, and lauded her for her farmland preservation efforts in Burlington County.

Chairman Davidson said he would like to see the Trust in the upcoming year focus on identifying a new source of funding to continue on its mission after the current source of appropriations is depleted in the next few years. Chairman Davidson said he wants to try and find ways to help the programs expend their funds faster. He referenced the expedited appraisal process now being employed in the Farmland Preservation Program.

Chairman Davidson said he had been discussing issues with the conservation community and that a concern was how the "farmland assessment" process was affecting woodlands and the conservation of forest properties. He said he would like to find a way to continue the tax benefit to the landowner while leaving the forest intact.

Chairman Davidson said he would like to see the Trust tackle the problems of impervious coverage on preserved farmland and public access to preserved farmland along greenways, trail systems and stream corridors.

Mr. Morris expressed concern, given the current State budget climate, about speaking publicly about new funding for the Garden State Preservation Trust.

Mr. Morris agreed with the Chairman about the timbering of woodlands and of landowners being forced to cut trees in order to meet the qualifications for farmland tax assessment. Mr. Morris said regeneration of cut woods has become a problem in New Jersey because of deer damage. Mr. Morris said the current system most benefits professional foresters, who are employed to help the landowner qualify for reduced tax assessment.

Chairman Davidson concurred and said the Coalition for Conservation was addressing Trust funding issues. He suggested the Trust work with the coalition to pursue a solution.

Mr. Wegner said Pittsgrove Township has about 5,000 acres of upland forest that had been acquired for as little as \$1,000 per acre. He said no woodland management plans have been developed on these parcels and therefore no farmland tax assessment

was in effect. As a result, Mr. Wegner said, property taxes have tripled on these parcels and the development value of the land is now about \$30,000 per acre. He said these factors are forcing present owners to sell for real estate development.

Maureen Ogden questioned if the problem of a special tax assessment on forest lands could be accomplished without an amendment to the New Jersey Constitution or if it could be changed in the language of a proposed piece of legislation.

Ms. Ogden said she was concerned about the lack of proper monitoring of conservation and development easements, especially by municipalities and counties, on land that is not supposed to be developed. She said the Trust should work on this issue. Ms. Ogden said previous Trust staff had investigated this problem statewide but that staff for this purpose had been eliminated.

Chairman Davidson said he agreed the possible lack of and failure of easement enforcement is a significant issue which the Trust should address statewide.

APPROVAL OF MINUTES OF NOV. 10, 2004

Mr. Morris requests the correction of a typographical error.

Moved as amended by Mr. Rousseau

Seconded by Ms. Ogden

Minutes Approved 7-0

Ms. Craft abstained.

(She had not attended the November 10th meeting.)

EXECUTIVE DIRECTORS REPORT

Mr. Siegel introduced and welcomed David Scanlan as the new ex-officio representative for the Commissioner of Community Affairs Susan Bass-Levin, replacing former representative Marge Della Vecchia.

Mr. Siegel reviewed the opening balances, closing balances and forecast of expenditures for the Garden State Green Acres Preservation Trust Fund for Fiscal Years 2005 and 2006. Mr. Siegel reported cash available was adequate to support the appropriation requested by the Green Acres Program for \$75 million for State acquisitions and recreational development. Mr. Siegel presented tables showing a balance of \$289 million remaining available to Green Acres for appropriation under the current GSPT program. He said if the \$75 million request were to be approved today there would be a net sum of \$214 million available for Green Acres Local and Nonprofit Appropriations during FY2006 plus all Green Acres Appropriations FY2007 through FY2009.

Mr. Siegel asked if the Green Acres staff would agree to deviate from the agenda by presenting their State Acquisition and Recreational Development request first and postponing their presentation of the Green Acres Land Preservation Plan in order to accommodate Mr. Rousseau, who had to leave for another meeting. The representatives of the Green Acres Program agreed to do so.

PRESENTATION ON GREEN ACRES STATE ACQUISITIONS AND DEVELOPMENT REQUEST

John Flynn, administrator of the Department of Environmental Protection's Green Acres Program, began the presentation. He said this appropriation request would be the ninth request made to the Garden State Preservation Trust and, if approved, would amount to a total appropriation for State land acquisition of \$450 million. Ms. Flynn said the expenditure of funds for the State land acquisition program was moving along at a good pace and he credited his staff for their efforts. Mr. Flynn said his staff is currently negotiating with the owners of 425 properties throughout the State and that the current request before the Trust for \$75 million included \$65 million targeted for 16 "priority resource areas."

Mr. Flynn said the one difference in the FY2006 request from prior years was the request for \$10 million for capital improvements in State parks. He said this had been done with all the other Green Acres bond acts prior to the Garden State Preservation Trust Act and this would be the first time GSPT funds were requested for this purpose.

John S. Watson Jr., the Assistant Commissioner of the Department of Environmental Protection, said in the last five years over 100,000 acres have been added to their programs' management responsibilities. He said funding for capital improvements was warranted and was permitted and called for by the GSPT Act.

Mr. Morris asked about Green Acres' definition of capital improvements and if new structures and maintenance was part of this definition. Mr. Watson said it was a combination of both and could include boat ramps and restroom facilities along with grassland and wildlife habitat restoration, development or improvement.

Mr. Morris asked if the maintenance of facilities such as the tower and mansion at High Point State Park would be examples of projects suitable for funding under this request. Mr. Watson said he wouldn't categorize High Point State Park projects as maintenance but rather as capital restoration.

Mr. Morris said he was concerned that GSPT funds should not be used for "routine" maintenance and that those expenditures should come from the Department of Environmental Protection's operating budget.

Ms. Samson said she agreed with Mr. Morris and said the projects that would be funded were not routine maintenance. She said there was an urgent need for funding the proper management of properties that have been acquired through GSPT funding.

Chairman Davidson said many facilities needed restoration not because of a lack of routine maintenance but because these facilities had simply worn out over time from their intended use.

Ms. Ogden said prior bond issues had called for a percentage of bond proceeds to be dedicated for development. Mr. Watson in support cited several prior bond issues and the amounts of them that had been reserved for capital restoration and recreational development.

Mr. Morris said he did not oppose the proposed use of funds for recreational development but he was concerned it could lead to the diversion of GSPT funds from land acquisition in the future. Mr. Morris said funds were diverted from land preservation several years ago to pay for staff and this practice continues annually.

Ms. Ogden said there had been legislation introduced to set aside \$25 million per year for maintenance. She said this needs to be addressed again. Chairman Davidson agreed. Ms. Samson said the DEP was looking for other sources of funding for these issues.

Mr. Rousseau excused himself from the meeting and was thenceforth absent. He told the Chairman he wanted to leave a positive vote on the current resolution and the future ones voted on during this session. (Counsel subsequently ruled absent members were not permitted to leave votes in this manner and so Mr. Rousseau's votes were not counted.)

Chairman Davidson opened the floor for public comment on the Green Acres project request.

Michael Catania of Conservation Resources spoke in favor of funding the recreational development of preserved land and said he would routinely hear criticisms about why the State proposes to buy more land when it cannot take care of what it has. Mr. Catania, who also heads the non-profit Coalition for Conservation, said he was speaking only for himself as the Coalition had not yet had a chance to review the FY2006 request for \$10 million for capital improvements. Mr. Catania said he believed the Coalition would not want it to be an annual practice. He strongly urged that other ways be found to fund capital improvements and maintenance in future state budgets, and supported comments by Mr. Morris to that effect.

Mr. Wegner said he hoped the request was not a product of the current State budget problems. Chairman Davidson agreed with Mr. Wegner's concerns.

RESOLUTION # 05-001

Resolution Of The Garden State Preservation Trust To Approve Green Acres State Acquisition & Development Projects for Fiscal Year 2006

Moved by Ms. Craft
Seconded by Ms. Samson
Approved 7-0

Mr. Siegel asked for approval to submit expedited minutes on Resolution #05-001 to the Governor's Counsel's Office to speed introduction of appropriations legislation.

Moved by Mr. Wegner
Seconded by Ms. Samson
Approved unanimously by voice vote

Ms. Samson suggested the Trust relay to the Legislature and Governor the need for a stable source of funding for capital maintenance in State parks so the funds are not diverted from acquisition money in the future.

Chairman Davidson told Mr. Siegel to work with Mr. Flynn and Mr. Watson to prepare a letter to this effect.

Ms. Ogden requested that it should be researched how many times in the past the issue of funding for maintenance and other stewardship matters has been raised with the Trust.

PRESENTATION ON GREEN ACRES LAND PRESERVATION STRATEGY AND CRITERIA

Mr. Flynn presented the Green Acres Land Preservation Plan as required by the "Smith Act," P.L. 2002, c.76, stipulating that water-resource areas and flood-prone area protection shall be a priority for the Green Acres Program State land acquisition effort.

Ms. Flynn explained how the Department of Environmental Protection has established 27-layer Geographical Information System (GIS) software mapping of the entire state down to parcels of 10,000 square feet to properly measure and apply criteria to every parcel available for State acquisition.

The presentation utilized maps with overlays of priority areas. Ms. Samson and Green Acres planning director Robert Stokes contributed to the presentation.

EXECUTIVE DIRECTORS REPORT CONTINUED

Mr. Siegel introduced Sam Stanton from the Governor's Counsel Office Authorities Unit who was attending for Keith Barrack.

Mr. Siegel reported P.L. 2005 c.19 had been enacted exempting non-profits from the new "million dollar" realty transfer tax.

Mr. Siegel said there was no progress on S-1370 to permit higher-income investment of GSPT trust fund cash balances. He said he would like to send another copy of Resolution #04-007 urging enactment.

Mr. Siegel said in February he authorized the audit for the Fiscal Year 2003 and once it is complete he will authorize an audit for Fiscal Year 2004. At that point, Mr. Siegel said, the GSPT's appointed "Audit Committee" will take over the process.

Mr. Siegel noted the original draft agenda had included a vote on a GSPT code of ethics. He said staff at the Executive Commission on Ethical Standards had requested that the Trust delay such a vote until the Commission had an opportunity to review and approve the proposed code. Chairman Davidson said he would like the Trust to review the draft when complete. Mr. Siegel said it would be included in the mailing for the May meeting.

Mr. Siegel directed members to the Expenditure Monitoring Program revisions in the member books. He said the forecasts for annual expenditures need to be revised because of final numbers for FY2000 through FY2004 showed lower expenditures than had previously been reported. Mr. Siegel said it is not his intention to bring every minor change to the Trust for action but in this case he said it was warranted.

Chairman Davidson requested a deviation from the agenda and asked for an immediate vote on the EMP revisions.

RESOLUTION # 05-002

Resolution of The Garden State Preservation Trust To Adjust The Expenditure Monitoring Program

Moved by Ms. Craft

Seconded by Mr. Scanlan

Approved 7-0

EXECUTIVE DIRECTORS REPORT CONTINUED

Mr. Siegel presented the Trust with a proposed resolution and letter from the chairman to be sent to members of Congress urging them to oppose the recommendations of Congress's Joint Committee on Taxation to reduce or rescind the tax incentives for the charitable donation of land. Mr. Siegel told members of the Trust that he did not believe the GSPT should "spout off" on a wide variety of issues not directly connected with land preservation finance but the JCT proposals bear directly on the GSPT's ability to leverage its funds. He said the majority of preservation transactions have involved some degree of bargain sale or discount from the landowner.

Mr. Siegel explained the most onerous parts of the JCT proposal would:

- 1) reduce the tax deduction for the partial donation of the value of a development easement on farmland;
- 2) remove the tax deduction for the partial donation of an easement on farmland where the owner resides;
- 3) dramatically reduce the value of any land donation by setting capital gains value according to the sum originally paid for the property.

Chairman Davidson requested a deviation from the agenda and asked for an immediate vote on the resolution to oppose the JCT proposals.

RESOLUTION # 05-003

Urging Members Of Congress To Protect Federal Tax Benefits For Landowners Who Preserve Their Land

Moved by Ms. Ogden

Seconded by Mr. Wegner

Approved 7-0

EXECUTIVE DIRECTORS REPORT CONTINUED

Mr. Siegel discussed the "retreat" meeting tentatively scheduled for July 12th to discuss Installment Purchase Agreements and the Trust's role in promoting IPAs. Mr. Siegel said one suggestion was for the staff to generate and distribute an educational report defining IPAs.

Mr. Siegel said he required clarification from Trust members on directions to the staff because several unrelated issues had been addressed during this meeting with a variety of directions given to Trust staff to take action or perform a function regarding:

1. renewed funding source for GSPT
2. forestry tax assessments
3. trails access and greenways on preserved farmland
4. easement monitoring and enforcement
5. stewardship funding resources
6. capital gains tax exemption for landowners

Mr. Siegel said further the Trust had directed the staff to focus on the IPA issue at previous meetings, which is why the retreat meeting has been scheduled.

Mr. Siegel said a presentation on progress concerning impervious coverage policies on preserved farmland was scheduled at the May meeting. Mr. Siegel said it appeared the Trust was interested in an additional meeting in the fall to address stewardship. He asked whether it should be a retreat meeting or a regular meeting at the Statehouse Annex where a public hearing or public forum could be held to receive documentation and expert testimony.

Mr. Siegel asked if it was the pleasure of Trust members to have any or all of these other topics covered at future retreat meetings of the Trust, and if not then in what manner and to what extent the Trust members would like him to address these topics.

TRUST MEMBER COMMENTS

Ms. Ogden thought retreat meetings should be held and should be hosted at sites where the topic was prevalent.

Chairman Davidson suggested a discussion of possible retreat meetings at the May meeting along with topics, venues and formats to be covered.

Further discussion took place amongst several of the members regarding IPAs, their use, legality and origination.

Mr. Cooper asked if the "millionaire's realty transfer tax" exemption was in fact passed and did it apply only to non-profits or did it extend to individuals. Consensus was individual sellers were not exempt even if selling to the State of New Jersey.

Ms. Wegner inquired whether there had been any movement on the proposal to exempt from capital gains tax the funds landowners are paid by the Farmland Preservation Program or the Green Acres Program to preserve their lands. Mr. Siegel said he had not had an opportunity to inquire into this but that he knew of no progress on this proposal.

Mr. Wegner said many farmers in his region of Salem County consider the capital gains tax liability as a major impediment to preserving their farms. Ms. Craft concurred and said this was the impetus behind the use of Installment Purchase Agreements in Burlington County while she was the Farmland Preservation director there.

Mr. Wegner said the GSPT should actively endorse and pursue procuring this tax benefit for landowners who agree to preserve their land as an additional incentive for preservation.

PUBLIC COMMENTS

There were no additional public comments

ADJOURNMENT

Chairman Davidson adjourned the meeting.

Respectfully submitted

Ralph Siegel
executive director
board secretary

May 11, 2005