

Gloucester County Agricultural Development Board

Chairman: Russell J. Marino

Acting Secretary: Ken Atkinson

Minutes of the January 9, 2003 Special Meeting

MEMBERS PRESENT: Alex Clemick, Wally Eachus, Michael Visalli, George Dean

OTHERS PRESENT: Tim Chell, CADB Solicitor, James Yates, Director, Gloucester County Office of Land Preservation, Ken Atkinson, Coordinator, Farmland Preservation Program

The meeting was called to order at 6:05pm by Wally Eachus, who was acting as Chairman for the special meeting. Solicitor Chell recapped the issues concerning the Chiulli/Right-to-Farm public hearing that was conducted on November 7, 2002 and the positions the Board could take on the matter. After discussion, motion was made by Alex Clemick to concur with the August 2, 2002 report compiled by the S.A.D.C. and recognize that the Chiulli's beef cattle and manure management practices conform to generally accepted agricultural management practices. Wally Eachus seconded the motion and the vote was as follows: Clemick-yes, Dean-yes, Eachus-yes, M. Visalli-yes

Discussion then took place concerning if the Board should place requirements on the management practices at the Chiulli farm. A motion was made by George Dean that the Chiulli's must adhere to the site-specific management recommendations included in the August 2, 2002 S.A.D.C. report. Wally Eachus seconded the motion with the vote as follows: Clemick-no, Dean-yes, Eachus-yes, M. Visalli-no. Since the Board was deadlocked the motion failed to pass.

No further action was taken by the Board and the special meeting was adjourned at 6:45pm.

Respectfully submitted,

Ken Atkinson, Acting Secretary
Gloucester County Agricultural Development Board

3/3/03

**Gloucester County Agriculture Development Committee
Right to Farm Conflict Resolution**

Hearing *Report*

**Re: Chiulli
Block Lot
Township of South Harrison**

Aggrieved Parties: Louis and Diane Madonia
Mike and Janet Toomey
Robert and Charlotte Gaines

Date of Hearing: June 13, 2002

Background

Louis and Donna Chiulli operate a small beef cattle farm in South Harrison Township, Gloucester County. They own and farm 150.76 acres and lease an additional 30 acres of land. The land is divided into an 8.76 acre parcel, which Mr. Chiulli refers to as the "home farm", and a 142 acre parcel which is preserved under the County and State's Farmland Preservation Program ("preserved farm"). The home farm contains the Chiullis' residence, a barn, pasture area (three acres), and cropland (six acres of hayfields). According to their 2001 farmland assessment application, the Chiullis have an average of 24 beef cattle on the home farm. (As described below, Mr. Chiulli testified at the hearing that they currently have 20 herd of beef cattle, although this fact was disputed by the Neighbors.) On the preserved farm, the Chiullis have approximately 99 acres of cropland (hay, oats, rye, soybeans and wheat) and three acres of permanent pasture.

Three houses separate the home farm from the preserved farm. The neighbors who reside in these houses are Robert and Charlotte Gaines, Louis and Diane Madonia, and Mike and Janet Toomey (referred to collectively as "the Neighbors").

On October 17, 2002, the Gloucester County Agriculture Development Board (GCADB) received a request for mediation dated September 24, 2001 from the Neighbors. (Exhibit S1). The request alleges that Mr. Chiulli's manure management practices created a fly infestation problem on their properties. The Neighbors contend that Mr. Chiulli did not remove the manure generated by his cows and that this negligence created their fly problem. They also allege that the Chiullis are in violation of various provisions of State health statutes.

A mediation was held October 2002, but the parties could not reach agreement. On October 29, 2001, Louis and Donna Chiulli sent a letter to the GCADB and the SADC expressing their frustration at the Neighbors' complaints. (Exhibit S2).

SADC staff conducted a site visit to the Chiullis' farm on March 25, 2001 and photographed the operation. (Exhibits S5 and S6). Pursuant to the N.J.S.A. 4:1C-10.15b, the SADC scheduled a public hearing for June 13, 2002 and notified the Neighbors, Mr. and Mrs. Madonias' attorney, David C. Frank, Esq., and the Chiullis by letter dated May 22, 2002.

The SADC conducted a hearing on June 13, 2002 and issued a final report dated July 25, 2002. Pursuant to the Right to Farm Act, the Madonias appealed the decision of the SADC and is now before the Gloucester County Agriculture Development Board for an appeal hearing.

Issue

The issue before the SADC is whether the Chiullis' beef cattle operation and manure management practices conform to generally accepted agricultural practices.

Summary of Relevant Facts

A hearing was held at the Gloucester County Agriculture Development Board meeting on November 7, 2002. Mr. and Mrs. Madonia were represented by David C. Frank, Esquire.

Mr. and Mrs. Louis Chiulli were represented by Samuel Bullock, Esquire. The report of the SADC dated July 25, 2002 was entered into evidence and made a part of the record.

A. The Neighbors Testimony

1. Louis and Diane Madonia

Mr. and Mrs. Madonia testified that they would like to propose that the Chiullis have a regular schedule of removal of manure, that the pile be covered at all times, and lime be applied on a regular basis and whenever a new layer is added. The letter of the Madonias dated October 1, 2002 was accepted into the record and made a part thereof.

Mrs. Madonia also testified that her well was tested in March of 1999 and all results were in normal limits. She further testified that the well has recently been retested and she does not yet have the results.

2. Robert Gaines and Michael Toomey

Mr. Gaines and Mr. Toomey testified consistent with their testimony at the State Agriculture Development Committee Hearing and offered pictures that depict the farm after rain situations. The pictures were reviewed by the Board Members and entered into evidence.

B. Chiullis' Testimony

The Chiullis testified consistent with the testimony they gave at the SADC. Mr. Chiulli further testified that he has manure management protocol and indicated on the record that his attorney would provide that protocol within 10 days of the date of the hearing. We have received a memorandum from the Chiullis regarding their operations.

C. Expert Testimony

Charles Miller, Dairy Specialist for New Jersey Farm Bureau, testified consistent with his testimony at the SADC hearing. He testified that his last visit to the site was mid August of 2002

and that the manure pile was the size of a small pickup and was covered with lime. He further indicated that the approximate temperature on the date of his visit was 100 degrees. Mr. Miller testified that there was not an inordinate number of flies that the animals were well cared for and there were no flies on the animal. He further testified that they were the same conditions he found on his prior two site visits. Mr. Miller testified that he felt that the amount of flies were reasonable for the size of the farm. Mr. Miller further testified that in his opinion the Chiullis were in accord with accepted management practices for the size of his farm in this part of the country.

Conclusions and Determination

Based upon the industry standards as set forth in the SADC final report, the Gloucester County Agriculture Development Board finds no reason to deviate or change from the conclusions reached by the SADC. Further, the SADC found that the Chiulli operation may not be the sole cause of the fly infestation. The Gloucester County Agriculture Development Board heard no further testimony regarding this issue and this, and in itself, gives reason for the Board to affirm the decision of the SADC.

Therefore, the Gloucester County Agriculture Board finds that the Chiulli's beef cattle and manure management practices conform to generally accepted management practices.

Date: November 27, 2002.

Russell Naylor
Gloucester County Agriculture Development Board