

# Hunterdon County Agriculture Development Board Meeting

## Special Meeting March 29, 2021 @ 7:30 pm

314 Route 12 County Complex  
Building #1 | Assembly Room  
Flemington, New Jersey

### **Members in Attendance:**

Dave Bond-Chair  
Bob Hoffman-Vice Chair  
Christian Bench  
Susan Blew  
Ted Harwick  
David Kyle  
John Perekhyns  
Liz Schmid

### **CADB Staff Present:**

Shana Taylor, Esq. County Counsel  
Aaron Culton, Esq., Asst County Counsel  
Bob Hornby, CADB Administrator  
Megan Muehlbauer - NJAES  
Kevin Milz – Soil Cons. Dist.

*In consideration of COVID-19 public health guidelines, this meeting was held telephonically and via Zoom and hosted by County Counsel Paralegal Samantha Gravel. CADB members and the public called in to a prearranged number or Zoom login advertised on the agenda distributed and posted electronically.*

*There is an option of attending telephonically at 1 (646) 558-8656 Meeting ID: 854 0349 4017. When prompted for a passcode, enter 444103 then press #. Out of consideration for others, please mute your phone unless you are speaking. Please contact Bob Hornby at [bhornby@co.hunterdon.nj.us](mailto:bhornby@co.hunterdon.nj.us) or (908) 788-1490 with any questions or concerns*

### **Open Public Meeting Act:**

**Chairman Dave Bond opened the meeting at 7:30 p.m. and read the Open Public Meeting Act:**

*"This meeting is being held in accordance with the provisions of the Open Public Meeting Act. Adequate notice has been provided by prominently posting on the first floor of the County Administration Building, Main St., Flemington, and by faxing on or before March 19, 2021, to The Hunterdon Democrat, The Star Ledger, The Trenton Times, The Courier News, The Express Times, and TAPInto newspapers designated by the Hunterdon County Agriculture Development Board to receive such notices, and by filing with the Hunterdon County Clerk.."*

### **Pledge of Allegiance:**

**Roll Call:** Absent – Forest Locandro, Gerry Lyness and Marc Phillips

### **Right To Farm Matters:**

- SSAMP Hearing -
  - **Beneduce Vineyards (Alexandria Block 21 Lot 41.31)** – County Counsel, Aaron Culton asked the board for a MOTION to re-open the Public Hearing on Beneduce Vineyards. Liz Schmid made a MOTION to re-open the hearing, Bob Hoffman SECONDED. All in FAVOR by voice vote.

- County Counsel Aaron Culton stated that after discussion, with all parties, it was determined that testimony concerning Planning Activities that are part of the application would be heard and entertained. At this point he turned the hearing over to Nicole Voigt, attorney for Beneduce Vineyards.
- County Counsel requested that anyone giving testimony be sworn in. Ms. Voigt requested that he state that proper notice has been carried. County Counsel stated that yes, this notice has been carried, this matter was previously noticed and has been carried since the October hearing, and at subsequent CADB meetings. Ms. Voigt introduced Michael Beneduce, who is already sworn in, and Professional Planner Ms. Kenyon, who needs to be sworn in. County Counsel swore Ms. Kenyon in. County Counsel explained that the idea this evening is for Ms. Kenyon to give testimony, then Ms. Dragan, attorney for Alexandria, can cross-examine, and the Board members can ask questions. After which the Board will hear from Mr. Banisch, representing Alexandria Twp. and Ms. Voigt may cross-examine him and the Board can ask him any questions. That was going to be the limit of the testimony, but because this has been carried so many times, and there are members of the public on this call and have been on previous meetings, they are going to allow members of the public to put their position of the application on the record, with the understanding that this hearing will not be closed or voted on this evening and will be carried to another meeting. Ms. Voigt and Ms. Dragan agreed if the public knew the hearing was not going to be closed or voted on tonight.
- Ms. Voigt stated that she wanted to get Ms. Kenyon qualified as a witness. She asked Ms. Kenyon to discuss her license and the experience that she has. Ms. Kenyon stated that she has a degree in Environmental Planning and Design from Rutgers University. It was Cook Collage but is now the School of Environmental and Biological Sciences. Minor in Urban Design and Site Planning from The Bloustein School of Planning and Public Policy. Following her education, she worked for the NJ Water Supply Authority doing Wastewater Management and Environmental Planning, started working on Farmland Management Planning and Stewardship. She worked there for almost 2 years, then went on to Somerset County Planning Division, where she worked as a Land Use Planner and County Agriculture Development Board (CADB) Administrator for 12 years. During her time there she ran all the CADB meetings, prepared all the Right to Farm cases, did Land Development Review for the 5 northern towns in Somerset County, including Transportation review, effects on County water facilities. Spent most of her time on Farmland Preservation and Right to Farm matters. Testified before the Office of Administrative Law, and SADC. Continued to do Farmland Preservation and Management and Stewardship work for Franklin Twp. and Branchburg Twp. in Somerset County. Also working with Montgomery Twp. Farmland Preservation Planning under the State's guidelines for Municipal Comprehensive Farmland Preservation. Has worked with a lot of CADB Administrators across the state, reviewing legislation, policy proposals, helping landowners preserve their land, looking for best management practices, inspecting properties and preparing and advising on Right to Farm matters for the bulk of her career. Left Somerset County in 2018 and has been working as a Land Use Planning Consultant. Licensed in the State of New Jersey, accredited by the American Institute of Certified Planners, Executive Board Member for the New Jersey Chapter of the American Planning Association, Executive Board Member of the North Jersey Resource Conservation and Development Council.
- Ms. Voigt asked if the Board accepts Ms. Kenyon as an Expert in Professional Planning as well as Right to Farm. County Counsel asked Ms. Dragan if she had any questions or any

- objection to the Board admitting her as an expert in her field. No. County Counsel stated that Ms. Kenyon is admitted as an expert and may proceed with her testimony.
- Ms. Voigt stated as directed by the application and public notice, this is an application for a Site-Specific Agricultural Management Practice (SSAMP) pertaining to live background music during public and private events as well as having 3<sup>rd</sup> party food truck vendors and caterers ancillary to those private and public events and to declare that Beneduce is not the caterer, but the patrons purchase food via truck, caterer, or bring a picnic and those public and private events include music nights. Ms. Voigt asked if Ms. Kenyon has visited the facility and is familiar with the tasting room, the Oasis, the outdoor patio and lawn area and the permanent parking area and temporary parking area that were previously described? Yes. You have personally reviewed these facilities and the reports from the township engineer and planner, as well as reports, plans and application submissions from Beneduce traffic engineer, site plan and septic engineer and noise engineer? Yes. Do the proposed marketing activities, events and facilities comply with the On Farm Direct Marketing Facilities Activities and Events Agricultural Management Practice? Yes. You issued a report on this matter, submitted as application Exhibit F. Ms. Voigt asks that it be marked as an exhibit in case the Board members wish to refer to it during the testimony. Ms. Voigt asked what number the next exhibit would be, Bob answered B25. Ms. Voigt stated during Mr. Beneduce previous testimony he testified that the vineyard does not police the reasons why his patrons attend private events, that vineyard does not offer event planning services. For example, he testified that a group could schedule a wine tasting and arrive at a picnic that includes a birthday cake without Beneduce having any awareness or involvement in that birthday occasion. Ms. Voigt asked Ms. Kenyon in her opinion, under that circumstance, does that does that wine tasting event still comply with the Marketing Agricultural Management Practice? Yes. Ms. Voigt asked Ms. Kenyon to walk them through the Marketing Agricultural Management Practice and her opinion in this matter.
  - Ms. Kenyon stated we heard a lot of testimony last time about the property, she wants to go over the zoning first and then will lead into the On Farm Direct Marketing – AMP. The property is bisected by the Agricultural/Residential Zone on the northern part of the property. In that zone it is a 10-acre minimum lot size. Under the current zoning, agriculture/horticulture and agricultural sales/farm stands are principal permitted uses in the Agricultural/Residential District. The southern part of the property is located in the Airport Business District. That also allows agriculture/horticulture, agricultural sales/farm stands as principal permitted uses. It also allows recreational facilities, private clubs, catering, outdoor storage, and garden supply storage are just some of the examples of the public and private uses that are permitted in this zone. With restaurants being a conditional use.
  - *Exhibit B26 (Application Exhibit F4) - Beneduce Vineyards – Zoning map.* Ms. Kenyon stated that it is a zoning map of the property.
  - *Exhibit B27 (Application Exhibit F5) – Beneduce Vineyards – Zoning map.* Ms. Kenyon stated that it is a zoning map overlaid with an aerial of the vineyard. The Airport District, southern part, is where the On Farm Direct Marking facilities are located. On the Northern part of the property you can see where the Agricultural District is where the agricultural production on the property is located. It is a well thought out property that adheres to the zoning, and how the farm is in production in the agricultural zone and the facilities are located in the Airport Business District. Ms. Voigt then went on to describe the property.
  - *Exhibit B28 (Application Exhibit G1) – Improvement Plan Prepared by Parker Engineering.* It is a site plan of the property, it shows where the buildings and permanent

- parking are located and where the seasonal parking is located, where the patio and lawn area are, where the wine tasting room and Oasis are. Basically, all the On Farm Direct Marketing Facilities and parking are shown. Ms. Voigt then pointed out what everything on the site plan is. I.e.: Tasting room, wine production etc.
- Ms. Kenyon stated that you can see there was a lot of thoughtful planning and design that went into the operation and the functioning of the property so that the production and the sale area are located in the Airport Business Zone and the main part of the operation is located in the Agricultural Zone. The On-Farm Direct Marketing (OFDM) Activities, Events and Facilities that are on the property and being used are following the On-Farm Direct Marketing Agricultural Management Practice (OFDM-AMP). They are agricultural which is a permitted use in both zones. Beneduce Vineyard relies on its OFDM as its most effective method for the sale of their agricultural wine products. Wine is sold direct to the customers on the farm. The wine is from the grapes that are grown on the farm, wine is produced on the farm, people can be educated on how grapes are grown, how they are harvested, and how wine is produced and stored. People can taste a variety of wines and buy it there. That is the main function of the events and activities, to bring consumers in so they can purchase the products. 83% of the gross revenue is derived solely from the sale of wine.
  - *Exhibit B29 (Application Exhibit B2)- Affidavit* - Ms. Voigt stated for the record that they did submit the Affidavit of Michael Beneduce, it was submitted to provide financial documentation in furtherance in meeting Marketing AMP Standards.
  - Ms. Kenyon stated that at the last meeting Mr. Beneduce went into a lot of detail, this part is to make everyone understand that the main agricultural product is the wine and that these events are key in bringing people to the property to buy the agricultural product and to market it further. It is a very typical agricultural process across wineries, but also across a variety of agriculture across New Jersey and across the country.
  - The OFDM-AMP has the intension of allowing patrons to come on the site and enjoy the farm experience while supporting the agricultural operation. The practices on the vineyard are well used and very effective. They bring people on the farm to learn and enjoy the agricultural product and the ambiance while promoting current and future sales of wine. Ms. Kenyon said she is familiar with the application and has review previous testimony, has reviewed reports in detail, has been to the farm and in her professional opinion everything being used on the vineyard for OFDM, that includes the facilities, events and activities are entirely consistent with the OFDM-AMP and therefore protected by the Right to Farm act.
  - When talking about hosting events, the facilities that are being used are the Tasting Room, Oasis, patio, and lawn area. All events occur in the farm setting, there are tours offered along with the wine tasting and educational opportunities. Educational opportunities are outlined in the OFDM-AMP and wine tasting is listed as an education component. Mr. Beneduce offers complimentary tours for patrons to better understand the operation. The wine tasting allows for patrons to sample many different wines. That is the primary marketing of the wine sold on the property and thereby provide the bulk of the income for the agricultural operation. Entertainment is also outlined in the OFDM-AMP as a protected activity. One of the examples given is live or recorded background music, picnicking and storytelling without limitation. Ms. Voigt as if those were examples that are in the regulations? Yes. The most well-known example of the Beneduce Vineyard entertainment marketing is Music Night. It is a public activity occurring in the evening, typically on one weekend night. Music Night can occur in the indoors in the Oasis or outdoors in the lawn

- or patio area, these outdoor activities are seasonal, they occur between April 1<sup>st</sup> to October 31<sup>st</sup>. weather permitting. Ms. Voigt stated that Mr. Beneduce testified the difference in capacity for indoor and outdoor events, she asked Ms. Kenyon if she was preparing along with the Traffic Engineer data an Event Management Plan. Yes. Please talk about where the Event Management Plan comes from and what it does.
- Ms. Kenyon said she has been working with Traffic Engineer, Gary Dean, on the Event Management Plan. The requirements for the Events Management Plan are outlined in the OFDM-AMP in Section “N,” it gives an outline of what the Music Nights will entail. The Traffic Management Plan will be attached to the Event Management Plan. You will be able to see the Ingress and Egress, the parking, where pedestrian access is. It gives you an idea of the circulation and movement around the property, it is very safe and efficient. It will also talk about Emergency Access, Sanitary Facilities and Noise. A lot of different topics are discussed in the Event Management Plan. They are still preparing it. Ms. Voigt stated that the OFDM-AMP allows them to prepare and Event Management Plan for events that are going to be larger than typical. A farmer can voluntarily do one if they are interested in holding such an event. Mr. Beneduce is going to submit one as good measure and good practice because they do occasionally have the larger attended events. Right in the OFDM-AMP it sets forth the topics of consideration and is prepared by the farmer and submitted to the Clerk of the Municipality. The regulation allows them, for example, to use Portable Toilets for the larger crowd, and it allows them to put thought into the traffic flow and such. Gary Dean has already submitted a Traffic Management Plan, but Ms. Kenyon brought up the difference between indoor and outdoor events, Ms. Voigt thought it was worth noting that the most popular events were the Music Nights that occur on Saturday nights and for those he going to be submitting annually to the Township the Event Management Plan.
  - The tables in the Patio area are set up in a circular way to promote conversation. The premium setting is furthest from the music. The live background music is used to create an ambiance where people want to spend time. Ms. Voigt reintroduced an Exhibit from the previous meeting, that shows and overview of seating of the patio area and parking lot.
  - Ms. Kenyon stated that as she has stated before, she has reviewed the OFDM-AMP in detail, all of these activities and events that she has discussed, there is a clear relationship between the sale of the farm product and these events and activities, being the sole use of marketing for the agricultural product. With respect to the vineyard, 100% of the wine sales are direct to the consumer. The entertainment enhances that experience and sales increase. Ms. Voigt noted that in the OFDM-AMP, it states that entertainment based marketing, is designed to attract consumers to the farm, that the entertainment enhances the experience of purchasing the wine, that it increases the direct sale of the wine. Ms. Kenyon continued with an example, if a farm were to host a band and generate a majority of its income through ticket sales from that band, with the sale of the farm products being secondary, that is a commercial venue, there is not adequate marketing of the farm products, that is not considered farm marketing or protected under the OFDM-AMP. Where Beneduce is different is that the agricultural product of wine is the primary reason people are there. Under the OFDM-AMP any event fees should be de minimis to the agricultural income of the property. The combined revenue from event fees is about 13% of Beneduce gross revenue and none of its net revenue. That shows that the fees are minimal as stated in the OFDM-AMP. Ms. Voigt wanted to re-state that Mr. Beneduce has already testified that it’s 13% of his gross, it’s none of his net because the expenses that go into having a musical act perform as well as to hire the traffic directors and that the measures he needs to take to run that event, that offsets itself so he’s not making any gross profits off the entertainment,

- it's just bringing in consumers to buy the wine to drink and buy wine to take home. Mr. Beneduce said that the cover charges are to offset the cost of managing the event and also as a way to control the size of the crowd by having pre-sale tickets, that allows them to set a limit on the number of people at the event. They now have an on-line reservation system that makes it much safer for everyone. They moved to reservation only because of COVID. They plan on continuing that procedure post-COVID.
- Ms. Kenyon continued, Beneduce makes no income from the food truck, picnicking is one of the examples that's given OFDM-AMP as an allowable recreational activity. The food truck offers patrons an option if they want to purchase food, they also could bring food with them and they could buy food from local caterers and vendors. Ms. Voigt said the OFDM-AMP protected by Right to Farm, divides the activities into 3 categories, Ms. Voigt asked Ms. Kenyon to describe what those are. Recreational, Educational and Entertainment. Educational would be Vineyard Tours, Recreational would be picnicking, Entertainment would be live background music. Another example of the primary purpose of attending these events and activities is the purchase of their wine, is that for any private event, 75% of the attendee's must be of legal age. To host an event, it must be centered around that this is a farm that produces wine.
  - Private Wine Tasting is an activity protected under the OFDM-AMP. Allowing people to gather for the purpose of selling wine, show that this is not an event planning thing, it's to have an event at a functional farm that is producing this acceptable agricultural product.
  - Ms. Kenyon mentioned again that she has visited the site, has evaluated the professional reports, civil reports, noise reports, reports from the traffic engineer as well as all the planning and engineering reports from the municipality, the OFDM-AMP includes specific site standards which apply to marketing events and activities. Upon review of the OFDM-AMP in conjunction with the reports and site visits, Beneduce complies with the standard.
  - Ms. Kenyon then described each of the standards of the OFDM-AMP.
  - Section B: Facilities – The three facilities are the Tasting Room, Oasis and Patio/Lawn area. Under the OFDM-AMP existing or new buildings can be used as OFDM-AMP facilities for the promotion and sale of agricultural products. The buildings on the site are being used for the purpose of selling wine. They comply with the requirements.
  - Section C: Hours of Operation – OFDM-AMP states that “activities may be held on weekdays, weekends, holidays, seasonally, for part of the year or year-round. Events may be offered on weekends, weekdays, holidays, seasonally, or for part of the year. Hours of operation for all activities and events, will be held between 6:00AM and 10:00PM.” Beneduce complies, music nights are held between 5:00PM and 9:00PM, the live background music plays from 6:00PM to 9:00PM. If there were to be a longer time needed that would be addressed in the Event Management Plan. Ms. Voigt said that Beneduce has no need for that. Right now, we are looking at the 9:00PM which is well below the 10:00PM range that is allowable. In the OFDM-AMP it does allow for the occasional extension to 11:00PM
  - Section D: Lighting – Lighting in the walkways, parking area, sales areas and must be provided at the bare minimum for consumer safety. Lighting needs to be pointed downward to avoid spillage over to neighboring properties. Any temporary lighting has to be removed within 30 days; all lighting must be turned off within 30 minutes of the close of the event. Beneduce complies with this. They provide adequate lighting for the safety of patrons. One area of notice is where Beneduce is located is right next to Sky Manor Airport which is lit 24 hrs. a day, 7 days a week.

- Section E: Sanitary Facilities – The number of sanitary facilities provided must be sufficient to accommodate, without long queues, the volume of visitors expected. Handwashing/sanitizing facilities must be provided, sanitary facilities are located and cleaned on a schedule as not to cause odor or a nuisance. Beneduce complies. Upon review of Steve Parkers report, the requirements of the septic system have been satisfied. In terms of not causing long queues, Beneduce Vineyards has many bathrooms that are available to the public, there are 12 permanent bathroom stalls in the Tasting Room, for Music Night Beneduce will rent portable sanitary facilities to ensure compliance. These portable sanitary facilities are properly maintained and cleaned regularly. They also include handwashing/sanitation as required by the OFDM-AMP and they are removed once they are no longer needed. Because of COVID 4 new hand sanitizing stations have been installed around the property.
- Section F: Additional Patron Safety Measures – Visitors must be provided with the rules of activities and events on the property through handouts or signage. Hazardous materials must be stored safely and in compliance with federal, state, and local laws. Beneduce complies, they do not store hazard materials on the property, the rules of activities are conveyed to patrons through multiple signage, verbal direction from the staff. During Music Nights Beneduce hires private security companies to achieve safe transportation in and out of the vineyard.
- Section G: Signage – A commercial farm may use permanent and temporary signs to promote its OFDM facilities, activities, and events. They shall not interfere with sight distances and public safety. Directional and advance signage are allowed. The primary sign for the property must be set back 10ft. from the paved road, portion of the right-of-way and cannot exceed 32sqft in size and cannot be 15ft or higher from the ground. Beneduce complies, the main sign is located at the entrance to the property and does not interfere with sight distance or public safety. The main sign satisfies the sign requirements. There are no other plans for permanent signage at this point.
- Section H: Parking – Ms. Voigt said that this was already addressed by Gary Dean, the marking practice does include sight standards and Ms. Kenyon has reviewed Gary Dean’s report and agrees that Beneduce is compliant in terms of parking. Ms. Voigt asked Ms. Kenyon to briefly touch on areas that are temporarily devoted to parking. Ms. Kenyon stated under the OFDM-AMP there are standards set for areas that are permanently devoted to parking vs areas that are temporarily devoted to parking. Temporary parking is for overflow when capacities for activities and events on a short-term basis exceed the permanent parking area. For temporary/overflow parking the minimum improvements for safety need to be implemented for that area. The goal is the area should be able to be returned to agriculture easily. Ms. Voigt stated that is the meaning of temporary, the topsoil remains intact. One example is that all seasonal parking must be temporary but not all temporary parking must be seasonal. Ms. Kenyon said the permanent parking already on the property is paved, as was pointed out on the improvement plan.
- Section I- Screening and Buffering – Buffers need not involve greater than the minimum set back to protect public health and safety and/or mitigate inverse impact on the neighboring. Beneduce exceeds this requirement. The events and activities are held 300ft. from the nearest occupied residence that is not on the farm. They are 270ft. from Jeremiah Lane, evergreen screening was planted along the boundaries that are adjacent to residential properties.
- Section J: Outdoor Sales Area - Outdoor sales area must be arranged, to not interfere with safe pedestrian and vehicular traffic circulation. This was discussed by Gary Dean in the

- Traffic Management Plan and is going to be attached to the Event Management Plan. Beneduce complies.
- Section K – Use of Structures or Improvements for Activities and Events – The use of existing or new facilities by be used for allowable OFDM activities and events provided they do not interfere with the continued or future agricultural use of the facility. Beneduce complies. The Tasting Room was specifically built with the parking area for the tasting of wine grown and produced on the site as well as to educate about the process of winemaking. The Oasis is a converted hoop house and does not have a permanent foundation. The patio area houses patio furniture and grass area.
  - Section L: Negligible Impact – The use of existing and new facilities may be used for activities and events provided they don't interfere with the continued or future use of the agricultural operation. Beneduce complies. Mr. Beneduce has put a lot of thought and effort into where he has placed his operation and his facilities.
  - Section M: Standards for Activities and Events – There are specific standards for specific operations. Beneduce meets the standards for income requirements, use of the agricultural land and showing the relationship between sales and activities and events.
  - Section N: Event Management Plan – Refers to emergency vehicle access, emergency vehicles must be able to access the property, the width of the driveway must be sufficient, a Traffic Management Plan must be produced, which is all there. The width of the driveway is 22ft, which is identical in width to Jeremiah Lane. Ms. Voigt said there is a traffic circulation plan in place for the larger attended Music Nights. The municipality requested that the traffic pattern be one way because those roads are narrower, that was agreed to by Mr. Beneduce and is in the Traffic Management Plan. The property is exempt from any ordinance for paved roads for farm access. There is going to be some paving in the apron area in response to the Township's request.
  - Sound. Ms. Voigt said there is a report in the application which is sound measurements by Jack Zybur, would typically put in all that technical testimony before the Planner testifies, she wanted to note that it is in the application and ask that it be marked has the next Exhibit which is B30. Ms. Kenyon reviewed the report prepared by Mr. Zybur dated November 7, 2019. He did an inspection of the property on October 5<sup>th</sup> and October 26<sup>th</sup> of the property he performed his sound analysis from a variety of different areas, they were all along the border of the residential property which is the correct methodology. On October 5<sup>th</sup> he worked between 5 and 9 pm and took samples, same with October 26<sup>th</sup> he took samples between 6:30 and 7 pm. Based on his findings, the noise limitation in New Jersey is 65 decibels, none of the reading ever went above 65 decibels on either day at any of the locations. There has never been an excess of the noise standard, which Mr. Beneduce is exempt from because he is farm which is exempt from the noise standard. He has hired noise experts and has never exceed those limits. Ms. Voigt said that agriculture is exempt from compliance with the state noise standard, it raises questions, does that also apply the OFDM-AMP? There is in the rulemaking a comment by the SADC that is replied to that specifically confirms that agricultural marketing activities and events including entertainment are exempt from the state noise standards. Mr. Beneduce testified he wants to be a good neighbor and does not want to exceed state standards, he has through Mr. Zybur a benchmark on the property where he can use a meter. He has a meter he's used for years, a staff member is dedicated to controlling the band and the amplification, Mr. Zybur recommended a fancier meter and they are able to go to that benchmark to confirm that readings at that point are beneath a certain level and to know that all the property lines are in compliance. Mr. Beneduce has voluntarily agreed to comply with state standards.



- The next section is trash and recycle receptacles, there are 24 marked receptacles, pick-ups are scheduled regularly. Mr. Beneduce complies. The last part of the Event Management Plan is the training of staff. Mr. Beneduce provides training for his staff. They are trained in CPR, TIPS training, which is training for intervention procedures, which is hosted by a 3<sup>rd</sup> party. They understand what to do in an emergency. That is all outlined in the Event Management Plan. Ms. Voigt asked if the TIPS training pertains specifically to the service of alcohol. Yes.
- Ms. Kenyon wants to give examples of what has been done in other counties.
- *Natali Vineyards, in Cape May County* – Cape May County heard this request in 2009. Their activities and events that they were proposing are identical to what Mr. Beneduce does. The background music, food vendors paired with the production wines, local artisans where the primary purpose is the consumption or sale of the agricultural product. That went before the Cape May County CADB 2009 prior to the OFDM-AMP being passed. All activities, events and facilities were approved.
- *Summit City Farm in Gloucester County* – They went before the Gloucester County CADB in 2015 after the OFDM-AMP was passed in 2013. They had a similar request about expanding the vineyard, expanding the OFDM activities. The Gloucester County CADB went through the OFDM-AMP in detail, they found that everything being proposed, complied. It included live background music, food trucks, expansion, use of existing and new facilities. It was approved in 2015.
- In Somerset County in 2015 *The Maiden Farmer* obtained a Site-Specific Agricultural Management Practice (SSAMP) they were doing a proposed CSA, farm to table, camps for kids, live music. The CADB approved the OFDM facilities, activities, and events.
- *Old York Cellars East Amwell Township* – In 2009, before the OFDM-AMP was passed, they wanted to host public wine tasting in a Tasting Room, private wine tasting by appointment, and promotional and marketing activities. The CADB found that they complied with the zoning except at the time there was nothing to really allow for this. In this case, the CADB reviewed, site plans, architectural drawings, elevations. This was a preserved farm, the CADB did approve and forwarded the plans to Planning for an expedited review and the CADB reviewed the rest and approved.
- *Demari Farm Bergen County* - In 2006 they wanted a driveway expansion that went to the county road, Bergen County CADB was able to perform the site plan review and they were able to look at the required number of handicap spaces which are required, the rest of the parking was left to the minimum needed for public health and safety.
- Ms. Voigt stated that Ms. Kenyon has reviewed the OFDM activity, event and facility marketing plan, included the use standard which includes the proportionality that the majority of the income is from the sale of wine, that you can have both public and private events, including entertainment, education and recreation, and that Beneduce Vineyards meets all of those standards in term of the use category? Yes. The AMP allows approval for facilities for which that is done, you have reviewed the reports and facilities and it is your opinion that Beneduce Vineyard Facilities are approvable under the SSAMP as complying with the marketing AMP? Yes. Ms. Voigt concluded her presentation.
- County Counsel ask Ms. Dragan if she had any questions. Ms. Dragon stated that she has a couple questions.
- Ms. Dragan asked Ms. Kenyon/Mr. Beneduce if people must take a tour before they see a live music event or a special event there? Mr. Beneduce said no, tours are optional, they are not mandated by the state, but they do offer them as a complementary addition if they want to learn more about the agricultural side of wine production.

- Would you be able to sell wine without the music events? Mr. Beneduce said they would be able to sell wine, but a lot less of it. Not sure they would be able to keep the business if they couldn't sell all the wine direct to consumer, they are a small producer so they need to bring the people in to sell the wine that is produced on the property.
- How are you able to consistently enforce the noise, you stated that you check the meters, but how does the Township or anyone else know you are complying? He stated the Township has never provided evidence that they have ever exceeded the state noise limits. They have voluntarily had their own sound meters and have voluntarily hired a third-party sound technician that is at all of the events that controls the master volume. Not sure what else he can do to assuage the Township that they are following the noise ordinances. Ms. Kenyon added they are exempt from the noise ordinances. Ms. Dragan stated she understood, but he says he is going to monitor himself so what's the point, if you don't really have to answer to the Township and you're self-monitoring, unless someone files a complaint. Ms. Voigt stated that that's how it would work for facilities that are compliant, there are commercial businesses that exist all over NJ and they aren't required to police themselves and provide voluntary submissions to anyone regarding certain state standards. Furthermore, the Township recently promulgated an unrelated but similar special events ordinance, that the only provision is that they self-monitor. Mr. Beneduce is going above and beyond the regulatory scheme that she's seen anywhere except in the Township's own ordinances. Ms. Dragan said they don't have a noise ordinance. Mr. Beneduce stated that he knew that because he's contacted the Township.
- Ms. Voigt wanted to point out that the idea of offering a tour comes from the brewery setting where tours are mandatory, it is not mandatory for wineries. Another point is that this is a marketing practice, it says in the regulation at the top, marketing through entertainment, education and recreation, so to ask if you could sell wine without the music, the idea is that this is marketing. Beneduce Vineyards sells enough wine to be a viable business, because it's marketing pursuant to this AMP, to ask a business owner if they could not market in a very effective way, raises issues which is outside the scope of what's intended by this AMP.
- County Counsel asked if any Board members had any questions for Ms. Kenyon. There were none.
- County Counsel turned the hearing over to Ms. Dragon, Attorney for Alexandria Township. Ms. Dragan introduced herself and Mr. David Banisch Township Planner, Michele Bobrowski, Township Administrator/Clerk, Chris Pfefferle, Township Committee member. Today will only be discussing the Planning aspects.
- She has previously submitted letters to the Board with respect this application in October of 2019, as an exhibit to that they had a Deed to the property with restrictions that are on it as a preserved farm. Submitted another letter dated March 4, 2020, two reports from the Township Engineer dated February 25<sup>th</sup> and March 10<sup>th</sup>, Township Planners report dated April 5<sup>th</sup> and a copy of private events online information for Beneduce Vineyards on March 30<sup>th</sup>. Submitted those on August 24<sup>th</sup>.
- The Townships position is that there are certain activities that are being conducted that do not seem to fit the most current legal decisions that they've seen from the SADC on this issue, specifically the Erikson case which was decided in 2017, the Hopewell Valley Vineyards case in 2011 there is also Morris County CADB Boxwood Farms matter 2017 that they believe is very much on point. Specifically a lot of events and activities have been requested for approval under the OFDM-AMP or SSAMP, we feel the Special Occasion Events whether public or private, and public Music Nights being conducted by the vineyard

do not fit the RTF, they do not believe they are ancillary events that are accessory to the sale of the farms wine. The township believes the issue is more than just about proportionality of income from ticket sales in relation to the sales of wine, the Planner will expand on that. The SADC has cautioned on several opinions that at some point these activities and events may cross the line, meaning the non-agricultural activities tail cannot wag the on-farm activities dog. In other words, it can't be the event or entertainment that people are coming for, it must be the agricultural farm product. If people are coming because they want to see a movie, hear a concert, go to a birthday party or a shower, it's not an activity that is protected by RTF and the Board has no jurisdiction to approve it, instead it's a commercial use that must be heard at the township level. Ms. Dragan turned the hearing over to David Banisch.

- County Counsel swore in Mr. Banisch.
- Ms. Dragan asked Mr. Banisch to please give his background to be qualified as a professional expert. Mr. Banisch stated that he is a Licensed Consulting Planner in New Jersey, he has been licensed since 2000. He received his license by examination, at the same time he received admittance into the American Institute of Certified Planners both of those examinations were given by the Board of Professional Planners at the time. Since then, he has been a Consulting Planner for 10 municipalities in New Jersey, he is currently in good standing with all his licenses. He Plans on a wide range of issues for his client municipalities including some Farmland Preservation Planning, community development work, Land Use Board work, with emphasis on Planning and Zoning Board work, also Affordable Housing. Has been appointed by Superior Court as a Special Master in Affordable Housing for the Village of Ridgewood in Mansfield Twp. in Burlington County. Ms. Dragan asked the Board if there were any objections to Mr. Banisch' qualifications. County Counsel asked Ms. Voigt if she had any questions or objections. No.
- Ms. Dragan asked Mr. Banisch if he reviewed the applicants SSAMP or for their approval of activities under the state's OFDM-AMP? Yes. Are you familiar with the state's AMP for retail farm marketing practices under the OFDMP and definitions that are provided there? Yes. Are you familiar with the property and the Beneduce Vineyard site? Yes. Would you offer your opinion based on the report that you prepared for the site? Yes. Mr. Banisch has a visual report prepared, asked Chairman Bond and County Counsel if that was ok? Yes. County Counsel asked that it be labeled and Exhibit. Ms. Voigt asked that this be clarified if it was submitted in advance of the hearing as part of the record. Ms. Dragan said it wasn't, but Mr. Banisch can send her the presentation electronically after it's over. This presentation will be marked as Exhibit T3.
- *Exhibit T3 Mr. Banisch' Report.* Beneduce Vineyards Application is requesting CADB approval of a "Site Specific Agricultural Management Practice (SSAMP) determination that wine tastings, wine sales, vineyard tours, and indoor and outdoor public and private events with an educational component, wine tasting and vineyard tours, which at times feature live background music and third-party food truck vendors and/or caterers, are on-farm direct marketing events which are either permitted under NJ Right to Farm Act (RTF) as an AMP pursuant to N.J.A.C.2:76-2A.13 or are permitted under the NJ RTF as SSAMP pursuant to N.J.A.C.2:76.2.1.
- The Beneduce farm is not a preserved farm under the SADC or CADB or a non-profit Farmland Preservation Program. The farm was created as a by-product of a residential subdivision with a homeowner's association. Residential lots are clustered on one side of the tract adjacent to the remainder 51-acre Beneduce Farm with deed restriction. In this respect, this farm is different from a Preserved Farm or a commercial farm with no farming

and agricultural use deed restrictions. The property may be used for farming and agricultural purposes, inconsistent with the following covenants and restrictions, All activities on the property shall be in conformance with the laws of the municipality, county and state governments as they pertain to the property in question. Covenants and restrictions shall run for the benefit of the Township of Alexandria and/or its designee and the HOA are hereby given the right to enforce these covenants and restrictions as the law allows.

- The property was created with deed restrictions for farming and agricultural purposes that are enforceable by the municipality and the residents of the adjoining neighborhood HOA. This is a unique property perhaps distinguishing it from other commercial farms and wineries.
- The private and public events and live music activities for which an SSAMP determination approval is sought are not permitted under the AMP for OFDM facilities, activities, and events AMP N.J.A.C.2:76-2A.13. Municipal zoning does not permit the commercial events and activities for which the applicant seeks CADB approval. Township's view is CADB should not interfere with the Township's right to enforce the laws of the municipality, because the private and public events and music activities the Township objects do not appear to be RTF protected according to SADC's rules and rulings.
- Mr. Banisch states he will explain as he goes through the comments. The township opposes SSAMP determination on the basis that the proposed private and public events and live music events exceed the intent and parameters for RTF protected AMP enumerated in the rule. The CADB should not grant the requested SSAMP because the scope, nature and intensity of the applicant's on-farm Special Events exceed the parameters of the AMP for RTF protected farm activities. The CADB would exceed its authority by granting an approval for the requested SSAMP determination.
- Mr. Banisch would like to briefly go over definitions.
- AMP for OFDM Facilities, "Ancillary entertainment-based activities "means non-agricultural offerings, commonly used as incidental components of OFDM activities, that are accessory to and serve to increase, the direct-market sales. Such activities are designed to attract customers by enhancing the experience of purchasing products. Examples of ancillary entertainment-based activities include, but are not limited to, background live or recorded music, face painting, storytelling, sandbox area, small swing set or playground equipment, pedal carts for children, and picnic tables. Such activities may have a fee associated with them, but such fees shall be de minimis compared to the income generated from the sale of the agricultural output of the commercial farm.
- AMP for OFDM Events, agriculture-related function offered by a commercial farm that is accessory, designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products, may include on-farm direct marketing activities, product based or farm based, and occur seasonally or periodically. Product-based events demonstrate the required relationship to marketing the output of the commercial farm, may include, but are not limited to, apple, peach, strawberry, pumpkin, wine or other agricultural or horticultural product festival held at a commercial farm that produces that particular product.
- Three decisions on the RTF cases of similar nature to the Beneduce proposed private and public events request may be instructive to the CADB in considering this application.
  - *Twp. of Clinton vs. Eriksson*: This is about weddings. SADC decision is, currently, only the preserved farm winery law provides statutory authority permitting the holding of weddings on a farm as commercial endeavor, the privilege granted in

- the statute is limited to a 44-month pilot period. The law was enacted after the Governor's conditional veto message unambiguously stated that such events are not entitled to RTFA protection.
- The 2<sup>nd</sup> decision that they think has some bearing in that we think it may be instructional to the CADB in considering this request.
    - *Hopewell Valley Vineyards*: SADC decision, although it appears to be commonly accepted that hosting weddings, birthday parties and other “celebratory life events”, corporate retreats, business luncheons, charity and fundraising events, and similar special events are an effective marketing tool at wineries, the fact remains that these are services, not the agricultural output or the methods by which such output is sought to protect under the current version of the RTFA. Included within this category is catering or catered events in which food is brought to the winery by a third party to serve larger-group assemblies or events like, in this case, the vintner's dinner. The special events described above and hosted there are not subordinate and accessory to consumption of the farm's agricultural output. Put simply, attendees are present for the event itself, not the wine.
  - The 3<sup>rd</sup> decision.
    - *Boxwood Farm Morris County*: While regulations do not specifically address weddings, the SADC addressed “celebratory life events” such as weddings, graduations, birthdays, and anniversaries at 46N.J.R. 600 as follows. This site is the adopted rule, the rule includes responses to comments on the rule. This was April 7, 2014 after the Hopewell Valley decision. There is a comment in the rule. ‘Most “celebratory” events would not meet the definition of OFDM events at N.J.A.C.2:76-2A.13(b) in the AMP, and the SADC previously ruled that not every marketing tool employed to attract customers to a winery, including “celebratory” event, is protected by the RTFA. In the matter of Hopewell Valley Vineyards, Hopewell Twp. Mercer County, SADC ID No. 786 (Hearing Officer's Findings and Recommendations of the State Agricultural Development Committee, March 24, 2011.) Which I read a portion of a moment ago. While it is conceivable that an event such as weddings could be protected as a type of retail marketing provided that an overwhelming majority of the food and beverages served were produced from the output of the farm, the SADC believes that protecting such uses would require promulgation of a separate AMP to address the conditions under which RTF protection could be available.’ What this seems to be saying is RTF protection is not available for celebratory events.
  - Beneduce Vineyards requests approval for indoor and outdoor public and private events with an educational component, wine tasting and vineyard tours, which at times feature live background music and third-party food truck vendors and/or caterers. Here Mr. Banisch refers to Beneduce Vineyards Website. Click “events” pulldown menu, click “Private Events” listing available venues and advertised services. Under Private Events it says. “Host your next private event. We can accommodate any type of event, an engagement party, wedding, shower, corporate meeting, birthday, or other affair. It has a picture that gives an example from the “Events” webpage. Still under the “Private Events” menu, it describes the spaces.
  - The Loft (10-20 guests) Perfect for small showers, friendly gatherings, and birthday parties. A roll down projector screen is also available for corporate meetings.
  - The Oasis (21-150) guests. Why travel when you can host an event right here in Hunterdon County? Perfect for a unique private event. Cost includes a Basic Wine Tasting for each

- person, Table and Chair setup, etched Logo Glasses, and site Rental. Minors under 21 years old are \$20/person. Please note the following: purchase of ½ bottle of wine per person is required for all private events. If you do not pay for a minimum of 100 guests, there may be another party booked on the other side of the Oasis at the same time.
- Still under “Private Events” Food/Extras We work exclusively with a select list of quality caterers, any type of event from a small birthday party to an elegant wedding. Please contact these vendors directly for food pricing and options. If you plan to add decorations that are not done by the caterer, decorations attached to our fixtures or plans must be approved by Beneduce Vineyards First.
  - Ms. Dragan asked in the Airport Business Zone, where Mr. Beneduce says he conducts these activities, is this type of catering permitted? Yes, a form of it is, but not on-site catering, it’s catering for takeout. So, in other words the caterer doesn’t come to the venue in this zone? Yes. It’s catering to go out? Yes.
  - Reading the decisions from the CADB’s and SADC and the rules. His conclusion is that Private and Public Events are not permitted as a protected AMP, as per Hopewell Valley decision, which says, although it appears to be commonly accepted that hosting weddings, birthday parties and other “celebratory life events:, corporate retreats, business luncheons, charity and fundraising events, and similar special events are an effective marketing tool at wineries, the fact remains that these are services, not agricultural output or the methods by which such output is sought to protect under the current version of the RTFA. Included within this category is catering or catered events in which food is brought to the winery by a third party to serve group assemblies or events. The Township’s objections to the CADB approving Beneduce application for SSAMP approval are:
    1. The nature and extent of activities conducted on site are inconsistent with the provisions of the AMP and extend beyond the nature, scope, scale, intensity, and context of the activities protected under the AMP, and are therefore rightly land use matters that should be the jurisdiction of the Township’s Land Use Board.
    2. Live amplified music events are Outdoor Music Concerts, and not protected under RFT.
    3. The uses conducted on Site are not permitted in local zoning and will require a Use Variance and Site Plan approval in accordance with the Municipal Land Use Law.
    4. It is the Township position the neighborhood should not be subject to outdoor music concerts and impacts, including noise, light, and traffic without municipal approvals.
    5. The music concerts are not seasonal or occasional, as per the provision in the rule, they are conducted every weekend during 3 seasons a year.
  - Citing the definition of “Ancillary entertainment-based activities” These are incidental components accessory to direct-market sales, and include, but are not limited to, background live or recorded music, face painting, story-telling, sandbox area, small swing set or playground equipment, pedal carts for children, and picnic tables and of course may have a fee associated with them. Would like to call the CADB attention to examples that are provided in the rule for illustrative purposes. It tells a story of what the SADC was thinking. The activities are all very low intensity and modest in their nature, scope, scale, & intensity. They are not the types of activities that would generate objectionable levels of traffic, noise, light, and hours of operation in a residential area – as is the case in the Beneduce live situation. The modifier “background” before “live and recorded” suggests the music is of minimal significance behind, in this case, wine tasting and sales. The music is not supposed to be the main event.

- Mr. Banisch has some additional websites he'd like to present in keeping with the Township view. On the SADC's website under "SADC Recently Adopted Rules" they have a Webinar follow-up that you can click on, it's a clarification in response to questions, dated 06/21/13, this was when they were promulgating the rule and giving webinars and people were attending. During the webinar they get to all the questions. Brian Smith from the SADC responded to the questions that came in. He said the agency deems entertainment on a commercial farm to be a purely background event, not the primary activity, even though some ag related products are sold. For OFDM, RTF protection cannot be provided if the nonagricultural activity tail is wagging the OFDM agricultural production dog. In effect, what Mr. Smith is saying is that the nonagricultural activity, live outdoor music in this case, can't be the main reason for attendance, for the live concerts, attendees are present for the event itself, not the wine, which is evidenced in the Beneduce Website.
- If you go to the Beneduce website, click on "Events" and then "Group Therapy – Live Music", listing available music events. It says "Group Therapy + Sunday Picnics, now limited to guest 18 and older. Adults of a non-drinking age 18-20 years old are permitted to attend." 18-year olds can attend the concert, but not drink. On the same page it lists Live Music + Food Trucks Schedule, it lists the dates, performers and what food trucks will be there. Nowhere on the "Group Therapy – Live Music" page is there a reference to wine tasting, wine flights, wine purchases or wine of any kind – just live music events. On the same page "Group Therapy" you are asked if you would like to make a reservation. "Our outdoor seating sections include: The Lawn, The Crush Pad and The Stone Patio" underneath is a picture of each area. Again there is no reference to wine tasting, wine flights, wine purchases or wine of any kind – just live music events conducted every weekend April through October, collecting a cover charge, offering reservations for preferred seating and should not be considered background music by the CADB.
- Specific Rule and SADC guidance is also instructive to your consideration into this matter. As mentioned earlier, at 46 N.J.R. 600 adopted rule on April 7, 2014 the following response to comments regarding special events was provided. Most "celebratory" events would not meet the definition of OFDM events in the rule and the SADC previously ruled that not every marketing tool employed to attract customers to a winery, including a "celebratory" event, is protected by the RTFA. Just a moment ago I went through that clarification in response to questions from Mr. Smith. "The agency deems entertainment on a commercial farm to be purely "background" event, not the primary activity, even though some ag related products are sold. For OFDM, RTF protection cannot be provided if the nonagricultural activity "tail" is wagging the on-farm agricultural production "dog".
- As town planner, I went to the site on October 12, 2019, which I visited between approximately 8:20 pm and 9:30 pm at which time an outdoor live-music concert was in progress on site. I observed the concert from the rear yard property lines of residential properties on Jeremiah Lane and Weston Drive that directly adjoin the Beneduce farm. Approximately 1,200' from the concert venue. The music was performed by a band with amplified music. The lead singer's interactions with the crowd are clearly audible and loud; the band and the crowd were interactive with cheering and applause. It was my very clear impression that the musical performance could not be characterized as background live music, rather it was a live-music rock & roll concert including popular standards and loud audible cheering and applause from the crowd after each musical number was played. It was clear to me that the crowds' focus and repeated applause and cheering was for the live-music concert, not the wine tasting or wine sales. The concert music played until 9 pm and

- was cut off sharply after the last musical number in which the lead singer invited members of the public to join him and participate in singing. In closing remarks to the crowd, the lead singer used profanity, for which he apologized-all of which was clearly audible at the residential property line where I stood that was approximately 1,250' from the outdoor stage and outdoor crowd.
- The winery outdoor music activity areas include a patio, lawn, stage, food trucks and parking areas that are plainly visible to the homes in the adjoining residential subdivision and Jeremiah Lane off-site. The property slopes down through a depression across the topography from the neighborhood to the Beneduce site and the topography seems to effectively carry the noise and vibration of sound from music and the noise from the crowd applauding and cheering to the adjoining residential neighborhood. Spotlights mounted for area lighting at the winery and the resulting glare are visible to the residential neighborhood and adjoining neighbors even though there are evergreen buffer plantings near the Beneduce property line. Site lighting appears to be capable of being shielded to direct light downward to blunt a direct view of light sources and associated glare to the neighbors and other off-site areas.
  - Based on my observations, I conclude, and it is my opinion that the outdoor live-music concert venue is a more intense musical experience that is intended in the definition of ancillary entertainment based activities of OFDM, and cannot be defined as “background music”. The music concert was not ancillary (i.e. subordinate and/or subsidiary) to the commercial output of the farm. The music concert was not an incidental component of the OFDM. The music concert was not accessory to direct market sales – it was the main event. Based on the size of the crowd, the number of similar concerts held from April until October, it does not seem that the fees charged would be de minimis compared to the agricultural output of the commercial farm.
  - This activity should not receive the protections of RTF and approval from the CADB as OFDM Facilities, Activities and Events AMP. Due to the nature, scale and intensity and the fact the events are focused by the customers coming there to begin with.
  - Back to SADC’s Hopewell Valley Vineyards decision. The SADC offered Mercer County some very specific recommendations. Based on the evidence submitted at the hearing and the above discussion, and provided HVV complies with relevant state laws and regulations and does not pose a direct threat to public health and safety, the SADC recommends to the MCADB that the following components of HVV’s winery operation constitute generally acceptable agricultural practices. Produce, processing and packaging HVV’s grapes and wine; wine drinking, sampling or tasting; winery tours and wine education classes; Garden State Wine Growers Association “Wine Trail” days; the operation of a farm market, provided buildings and parking areas are constructed in conformance with municipal standards; the sale of HVV’s wine and wine-related products; the offering of, for sale or gratis, cheese, crackers, olives, cold cuts and personal pizza as a supplement to the on-site consumption of HVV’s wine; music, provided it is subordinate and accessory to the on-site consumption of HVV’s wine. Their venue is described as an indoor venue with a piano, not amplified outdoor music as it is with Beneduce.
  - The SADC recommends to the MCADB that the following components of HVV’s winery operation do not constitute generally acceptable agricultural practices. The hosting of weddings and other “celebratory life events” such as, but not limited to, birthday parties, bridal and baby showers, class reunions and alumni group meetings; the hosting of corporate retreats, business luncheons, community organization meetings, and the like; Vintner’s dinner; fund raisers and charity events; any other activities or events involving



entertainment that is not subordinate to the sale and/or consumption of HVV's wine. The committee has the authority, pursuant to law and rule making process, to add any such operations or practices to the list of protected agricultural activities. This was 2011 and when they did engage in the rulemaking process and published the rule along with the comments in 2014, they chose not to make any of these protected activities under the RTFA.

- Mr. Banisch stated he attended a CADB meeting here not long ago and Susan Payne came and was talking about the Pilot Program for Winery Special Occasion Events (SOE), the SADC prepared a final report to the Governor and the Legislature and they identified recommendations for possible changes to the law to permit Special Events on preserved farms with or without an exception area. Keep in mind, this has to do with the pilot program with wineries and preserved farms. They've had a few years to collect data, these are their recommendations based on what they found.
- Noise; state noise codes will likely be insufficient to prevent noise complaints from occurring depending on the proximity of the SOE to surrounding, particularly residential, land uses and due to the typically low ambient noise level that exists in rural areas. What they are finding is the state standard is insufficient and they are recommending to the Governor and Legislature that they need to come up with a noise standard that is lower.
- Continuing with their recommendations, future legislative initiatives should consider that potential negative impacts, such as compaction and disturbance of farm soils, increased erosion, removal of land from agricultural production on surrounding land use and neighborhoods so as to not unduly burden neighbors and host communities with negative off-site impacts such as noise, traffic, public intoxication, property trespass and safety.
- First is to limit the number of SOE events that would be considered "large" events- events bringing in more than 250 people at day. The SADC suggests that for farms qualified to hold 15 events per year, a maximum of 2 of those events could be "large" events, and for farms holding up to 26 events per year, there be a maximum of 6 "large" events. It appears that the Beneduce events are large events. They happen at a frequency much greater than the SADC is recommending to the Governor and Legislature. The would be the larger farm, they would be able to hold up to 26 events. But they are talking about preserved farms with or without exception areas.
- Second, because large events have the greatest potential for negative impacts, the legislature may want to require that any large events received a specific municipal review to ensure public safety issues are adequately addressed and negative impacts are minimized. The SADC recognizes noise as an issue in their recommendations to the Governor and Legislature. The State noise codes will likely be insufficient to prevent noise complaints from occurring depending on the proximity of the SOE to surrounding, particularly residential, land uses and due to the typically low ambient noise level that exists in rural areas. The applicant presents a noise report and argues noise generated is below State allowable limits and is therefore legal; however, no approvals of any kind have been obtained for the noise generating use. Self-policing of noise should not be approved for an activity that is not permitted under the AMP. Based on specific guidance the SADC provided in their decision that have come before them, that these activities are not permitted under AMP. Self-policing noise is not good policy for activities generating significant crowd sizes for approximately for 24 to 28 weekends a year. Noise enforcement is difficult, it requires constant monitoring. How to police noise? Reduce the number of events per year, SADC identifies a cap of 6 per year, this will reduce the negative impact to the neighbors. In matters like this, it is difficult to come forward and make an objection.

- Alexandria Township is not Anti-Farm. Alexandria Twp. encourages commercial enterprises to be successful and has adopted a local ordinance to accommodate special events in the township. That was funded by the County because the County understood that Alexandria Twp. was trying to do was create opportunity.
- The Township objects to this commercial operation seeking RTF protections for commercial private and public events and outdoor concerts, including the use of a temporary building, and access and parking improvements without securing local zoning approvals. The Township objects to the applicant claiming an entitlement to this commercial active under the banner of RTF for activities that are not consistent with the permitted events and activities that the AMP provides for as OFDM Facilities, Activities and Events AMP.
- Alexandria Township's Special Events Ordinance – Prepared using Hunterdon County Grant Funding to encourage Ag-related events without requiring potentially costly site plan approvals. Ordinance facilitates property owners' economically beneficial use of farmland and other lands.
- Chapter 150 Special Events License. To establish a municipal License process to permit occasional commercial, Agri-tourism and farm-related special events that are not otherwise permitted by Ordinance or do not conform to the SADC AMP for OFDM Facilities, Activities and Events. The Township recognizes that residents and landowners may wish to supplement personal or farm income by conducting a special event on land they own. At the same time, protect the public health, safety and general welfare, and respect residents' entitlement and reasonable expectations to undisturbed use and enjoyment of their residential property without potential nuisances from non-residential land uses, traffic, noise, lights, and crowds of people. That license process is outside of the municipal land use law. The license can be obtained directly from the governing body, that's because the governing body recognized the municipal land use process, in this case a variance and site plan approval. Those can be costly. This process was devised to make this accommodation. The accommodation is to permit occasional commercial, agri-tourism and farm-related special events that are not otherwise permitted.
- In conclusion Mr. Banisch believes that the Private and Public Events and Group Therapy live concerts are not protected under the RTF activities under the AMP. The Special Occasion and live music concerts should be determined by Alexandria Township under the Special Events Ordinance or variance for the use, it should not be determined by the CADB based on SADC guidance identifying permitted direct marketing activities. If CADB determines activities are covered by RTF, the Township seeks a limitation on the number of events, consistent with SADC recommendations for Preserved Farms. Mr. Banisch concluded his presentation.
- Ms. Dragan asked if there were any questions.
- County Counsel turned the hearing over to Ms. Voigt. Ms. Voigt stated that Mr. Banisch referred to the Pilot Program for wineries on Preserved farms. She would like him to confirm that that is different than farms working under the OFDM-AMP. Yes, that is different. It applies to preserved farms, correct? Yes, it does. It is not a marketing practice that includes entertainment, education, and recreational activities, it's specifically to allow weddings or SOE events? Yes. Ms. Voigt said that Mr. Beneduce does not allow weddings anymore, they haven't taken it down because this has been going on for 2 years, but they have not hosted a wedding since 2019 and don't plan on hosting weddings at all. Ms. Voigt stated that Beneduce is not looking have approval for hosting weddings on its farm via this SSAMP, it is looking to have its marketing activities approved.

- This is not a preserved farm. The deed restrictions are a result of the cluster subdivision? Mr. Banisch stated it is a modified cluster, he thinks they called it a Conservation Subdivision at the time.
- Are you familiar with the requirement, under the municipal land use law, that agricultural areas that are carved out in terms of meeting cluster standards must currently be approved by the SADC, any conditions that apply to them? He is not directly aware of that; he is somewhat familiar with the fact that was happening. But doesn't think it predates the creation of this subdivision. The municipal land use law provides that agricultural lands that are carved out in part of a cluster plan must be afforded the rights that are allowed under the RTF Act. Mr. Banisch stated that it doesn't look like these activities are protected under the RTF Act.
- If they are protected under the RTF Act or do meet the standards of the OFDM-AMP, then they would be able to continue? Including with respect to the deed and the subdivision. In terms of that deed restriction, in the resolution included with the municipalities exhibit brief, there is a resolution pertaining to the Alexandria Twp. Board of Adjustment in which someone had come back to the township to ask for an interpretation, the Board of Adjustment noted with respect to the deed restriction which is a 100ft agricultural buffer around the edge, that it cannot interpret the deed of restriction and the deed of declaration by reason of the fact that there is no jurisdiction under the municipal land use law to allow said release. The municipality has previously determined that it does not have jurisdiction rising out of the deed restriction that Mr. Banisch quoted. Mr. Banisch replied that he read that and did not understand that decision, it didn't make sense to him because interpretation is not relief in the strictest sense and was simply not clear what the question was that was being asked or what question was being deferred because the board believed it had no jurisdiction. He could not draw a clear conclusion from that resolution.
- Ms. Voigt brought up the Eriksson case that Mr. Banisch mentioned that was specifically about weddings. Mr. Beneduce is not asking to host weddings, so she doesn't think that pertains to this matter. Would you agree? He agrees that it was about weddings, but it is consistent with the SADC guidance and rules as to special events and special events are clearly being conducted at Beneduce Vineyards. There are many events listed on his website that are available to the public that do not appear to be RTF protected.
- In terms of the Hopewell Valley decision that Mr. Banisch quoted, what was the basis for the activities being denied, specifically the decision that the SADC acknowledged the usefulness of life celebratory events, not a claim that Beneduce is doing life celebratory events, SADC noted that the proportionality test must be met. The specifically found in the case of HVV, that proportionality test was not met. They failed to provide any meaningful evidence of meeting proportionality test. Its distinguishable because in this case Mr. Beneduce has provided testimony regarding his income. Do you agree that the income he has provided details on meets the proportionality test? Mr. Banisch answered that he didn't know, would have to have an auditor look at the accounting. He also doesn't think the proportionality test is the only test, he thinks it has very much to do with whether the focus of the event is the event itself or whether it is ancillary as a marketing device. Ms. Voigt stated that that is not the language that is in the AMP, it specifically includes standard of what must be proportional and what must be increased and what must be accomplished through the marketing event. It is a marketing event that results in the sale of wine. That is the proportionality and scale test, not whether the marketing is too successful so that a lot of people are interested in going to the event. Mr. Banisch said that he understands she wants to frame all this as marketing, but that is not how the SADC framed it. They framed it as

- services. They framed these events as services. Ms. Voigt said the rules have been shot down are because they are services, the word “Marketing” is in the title of the regulation we are discussing, OFDM facilities, events, and activities AMP.
- Mr. Banisch has mentioned auditing, Ms. Voigt wanted to mention AR117 there was a concurrent resolution of the auditing requirements of the pilot program were too onerous and sent the SADC back to the drawing board. Auditing has been deemed unacceptable for a preserved winery that’s not engaging in OFDM activities and events she doesn’t think it would be appropriate for one that is.
  - In respect to catering and restaurants, restaurants are a conditional use in this zone? Mr. Banisch stated he would have to check the zoning, it was in his memo, he is sure he cited it that way. They have reviewed it and restaurants are a conditional use, and they believe Mr. Beneduce meets all the conditions of the restaurant use.
  - What is the difference between a venue or private event that would qualify under the OFDM-AMP, the reason she asks is if the winery is not offering any services but is offering private wine tasting and that wine tasting is popular among people and they bring gifts and balloons, at what point does it go from a wine tasting to a special occasion event if the winery itself has no involvement in offering any services for that event that are any different from an event where there is no occasion going on. Mr. Beneduce testified he isn’t aware when someone is coming for a special reason. How do you monitor that? Mr. Banisch stated if it’s an event that’s a corporate event or fits any of those other special event descriptions the SADC says it’s not permitted. Mr. Beneduce stated that all those events have wine tasting. Ms. Voigt said it’s one thing if it’s a corporate meet when they are going over annual reports it’s another thing if a business decides to go to the farm in order enjoy the recreational entertainment and educational components under the OFDM-AMP. This is a big issue in New Jersey, some farms go over the line, in HVV they didn’t meet the proportionality test, Boxwood Farms they didn’t meet the proportionality test and some predate the OFDM-AMP but if the farm is offering these private wine tasting with the educational and recreational components, if the group that comes is all from the same business or family or group of friend, that doesn’t make it a special occasion event. With the information provided by Mr. Banisch, he disagrees with her, those events with a theme and are not permitted. Ms. Voigt asked if a private event is permitted? Mr. Banisch answered, you need to distinguish between permitted and protected, which is what they did in the decision. They said you can do that. Alexandria Township is not saying you can go on and do that stuff. What the SADC is saying is that stuff is not protected. We need a separate rule to provide for that. They said it in 2011 and before they adopted the rule in 2014, they had the opportunity to change the rule then, but they didn’t. They did not expressly permit those activities and events. Ms. Voigt disagrees, the distinction was that services were being offered. There are no event services being offered in the OFDM-AMP, so they had nothing to fix. Beneduce Vineyards testified they don’t offer any of those kinds of services. She asked Mr. Banisch asked what services is he claiming Mr. Beneduce has provided? Mr. Banisch responded; he didn’t claim any.
  - Ms. Voigt asked, private events would be permitted if those services are not provided? Mr. Banish stated that if they are having a private wine tasting, that is permitted, but if they are having a private wine tasting and booked it as a birthday party, that is not permitted. But picnicking is allowed? Yes. People that attend a private event can bring their own food? I don’t know. He can’t give an interpretation on that, all he can say is special occasion events are not permitted, and the live music goes well beyond the scope of background music.
  - Ms. Voigt said that Mr. Banisch referred Beneduce website and said there was no mention of wine tasting. Mr. Banisch said to look for yourself. Ms. Voigt is showing a page of the

website and would like it entered as the next Exhibit B31, in rebuttal. The page is On-premise Consumption and Wine Tasting. Ms. Voigt asked if every page of the website reference wine or can the whole website be taken in totality? Mr. Banisch is referring the Group Therapy page and stated that you would not know about wine tasting on that page. Ms. Voigt said that it is part of a website that has information on the vineyard, the point is all these things need to be taken in context. The pilot program is about preserved farms that are not engaged in farm marketing, meeting the proportionality test under the OFDM-AMP, the website is part of an entire website that does make references to wine, HVV was denied because they didn't meet the proportionality test.

- Ms. Voigt asked, when Mr. Banisch visited the vineyard was the arrangement like the slide she is showing, which is Exhibit B3? Yes. When you went to the property line, it was the evening? Yes. You could hear the crowd interacting with the band? Yes. Could you see them? Yes, I could see and hear them. Do you know what proportion of the attendee were enjoying the music, engaging in conversation, were picnicking and were in the tasting room? No. So the issue is you heard them enjoying the music? There was a large crowd in front of the bandstand, there was a lot of noise. Ms. Voigt stated, the marketing AMP is not regulating attention spans, it's entertainment. Mr. Banisch said if people are going for the just the event then that's not a permitted activity. Ms. Voigt commented that the proportionality test and the Marketing are not about "attention spans". Mr. Banisch said he doesn't think that comes into play once you fail that other test. Where in the regulations does it state that? He doesn't know if it is.
- In terms of the light being visible, was the light from the airport also visible? He did not notice any glare from the airport. Are you aware the lights from the airport are on 24/7, they never get turned off? He heard that in testimony and remembers there being some light when he drove around to that side of the site. He viewed the site mostly from the residential area adjoining the site. His focus was what impact is this having on the residential area.
- Ms. Voigt commented that Alexandria Township now has a Special Events license that it has passed as an ordinance. Who approves the Special Events Licenses? The governing body does. It's not the Land Use Board? It's the three Township Committee members? Yes. That is conditioned on that license can be revoked at any time at the discretion of the committee if they decide that it's a nuisance? There are two different events, minor events and major events. Some permits can be issued for minor events by the clerk. The license for the major events is issued by the governing body, and there is a list of conditions attached to it. It would have to be performed in the manner in which it was presented to the governing body. Those would be conditions. They would be attached to the license approval. If the activity or event is not being performed as described, the governing body can revoke the license. Ms. Voigt is looking specifically at that if it's deemed a nuisance it can be revoked at any time. Mr. Banisch stated that that's the point. The reason there is a nuisance factor, is if you come in and say you are going to do something, then do what you said and don't do something else. Ms. Voigt said that if they decide it's a nuisance that can be subjective.
- Mr. Banisch stated that Alexandria Township has gone a long way in helping Mr. Beneduce get through the process without having to deal with the land use board. Ms. Voigt said she appreciates for the people for whom it helps, it has a lot of restraints in terms of quantity. The point is that it says in the ordinance that it is for farms that do not qualify for Marketing AMP, and it is not a marketing tool to the business that has invested in relying on the OFDM-AMP, and has designed it's activities and events to comply with it. Has made substantial investments in the business to have production at the scale Beneduce Vineyards has all dependent on retail sales on the farm. That special events license is not adequate from a

- business point of view. This is an AMP. Mr. Banisch said he did point out in his comments that the Municipal Land Use Law procedures is also available to Mr. Beneduce. He could request a variance.
- Ms. Voigt stated that the OFDM-AMP permits the CADB to review the site plan, in fact Mr. Beneduce has gone over year long process of amending the plan, and providing testimony of a noise consultant, a traffic engineer, a professional planner, and a civil engineer for the purpose of working with the municipality and at this point has resolved concerns. It seems the entirety of the application could be approved by the CADB. Do you agree that the OFDM-AMP permits a CADB to approve a site plan? No, it doesn't have site plan approval, it can approve a plan but not a site plan. Ms. Voigt again said it is in the regulations that a CADB can approve a site plan. Mr. Banisch stated that he stands corrected. M. Voigt concluded her questioning of Mr. Banisch.
  - County Counsel asked Ms. Dragan if she had any questions.
  - Ms. Dragan asked Mr. Banisch to please clarify the cases he referred to in respect to weddings, did they also talk about special occasion events? Yes.
  - County Counsel asked if members of the Board had any questions.
  - Chairman Bond asked if the events are held in the airport zone not the ag zone? Ms. Voigt and Mr. Beneduce said yes. Chairman Bond asked how can we have an RTF in the Airport Zone? He agrees the advertising might be backwards and not supporting the farm product. Suggested to change wording on website. It's a difficult situation for the board to decide on, they shouldn't go against the SADC, you won't get anywhere, you'll just have appeal after appeal. It is going to take a lot of thought on the board members part to come up with a decision.
  - Board Member Christian Bench commented he gets to visit several farms with his job, has seen some taking advantage of the vineyard situation and there a lot of vineyards popping up across the New Jersey landscape, some try to skirt the rules on events and host weddings. He thinks it should go back to a case by case basis. Looking from the outside in, Mr. Beneduce is a solid agricultural producer, has the right management practice and produces an agricultural product, the farm is neat. He isn't a small producer and trying to skirt the rules. He applauds Mr. Beneduce, he is an excellent producer.
  - County Counsel stated that at this time the hearing will be carried until the next CADB meeting at which time they will be setting a new Special Meeting date, to continue the hearing and perhaps conclude it.
  - County Counsel opened the hearing for public comment.
  - Jeff Miller from Alexandria Twp. He is directly across from the vineyard on the corner of Jeremiah Lane and Shy Creek. Has comments and concerns about some of the testimony. They referred to a Home Owners Association (HOA), none of the homes that circumferences the vineyard are in an HOA. The HOA referenced is part of Shy Creek Rd. The properties that began being built in 1995 were part of Woodside Alexandria. One large portion of the land was identified as "Farmland Preserved" was L31.41, which is where Beneduce is now. With the vineyard taking over the property and doing proper design and land management, they take care of open space for the neighborhood. What they've done for the properties surrounding the vineyard is significant. It is a beautiful piece of property that enhances our property values. Concerning sound, all around the property, not Shy Creek, there is a significant tree line buffer. Only the properties on Weston, Jeremiah and 5 properties on Shy Creek that are impacted directly by sound. As noted by the plan they are close to Sky Manor Airport, the planes take off and land 24/7, so sound is not a matter for them. During this pandemic, he was fortunate enough to be able to work from home and can see across from

- the 2<sup>nd</sup> story window. 80% of the time people are working the farm, planting, pruning, setting up trellises. For most of the neighborhood it's been pleasant, they are great neighbors, exceptional landscapers and have really enhanced the neighborhood.
- Danielle Nicota from Alexandria Twp. She and her husband live on Shy Creek Estates. Bought their house in 2015, one of the reasons they chose to move there is because of Beneduce. Brings a charm and uniqueness to the neighborhood. Brings friends and family to the vineyard to enjoy a relaxing experience. Has attended and hosted events there and each time was wonderful. Aside from the wine and vineyard tour, the live music in the background gives it a nice atmosphere. Happy to support a local, family owned business. It is an asset to our community, brings tourism to Pittstown, also helps other local small business by offering food trucks as well as catering from local restaurants. They are responsible business owners and altering that would be devastating at this time of the pandemic. Having a place to go out to for the evening and have delicious wine, amazing live entertainment, and a breathtaking atmosphere, isn't something we should have to fight to keep. Please allow Beneduce to keep operating as he has been so people can keep traveling to Hunterdon County and enjoy this beautiful place as much as we do.
  - David DeFrage from Kingwood Twp. Owns Copper Creek Farm. Enjoys going to Beneduce Vineyards. Likes seeing someone else take and sculpt the land. His farm is a Nursery and likes that there is someone the operates a business like he does. Believes living in Hunterdon County is a pleasure and a luxury. This is what is going to make up our farms in the future. This is what is going to sustain the farming practices going forward. Need to allow and maybe change the rules, adjust the rules and work with the rules. We need to work with our Townships. He believes that Beneduce is doing his best to support the Township as best as he can and to work together. It is hard to run and operate a Micro-Farm like he does, his farm is 65 acres, he's limited as a first-generation farmer and it's very difficult. Likes to be able to go to Beneduce with his wife and relax, he goes there for that and to enjoy the grapes and the beauty of Hunterdon County. He invites people to come to his farm, he doesn't have music and other things but Beneduce does. We must come together and discuss what works for all of us and our farming practices and what's RTF. Hopefully we can come together and balance this out. We still have a lot of work to do but maintaining and keeping these practices going will sustain our economy and bring people to this county to spend money. We need to keep the farms in place instead of going to shopping malls and super centers. If it takes having a little bit of music so be it. It takes a lot of money to keep the place manicured, very costly to use approved sprays, and to stay organic. Please keep that in mind. Thanks the Beneduce Winery for doing such a clean operation.
  - Jim Robinson lives in Perlin NJ. He chairs the Hunterdon County Chamber of Commerce Economic Development Committee Advancing Hunterdon. The Chamber's office is in Flemington. Former President of New Jersey Planning Officials and sat on the County Fed Committee. Knows how important farms, agricultural businesses and tourism are to the state, county, and economy. The Chamber serves as an advocate for the business community in Hunterdon, those businesses include farms, wineries, and those involved with agricultural products and Agri-tourism. Speaking on behalf of the Chamber of Commerce in support of Beneduce Vineyards. Is sure the Board knows the economic impact of tourism and Agri-tourism here in Hunterdon. The county Economic Development Office and the County Commissioners understand the importance of the Agricultural industry to the county. Agricultural businesses such as Beneduce Vineyards are a vital part of the Agri-Tourism business that account for jobs and tax dollars. More than 35 million dollars annually. Stockton University study said that without tourism, Hunterdon County residents would

have to pay an additional \$750 annually to maintain the same level of governmental services provided by the taxes generated by tourism. Beneduce Vineyards and other vineyards are a regional destination and a tremendous asset to Hunterdon County. The agricultural business and their educational, recreational and entertainment facets stand out from all other counties in New Jersey. Beneduce, like others, offers a diverse wholesome educational and cultural experience that only Hunterdon County can provide. To make a local economy work, especially in these challenging times, we must capitalize on unique strengths that only Hunterdon offers and market them effectively. The wineries are not only for tourist, as heard tonight, the local population also enjoys natural assets like this farm. During this pandemic we have seen where the residents pull together to support local businesses. Hunterdon neighbors seek to experiences like Beneduce Vineyards provides because of its natural beauty and the taste of locally grown wine through their tastings or a special program they may be hosting. All this helps our local economy be strong and keep growing and support the farming community. The Beneduce family has done a lot to help support non-profits and charities that are important to our county especially in difficult times like this. Thanked the Board for their time and letting him speak on behalf of the locally owned and run businesses. Businesses like Beneduce is the backbone of a strong and vibrant local economy. The kind of economy we must all joining together to get us out of the economic slowdown and prosper to that farms and vineyards stay profitable as businesses.

- Sachin Resident of Shy Creek Rd. in Alexandria Twp. Neighbors the vineyard. They don't have an issue noise pollution. As a wine lover who has travelled the world visiting winery's, Beneduce wine is world class. It is putting New Jersey on the world wine map. The music, ambiance the overall well-maintained landscape only enhances the wine tasting experience. All around the world wine is only grown in beautiful places, Hunterdon County is one such beautiful place. The vineyard is also enhancing home values. He supports what Beneduce is doing and a little bit of music is not a disturbance to them.
- Ralph Franzese Resident of Shy Creek in Alexandria Twp. Wants to touch on the quality of the product. The wine is fabulous. Is proud to have them as neighbors and to be able to sample their wines. Feels things were taken out of context concerning the sound. The noise factor is not an issue with residents. Finds it disturbing that that is being brought up. Should be focusing on the quality of the product. It's not just an ordinary vineyard. It stands out from the many he has been to in New Jersey.
- Bob stated there was a comment submitted on-line. County Counsel stated that can be heard at the end of the hearing.
- Dennis Stack Resident of Shy Creek in Alexandria Twp. Music has been made a focal point, has been to the vineyard many times and feels the musician is not the focal. Every time he is there, he is there with friends and they can have a conversation at a table close to the musicians. He glances over occasionally he is not focused on them; he doesn't look to see who's performing, they go there to spend time with family and friends. Thinks they are running an exceptional business. Anything that ever became an issue, Mr. Beneduce rectified it. He reached out to neighbors. He has been exceptional. Right now, during the pandemic, everyone is saying to support local businesses, he is doing that by bringing in the food trucks. He finds it honorable of him to do that. Stated that the only thing he goes there is for the wine. It's a wonderful place to be and it will be a shame if they had to change any of their operating procedures.
- Chairman Bond stated we have a misunderstanding. We are not here to stop the winery. He's been there, is a great place. All they are here for is to see if he is supposed to operate under the RTFA. He shouldn't need it; the Township should be letting him do what he's doing



without the RTFA. There is restaurant there at the airport. He is in the airport zone; he feels there is no reason why he can't be doing what he's doing. But you don't need the RTFA. Our job was to try to give the RTFA protection so he could "hide" under the RTFA, which in the long run you don't need it. Let the Township get it straight with him. The two parties need to get together and work this out. You don't need the RTFA. Go to the Township meetings if they're the ones trying to stop you. You can do it without getting under the RTFA.

### **Adjournment**

- County Counsel asked for a MOTION for adjourn this to the next regular CADB meeting on April 8<sup>th</sup>. MOTION to adjourn made by John Perchinys, Liz Schmid SECONDED. All in favor, Meeting Adjourned at 11:00pm.