

Watershed Agricultural Council

Agriculture ♦ Forestry ♦ Conservation Easements ♦ Economic Viability

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Minutes of the WAC Easement Committee Meeting December 2, 2015

Members Present:

*Tom Hutson, Committee Chair
Dave Cammer
Bud Gladstone
John Verhoeven
Ken Heavey, NYC DEP

Others Present:

Ryan Naatz, Easement Program Director
Josh Gorman, Easement Program Acquisition Coordinator
Brandon Tennis, Easement Program Stewardship Coordinator
Billy Martin, Land Conservation Stewardship Specialist
Mike Federice, Land Conservation Stewardship Specialist
Gary Lamont, Land Conservation Specialist
MacKenzie Waro, Land Conservation Specialist
Suzie Seymour, Easement Program Executive Assistant
Sally Fairbairn, WAC Chair
Fred Huneke, WAC
Duncan Schmitt, NYC DEP

Public Attendees:

Kristan Janke Schneider, Delaware County Planning
Molly Oliver, Delaware Watershed Affairs

I. CALL TO ORDER

Meeting Called to Order at 10:12 am.

II. APPROVAL OF MINUTES

❖ **Motion to approve the Minutes of the November 4, 2015 public meeting of the Easement Committee.**

Motion: Dave Cammer

Second: John Verhoeven

****Motion Carried****

III. ADDITIONS/DELETIONS TO PUBLIC AGENDA

- Under Program Motions – Approval of the 2016 Monitoring Schedule
- Under Project Acquisition Motions for Ag CEs – PID # 6146 is changed to Approve an Offer Extension

- Under Project Acquisition Motions for Ag CEs – PID # 6192 is changed to Approve an Offer Extension
- Under Project Acquisition Motions for Forest CEs – the Applicant #s are: PID #6239, PID #6240, PID #6242, and PID #6241.

IV. PROGRAM MOTIONS

1. ♦ Motion to approve the proposed 2016 WAC Stewardship Routine Monitoring Schedule as submitted by Brandon Tennis, Stewardship Coordinator, on December 2, 2015.

Brandon presented the proposed 2016 AMV schedule to Committee while pointing out specific numbers such as: 160 conservation easements in current Stewardship portfolio, 161 scheduled AMVs that include two ground monitoring visits for the easement on Putnam County (Tilly Foster), and 10 anticipated closings listed on the schedule but not included in the total AMV numbers. Dave asked how the AMVs are divided among Staff and Ryan replied that the Steward Specialists each do approx. 40% and the Stewardship Coordinator picks up the remaining 20%. Duncan said DEP has found it helpful to do their aerial monitoring during the first two weeks of April.

Motion: John Verhoeven

Second: Dave Cammer

Motion Carried

V. DISCUSSION ITEMS

1. **Interpreting Conservation Easements** (Handout from Duncan Schmitt) – Duncan said the two sections he found particularly informative were:

- Top of Page 2- regarding interpretation of easements. We only interpret easements when ambiguity exists
- Last Page – Landowner Expectations. Our deeds specify what's acceptable and thereby puts our landowners and subsequent owners on notice.

Committee discussed how farming has changed over the years since WAC signed their first easements and that it's important to look at the purpose of the easement to allow flexibility due to changing use and conditions. The possibility of waivers may help to solve future problems.

2. **Section 26; CE "Waivers"**

Ryan is working with legal counsel to better define applicability and the appropriateness of exercising CE Waivers (Section 26), vs. formal amendment. He hopes to have an attorney opinion in January.

VI. STEWARDSHIP MOTIONS

1. Hanselman, Ernest A. (PID #6034) – FHP Request

❖ **Motion to approve the Forest Harvest Plan (FHP) applicable to the Ernest A. Hanselman Property (DEP ID # 6034), as described in the November 12th, 2015 Forest Harvest Plan from WAC Forester, Karl Vonberg, and further detailed in the November 12th, 2015 Memorandum to WAC Easement Committee from Land Conservation Stewardship Specialist, Mike Federice, valid until September 5th, 2016.**

[Mike Federice] Mike presented his memo dated November 12, 2015 along with the Forest Harvest Plan forms and maps.

Motion: John Verhoeven

Second: Bud Gladstone

****Motion Carried****

3. Schoenborn, Johannes Graf von (PID #6147) – FHP Request

❖ **Motion to approve the Forest Harvest Plan (FHP) on the Johannes Graf von Schoenborn Easement Property (DEP ID # 6147) as described in his October 27th, 2015 request letter and NYSDEC-approved 480a Forest Tax Law Management Plan, in accordance with the attached Forest Harvest Plan from WAC Forester Karl Vonberg, and further detailed in the November 20th, 2015 Memorandum to WAC Easement Committee from Stewardship Specialist Billy Martin, valid until August 31, 2017, contingent upon NYS DEC Stream Crossing Permit.**

[Billy Martin] Billy presented his memo dated November 20, 2015. On October 27th, 2015, Stewardship Staff received a written request from Johannes Graf von Schoenborn to approve a FHP for his easement property in the Town of Hamden. The majority of the proposed harvest will be conducted in Stands 1 & 2 which are primarily located on an adjacent uneased tax parcel, also owned by Johannes Graf von Schoenborn and part of the same 480a Forest Tax Law Management Plan, in the Town of Andes. However, as per the submitted FHP, there are three proposed landings and several skid trails that will be located on the easement property. In addition, Stand 5 is located entirely on the easement property, which is the area that would see the heaviest cutting on the easement property. The access skid trails to Stand 5 are existing and well-established, but are partially ditched on the uphill side of the trails, which is an area that will require increased monitoring for sedimentation and run-off. Also, the landing for the harvest in Stand 5 will be accessed by log trucks via an existing farm ford through Basin Clove Brook, pending a DEC Stream Crossing Permit. The small portion of Stand 1 at the northwestern extent of the easement property will be accessed from an uneased tax parcel to the north and contains approximately 3 acres of harvest area within the easement bounds. The landing for this section will be located along the northern easement boundary on the west side of Terry Clove

Road (actually on or off the easement property is yet to be determined). The landing for the harvest occurring on the eastern areas of Stand 1 and 2 will be accessed by log trucks via an existing permanent bridge that crosses Terry Clove Brook. Rod Jones is Mr. Schoenborn's consulting forester and will be putting this harvest out to bid by the end of the first week of December 2015. Once a logger is selected, Stewardship and Forestry Staff will be in contact to outline and enforce the terms and conditions of this proposed harvest and FHP. Duncan suggested omitting the red tax parcel lines on the maps to make them easier to read.

Motion: Duncan Schmitt

Second: John Verhoeven

****Motion Carried****

VII. STEWARDSHIP UPDATES

1. Kelly, Randall C. & Lucci M. (PID #6161) – FHP Status

[Billy Martin] On November 25th, 2015, Stewardship and Forestry Staff visited the Randall & Lucci Kelly easement property FHP area to inspect the conditions of the landings and skid trails associated with timber harvest occurring on an adjacent uneased tax parcel. The logger, Tom Davis, had done some cutting on the uneased tax parcel and had some logs piled on the eastern landing along Scudder Hill Road, but to date, has only utilized a short section (approximately 100 yards) of skid trail on the easement property. There is a small seep in this section of skid trail where a culvert that drains run-off from Scudder Hill Road has created an area where water could potential pool. Tom Davis had put corduroy down in this area, but Forestry Staff have advised him to do some additional ditching to keep the area well drained. At any rate, this wet section is far from any streams and has plenty of vegetative buffers in between to filter out any potential sedimentation. No significant water quality issues were observed.

2. W. B. Farms, LLC (Property #6061) - FHP Status/Closeout

[Billy Martin] On November 18th, 2015 Stewardship Staff received a final close-out letter from WAC Forest Karl VonBerg signifying WAC's satisfaction with the clean-up and BMP implementation on the W.B. Farms, LLC easement property. The Easement Program now considers this FHP closed and the landowners understand that they are required to request approval of a new FHP prior to any additional commercial forestry activities occurring on the easement property.

3. Workload Status - Routine Monitoring, Aerials, Notifications, Reserved Rights, BDRs

[Brandon Tennis]

- 18 fourth quarter AMVs complete (159/160 AMVs completed year to date).

- 1 more AMV needed to fulfill AMV deliverables for 2015; of which the last AMV is scheduled for next week.

Brandon thanked Billy and Mike for diligently working toward early completion.

Brandon thanked Troy for taking on an AMV workload to help Stewardship through its year-end transition.

- Aerial monitoring is complete for the 2015 year. All 157 properties were observed and over 153 were photographed.

Also, Brandon recognized:

- Billy for revolutionizing our GIS mapping system, allowing us to monitor using our GIS capabilities (which is something that we used to only be able to access from the desk computer)
- Mike, for increasing our GPS capabilities and developing an aerial guidebook of our easement Properties

It is because of these advancements in technology (coupled with our familiarity with our portfolio) that we have successfully monitored all Properties from the air within the calendar year.

Brandon added that it will take time to fully actualize and adapt this technology to the unique needs of the WAC Stewardship program, but he believes that the unseen and extensive amount of work it will take to do so will significantly advance the monitoring and documentation capabilities and success of the Stewardship program, and will most certainly secure the WAC Stewardship program in a position of innovation and leadership amongst all other land trusts.

- Completed the proposed 2016 WAC Stewardship Routine Monitoring Schedule
- Beginning the 4th Quarter Report to DEP

[Billy Martin] Throughout the past month, Billy has assisted with aerial monitoring, BDR photopoint updates, as well as preparing GIS-related mapping materials for the Forest CE applicant pool. He has also been working to increase Stewardship Staff's GIS technological capabilities through new online web applications that allow for improved imagery, usability and collection of GIS data in the field. Billy will be conducting the last AMV in his workload for 2015 in the coming weeks and will otherwise be working to move outstanding amendments towards completion.

[Mike Federice] Mike completed his last scheduled AMV for 2015 yesterday and has been working with Stewardship staff this week to finish completing aerial monitoring reports.

John asked if we would ever considering using drones. Craig said "no, due to the political climate of the watershed".

Before going into Executive Session Ryan acknowledged Brandon's resignation and thanked him for his contributions while working at WAC. Brandon informed

Committee that he has accepted a job as Director of Stewardship with the Lancaster County Conservancy (LCC), a conservation organization located in his home town.

Fred was granted the floor – he said WAC was given the task 15 years ago to create a Deed of CE for preservation of Open Space, Agricultural Lands and Water Quality. He added that we are the only organization that covers these three issues. There will always be challenges but our deed has room for flexibility. We have initiated a successful program and Fred is proud of the acreage that we have conserved. Tom H. added that it's critical to take time creating land plans to make sure they will accommodate changing needs and use activities. Duncan said DEP's easements shifted over in 2006 to be more similar to WAC's to be able to allow some flexibility.

VIII. EXECUTIVE SESSION

❖ Motion to go into Executive Session to discuss Project Acquisition Motions, Acquisition Updates, and Violations/Pending Litigation at 11:07 am.

Motion: Bud Gladstone

Second: Dave Cammer

****Motion Carried****

IX. PROJECT ACQUISITION MOTIONS

AG CE

1. Motion to Approve List of Eligible Applicants

❖ Motion to approve list of eligible applicants as presented on the spreadsheet titled "Complete Applicants Scored on December 2, 2015 and described in memo to Committee "Committee Approval of Eligible Applicants" dated December 2, 2015, submitted by Josh Gorman.

Motion: Bud Gladstone

Second: John Verhoeven

****Motion Carried****

2. Property #6233 - Motion to Approve Land Plan and Authorize Appraisal ❖ Motion to approve the land plan for PID #6233 on the Land Planning Map dated November 12, 2015 as presented, and authorize appraisal of an easement under the following scenario, with the understanding that both parcels will be in common ownership prior to signing the P&S contract.

The proposed easement consists of one ADA currently containing one residence, an old barn, a storage/equipment barn and a small storage shed. The other use areas are FA for consisting of hay fields

and some forest land, 4 areas of RPA adjacent to watercourses and FCEA. The proposal would allow no additional residences and no additional tax parcels.

Existing		Land Plan		Total
Tax parcels: 2	+	Subdivision: 0	=	Tax parcels: 2
Residences: 1	+	Residences: 0	=	Residences: 1
		ADA 1	=	ADA 1

Motion: Dave Cammer

Second: Ken Heavey

****Motion Carried****

3. Property #6223 - Motion to Approve the Appraisal and Authorize a Purchase Offer

❖ Motion to approve the appraisal for PID #6223 of 95.9 +/- acres and authorize a purchase offer for the full easement value of \$1,728.00 per acre, based on the September 28, 2015 appraisal by McGrath & Company, Inc.

Motion: Ken Heavey

Second: Dave Cammer

****Motion Carried****

4. Property #6219 - Motion to Approve the Appraisal and Authorize a Purchase Offer

❖ Motion to approve the appraisal for PID #6219 of +/-133.46 acres and authorize a purchase offer for the full easement value of \$2,029 per acre, based on the value established in the September 18, 2015 appraisal by McGrath and Company, Inc.

❖❖ As Amended: Motion to approve the appraisal for PID #6219 of +/-133.46 acres and authorize a purchase offer for the full easement value of \$2,030 per acre, based on the value established in the September 18, 2015 appraisal by McGrath and Company, Inc.

Motion: Dave Cammer

Second: Bud Gladstone

****Motion Carried****

5. Property #6146 - Motion to Extend Offer

❖ Motion to extend the appraisal offer (\$1,350/acre) for the conservation easement project for property #6146 for a period of two (2) months, with a new expiration date of March 3, 2016.

Motion: Bud Gladstone

Second: Dave Cammer

****Motion Carried****

6. Property #6192 – Motion to Extend Offer

❖ **Motion to extend the appraisal offer (\$1,750/acre) for the conservation easement project for property #6192 for a period of two (2) months, with a new expiration date of February 4, 2016.**

Motion: Bud Gladstone

Second: John Verhoeven

****Motion Carried****

7. Property #6205 – Approve Final Documents

❖ **Motion to approve the final easement, baseline documentation report, title insurance, survey, and environmental site assessment for PID # 6205 conservation easement project, contingent upon receiving COFA.**

As Amended:

❖ **Motion to approve the final easement, baseline documentation report, title insurance, survey, and environmental site assessment for PID # 6205 conservation easement project, contingent upon the subordination of a line of credit and receiving COFA.**

Motion: Ken Heavey

Second: Dave Cammer

****Motion Carried* ***

FOREST CE

8. ❖ Motions to Approve Forest CE Applicants

a. PID #6239

Motion: Dave Cammer

Second: John Verhoeven

****Motion Carried****

b. PID #6240

Motion: Dave Cammer

Second: Ken Heavey

****Motion Carried****

c. PID #6242

Motion: John Verhoeven

Second: Bud Gladstone

****Motion Carried****

d. PID #6241

Dave Cammer recused himself from the vote.

Motion: John Verhoeven

Second: Bud Gladstone

Nay Vote: Ken Heavey

****Motion Failed****

- X. ACQUISITION UPDATES - Discussed in Executive; No Motions**
1. Workload Status: Land Planning, Easement Offers, Properties in Contract, Closings

- XI. VIOLATIONS/PENDING LITIGATION - Discussed in Executive**
1. Property #6059
2. Property #6119
3. Property #6052
4. Property #6600

- XII. COMMITTEE REPORT - Tom Hutson**
Tom wished Brandon the best of luck.

- XIII. Meeting adjourned at 1:02 pm by common consent.**

Next meeting date: Wednesday, January 6, 2016 at 10:00 am in the Downstairs Conference Room at the WAC Office, Walton, NY.