

Watershed Agricultural Council

Agriculture ♦ Forestry ♦ Conservation Easements ♦ Economic Viability

33195 State Highway 10, Walton, New York 13856 phone: 607-865-7790 fax: 607-865-4932 nycwatershed.org



Minutes of the WAC Easement Committee Meeting November 4, 2015

Members Present:

*Tom Hutson, Committee Chair
Dave Cammer
Joyce Bishop
Bud Gladstone
John Verhoeven
Nancy Bower
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
Gary Lamont, Land Conservation Specialist
Troy Bookhout, Easement Program Conservation Planner
Suzie Seymour, Easement Program Executive Assistant
Sally Fairbairn, WAC Chair
Rob Birdsall, WAC Small Farms Coordinator
Duncan Schmitt, NYC DEP
Dave Tobias, NYC DEP

Public Attendees:

Kristan Janke Schneider, Delaware County Planning
Molly Oliver, Delaware Watershed Affairs
Jessica Patterson, Delaware County Soil & Water Conservation

I. CALL TO ORDER

Meeting Called to Order at 10:12 am.

II. APPROVAL OF MINUTES

♦**Motion to approve the Minutes of the October 7, 2015 public meeting of the Easement Committee.**

Motion: Bud Gladstone

Second: Dave Cammer

****Motion Carried****

III. ADDITIONS/DELETIONS TO PUBLIC AGENDA

None

Presentation: NYC DEP LAP Updates

Dave Tobias gave a Power Point presentation for the following programs:

- Land acquisition and stewardship within the Croton, Catskill and Delaware watershed systems – a status update for Fee Simple, CE and WAC CE projects.
- Riparian Buffer Acquisition Program – a 5-year program (through 2020) partnered with the Catskill Center for fee simple acquisition along streams and buffers in the Schoharie basin.
- Enhanced Land Trust Program – to pursue the acquisition of large properties with dwellings which would then be subdivided to sell the dwellings and then sell the vacant land to NYC. The new opt-in period starts in 2016.
- Flood Buy-out Programs – a Town opt-in only program to remove at-risk structures from flood zones
- Stream Management Program – a 5-10 year agreement with landowners

IV. PROGRAM MOTIONS

1. ❖Motion to Form the Ag CE Applicant Selection Guideline Working Group

Motion: Bud Gladstone

Second: Nancy Bower

****Motion Carried****

2. ❖Motion to Form the Forest CE Applicant Selection Guideline Working Group

Motion: Ken Heavey

Second: Dave Cammer

****Motion Carried****

3. Ag Buildings and Improvements >5000 sq ft Outside ADA – (Draft Guideline Revision) –Pending Discussion

V. DISCUSSION ITEMS

1. Ag Buildings and Improvements >5000 sq ft Outside ADA – Draft Guideline Revision (Tabled 10/7) – Further Discussion

Brandon reviewed changes submitted as the new draft of the Ag. Building Guideline in consideration of pervious soil-floor hoop houses. The additions made to the Deed definitions section of the Guideline has been removed to preserve the Deed language within the Guideline. Instead, an attempt at a clearer definition of a pervious soil-floor hoop house was included under section C in the addition of subsection 3. Brandon read that definition to Committee. Brandon also addressed questions/concerns of the previous draft in respects to size limitation (of which a size limitation is already nested in the Ag. Building guideline as 2% of the Farm Area allowance) and debris (of which the responsibility of declaring a violation of the waste clause of the Deed of CE remains with Committee). Brandon reminded Committee that the revision process of the Ag. Building Guideline was spurred by a current produce production (that relies on the use of multiple pervious soil-floor

hoop houses) on an eased farm that was planned as a beef farm, and that Stewardship Staff has fielded numerous reserved right requests over the past several years that resulted in an accumulation of work (i.e. three complete building inventories in the past three years). Bud asked if these Guidelines would apply to existing as well as future easements and Ryan replied they would be applicable to all easements. Duncan said DEP still has the same concerns as last month and they are not comfortable with the potential for large amounts of impervious surfaces where use could change without Committee approval. He suggested altering the criteria with Committee looking more favorably on requests that increase ag productivity. Ryan commended Brandon for attempting to reconcile edits and said he's looking for action to reach a more timely solution. Committee discussed the probability of seeing more and more of this type of request in the future. Ryan pointed out that with the current guidelines there is a 2 week – 2 month timeframe to process requests which may significantly delay EC action/approval. He's hoping to revise the guidelines simply to allow Staff to address this in a more timely fashion. Joyce asked Committee to keep in mind that farming in the area is evolving and farm viability is important to the landowner and the community. Duncan suggested a working group to discuss options/approaches toward a solution.

◆ **Motion to bring last month's motion off the table.**

Motion: Duncan Schmitt

Second: Bud Gladstone

Motion Carried

◆ **Motion to approve the language of the Ag Buildings and Improvements >5000 sq ft Outside ADA – Draft Guideline Revision – for 30 day comment**

Motion: Dave Cammer

Second: Nancy Bower

Nay Vote: Duncan Schmitt

Motion Denied

2. Forest Management Plan (FMP) Alternatives – (Tabled 10/7 – Further Discussion) – Duncan talked with DEP's attorney about paragraph 26 in the Deed of CE that would allow a waiver signed by Grantee and Grantor and asked if Bob Feller (WAC's attorney) feels this is a plausible solution. He added that it might be beneficial for Bob and Gail to talk. Ryan said he appreciated such considerations, but pointed out that it is EC's responsibility to provide direction to staff. He also noted that Bob Feller should be the only legal opinion for such matters and that even his opinion should only be used to help inform EC decisions.

◆ **Motion to send question to Bob Feller for his opinion regarding how the amendment/waiver paragraph may be applicable to waive FMPs.**

Motion: Duncan Schmitt

Second: Dave Cammer

Motion Carried

3. Pieper, Charles Leonard III & Angela (PID 6004) – Improvements/Use Area

Ryan said he's looking for further discussion regarding Pieper's potential driveway request. Committee discussed the fact that traffic already drives through the RPA to get to the farm stand so there would be no additional traffic if they were allowed to drive out through the RPA. Dave T. said the Deed has to be upheld to protect WAC's 503c status and we have to find a way to accommodate farming within the bounds of the Deed. John V. clarified that his Nay vote last month was to give Duncan time to confer with his team. Duncan suggested asking Bob Feller for the difference between farm operations and rural enterprises and asked if a waiver might be a solution.

4. Interpreting Conservation Easements (Handout from Duncan Schmitt) – will be discussed next month.

VI. STEWARDSHIP MOTIONS

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

◆ Motion to approve the Forest Harvest Plan (FHP) for logging roads and landings on the Randall C. & Lucci M. Kelly Easement Property (DEP ID # 6161), as described in the Forest Harvest Plan from WAC Forester Karl Vonberg, and further detailed in the October 20th, 2015 Memorandum to WAC Easement Committee from Stewardship Specialist Billy Martin, valid until August 30th, 2016.

[Billy Martin] Billy presented the Forest Harvest Plan forms and map that were handed out before today's meeting. On October 16th Stewardship and Forestry Staff met at the Randall and Lucci Kelly Easement Property to discuss the access system for a timber harvest occurring on an adjacent property. Randy Kelly also owns the adjacent property where the harvest will be occurring, however, three skid trails and two landings are proposed to be located on the easement property. Based on Section 11. Impervious Surfaces and Road Construction of the Deed of CE, Staff advised Mr. Kelly to request a FHP for the project. This proposed FHP will insure that any adverse skid trail and log landing impacts on the easement property related to the timber harvest on the adjacent property will be properly mitigated by BMPs. The majority of the skid trails and both of the landings are already in place on the easement property from a previous approved timber harvest. Mr. Kelly originally planned to utilize only existing skid trails on the easement property, but after the on-site meeting, Staff advised Mr. Kelly to avoid the existing skid trail which runs adjacent to a stream on the property, leaving little buffer to remediate sedimentation. Instead, Staff flagged in a short portion of new skid trail to connect existing skid trails and create a greater vegetative buffer between the skid trail and the stream. The new trail is on contour and should not pose any significant water quality issues. Also, Mr. Kelly understands that Staff

will conduct routine site inspections to monitor for potential adverse impacts on the easement property. If conditions arise that could have a negative impact on water quality, the project will be halted until conditions improve.

Motion: Dave Cammer

Second: Duncan Schmitt

****Motion Carried****

VII. STEWARDSHIP UPDATES

1. W. B. Farms, LLC (Property #6061) - FHP Status

[Billy Martin] As of October 5th, 2015, all commercial timber harvesting was complete for this harvest. However, the BMP implementation was delayed due to inclement weather and unsatisfactory installation of some of the BMPs. This resulted in Gutchess Lumber hiring a separate sub-contractor to clean-up and finish installing the required BMPs. As of November 2nd, 2015 – the expiration date of this FHP – the new sub-contractors had finished installing and cleaning up the remaining BMPs. Stewardship Staff are currently awaiting final inspection from a WAC Forester to confirm the completion and satisfaction of the terms of this FHP. With that, Stewardship Staff should receive a close-out letter for this FHP within the next two weeks.

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

[Brandon Tennis]

- 14 fourth quarter AMVs complete (155/160 AMVs completed year to date).
- 5 more AMVs needed to fulfill AMV deliverables for 2015; 2 of which are to be conducted in December (as these CEs were recently closed).
- Anticipating the need for at least two flights to complete aerial monitoring. A flight is scheduled for next Tuesday, November 10.

Update for Mike Federice, Stewardship Specialist. Delivered by Brandon Tennis, Stewardship Coordinator:

Mike's absence at today's EC meeting has been approved by myself to attend a training hosted by the American Farmland Trust in Albany.

- Mike has completed 9 AMVs for the 4th quarter, with 1 AMV remaining for the year.
- Mike has prepped the aerial monitoring map and checklist in anticipation of our next flight.
- Mike has completed numerous ADA Photopoint maps, including boundaries and building inventories, accelerating the Stewardship Program into BDR updates (anticipated for the winter season).

[Billy Martin] Throughout the past month, I've been working to schedule and conduct routine annual monitoring visits, coordinate FHP site inspections, and

finalize the DeGregorio Amendment documents. The DeGregorio Amendment and survey was finalized and filed with the Delaware County Clerk's Office on October 23rd, 2015. Currently, we are preparing for an aerial monitoring flight on November 10th, 2015, as well as conducting the last of the ground monitoring visits for 2015 and working on several GIS and Forest CE-related projects.

[Troy Bookhout] Troy reported that he has 2 AMV's and 4 ASR's remaining on his 2015 goals. He also reported that his efforts will turn towards the documentation of the "footprint" maps for the ASR's that he conducted this year.

VIII. EXECUTIVE SESSION

◆ Motion to go into Executive Session to discuss Project Acquisition Motions, Acquisition Updates, and Violations/Pending Litigation at 12:24 am.

Motion: Duncan Schmitt

Second: Dave Cammer

****Motion Carried****

IX. PROJECT ACQUISITION MOTIONS

AG CE

1. 1. Property #6220 - Motion to Approve the Appraisal and Authorize a Purchase Offer (Amended)

◆ Motion to approve the appraisal for PID # 6220 of +/-233 acres and authorize a purchase offer for the full easement value with one (1) +/- 10 acres ADA for a value of \$900 per acre, based on the value established in the August 25, 2015 appraisal by Farm Credit East Appraisal Service, contingent on confirmation of existing legal RoW.

Motion: Dave Cammer

Second: Nancy Bower

****Motion Carried****

2. Property #6218 - Motion to Approve the Appraisal and Authorize a Purchase Offer

◆ Motion to approve the appraisal for PID # 6218 of +/-155.3 acres and authorize a purchase offer for the full easement value with one (1) +/- 7 acres ADA for a value of \$2,325 per acre, based on the value established in the August 25, 2015 appraisal by Farm Credit East Appraisal Service.

Motion: Dave Cammer

Second: John Verhoeven

****Motion Carried****

3. Property #6234 - Motion to Approve the Appraisal and Authorize a Purchase Offer

◆ Motion to approve the appraisal for PID #6234 of +/- 96.83 acres and authorize a purchase offer for the full easement value of \$2,450.00 per acre, based on the September 1, 2015 appraisal by Farm Credit East Appraisal Service.

Motion: Nancy Bower

Second: Dave Cammer

****Motion Carried****

4. Property #6222 - Motion to Approve the Appraisal and Authorize a Purchase Offer

◆ Motion to approve the appraisal for PID #6222 of +/- 212.1 acres and authorize a purchase offer for the full easement value of \$1,839.00 per acre, based on the August 26, 2015 appraisal by R.P. Hubbell and Company, Inc.

Motion: Ken Heavey

Second: John Verhoeven

****Motion Carried****

5. Property #6214 - Motion to Approve Purchase and Sales Contract for a Conservation Easement

◆ Motion to authorize the Watershed Agricultural Council / Easement Committee to execute a contract for the expenditure of One Thousand, Five Hundred Fifty Dollars and Zero Cents (\$1,550) per acre for the purchase of a conservation easement of approximately 105 acres on PID# 6214.

Acres under easement:	105
Appraised "before" value:	\$2,850/acre
Appraised "after" value:	\$1,300.00/acre
Appraised easement value:	\$1,550.00/acre
Total Purchase Price Approx:	\$162,750.00 (54.4%)

Motion: John Verhoeven

Second: Nancy Bower

****Motion Carried****

6. Property #6210 – Extend Purchase and Sale Contract

◆ **Motion to extend the Purchase and Sale Contract for the conservation easement project for property #6210 for a period of two (2) months, with a new expiration date of February 4, 2016.**

and

7. Property #6210 – Approve Final Documents

◆ **Motion to approve the final easement, baseline documentation report, title insurance, survey, and environmental site assessment for PID #6210.**

Motion: Dave Cammer

Second: Nancy Bower

****Motion Carried****

8. Prop #6185 - Motion to Expend Funds for UST Removal (Amended)

◆ **Motion to Authorize Staff to authorize O'Brien and Gere to address outstanding UST issues identified in the Environmental Site Assessment and described in memo from MacKenzie Waro to the Easement Committee dated October 20, 2015 for Property #6185. WAC will pay for cost of O'Brien and Gere services.**

Motion: John Verhoeven

Second: Dave Cammer

****Motion Carried****

Forest CE

None

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. -

2. Property #6119

3. Property #6044

4. Property #6052

5. Property #6600

6. Property #6127

XII. COMMITTEE REPORT - Tom Hutson

None

XIII. Meeting adjourned at 1:47 pm by common consent.

Next meeting date: Wednesday, December 2, 2015 at 10:00 am in the Downstairs Conference Room at the WAC Office, Walton, NY.