

# 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 October 7, 2015

### Members Present:

\*Tom Hutson, Committee Chair  
Dave Cammer  
Joyce Bishop  
Bud Gladstone  
John Verhoeven  
Duncan Schmitt, 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  
Troy Bookhout, Easement Program Conservation Planner  
Suzie Seymour, Easement Program Executive Assistant  
Sally Fairbairn, WAC Chair  
Fred Huneke, WAC

### Public Attendees:

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

### I. CALL TO ORDER

Meeting Called to Order at 10:14 am.

### II. APPROVAL OF MINUTES

♦**Motion to approve the Minutes of the September 2, 2015 public meeting of the Easement Committee.**

Motion: John Verhoeven

Second: Joyce Bishop

**\*\*Motion Carried\*\***

Ryan informed Committee that Brandon Tennis has been promoted to Stewardship Coordinator. Mike Federice was hired two weeks ago as Stewardship Specialist to fill Brandon's position. Mike introduced himself and provided a brief work history.

### III. ADDITIONS/DELETIONS TO PUBLIC AGENDA

- Under Stewardship Updates, #4 – Pieper was misspelled
- Added under Project Acquisition Motions, Property #6217 – Approve Appraisal Update & Re-Authorize Offer
- Added under Violations/Pending Litigation – Property #6119
- Added under Violations/Pending Litigation – Property #6044

### IV. PROGRAM MOTIONS

#### 1. 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

Brandon explained that a prior Reserved Right request resulted in discussion at last month's meeting as to how hoop houses should be classified. Ryan said the draft guidelines that were included in the packet for today's meeting could be posted for public comment for 30 days if Committee approved a motion to do so. This edit addresses soil-floor hoop houses that have no impact on ag viability or water quality. Committee discussed whether or not hoop houses need to be defined. Ryan suggested that they be defined in the Deed of CE since there is currently no definition in the easement. Brandon clarified that section 3.C of the draft requires notification to the Grantee (WAC) prior to the installation of a hoop house with pervious soil floors, but confirmed that the notification is to program staff and not directly to the EC. This notification gives us the opportunity to address the impact on productive soils. Duncan said DEP's concerns are:

1. Risk for change of use (grow crops during the summer and change to a machinery shed in the winter).
2. No size limit specified
3. Decision process and standard of approval – does it improve or diminish ag productivity (look at benefit as well as detriment)

Ryan said that it's difficult to codify productivity increase/decrease and is looking to address hoop houses/greenhouses that have a positive impact on soils.

Committee agreed that hoop houses need to be defined to prevent misuse.

Suggestions for terms to be used in the definition:

- positive or neutral impact on soils
- for crop production
- portability

#### ◆ Motion to table any action on these draft guidelines pending further discussion.

Motion: Duncan Schmitt

Second: Bud Gladstone

\*\*Motion Carried\*\*

Ryan asked Committee to call or email him or Brandon with comments/edits/discussion items. Dave said we might want to think about

requiring removal if/when the hoop houses are abandoned or the cover is blown off.

**2. Forest Management Plan (FMP) Alternatives – Pending Legal Counsel’s Review – Nov Motion**

*[Ryan Naatz]* A memo from our attorney, Bob Feller, was passed out before today’s meeting. The three options were previously discussed by Committee. Duncan said he would like to have DEP’s attorney review the memo before any action is taken. Ryan said option #1 doesn’t follow our Forestry Program’s direction and isn’t working. He suggested looking at a combination of options 2 & 3 with a revision to our FHP policy. Committee discussed advocating rather than requiring an educational tool (i. e. Forestry Program’s My Woodlot). Duncan asked about a waiver to have something in writing to document the change if this is the way Committee decides to go. Relative to the footnote of Bob’s memo, Ryan has discussed the possibility of the Attorney General claiming jurisdiction with Bob and he said he just needs to make us aware of that possibility. Since there would be no additional requirements placed on the landowner, and this would actually alleviate the FMP requirement, Bob feels it would not be an issue with the AG.

**◆ Motion to table any action regarding FMP Alternatives to allow DEP’s attorney time to review the issue.**

Motion: Duncan Schmitt

Second: Dave Cammer

**\*\*Motion Carried\*\***

**VI. STEWARDSHIP MOTIONS**

1. Schoenburg, Peter Jr. & Schoenburg, Victoria (#6003) – Stream Work Request

**◆ Motion to approve stream work on the Victoria & Peter Schoenburg WAC eased property #6003 (West) as described in the project proposal by the Catskill Streams Buffer Initiative and in the memorandum dated September 19, 2016 submitted by Brandon Tennis, Stewardship Coordinator and contingent upon DEC permit approval.**

*[Brandon Tennis]* Victoria Schoenburg submitted a reserved right request letter on September 15, 2015 seeking approval from the Watershed Agricultural Council’s Easement Committee (as per the Deed of Conservation Easement, section 11 and the guidelines for Water Resources and Stream Work Version 1.4; 12.28.11) for stream work designed by, and to be further implemented by, the Catskills Streams Buffer Initiative (in association with the NYC DEP Stream Management Program) to remediate the eroded stream bank (of the Neversink River) on her eased property (DEP ID #6003 – West).

The Catskill Stream Buffer Initiative (CSBI) is pursuing DEC permit approval with hopes to begin stream work later this month. As of today, CSBI has received their Notice of Completion Application allowing for a 15 day public comment period after which the permit is likely to be approved. Approval of the motion

being presented to the Easement Committee on this day is contingent upon the DEC permit approval for this project. Dave asked if there is a time limit on the DEC permit and Brandon replied that this is a special permit to do the stream work this fall with the upland buffer to be planted in Spring 2016. Committee discussed the history/success of this type of project. Tom H. feels Committee should recommend notifying the Stream Team of issues noted on ASRs. Troy added that this Whole Farm Plan has a BMP that hasn't been implemented. Duncan said DEP's perspective is positive toward this project.

Motion: Dave Cammer

Second: John Verhoeven

**\*\*Motion Carried\*\***

Dave said he would be interested to know the cost for this type of project.

## **VII. STEWARDSHIP UPDATES**

### **1 & 2. Cole, Thomas M. & Sandra J. (Property #6097) Anderson & Home-FHP Status**

*[Billy Martin]* On September 21st, 2015, WAC Forester Karl VonBerg issued a final close-out letter to Tom & Sandra Cole signifying WAC's approval of the BMPs implemented on their Properties as per the terms of the approved FHP. At this time, the Easement Program considers the terms of the FHP on Thomas & Sandra Cole's Anderson & Home easements to be satisfied and the commercial timber harvest closed. The Cole's understand that any future anticipated commercial timber harvests will require Easement Committee approval of new FHP, but are otherwise in good standing with the Easement Program with no significant water quality issues.

### **3. Herzog, Yael (Property #6184) – Recent Closing / Six Month AMV**

*[Brandon Tennis]* Brandon advised that he conducted the AMV for the Herzog conservation easement on September 10, 2015, four months within the six month time period mandated by WAC Monitoring Guidelines.

### **4. Pieper, Charles Leonard III & Angela (Property #6004) – Rural Enterprise**

*[Troy Bookhout]* Troy reported that a 20'x12' farm stand in the ADA was approved by Staff for Lenny and Angela Pieper. The associated driveway and parking area for the rural enterprise is located in the ADA as well.

Troy also brought forward a discussion about an inquiry that Lenny had during the approval process. Upon the initial request, Lenny wanted to locate the farm stand outside the ADA and widen the existing driveway in the RPA for parking. After some informational discussions pertaining to the easement, Lenny relocated the proposed farm stand and parking area. This area is located on the expired BMP that was the calf hutch pad that has been replaced by another BMP. Lenny also wanted to bring forward a question to Committee. He wanted to know if Committee would consider the construction of 10'x40' gravel driveway that leads

from the farm stand parking to the existing driveway in the RPA. He claimed that it would be a much better traffic flow pattern. Bud said he thinks this is an example of problems that result from ADAs being too tight, not allowing for change in use. He added that he doesn't see a problem granting the request – it doesn't result in any additional traffic since the existing driveway to the farm stand already runs through RPA. Ryan said monitoring for use is extremely difficult and the farm stand has already been approved. He said Mr. Pieper is very transparent about his intent and appreciates that he's proactively seeking Committee's opinion. Rural Enterprise Guidelines are to approve a structure (which has already been approved) – driveways are allowed in the RPA for ag use so the question is if a mixed-use driveway would be allowed. Brandon read Sections 2.q and 4.e from the Deed of CE for clarity. Duncan said he thinks this is a category issue – does the driveway fall into an improvement category which would be prohibited by the Deed. He would like time to review the Deed (and Guidelines) pertaining to this request with others at DEP. Dave asked about the process to move RPA lines. This would require an amendment and, according to our attorney, would be difficult. WAC has no obligation to prove impact which is why we have rules/regulations written into our Deed. Joyce stressed the importance of promoting farm viability.

◆ **Motion to approve a 10'x40' gravel driveway from the farm stand parking to the existing driveway in the RPA.**

Motion: Bud Gladstone

Second: Joyce Bishop

Nay Votes: Duncan Schmitt  
John Verhoeven

\*\*Motion Denied\*\*

Duncan will take this back to DEP for further discussion at next month's EC meeting.

**5. Varney, Stuart A. & Debra L. – Property Conveyance**

[Ryan Naatz] Ryan reported there has been a conveyance of property interest for this donated easement; ownership remains the same.

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

[Billy Martin] On Thursday, October 1st, 2015, I conducted an FHP site inspection on the W.B. Farms, LLC Easement Property with WAC Forester Tom Foulkrod. The skid trails were in decent shape with regard to the rain the area had received earlier in the week. The loggers had taken a couple of days off from harvesting during the worst of the rainfall, which appeared to benefit the conditions of the trails. However, the rail-trail crossing did appear to be flooded at its lowest point. The loggers have been working with rail-trail representatives to mitigate and address this flooding issue, and WAC Staff will be recommending some more substantial BMPs at the skid trail location that crosses the rail-trail, which may include a straw waddle and reseeding of the skid trail approaches to the rail-trail. Also during the FHP site visit, the loggers requested additional time

to implement BMPs beyond the FHP expiration date of October 5th, 2015. As per Staff SOPs and the FHP Guidelines, which indicate that the WAC Forester can extend FHPs up to six months from the original FHP expiration date, and the request from the logger, WAC Staff have extended this FHP until November 2nd, 2015. Any additional extensions to this FHP will need to be requested and brought before the Easement Committee for deliberation. Otherwise, there are no significant water quality issues at this time.

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

*[Brandon Tennis]*

- 54 AMVs completed in the 3rd quarter. Thanks to Troy for picking up AMV responsibilities and to Billy for far exceeding expectations in AMV completion.
- 142 AMVs completed for the year (89% of the portfolio).
- Actively pursuing the remediation of the three potential violations.
- Developing draft revisions for Agricultural Buildings and Improvements reserved right. Working to train Mike Federice and get him up and running on 4th quarter AMVs.
- Anticipating mid-November aerials.
- 3rd quarter DEP reporting.

*[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 should be finalized and filed with the Delaware County Clerk's Office within the coming month. Additionally, on September 28th, 2015, Michael & Nicholas DeGregorio conveyed their Easement Properties (both East PID #6006 and West PID #6115) to themselves with the addition of Bart DeGregorio as tenants in common.

*[Troy Bookhout]* Troy reported that he reached his ASR goal for the 3 quarter.

## **VIII. EXECUTIVE SESSION**

**❖Motion to go into Executive Session to discuss Project Acquisition Motions, Acquisition Updates, and Violations/Pending Litigation at 11:38 am.**

Motion: Dave Cammer

Second: Bud Gladstone

**\*\*Motion Carried\*\***

**IX. PROJECT ACQUISITION MOTIONS**

**AG CE**

**1. Property # 6109 – Approve Land Plan & Authorize Appraisal**

**◆Motion to approve the land plan for PID #6109 on the Land Planning Map dated September 22, 2015, as presented, and authorize appraisal of an easement under the following scenario:**

**One (1) additional residence and Zero (0) additional tax parcel, with one ADA (1) ADA (approx. 10 acres)**

<b>Existing</b>		<b>Land Plan</b>		<b>Total</b>
<b>Tax parcels: 1</b>	<b>+</b>	<b>Subdivision: 0</b>	<b>=</b>	<b>Tax parcels: 1</b>
<b>Residences: 1</b>	<b>+</b>	<b>Residences: 1</b>	<b>=</b>	<b>Residences: 2</b>
		<b>ADA 1</b>	<b>=</b>	<b>ADA 1</b>

Motion: Ken Heavey  
Second: John Verhoeven  
Dave Cammer abstained from voting.  
**\*\*Motion Carried\*\***

**2. Property #6217 – Approve Appraisal Update and Authorize a Purchase Offer**

**◆Motion to approve the appraisal update for PID #6217 of +/- 65 acres and authorize a purchase offer for the full easement value of \$1,254.00 per acre, based on the October 2, 2015 appraisal update provided by McGrath & Company Inc.**

Motion: Dave Cammer  
Second: Bud Gladstone  
**\*\*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. Property #6052**
- 2. Property #6600**
- 3. Property # 6127**
- 4. Property #6119**
- 5. Property #6044**

**XII. COMMITTEE REPORT - Tom Hutson**

None

**XIII. Meeting adjourned at 1:17 pm by common consent.**

**Next meeting date: Wednesday, November 4, 2015 at 10:00 am in the Downstairs Conference Room at the WAC Office, Walton, NY.**