Minutes of the WAC Easement Committee Meeting
April 7, 2021 via Zoom

Members Present via Zoom
Tom Hutson, Committee Chair
Dave Cammer, Committee Vice-Chair
Bud Gladstone
Fred Huncke
John Riedl
Jeff Graff, NYC DEP

Members Absent: John Verhoeven

Others Present via Zoom:
Rob Birdsall, Easement Program Stewardship Coordinator
Suzie Seymour, Easement Program Executive Assistant
Serena Orleski, Land Conservation Acquisition Specialist
Dennis Heinz, Land Conservation Stewardship Specialist
Troy Bookhout, Easement Program Conservation Planner
Arlene Weissman, NYC DEP
Duncan Schmitt, NYC DEP
Ryan Naatz, Interim Executive Director

Public Attendees:
Morgan Tarbell, NYS DOH
Paul Kaczmarczyk, NYS DOH

I. CALL TO ORDER
   Meeting Called to Order at 10:04 am.
II. APPROVAL OF MINUTES
❖ Motion to approve the Minutes of the March 3, 2021 public meeting of the Easement Committee.
Motion: John Riedl
Second: Bud Gladstone
**Motion Carried**

III. ADDITIONS/DELETIONS TO PUBLIC AGENDA
Under Discussion Items: Farmland Protection Implementation Grants Program
Under Stewardship Updates: Emerald Isle, LLC (PID #6156) – Utility Easement

IV. CHAIR’S REPORT / PROGRAM MOTIONS
Tom H. thanked everyone for their patience and commitment over the past year.

1st Quarter 2021 EP Dashboard
Rob presented the Dashboard that was emailed to Committee on Monday. Tom H. asked if there was anything new regarding the one open contract. Ryan replied that we had originally anticipated that the monies to close on that property would be made available in payment #24. Ryan replied that is still the case, however we’re waiting on ACCO’s approval of the budget realignment for those funds to be available. Since that may not happen until June, we may have to consider another extension to the contract. John R. commented that he feels like we’re just treading water and getting farther behind. Jeff said he’d like to see annual budget line items added to the Dashboard to give Committee a better understanding of the availability of funds and the overall budget for the Program. Ryan thinks this is an excellent opportunity for information; he said this won’t happen by July since we’re still waiting for respective budgets to be approved.

Duncan said he feels it would be helpful for Committee to also see the Stewardship Successes and Challenges report that WAC produces quarterly for DEP along with the Dashboard. He suggested it be included in next month’s packet so Committee can review and decide whether or not they want to receive it in the future. Since this report includes Acquisition data which may be confidential, Rob said it could be included with the Executive material.

V. DISCUSSION ITEMS
1. Town of Middletown Eminent Domain proceedings update
Rob reported that the eminent domain takings have been completed and recorded at the County. Phase 2 will involve valuation and reimbursement to WAC. Right now we’re waiting for approval to engage HH&K as legal counsel in order to move forward with the Town of Middletown. Kevin Young, attorney for the Town of Middletown, has advised that
an independent, certified third party appraiser will be retained to determine a fair market value for the 21.7 acres. We would then enter into an agreement to accept compensation based on one of two values:

1. The Town’s original offer
2. The fair market value as determined by the appraiser

Rob added that the Town does have the position that the fair market value would be consistent with what we paid for the Easement with adjusted inflation from 2005. Fred raised the concern that the 2021 appraisal will probably be significantly higher than the one originally done when the easement was put in place. Ryan replied that the original easement appraisal/value is irrelevant and that the price reflected in the fair market value appraisal should be consistent with when the Eminent Domain action occurred. He added that Committee should keep in mind that the appraisal is only for the 21.7 acres which are land-locked and under easement. As soon as we receive approval from DEP we will engage HH&K to ensure WAC’s interests are protected.

On the Stewardship side, Rob said he has been working with Jason Merwin, CWC’s Executive Director, to develop a relationship regarding implementation of the project, the permanent access easement and potential stream work. Construction probably won’t begin until early to late fall.

Duncan questioned that the Deed mentions that WAC is entitled to 48% of sales proceeds. Ryan replied that the reimbursement language references the money that Moriarty originally received. If he is paid in addition to the 21.7 acres in which eminent domain is occurring, WAC may have some claim there. HH&K will look into this when we’re able to engage them.

2. Farmland Protection Implementation Grant Program
Serena and Dennis gave an overview of the Farmland Protection Implementation Grants Program. Five million dollars is available in each of ten regions across the state, with the potential for our area (including four regions) to tap into twenty million dollars. Applicant eligibility includes any not-for-profit conservation organization that will assist the county or municipality. Serena said this is a direct link to WAC’s economic viability goals and an opportunity to continue land acquisition potentially without DEP funds if they remain unavailable. Serena said she’s willing to put in the work required to research and potentially apply for the grant with Committee support. She pointed out that there is a clause in CAT403 stipulating that prior written approval from DEP is required to use staff time for any program outside our contract. Committee consensus was that this sounds like an excellent opportunity to find/use outside money. Jeff said 100% of staff time has to be within the scope of work in the contract and DEP would not be willing to provide funds for staff time outside the DEP scope of work. Jeff said an option for WAC, as an independent not-for-profit organization, would be to find alternative funds outside the DEP contract to pay her salary for time used to pursue the grant. John R. mentioned the undesignated funds and wondered if this might be an option to fund Serena’s time to pursue the grant. Serena urged Committee to consider this opportunity.
VI. STEWARDSHIP MOTIONS

1. River Haven Farm (PID #6009) – Subdivision Final Approval
Tom H. was moved to the “waiting room” for the discussion and vote.

❖ Motion to grant final approval for the subdivision request submitted by R Thomas Hutson as described in the Easement Program Staff memo and the River Haven Farm Subdivision Plan dated August 17, 2018. This request was granted preliminary approval by the Easement Committee on September 5, 2018. The landowner has provided the Easement Committee with a metes and bounds survey, prepared by a licensed professional surveyor at the landowner’s sole expense, in order to obtain a final approval of the subdivision. Prior to the actual deed conveyance of the property, Mr. Hutson shall submit the proposed deed for WAC Easement Program Staff to review and approve. Discussion: Troy presented his memo dated March 22, 2021 along with the survey and map for this subdivision final approval. Duncan asked if this is an “as of right” subdivision or discretionary approval. Rob replied that those categories aren’t official but this would be discretionary approval because this is one of the first easements. Duncan said the Deed does distinguish it but the guidelines don’t; he suggested the guidelines be ‘repaired’ to match what the Deed says.

Motion: Bud Gladstone
Second: Fred Huneke
**Motion Carried**

VII. STEWARDSHIP UPDATES

1. Emerald Isle, LLC (PID #6156) – Utility Easement
Rob reported that there is a large scale utility easement proposal that will go through Mike Merritt’s property. The proposal is final; NYSEG has provided Dennis with all of the documentation needed to present this to Committee. Mr. Merritt has submitted a request to WAC. We’ve had continuous correspondence for quite some time so we’re not under any approval deadlines. Because this easement requires WAC to sign off on the legal document that will be filed at the County and because it also has some new and unfamiliar language, we would like to have it reviewed by legal counsel, which we currently don’t have available. Rob said we have 2 options:
   1. Put it on the May agenda and consider the approval contingent on legal review at a future date
   2. Postpone acting on the request until we have funding for legal counsel

Dennis added that he has 99% of the required items to present the request to Committee. Staff recommendation is also required and Dennis said he is not comfortable providing a recommendation without knowing the legal consequences of the terminology in the document and what impacts it might have on the easement. Fred asked if we have to wait until we get the 403 money to engage legal counsel. Ryan replied that originally the new attorney that was selected through the RFP process was supposed to start with the successive 503 contract on January 1, 2021. When that didn’t happen and we moved into an extension of 403 and waiting on the 403 budget to be approved. Jeff added that we’re waiting on approval at the ACCO level. Jeff asked if eminent domain is involved with this utility easement; Rob replied there is no eminent domain action and Mr. Merritt has been advised not to enter an agreement until Committee has approved the request. Jeff said DEP would prefer that legal counsel review the documents before Committee takes any action. After
further discussion, Committee was in agreement that the request should be on the May agenda for review, but that any action would probably not be made until such time as we can obtain legal evaluation.

VIII. EXECUTIVE SESSION

❖ Motion to go into Executive Session at 11:26 am to discuss Project Acquisition Motions, Acquisition Updates, Violations/Pending Litigation, and Other Business.
   Motion: John Riedl
   Second: Jeff Graff
   **Motion Carried**

❖ Motion at 11:44 am to go out of Executive Session
   Motion: Dave Cammer
   Second: Fred Hunke
   **Motion Carried**

IX. VIOLATIONS / LEGAL UPDATES
1. None

X. ACQUISITION PROGRAM MOTIONS
   Ag Conservation Easements
   None

   FCE
   None

XII. Meeting adjourned at 11:45 am
Next meeting date: Wednesday, May 5, 2021

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EC mtg