

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

April 6th, 2022

Members Present via Zoom:

Tom Hutson, Committee Chair
Dave Cammer, Committee Vice Chair
John Verhoeven
Fred Huneke
John Riedl
John Vickers, NYC DEP

Members Absent:

Bud Gladstone

Others Present via Zoom:

Serena Orleski, Easement Program Director
Dennis Heinz, Land Conservation Stewardship Specialist
Mike Morales, Land Conservation Stewardship Specialist
Troy Bookhout, Easement Program Conservation Planner
Ryan Naatz, Executive Director
Brittany Schenck, Forestry Program Executive Assistant
Jeff Graff, NYC DEP
Duncan Schmitt, NYC DEP
Michael Vander Werff, NYC DEP
Dudly Lee Harris, DOI
Jessica Nowlan, DOI

Public Attendees:

Paul Kaczmarczyk, NYS DOH
Frank Schumaci, NYSEG
Olivia Guevara, Project Manager Avangrid
Cameron Witthuhn, Project Manager Avangrid
Mike Merritt, Public
Neil Merritt, Public

I. CALL TO ORDER

Meeting called to order at 10:03am.

BS 04/13/22

EC Mtg

II. APROVAL OF MINUTES

**Motion to approve the Minutes of the March 2, 2022 public meeting of the Easement Committee.*

Motion: Fred Huneke

Second: John Riedl

****Motion Carried****

III. ADDITIONS/DELETIONS TO PUBLIC AGENDA

Serena added two items; a statement to be given by Neil Merritt in regards to the NYSEG ROW request, and an executive discussion about the Q1 Successes & Challenges Report.

IV. CHAIR’S REPORT/PROGRAM MOTIONS

Tom congratulated Serena on her new role as Easement Program Director and expressed his excitement for the program’s success in the coming years.

V. DISCUSSION ITEMS

1. Policy for Temporary Commercial Events and Activities

Serena presented this item. Many landowners have expressed interest in events on their farms and the Easement Program would like to find a solution to this. Josh previously found an example, from a different land trust, for a Policy for Temporary Commercial Events and presented this as an idea. However - in previous conversations in 2020/2021, the committee and Easement staff were trying to revise the Rural Enterprise and the SSTS Guidelines, to address these types of requests and “glamping.” Serena feels it best to reengage this discussion of those guideline revisions.

- John Riedl mentioned speaking with Duncan/DEP to come up with a solution.
- Serena said while looking at past meeting minutes she realized a solution was very close to being made with proposed language that was ready to be forwarded to legal. Because of austerity measures, this was held back.
- Mike Morales mentioned that these would be a more permanent fix as opposed to a temporary policy.
- Serena plans to research the topic and will bring as a discussion item in May. Committee agreed to this approach.

2. Merritt statement – NYSEG ROW

Mike and Neil Merritt first gave a history of their property. Mike then presented their thoughts and concerns regarding NYSEG’s proposed ROW for use of an expansion of the Frasier substation. Mike and Neil have not been in favor of this, but have come to the conclusion that the line is going through their property no matter what. Neil emphasized: this project is going through whether we like or not. We are now trying to work with NYSEG and Committee to find the least impactful route to resolve this issue. Neil understands that there is some resistance from one or more members of Committee. He continued: there will be another Transmission Easement request to Committee. He inquired about what the “stumbling blocks” are.

- Serena and Tom responded and gave their appreciation for the Merritt family’s statements/concerns. Serena agreed that this is a complex situation that no one is necessarily comfortable with – we understand that this is something which will likely occur. Staff saw potential through Section 4g of the Deed of CE for a request to entertain,

however the remaining question is whether or not the Council is comfortable with the potential impact of the installation on the conservation purposes of the Conservation Easement. The CE is intended to preserve water quality, agriculture and forestry and this action (a transmission line) doesn't speak to either of those. Committee will decide best they can, a decision will be made next month (assuming a request is made).

- Neil Merritt responded and added it is quite clear they are getting closer to condemnation by eminent domain. Wouldn't it be better to work with NYSEG, have some restrictions in place, then to have them condemn the property and do whatever they want? The impact could be much worse. Serena responded: we all appreciate that sentiment and perhaps that is why everyone is grappling with it. But at the end of the day, a decision has to be made based on the terms of the Conservation Easement. If it does go to condemnation you can expect WAC to remain consistent.
- Neil then inquired about potential next steps if NYSEG turns to condemnation. He also inquired about unanimous consent/Committee in general
- Neil said in closing: we are willing to work with NYSEG and Committee. We don't want to see this go through, neither does Committee, but it is going through. We would like to see this resolved with the best interests of the land, in mind. He thanked Committee for allowing him to speak.

VI. STEWARDSHIP MOTIONS

1. John Houshmand (PID 6106): Final Subdivision and FADA Siting Approval

Troy stated that John Houshmand has provided the required materials requested as part of the preliminary approval presented in December (which included the surveys, amended Deed of CE, and title search). Troy added that WAC legal counsel has reviewed the title search and deemed it satisfactory. Troy asked for any additional questions, which there was none.

**Motion to grant final approval for the subdivision and FADA siting request with required materials submitted by John Houshmand (PID #6106) as described in the Easement Program Staff memo and the John Houshmand Subdivision Plan dated November 12, 2021. The landowner has provided the Easement Committee with the metes and bounds surveys, prepared by a licensed professional surveyor, an Amendment to Deed of Conservation Easement, and a satisfactory title search; all at the landowner's sole expense. Prior to the actual deed conveyance of the property, Mr. Houshmand shall submit the proposed deed for WAC Easement Program Staff to review and approve.*

Motion: Dave Cammer

Second: John Verhoeven

****Motion carried****

2. Scott Tuttle (PID 6069): Stream Work Request (Stream Stabilization)

Mike presented his memo on Scott Tuttle's Stream Work Request. He noted that this is not an Ag. BMP project. Three large rain events in 2021 have caused 160 feet of streambank along the Batavia Kill to erode into Scott's pasture, as illustrated on the attached photos and map. Mike stated that he made a site visit in February 2022 with Greene County Soil & Water, DEC staff, and Scott Tuttle to discuss ways to stabilize the stream bank. It was agreed upon and outlined in Scott's Article 15 DEC Stream Permit that he would put either a jersey style or stone coffer dam to divert water down

an existing channel that flows around a gravel bar in the stream. This will create dry conditions to grade the bank to a 3:1 slope, then key in large rip rap below the stream channel. Smaller rip rap will then be used to arm the remainder of the bank, and fill material placed to fill the voids. Dave Cammer asked if Scott Tuttle would be getting any financial assistance on this project or if he is footing the entire bill. Mike replied that Scott would be paying for the project himself. Committee deliberated on the potential for success or not of this project, and if not done right, this project could potentially get washed out during another large rain event. John Vickers and John Riedl asked on specifics of the rip rap to be used. Tom Hutson commented on the hardships and lessons he went through while attempting to stabilize the stream bank on his Property in the past. Serena reminded committee that this stream request meets guidelines, and that staff had the appropriate State and County agencies at the site visit to re-affirm Scott's plans.

****Motion to approve the Scott Tuttle (PID # 6069-00) Stream Work, Streambank Stabilization activity request dated January 3, 2022 as described in staff memo and attached materials dated March 15, 2022. Approval is contingent upon issuance of NYS DEC stream permit.***

Motion: John Verhoeven

Second: Fred Huneke

*****Motion carried*****

VII. STEWARDSHIP UPDATES

None.

VIII. EXECUTIVE SESSION

****Motion at 11:01am to go into Executive Session***

Motion: John Riedl

Second: John Verhoeven

*****Motion carried*****

****Motion at 11: 27am to go out of Executive Session***

Motion: John Verhoeven

Second: Dave Cammer

*****Motion carried*****

IX. VIOLATIONS/LEGAL UPDATES

X. PROJECT ACQUISITIONS

ACE Project Motions

None

FCE Project Motions

None

Updates

None

XI. DISCUSSION/OTHER BUSINESS

None

XII. Meeting adjourned at 11:28am.

Next meeting date: May 4, 2022 @10am (Location: TBD)