Minutes of the WAC Easement Committee Meeting
August 4, 2021

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

Members Absent:
   John Verhoeven
   Bud Gladstone

Others Present via Zoom:
   Rob Birdsall, Easement Program Stewardship Coordinator
   Josh Gorman, Easement Program Acquisition Coordinator
   Dennis Heinz, Land Conservation Stewardship Specialist
   Mike Morales, Land Conservation Stewardship Specialist
   Troy Bookhout, Easement Program Conservation Planner
   Serena Orleski, Land Conservation Acquisition Specialist
   Ryan Naatz, Interim Executive Director
   Duncan Schmitt, NYC DEP

Public Attendees:
   Sean Leddy, Delaware County Planning Department

I. CALL TO ORDER
   Meeting Called to Order at 10:02am.

II. APPROVAL OF MINUTES
   *Motion to approve the Minutes of the July 7, 2021 public meeting of the Easement Committee.
   Motion: John Riedl
   Second: Dave Cammer
   **Motion Carried**
Discussion: Jeff asked for clarification, specifically that there was documentation of the vote at Finance Committee (special session). Confirmed those minutes were included in packet.

III. ADDITIONS/DELETIONS TO PUBLIC AGENDA

Discussion: None formally, Tom asked Serena to report on the Agrarian Commons meeting (will discuss under Chair’s Report).

IV. CHAIR’S REPORT / PROGRAM MOTIONS

Discussion: Recognition of Suzie’s retirement.
Serena gave report on Agrarian Commons meeting held at Bushel Collective in Delhi. Meeting generally explored the topic of creating an agrarian commons in Delaware County. Meeting facilitated by CADE; brainstorming/blue-sky session. Discussed whether or not a portion of Tom’s farm could be a match. Land would be owned in trust, with a community (commons) board . . . somewhat similar to easement property owned by LLC or family trust. Board would lease farmland to new & upcoming farmers for 99 years. Not many formalities at this point, Serena will keep Committee informed if anything materializes. Tom added that American Farmland Trust is involved. Serena encouraged group to review the Agrarian Trust’s website for more information. Fred (and others) discussed/asked what group envisioned for size of operation. Jeff asked if the trust was private and how it would be funded. Tom replied, non-profit.

V. DISCUSSION ITEMS

CAT 450 5-year Review: Rob gave an overview. Josh and he compiled data for DEP staff (since Dec 2020) to be utilized for the 5-year review.Had a couple of productive meetings and coordinated the final data submittal about three weeks ago. Duncan gave update: has summary sheet regarding 403 contract expenditures over the last 5 fiscal years. Has all the data “out on the table,” working to present in transparent fashion. Hoping to have draft by end of this month.

VI. STEWARDSHIP MOTIONS

1. O’Rourke, Liam & Majella (PID #6162) – Stream Work Request (Bridge)

*Motion to approve the Liam O’Rourke (PID #6162) Stream Work, Bridge Construction activity request dated July 1, 2021 as described in staff memo and attached materials dated July 19, 2021.

Discussion: Mike presented this: 5X20 bridge across small stream, in RPA, behind house, for small tractor equipment. Currently an unimproved crossing that washes out often. Tom asked if there was ever a bridge there; Rob replied no. John asked if the picture was just a representation of what the bridge will look like. Mike replied yes, that it is right down the road and is larger in scale. Mike stated the landowner will construct himself (likely with small excavator, no equipment will enter stream course). O’Rourke will lay bridge on two
boulders in photo and either drill into boulder or anchor in some other manor.

Motion: John Riedl
Second: Fred Hunke
**Motion Carried**

2. **Stoop, Mark A. & Nancy (PID #6046) – Stream Work Request (Beaver Dam Removal)**

*Motion to approve the Mark Stoop (PID #6046) Stream Work Beaver Dam Removal activity request dated July 15, 2021 as described in staff memo and attached materials dated July 19, 2021. Approval is contingent upon issuance of NYS DEC stream permit.*

Discussion: Mike presented this: Nine beaver dams, of varying size, in RPA. Landowner would like to remove. Mike met with DEC staff on-site in June; will require a DEC stream permit. Mark plans to use a small mini excavator to navigate area, during a dry period. Landowner hoping to reestablish some grazing (for horses now). He might put in beef cows. Tom asked how long the beaver dams have been there. Mike stated a while; added, appears beavers moved out. Landowner has mosquito issues (affecting horses) due to stagnant water. Rob reiterated, based on his historical knowledge of property, issue for several years. He added, regarding DEC site visit, our (WAC) materials mirror what the DEC permit submittal will be. Committee, per guidelines, needs to approve this request first. Then, will work in concert with landowner and DEC to make sure all on the same terms. Rob made clear that DEC is on board with the proposal before EC. Fred asked Mike to again confirm that the beavers are inactive at site. Mike stated according to landowner, yes. He also did not see evidence of beavers at site visits. In future might have more issues and we (WAC) can face those when “we get there.” Rob reiterated that staff determined this request fell within WAC parameters and it appeared DEP agreed in EC pre-meeting. Commended Mike for handling this request and coordinating with DEC. Staff learned a lot.

Motion: Dave Cammer
Second: John Riedl
**Motion Carried**

**VII. STEWARDSHIP UPDATES**

Troy first spoke to items 3 & 4: Over the last month he had a couple stream Ag BMPs come through. Reviewed at the staff level. Both met guidelines and were approved. Rob reminded Committee of staff level delegation/approvals for FHPs and BMPs for Ag Program that require stream approval (this was the later). Here, coordinated with Ag Staff to approve. Doesn’t mean they will get built or that their set for implementation; we are in a step of the design process. Ag Staff have been doing really well with communication regarding these projects/process.

Rob then spoke to item 1: Moving to Executive Session for discussion. Item 2 discussed below:
1. Moriarty, Michael (PID #6094), Town of Middletown – Eminent Domain Update
2. Emerald Isle LLC (PID #6156) – New Utility Easement / Right of Way
   - Rob stated this is “still on the table.” Two prong approach. First, EC’s evaluation of the impacts to conservation values. Tom P presented last month reviewing forestry impact (which is an ongoing conversation / analysis). Second, Committee passed a motion, several months ago, for legal guidance regarding language of NYSEG Transmission Easement. This is also on-going. This guidance is focused on the Facilities Clause - how the improvements and allowances, in the NYSEG Transmission Easement, relate to Section 3 & 4 of our Deed of Conservation Easement (which is the Use Areas and Buildings and Improvements clause). Still in evaluation phase of this request. NYSEG is aware the analysis will take months, not weeks. Not asking for action today, but will need to come to a conclusion on the impacts to conservation values and a conclusion regarding the legal guidance we receive (Rob anticipates will be on September agenda). Rob continued: trying to keep group focused as to where we are headed. This request is robust/large-scale … therefore, new to all of us. NYSEG stated it is very common to enter negotiations with interested parties; not saying we need to or should do that just trying to “coach the group.” Next meeting we should prepare to spend a fair amount of time on this request. Fred asked Rob what the biggest issue holding this decision up is. Rob replied that we do not have legal guidance in hand regarding the allowances and improvements called out in language of Transmission Easement document. Previously, staff focused our attorney (in mind of budget) and attorney basically told us several things would have to change in the Transmission Easement to jive with the Deed of CE. Rob asked: is the group trending towards allowing a negotiation with NYSEG? Fred asked to Jeff – “How do we proceed if we cannot access legal counsel, and that seems to be holding this up?” Rob corrected him that we do have access here, just waiting on legal counsel’s reply. Tom stated “we have to figure out how to work with NYSEG within the parameters of our easement.” Rob stated that is certainly one approach and reiterated the question is what do we do next once we have all the information in front of us? Another approach would be to just let them take it. Rob continued: it is his personal opinion we shouldn’t just resort to eminent domain, to give up 9 acres of protected land, if we have a party willing to work with us. Fred asked if we need another guideline for this. Rob replied: no, not the issue here, we have a guideline for ROW and utility requests, this is just of a larger scale. This is not a routine utility easement like we have seen in the past. Rob continued: when we get legal guidance we are going to have to go through that and then determine impacts to conservation values. Then, based on standard of approval (Section 16 of Easement), make a decision on this in the next month or two. Reminded group that Dennis is the lead on this project, as steward of the property. Jeff added he agreed to wait for legal opinion and to go from there.
3. Ernest & Jennifer Sutton (PID #6133) – BMP Stream work (staff level approval – June 2021) – BMPs #09bWRE1, 09cWRE1 & 09dWR1
4. David & Carolyn Post (PID #6016) – BMP Stream Work (staff level approval – June 2021) – BMP #44
VIII. EXECUTIVE SESSION
   Rob stated that Sean Leddy was moved to a waiting room.

❖ Motion to go into Executive Session at 10:44am to discuss Project Acquisition Motions, Acquisition Updates, Violations/Pending Litigation, and Other Business.
   Motion: John Riedl
   Second: Fred Huneke
   **Motion Carried**

❖ Motion at 11:04am to go out of Executive Session.
   Motion: Dave Cammer
   Second: Fred Huneke
   **Motion Carried**

IX. VIOLATIONS / LEGAL UPDATES

X. ACQUISITION PROGRAM MOTIONS
   Ag CE
   None

   FCE
   None

XI. DISCUSSION / OTHER BUSINESS

XII. Meeting adjourned at 11:06am
    Next meeting date: Wednesday, September 1, 2021 @ 10am (Location: TBD)