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

Members Present via Zoom
Tom Hutson, Committee Chair
Dave Cammer, Committee Vice-Chair
Bud Gladstone
Fred Huneke
John Riedl

Members Absent: John Verhoeven
Jeff Graff, NYC DEP

Others Present via Zoom:
Rob Birdsall, Easement Program Stewardship Coordinator
Josh Gorman, Easement Program Acquisition Coordinator
Suzie Seymour, Easement Program Executive Assistant
Dennis Heinz, Land Conservation Stewardship Specialist
Troy Bookhout, Easement Program Conservation Planner
Tom Pavlesich, Forestry Program Director
Ryan Naatz, Interim Executive Director
Duncan Schmitt, NYC DEP
Dave Tobias, NYC DEP

Public Attendees:
Morgan Tarbell, NYS DOH
Paul Kaczmarczyk, NYS DOH
Nick Carbone, Delaware County Dept of Planning & Watershed Affairs

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

II. APPROVAL OF MINUTES
❖ Motion to approve the Minutes of the June 2, 2021 public meeting of the Easement Committee.
Since Jeff isn’t here to vote for DEP we don’t have a quorum to vote on any motions today. Rob said he will ask for Committee consensus but actual voting will take place on 7/13/21 at 1:30 before the Finance Committee meeting.

III. ADDITIONS/DELETIONS TO PUBLIC AGENDA
1. Under Stewardship Updates, #2, Emerald Isle LLC (PID #6156) – Utility Easement/Right of Way - Rob will be providing an update with 3 components:
   1. The most recent correspondence with NYSEG
   2. A discussion led by Tom Pavlesich on forestry and/or water quality impacts
   3. A quick synopsis of a discussion with our legal counsel

IV. CHAIR’S REPORT / PROGRAM MOTIONS
1. 2021 2nd quarter Dashboard / S&C report
   Rob presented the Dashboard and S&C report that was emailed to Committee yesterday. There was no additional discussion.

V. DISCUSSION ITEMS

VI. STEWARDSHIP MOTIONS
1. Putnam County / Tilly Foster Farm (PID #6600) – Temporary Construction
   ❖ Motion to approve the Right-of-Way/Temporary Construction Easement request on the Putnam County/Tilly Foster Farm conservation easement property (PID #6600) as described in the landowner’s activity request letter dated 6/10/2021 and further detailed in the Memorandum from Stewardship Coordinator Rob Birdsall.
   Discussion: Rob presented the packet materials for this request. As part of a project on a neighboring property, they will need to do some work on the Route 312 corridor. This could potentially result in a temporary construction easement, requested on the Tilly Foster easement. It would involve ~1/2 acre area that runs parallel with Route 312 to widen and grade the road. He said Staff feel it fits under Section 15 of the Tilly Foster easement. Rob added that additional information was provided to Committee yesterday on a specific profile of the construction easement area. The only activity occurring is the removal of one tree on the easement property, several trees within the highway RoW area, regraded at a 2-to-1 slope and put down erosion blanket. It’s a little less than a one foot cut in the construction easement area and would expire as soon as the activity is completed. Putnam County staff has submitted a written statement that this project “will have a de minimis impact on the conservation easement and the farm itself” and Rob agrees since agriculture is limited due to utilities that run through that area. Rob said he has evaluated the Deed’s mining clause in regards to the ~750 yards of soil that will have to be removed and has had some preliminary discussions with DEP; no decision was reached whether or not Committee should mandate that the soil remain on the property. At Dave T’s request Rob read the relevant clauses from the Deed: Section 15, RoW and Section 10, Mining. Rob said first Committee needs to assess if this request is compliant with the Easement and if so, determine there isn’t a substantial diminishment to the conservation values of the Property as a result. We can go either way of the requirement of the soil to stay on the property. Putnam County is aware that we may require the soil to stay and they are in agreement to do that if required. Duncan
said he thinks removing the soil would have less impact on the Property’s ag uses. Some Committee members feel they should be given the option to keep some soil for future needs.

Duncan brought up the fence relocation and said it’s not clear if the fence will be relocated or reset to its original location. Rob replied that the fence is proposed to be relocated and that fence location is not an obstruction to agriculture. Josh pointed out that 4A of the Deed states that fences can be removed, repaired or replaced anywhere on the property without Committee approval.

Rob asked for consensus in order to call for a vote next week; five members were in favor of approving the request; DEP reserved their position pending further discussion to absorb today’s conversation.

VII. STEWARDSHIP UPDATES

1. Town of Middletown Eminent Domain Update
This will be discussed in Executive session.

2. Emerald Isle, LLC (PID #6156) – New Utility Easement / Right of Way
Rob said he and Dennis followed up with NYSEG after the last Committee meeting:

- We’re seeking additional information and once we receive it, it will take some time for Committee to review and arrive at a decision.
- Pesticide application is conditioned by the Easement and we would require them to follow all terms of the Easement.
- Specific terms of the Easement for vegetation clearing in the RPA was provided. We asked for a specific plan (if one exists) for us to review for vegetation management in the RPA as well as restoration of the temporary stream crossing they propose.
- There is also a CREP contract in the area where the RoW is proposed. Dennis provided NYSEG with the FSA contact information for them to research the parameters of the CREP contract. Dennis followed up with Brian Sheridan (FSA) who was unaware of the situation. Dennis filled him in and said there needs to be further dialog between NYSEG and FSA.
- Rob also asked for clarification as to how NYSEG plans to maintain the decommissioned areas that will result from this project.
- Regarding the stream permit for the temporary crossing – Rob informed them we would like proof of either a permit or a statement from DEC saying they don’t need a permit.
- We talked to them about developing a Forest Harvest Plan and impacts to Forestry values.

Rob informed Committee that he has had an initial conversation with our attorney who found several areas within the transmission document that need to be stricter in order to be in compliance with the Conservation Easement, specifically related to the Facilities clause. Rob said at this point we are implementing a 2-prong approach:
Tom P. will give a presentation regarding the forestry value impacts as a result of this project which Committee can discuss.

If Committee wants to continue to move forward, we can receive official documentation from our legal counsel on how they feel we should proceed on the transmission easement document.

Rob added that many revisions are likely to be proposed on the transmission easement document if we decide to move forward and that our attorney has no concerns with Bud being listed as a signatory on that document.

Tom P. gave a presentation to give Committee perspective to understand the request from the context of forest management.

Fred asked if we would lose control over vegetative cover and pesticide application if NYSEG takes the property by eminent domain. Rob replied that would be a question for our attorney but said that so far NYSEG has been willing to negotiate.

Rob reminded Committee that a motion was passed in May to forward this request to legal counsel for review and he asked Committee if they want to proceed with our attorney to propose what our next steps might be now that we have permission to engage LGT. John R. said if this is contrary to the easement, maybe we should just say “no” rather than spend thousands of dollars on an attorney. Rob replied that this is not the same circumstance as Moriarty (which was clearly restricted by the Easement). If this was a clear, hard ‘no’ we could do that but we’re not that informed yet. Committee consensus was to move forward with LGT for edits / recommendations to propose to NYSEG.

VIII. EXECUTIVE SESSION

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

❖ Out of Executive Session at 11:33 am

IX. VIOLATIONS / LEGAL UPDATES

X. ACQUISITION PROGRAM MOTIONS

Ag Conservation Easements
None

FCE
None
XII. Meeting adjourned at 11:33 am
   Next meeting date: Wednesday, August 5, 2021

Special Session to Vote on Motions Postponed from the July 7, 2021 Easement Committee meeting

July 13, 2021 at 1:30 pm via Zoom

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

Members Absent: John Verhoeven

Others Present via Zoom:
Rob Birdsall, Easement Program Stewardship Coordinator
Josh Gorman, Easement Program Acquisition Coordinator
Suzie Seymour, Easement Program Executive Assistant

I. CALL TO ORDER
   Meeting Called to Order at 1:33 pm.

II. APPROVAL OF MINUTES
   ◆ Motion to approve the Minutes of the June 2, 2021 public meeting of the Easement Committee.
      Motion: Bud Gladstone
      Second: Dave Cammer
      **Motion Carried**
III. STEWARDSHIP MOTIONS

1. Putnam County / Tilly Foster Farm (PID #6600) – Temporary Construction
   ✤ Motion to approve the Right-of-Way/Temporary Construction Easement request on the Putnam County/Tilly Foster Farm conservation easement property (PID #6600) as described in the landowner’s activity request letter dated 6/10/2021 and further detailed in the Memorandum from Stewardship Coordinator Rob Birdsall.
   Motion: John Riedl
   Second: Fred Huneke
   **Motion Carried**

IV. Meeting adjourned at 1:35 pm
Next meeting date: Wednesday, August 5, 2021