

Watershed Agricultural Council

Agriculture ♦ Forestry ♦ Conservation Easements ♦ Economic Viability

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Minutes of the WAC Easement Committee Meeting

May 4th, 2022

Members Present via Zoom:

Tom Hutson, Committee Chair
Bud Gladstone
John Verhoeven
Fred Huneke
John Riedl
John Vickers, NYC DEP

Members Absent:

Dave Cammer, Committee Vice Chair

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
Amy Faulkner, Director of Operations
Duncan Schmitt, NYC DEP
Michael Vander Werff, NYC DEP
Dudly Lee Harris, DOI
Jessica Nowlan, DOI

Public Attendees:

Paul Kaczmarczyk, NYS DOH
Morgan Tarbell, NYS DOH
Frank Schumaci, NYSEG
Jason Powell, NYSEG
Kathleen Bennett, NYSEG Attorney
Olivia Guevara, Project Manager Avangrid
Cameron Witthuhn, Project Manager Avangrid
Mike Merritt, Public
Neil Merritt, Public

BS 05/04/22

EC Mtg

I. CALL TO ORDER

Meeting called to order at 10:08am.

II. APROVAL OF MINUTES

**Motion to approve the Minutes of the April 6, 2022 public meeting of the Easement Committee.*

Motion: Fred Huneke

Second: John Verhoeven

Motion Carried

III. ADDITIONS/DELETIONS TO PUBLIC AGENDA

No additions or deletions to report.

IV. CHAIR’S REPORT/PROGRAM MOTIONS

None.

V. DISCUSSION ITEMS

None.

VI. STEWARDSHIP MOTIONS

1. Emerald Isle, LLC (PID 6156): New Right-of-Way Request

Dennis Heinz presented this; this is the modified Right-of-Way request, received from Merritt’s, via NYSEG. A previous request was denied due to an inclusion of a Forest Management Plan (“FMP”) that did not meet WAC standards for approval. He clarified that the FMP had been included due to proposed pesticide use; that use has since been removed from the version before Committee. Dennis continued and reminded Committee of the Conservation Easement sections which are related to this request, specifically quoting the ROW and Approval sections (Sections 13 & 14). He also detailed language of the Right-of-Way Guidelines which provide guidance as to how staff and the Committee should proceed with this request. He reminded Committee that Staff had previously submitted the Transmission Easement to WAC legal counsel for review. That review included that Council need be comfortable with the potential impacts of the installation on the conservation goals of the CE. Dennis continued: Basically, what legal counsel is reminding us is that you need to look at the language regarding requests made and how they should be viewed under the conservation purposes of the CE. The request should be consistent with the Conservation Purposes and should not “diminish the agricultural, forestry, or water quality value of the property.” Dennis ended by providing a summary of his associated Memo to Committee [regarding this request]. He then turned it to Committee members.

Fred Huneke stated: he felt it would be better for us [WAC] to have some control over the property; it would give us an opportunity to work closely with NYSEG, specifically on the remediation. Otherwise, it’s probably taken over by eminent domain. John Riedl stated he concurs with Fred. John Vickers mentioned that for the last month whenever he was driving around, he paid particular attention to the transmission lines crisscrossing our area. Except for two instances, the land beneath the lines were devoid of any trees. He continued: in reading the WAC staff analysis, he agreed that the proposed easement will have a substantial effect to the forestry values of the property. He can

understand Fred's logic, and to NYSEG's credit, they modified the proposed easement to eliminate pesticides and enclosed buildings. This Transmission Easement is going to cross several acres in various Use Areas, including ACEA, FCEA, and RPA (including ¾ acre of CREP). He went on to state what the Transmission Easement does allow, as written, which includes access roads and pads to support the towers. He stated he has given this a lot of thought and gave his personal feelings as a landowner himself, however, for this he has to set aside those personal feelings and look to the Deed of Conservation Easement and its conservation goals. He quoted NYS ECL Article 49 Title 3, and the conservation purposes, as stated, in the Deed of Conservation Easement. He highlighted the definitions of FCEA and RPA. He concluded: I don't see how the TE is consistent with the Deed of CE, and while I agree that some protection would be better than none, I can't rectify the two. Bud Gladstone asked if an alternative path had been proposed or looked at. John Vickers and Dennis agreed this was a fair point.

****Motion to approve the Right-of-Way request for the revised NYSEG Transmission Easement as provided by Mr. Michael Merritt of Emerald Isle, LLC.***

Motion: Fred Huneke

Second: John Riedl

In favor: Bud Gladstone, John Verhoeven, Fred Huneke, and John Riedl.

Nay/Opposed: Tom Hutson, and John Vickers.

***** Motion denied*****

2. John Lamport (Home) PID #6017 – Preliminary Subdivision Request (Subdivision 1)

Mike Morales presented his memo and map for the John Lamport (Home) Farm Subdivision 1. John is doing estate planning on his property and currently has two (2) as-of-right subdivision allocations on his Home farm. As it stands, John would like to subdivide his step mother's house from the parent parcel. Together, John and Mike came up with a configuration where the subdivision would go across the road solely to meet the 7 acre minimum requirement of the Subdivision Guidelines. John's step mother would still have a portion of the ADA. Mike stated that this is a unique scenario where there are three (3) residences on an 11.5 acre ADA, and it may make more sense to not adhere to the 7 acre minimum, since Subdivision 1 more than likely will never have an Ag. Assessment on it simply based on the layout. Mike also stated that the parent parcel contains all of the BMPs and is where a majority of the agricultural activity occurs. He then asked the Committee if they would be in agreement to reduce the size of Subdivision 1 to solely encompass the ADA portion as shown on the map, and have Subdivision 2 absorb the Subdivision 1 acreage located across the road in the ACEA.

Tom Hutson asked if the yellow portion of the subdivision map is wooded land, to which Mike responded that it's relatively unbuildable land/woodland. After deliberation, Committee agreed that it would make sense, in this scenario, to amend the Motion to only include the portion of Subdivision 1 that encompasses the ADA.

****Motion to grant the amended Preliminary Approval for the John Lamport (Home) Subdivision 1 request submitted by John Lamport as described in the Easement Program Staff memo and the Lamport Subdivision Plan dated April 21, 2022. The landowner shall provide 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. Lamport shall submit the proposed deed for WAC Easement Program Staff to review and approve.

Motion: John Riedl

Second: Bud Gladstone

****Motion Carried****

3. John Lamport (Home) PID #6017 – Preliminary Subdivision Request (Subdivision 2)

Mike Morales presented his memo and map for Subdivision 2 of the John Lamport (Home) farm, which is also a part of John's estate planning. This subdivision most likely will be going to John Lamport's kids in the future. Subdivision 2 would consist of a small section of ADA, as well as a large portion of ACEA across the road that will continue with the current agricultural activities.

John Vickers asked if there's anything in the Deed of Conservation Easement that requires minimums for subdivision, and Mike said no that the purpose of that is for an agricultural assessment for the 7-acre minimum. Serena reiterated that this is a unique request because there are three residences in the ADA. Committee agreed that Subdivision 2 will absorb the ~5 acres of ACEA that was originally allocated to Subdivision 1.

**Motion to grant the amended Preliminary Approval for the John Lamport (Home) Subdivision 2 request submitted by John Lamport as described in the Easement Program Staff memo and the Lamport Subdivision Plan dated April 21, 2022. The landowner shall provide 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. Lamport shall submit the proposed deed for WAC Easement Program Staff to review and approve.*

Motion: Fred Huneke

Second: John Verhoeven

****Motion carried****

4. John Lamport (Migli) PID #6045 – Preliminary Subdivision Request

Mike Morales presented his memo and map for the John Lamport (Migli) farm. Mike stated that the John Lamport (Migli) Farm subdivision will consist of subdividing off approximately 16 acres from the parent parcel. The Migli Farm only has one (1) remaining as-of-right subdivision allocated to it. Both parcels have ADAs, and each have a residence allocation to go with it. Mike stated that John Lamport plans to retain the larger parcel and plans to sell the smaller parcel in the near future.

**Motion to grant Preliminary Approval for the John Lamport (Migli) Subdivision request submitted by John Lamport as described in the Easement Program Staff memo and the Lamport Subdivision Plan dated April 21, 2022. The landowner shall provide 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. Lamport shall submit the proposed deed for WAC Easement Program Staff to review and approve.

Motion: John Verhoeven

Second: Bud Gladstone

****Motion carried****

VII. STEWARDSHIP UPDATES

Troy received a request for stream work for Rudolf Landolt (PID # 6051 & 6052) for an Ag Program BMP Livestock stream crossing. It was reviewed and approved by staff.

VIII. EXECUTIVE SESSION

**Motion at 10:58 am to go into Executive Session*

Motion: Bud Gladstone

Second: John Riedl

****Motion carried****

**Motion at 11:22 am to go out of Executive Session*

Motion: Fred Huneke

Second: Bud Gladstone

****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 11:23am.

Next meeting date: June 15th, 2022 @ 10am (Location: TBD)