

MINUTES
SPECIAL MEETING OF
ORANGE COUNTY SOIL & WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS
June 24th, 2015

The Meeting was **CALLED TO ORDER** by the Chairman at 7:02 pm. In attendance were: John Ruskiewicz (Farmer and Flood Committee member), Paul Ruskiewicz (SWCD Director and Flood Committee member), Paula DeBlock (SWCD Director), Shannon Wong (SWCD Director), Kevin Sumner (SWCD), Gary Keeton (SWCD Director and Flood Committee member), Leonard DeBuck (Farmer and Flood Committee member), Ron Myruski (Farmer and Flood Committee member), John Wright (SWCD Director), Frank Bialas (Celery Avenue resident and farmer), Anthony Massa (Celery Avenue resident), Shiela Faith (Celery Avenue resident), Douglas Bloomfield (Town of Goshen Supervisor), Douglas DeKoskie (Integrated River Solutions), Wendell Buckman (Barton and Loguidice).

After introductions, the Chairman asked Sumner to provide some background on the purpose of the meeting. Sumner summarized the three priority projects that Soil and Water and their Flood Committee have been working on. One of these, the Pochuck Creek Ledge Modification Project, received no comment letters after the recent public comment period and has been fully permitted. A Construction Bid package is expected to be issued for this project within the next few days. The Celery Avenue Ledge Modification proposal did receive three comment letters, and the main purpose of tonight's meeting is to allow the three Celery Avenue residents who submitted comment letters to bring their concerns directly to the Soil and Water Board and the Flood Committee.

Wright added that the Board took the concerns of the residents very seriously.

Sumner noted that he and Buckman and DeKoskie met with Bialas before the meeting at the Celery Avenue Project site at which time Bialas showed and explained to the three some of his areas of concern. Sumner invited Bialas to share these concerns with the group. Bialas explained that, according to his observations that are based on many years of living right next to the River, the water level below the ledge comes up much faster and further than the water level upstream from the ledge after a storm event of any significant size. He felt that any project to modify the ledge would be useless without addressing the River reach below the ledge down at least to the Maple Avenue bridge or ideally further (past the OC Landfill). In particular, he felt that more aggressive tree removal from the edges and banks of this reach was necessary. He noted that this was done as part of the 1980's ACoE Snagging and Clearing project, and felt this provided precedent to continue to control this tree growth aggressively. The growth Bialas pointed out in the field was composed primarily of multi-stemmed Swamp (Red) Maples. These multiple stems trap large amounts of debris and clearly affect River flow/capacity.

Discussion continued as several attendees asked Bialas questions to further clarify his concerns and issues. The River reach from the ledge to the bridge includes 4 significant bends. A 1 ½ mile section of the River was left in its natural condition in between straightened and enlarged reaches known as the Cheechunk and Cutoff Channels.

Wong asked if the \$2 million fund had any stipulations about the degree of control or size storm that needed to be controlled. Sumner said no.

Flood Mitigation vs flood control was discussed. It was noted that our best hope was to provide some level of mitigation – ie reduced flood frequency and duration – since complete control of flooding was not feasible with funding and means currently available to us.

Myruski noted that the Indiana tract floods before the Celery Avenue area. His Pellets Island ground flooded in 2011, but not before that except for the '55 flood. His point emphasizes the 'regional' differences in flooding vulnerability, which is relevant since most of the projects that have been deemed to be feasible have fairly localized benefits. He also stressed the important fact that the ledge project is intended to move flood waters through the area *sooner* not faster.

Massa told the group that his home is on the ledge, hence his concern for any possible impacts to his property that might result from the ledge modification. Buckman explained that part of any approved project would be condition surveys of all nearby properties, including such measures as vibration monitors. DeKoskie explained that the contractor doing the work would be bonded to ensure that there would be financial resources to address any damages or unfinished work. The performance bond would be in effect for at least one year after completion of the work.

The affect the project would have on the River water level upstream of the project was discussed. Buckman explained that the channel is some 6 feet deep just upstream of the ledge according to cross section data collected during project planning. Since the proposed ledge 'notch' will be 4 feet deep, there would still be some 2 feet of water left in the channel. This is especially relevant in the context of concerns about 'down-cutting' of the channel that might result from the project. Since the existing channel is deeper than the proposed notch, there would be no opportunity for down-cutting of the channel or de-stabilization of the banks upstream of the ledge. The water level impacts would taper to 'no change' some 1500 feet upstream, based on detailed topographic information used in project planning and design.

There was then extensive discussion about efforts over the last 3-4 years to expand the existing Flood Control Project Maintenance Agreement (MA) that was put in place after the 1980's ACoE project. This agreement provides for annually renewed funding to prolong the benefits of the Corp's Snagging and Clearing project, but the maintenance has historically ended at the Maple Avenue bridge which was the downstream limit of the 1980's project. The River reach below Maple Avenue, extending perhaps as far as Route 17M, is considered by many to be crucial to effective drainage and flood mitigation for the Black Dirt. Although several recent projects were undertaken to improve flow conditions via woody vegetation control, there is currently no mechanism in place for continued maintenance of this area. Any benefits from recent tree cutting in this reach are expected to be negated quickly without a regular maintenance program. Extending the MA has been determined to be an action requiring a SEQR process. In August of 2014, the County Planning Department, with assistance from Soil and Water, initiated the preparation of the relevant SEQR forms to begin this process and forwarded them to the County Law Department, as is standard protocol for the County. Apparently due to workload priorities, the work has not made progress past this point, as far as meeting attendees knew. Progressing this MA expansion was identified by the group as an action that could have significant flood mitigation benefit without a large cash outlay (though the indirect cost of necessary staff time would be significant).

Discussion of the 'Pellets Island' reach (below Maple Avenue) continued in regards to controlling regrowth from the stumps that remain after recent tree cutting projects. This included discussion of chemical controls. There were varying opinions about the advisability of this approach, though most agreed it would be the most efficient and effective means of control. It was discussed that seeking a proposal and advice from a qualified

professional might be a useful effort. Sumner noted that a certified arborist with a commercial pesticide applicator's license had previously been consulted and provided with details about the site and he indicated he could provide a proposal for chemical control of the stumps. This suggested to Sumner that the professional believed that legal and safe methods would be available for this type of treatment in this setting.

Bloomfield then indicated he had concerns he desired to express to the group. This included 1) long-term sloughing problems with a section of Celery Avenue, 2) groundwater/water table impacts that might result from the ledge lowering, and 3) numerous issues and questions regarding the OC Landfill. No evidence or documentation was available to suggest that the road stability situation was related to River flows or River bank stability. In fact, Bloomfield noted that soil borings recommended by Goshen's consulting Engineer identified unsuitable soil conditions under the road as the cause of the instability. As regards #2, it was noted that groundwater studies undertaken as part of the ledge project planning determined that any impacts from the proposed ledge modification would be very localized and minimal given the limited 4 foot depth of the proposed notch. This information has already been provided to the Town as part of supporting documentation for Soil and Water's Floodplain Development Permit application submitted to Goshen in February of 2015. Bloomfield lamented that their permit review could not be based on unsubstantiated information but only on 'good science', yet it appeared from his list of concerns that the Town nor their consultants had reviewed the science-based supporting documentation submitted months ago. Bloomfield told the group that his consulting engineer, Sean Hoffman, had told Bloomfield recently that he 'needed more information' from Soil and Water and their consultants. Sumner immediately questioned this statement, informing Bloomfield that our Engineer Buckman has made repeated attempts over the last several weeks to contact Hoffman to determine if any additional information was needed, and got no response. Likewise, Sumner had attempted to contact Goshen Building Inspector Halloran and got no response. Bloomfield indicated that he would have Hoffman contact Buckman tomorrow morning.

In his expression of concerns regarding the OC Landfill, Bloomfield indicated that Goshen would not act on Soil and Water's Floodplain Development permit for the ledge project until he received satisfactory response from the County of Orange with regard to Goshen's concerns about the landfill including leachate issues. Sumner stated that if Soil and Water's permit was to be held up on this basis, he wanted Goshen to put that in writing. DeKoskie explained that the purpose of floodplain development regulations, which are by-and-large developed by FEMA and the National Flood Insurance Program, are adopted by municipalities, are to address proposed structures or fill in the floodplain that would decrease the area of the floodplain and would cause higher floodwater elevations. The NYSDEC is the coordinating agency for the State. He suggested contacting NYSDEC for technical assistance and guidance. He opined that tying a Floodplain Development permit to a potential existing contamination issue was likely outside the purview of this regulation. Bloomfield countered that they were following the advice of their legal counsel. This matter was left largely unresolved, except that communication between the two engineers might address at least some of Goshen's issues, if we were able to make that happen..

DeBlock then addressed the Celery Avenue residents, and asked if their concerns had been at all satisfied up to this point, and if they now supported or did not support pursuit of the ledge modification project. Massa initially indicated he did not support the project, owing largely to his concerns about possible impacts to his house and/or property. Massa and Faith also share Bialas's concerns that work below the ledge should occur. Faith indicated that her support for the ledge project would in fact be contingent on a plan for improvements below the ledge. Sumner explained that this area is in the existing MA area and that some extent of more aggressive tree cutting might be possible within the scope of the ongoing annual maintenance work. This would be largely dependent on the endorsement of NYSDEC staff who historically have been the primary

decision-makers about what trees are tagged for removal via the MA. Sumner indicated that he would reach out to John Harrington, a NYSDEC employee who is directly involved in oversight of the Wallkill Flood Control Project, tomorrow to broach the idea of more aggressive tree cutting below the ledge. Wright asked the residents if a formal motion of the Soil and Water Board to pursue tree cutting in the subject reach would garner their support for the ledge project. Faith she would be seeking an indication that the tree cutting was going to occur or was otherwise approved, rather than just an indication that it would be explored. Wright further directly asked the residents if they would consider providing a letter indicating their concerns had been addressed regarding the ledge project. After some discussion, it appeared that the residents were not prepared at this time to issue such a letter.

On a motion by Wright, seconded by Ruszkiewicz, the Board moved to pursue tree cutting work along the Wallkill from the Celery Avenue ledge to Pellets Island bridge. This motion was carried unanimously.

DeBuck then by way of relating many of his experiences farming in Orange County for over thirty years and his participation in many ongoing and time-consuming efforts to preserve and improve the water management programs that are so critical to profitable farming of the unique Black Dirt soils, emphasized that the overarching intent of all the work of the Flood Committee is to benefit all of the farmers and landowners in the Valley and allow for continued production of food and fiber sustainably and locally.

While some questions remained on the direction that will be taken on certain specific proposed tasks, the overall outcome of this portion of the meeting was general agreement that the Celery Avenue ledge project will continue to be progressed while the specific concerns of the Celery Avenue residents will also be aggressively explored and addressed as feasible. In addition to working on tree cutting below the ledge and expansion of the MA, the residents were assured that independent of acquisition of any required permits for the ledge project, agreements between the affected landowners and the SWCD would developed before any project work commenced. These agreements would provide protections for both the SWCD and the landowners. DeKoskie will provide examples utilized on other large-scale stream projects with which he has been involved.

At this time, all attendees except Sumner and the Soil and Water Board left the meeting.

After some discussion about the Pochuck Creek Ledge Project, DeBlock made a motion to authorize Barton and Loguidice to send out the Pochuck Creek Ledge Project construction bid package. The motion was seconded by Keeton, and was passed unanimously.

Sumner explained a relevant and useful training opportunity sponsored by the NYS Conservation District Employees Association that he wants to send District Technician Noah Meyer to. The training is from August 3-7 at SUNY Cobleskill. The estimated cost is \$600. On a motion by Wright, seconded by Keeton, the Board moved unanimously to approve the training trip and expenses.

Sumner described an initiative the District is partnering on with the City of Middletown and Lehman and Getz Engineering of Warwick to prepare Green Infrastructure designs for three City-owned parking lots in downtown Middletown. L&G has submitted a proposal to prepare the designs for \$5,000. The designs would then be submitted to NYS's Green Innovations Grants Program (GIGP) for implementation funding (proposals due 7/31/2015). Sumner requested Board permission to enter into an agreement with the City to accomplish these designs. The City would pay \$1,500 of the engineering costs, while the District would pay the remaining \$3,500 via a 'mini-grant' award from the Lower Hudson Coalition of Conservation Districts (funds ultimately

expected to be reimbursed to the LHCCD from the Hudson Valley Regional Council). The District would hire L&G, and would submit the GIGP application with assistance from the City and L&G. On a motion by Keeton, seconded by Wright, the Board approved entering into the agreement with the City and hiring L&G.

Sumner described his efforts to develop a funding/payment plan for the Troy Vellenga Round 20 ANPSACP waste storage (under-barn manure storage) project. \$200,500 in state grant funds are allocated for this project with a required landowner match of equal amount. The farmer has asked Sumner for a proposed schedule of payments. After discussions with the NYSSWCC and the consulting engineering firm hired by Vellenga for the project, Sumner has determined that the first payment should be delayed until the under-barn storage vault and barn floor are in place, with some other items completed per the engineer's requirements. At this time, the engineer will be able to certify a complete, functional waste storage system, and the District will be able to reimburse the farmer 50% of all his eligible project expenses up to that point. The District has funds in-hand that would allow for payments up to approximately \$183,000. Once the roof structure is in place along with other required appurtenances per the engineering plans, the District will be able to reimburse the farmer 50 % of all additional expenses up to \$200,500. As specified by NYSSWCC, roof structure expenses may only be used as farmer match. Sumner has received commitment from NYSSWCC that they will work with the District to do a 'partial close-out' of the Round 20 grant in order to facilitate the District receiving all the State funds allocated to the Vellenga project as soon as possible after completion of construction. Sumner will discuss this proposed arrangement with the farmer tomorrow. Sumner noted the cash flow and related challenges associated with management of projects of this financial magnitude and nature. He indicated he will report again to the Board at the July meeting on overall progress of the project and financial management aspects.

Motion to adjourn by DeBlock, seconded by Ruszkiewicz, at 9:45pm. All in favor.

Respectively Submitted,

Kevin Sumner, Conservation District Manager