

Black Creek Watershed Coalition

Meeting Minutes

September 30, 2013

Location: Riga Town Hall Multipurpose Room
6460 Buffalo Road, Churchville, NY, 14428

Attendance: Roberta Ames, Churchville Planning Board; Dorothy Borgus, Town Of Chili Resident; Kevin Donovan, Village of Bergen; Julia Garver, Merzbach Law Office; Peggy Grayson, Town of Stafford, GLOW SWMC; Peter Lent, Chair of Oatka Creek Watershed Committee; Brian Ostling, Town of Chili Highway Dept; Fran Reese, Ogden Resident; Judy Spring, Genesee County Soil and Water; George Squires, Genesee County SWCD; Dena Van Curran, Conservation Connects; Larry VerWeire, Riga resident; Lyle Warren, Churchville Zoning Board of Appeal.

1. Introductions:

- Were made and meeting minutes of August 29, 2013 were discussed and approved.
- Last month's minutes on By-Laws on page 2 were corrected; L. Warren made the By-Laws similar to Oatka Creek not G Squires, and ACORNS does not contain periods.
- Additional topics under #3 on the agenda were added: 3A Upper Black Creek TMDL and 3B Horseshoe Lake Dredging.
- Minutes accepted and all in favor.

2. By-Laws changes and application for 501 (c) (3):

- **Attorney Julia Garver (pro bono) had advice on how to achieve 501 (c) (3) status the best way possible:**
 - She said that significant amendments to the law have been passed by NYS legislature, governor waiting to sign, papers on his desk (he's sitting on the fence), the new law will make it easier to include incorporating.
 - IRS application for 501 (c) (3) forces to form as incorporation and entity form is needed; forming non-profit would be best for this.
 - Larger/broader purpose clause.
 - Purpose clause still needs to be figured out for BCWS – needs to be specific but also broad scope for future use, but Garver suggests keeping it more specific than not.
 - Certificate of Incorporation forms were passed around and the following are of importance:
 - 3rd most important.
 - 4th not needed but type B incorporation most likely will be for Black Creek WS.

- 7th is for a permanent address (BCWS needs one), the address on record with DOS that allows for legal processing in case of time sensitive materials therefore can be in default for certain matters (address needs to stay current).
- Garver recommends adding more language:
 - i.e. 8th and put other language in relating for layer of protection for BOD for liability reasons, she has a better form in her office.
- Form goes to DOS.
- Recommended that conflict of interest policy (sample draft was presented at meeting).
- Next step is to file 501 (c) (3) application form and IRS form.
- EIN is needed; question of whether or not BCWS is a successor organization, Garver suggested that we are not.
- 12 page form.
- Provide a narrative using attachment who/what/where we do/are, Garver wants documentation for that.
- Important that the above is done because the IRS needs to know that BCWS is legit with focus and for future endeavors.
- Other section that takes a lot of time is financial data. This depends on existence or not and tax years need to be provided; BCWS needs to present a budget for specific grants requested.
- User fee needs to be paid, depending on what past/future shows -- ~\$300-800.00.
- 501 (c) (3) determination may take up to 1 year.
- If BCWS solicits for donations it will require registering at the Attorney General's Office of NYS.
- Garver recommends that a P.O. Box be used not a personal address and it needs to stay updated all of the time in order to receive all documents.
- L Warren suggested using G Squires office in Batavia (GCSW).
- **IF PURPOSE CLAUSE/DIRECTION OF ORGANIZATION CHANGES THEN IT NEEDS TO BE ADDRESSED; REQUIRES AN AMENDMENT TO CERTIFICATION OF INCORPORATION; PETITION THE SUPREME COURT OF NYS BUT IF AG APPROVES IT THEN NO COURT TIME IS NEEDED. ADDRESS PERMANENCY IS NEEDED.**
- **A.I. P Lent will look at what purpose is for 3rd part of Certificate of Incorporation from Oatka Creek's By-Laws to use as a reference.**
 - **Also he has electric files that dealt with original Certificate of Incorporation and he will look at that also.**
- G Squires mentioned that the 3 names/addresses of board should be entered on Certificate of Incorporation form.
- **A.I. L Warren will sit down and go over as much as possible (purpose clause, names of 3 people from board, and permanent address).**
- **A.I. J Garver will put it in format:**

- She thinks BCWS will have to provide forecasted financial info for total of 3 years because we haven't had a tax year.
 - She estimated ~\$1000.00 to get this off the ground.
- G Squires concerned about having more info about BCWS community/organization handed out to public to educate them.
- G Squires wants more implementations to raise revenue.
- D Borgus mentioned partnering with Genesee County to help with trail building/maintenance.
- G Squires wants things on paper ASAP and to move forward.
- The user fee according to J Garver is \$400.00 if the budget is under \$10,000.00 over 3 years, otherwise the user fee is \$850.00.
- If file 501 (c) (3) application is in within 15 months the tax exempt status goes back to the date of incorporation.
- **A.I. G Squires will send J Garver L Warren's contact information.**

3. Watershed Planning Update:

- G Squires Project Advisory Committee (PAC), meeting on Thursday October 3, 2013 at 5:30 at Riga Town Hall Multipurpose Room.
- Discussed sub watershed report.
- G Squires said there is substantial data from the author (Melissa) and computer monitoring skills and graphs/numbers/figures are present.
- **A.I. G Squires will send P Grayson info on the PAC meeting.**
- He went through and marked some errors (grammar & technical); i.e. acres on watershed on chart were the same number as items on chart and didn't make sense to him.
- Attendees can email G Squires with any questions/comments but if the government shutdown occurs then he will not have access to office email.

3A. Upper Black Creek TMDL

- G Squires presented group the ENB public notice that he received late therefore we received at the meeting.
- G Squires said the DEC is moving forward with UBC and Bigelow Creek.
- Originally based on phosphorus (P) numbers and appears now that P #'s are a BAP # (biological assessment profile) based on biomonitoring.
- P Lent said a BAP score of ≥ 5 is needed in order for fishing, swimming, boating, and use of aquatic organisms/life; he said there is a stand criteria for too much nutrients.
- Instead of using water chemistry they are using aquatic assessment with 10 scale metrics, using 5 of them to come up with BAP's.
- Draft proposal for 1st flowing water for TMDL by DEC, BC is setting protocol for other flowing waters in NYS.

- G Squires received an email from Steve Pacenka from Cornell University that there is still work being done on P levels and TMDL; excessive algae and water supply.

3B. Horseshoe Lake:

- Environmental notice that Horseshoe Lake is impoundment to Bigelow Creek; old cottage community for long time on individual septic systems.
- Horseshoe Lake will draw down water levels and dredge to remove silty material and build crushed stone boat launch and material will be deposited in approved upland areas.

4. Next Meeting:

- Wednesday October 30, 2013 at 5:30 at 200 Beaver Road, Chili, NY.

5. Adjournment: P Lent called a motion to adjourn meeting and all were in favor, meeting adjourned at 7:30 p.m.

Parking Lot:

- IMA expires 12/31/13
- Info Card needs more discussing.
- Black Creek Feasibility Study.