



## EAST OF HUDSON WATERSHED CORPORATION

### EXECUTIVE COMMITTEE MEETING

LOCATION: Business Office: 2 Route 164, Patterson, NY 12563

TIME and DATE: 9:30 AM, Thursday, August 31, 2017

### Meeting Minutes

#### **1) Open Meeting**

Voting Members in Attendance: Peter Parsons (Town of Lewisboro); Chris Burdick (Town of Bedford); Rich Williams (Town of Patterson); Warren Lucas (Town of North Salem); JoAnne Daley as alternate for Dave Kelly (Town of Pawling); Rich Franzetti as alternate for Ken Schmitt (Town of Carmel); Sabrina Charney-Hull as alternate for Robert Greenstein (Town of New Castle)

Others in Attendance: George Rodenhausen (Corporate Counsel); Kevin Fitzpatrick (EOHWC); Joanne Tavino (EOHWC); Linda Matera (EOHWC)

#### **2) Approve Meeting Minutes**

Motion by Director Parsons, seconded by Director Burdick to approve the meeting minutes of July 27, 2017; all in favor.

#### **3) Financial Update**

Joanne Tavino reported there is no change from the August Board of Directors meeting. Checks written today total approximately \$37,000, leaving our current funds on hand at roughly \$10 million. The budget will be reworked as we work through our plan with New York City Department of Environmental Protection (NYCDEP).

##### **a. O & M Billing-2016**

Joanne reported that Kevin is working with the Town of Kent to finalize their figures. They have not provided a certified and signed final cost. We anticipate wrapping the final piece up this week. The bills will go out once the final figures are obtained.

##### **b. Putnam County-NYSDEC Grant Update**

Kevin Fitzpatrick reported that approximately three weeks ago he reached out to Mark at New York State Department of Environmental Conservation (NYSDEC) for an update and was told that the agreement is being sent to Putnam County to be signed. Once it is returned to him, the money will be sent to Putnam County and they will send EOHWC the money to reimburse the non-SRP portion of the Putnam County Golf Course project (PC-1). We anticipate receipt of the funds by the end of this year.

#### **4) List of Reporting and Filing Due Dates**

Joanne reported there were no changes to filing dates since the August 8 Board of Directors' meeting. The next upcoming items are the 2018 Work Plan and budget due to New York State Authorities Budget Office (NYSABO) by November 1<sup>st</sup>.

#### **5) Draft FAD Comments**

Kevin began the discussion of draft FAD comments. Kevin expressed that there is a need to remove the maintenance bond requirement on our projects on NYCDEP lands. It is a major point that should be brought up, rather than just supporting the draft FAD as written. Director Lucas agreed that it should be discussed. Both Director Parsons and Sabrina Charney-Hull agreed that any comments, including those mentioned above, be put into writing. Additionally, Director Parsons articulated that there is a benefit in doing a brief, to-the-point letter which singles out one or two items, especially if there is any hope of speeding up the process. It was noted that comments must be submitted by September 5. Kevin mentioned that this would only effectively get rid of maintenance bonds in the FAD basins. George recommended that comments be limited to the stormwater retrofit program because that is EOHWC's mission. A letter containing the comments discussed will be drafted by Counsel and signed by Director Parsons by the end of today. Director Burdick suggested that a list be provided to Dave Warne of specific projects with costs and kilogram reduction of those projects that are not in the FAD basins, to give him an idea of the efficiency. Director Parsons praised Kevin on having done a great job explaining EOHWC's financials at yesterday's meeting with NYCDEP, leaving no question unanswered.

#### **6) Project Update**

##### **a. Tilly Foster Farm, Municipal Reimbursement**

On the topic of Tilly Foster Farm (PC-MB-701), Putnam County is doing several stormwater retrofits at Tilly Foster Farm to help the water quality. The project, which is a full pond and a channel, is located in the FAD basin and requires completion by December 31<sup>st</sup> of this calendar year. It's not officially part of our program yet, but it can be added by speaking with Bob Capowski (NYSDEC). Channel stabilization and a wet detention extended pond will be installed that will amount to approximately 10 kilograms of phosphorus removal. They have a \$90,000 grant for construction of the pond and have asked us for help with funding the project. The only issue is that we are in the middle of a cash flow problem. A final dollar commitment has not been established because the engineer has not completed a probable construction cost. The expectation is that it will not exceed \$500,000 for construction based upon the channel stabilization efficiency. It would be a reimbursement payment to Putnam County. At the September Executive Committee meeting, Kevin will provide an update. Director Williams pointed out that until we know the date that NYCDEP is going to put in the FAD Funding Agreement for the look-back period, Tilly Foster may not be eligible. Further, it would be prudent to resolve the outstanding golf course balance before proceeding with the Tilly Foster Farm project. Director Parsons added that we cannot reimburse the County until we've received the FAD funding. Kevin added that the contractor Putnam County uses will be approved by the new VENDEX system known as PASSPort.

#### **7) Award Design Services:**

##### **a. Pat-EB-603**

Kevin discussed that Solicitation 2017-10 for Pat-EB-603 is a FAD project that will involve channel stabilization and a settling pond at the Lost Lake Community in the Town of Patterson. KC Engineering

and Land Surveying came in with the lowest dollar value proposal at \$55,800. Kevin contacted KC Engineering and they are fully-confident that they can take on the project. Director Burdick requested that an estimated efficiency be added to the design award resolutions going forward.

Motion by Director Parsons, seconded by Director Burdick to approve the award for design services for Pat-EB-603 to KC Engineering and Land Surveying, P.C. in the amount of \$55,800;

**WHEREAS**, the proposed stormwater retrofit project known as Pat-EB-603, located at Lost Lake, Doansburg Road in the Town of Patterson within a recognized FAD basin in project group 2017-10, and is included in the Years 6-10 MS4 regional plan approved by the NYS Department of Environmental Conservation; and

**WHEREAS**, the work consists of providing design and construction administration services for the stabilization of two channels which converge to form a point of discharge into Lost Lake on private property. A settling pond is needed at the point of convergence; and

**WHEREAS**, a Request for Proposals was advertised and two (2) proposals were received at the East of Hudson Watershed Corporation offices on July 18, 2017; and

**WHEREAS**, the Review Committee of the EOHWC has reviewed all proposals according to the requirements set forth in the EOHWC Procurement Policy and found the proposal of best value to have been submitted by KC Engineering and Land Surveying, P.C. in the amount of \$55,800; and

**WHEREAS**, EOHWC contacted the references for KC Engineering and Land Surveying, P.C. and contacted KC Engineering and Land Surveying, P.C. directly and was assured that they can complete the project for the amount proposed; and

**WHEREAS**, the EOHWC Review Committee has recommended that the corporation accept KC Engineering and Land Surveying, P.C. as best value proposer for the project and proceed with contracts pending the submission of all necessary documents per the EOHWC Procurement Policy; and

**NOW THEREFORE IT IS HEREBY RESOLVED**, by the Executive Committee of the Board of Directors that it accepts KC Engineering and Land Surveying, P.C. as best valued proposer for design of the project for SRP Pat-EB-603 and authorizes the President or Vice President of the Corporation to execute the design contract with KC Engineering and Land Surveying, P.C. subject to the following conditions:

1. Submission of insurance by the engineer as required by the design contract;
2. Review of the design contract by the Corporation's Counsel.

Motion passed; all in favor.

**(R-0831-01)**

**b. Kent-MB-602**

Kevin discussed that Solicitation 2017-11 for Kent-MB-602 is also a FAD project for channel stabilization and the installation of a water quality element at the base of the channel. At this time, it is projected to be a

pocket wetland. A lowest dollar value proposal was submitted by Insite Engineering in the amount of \$49,500. Our many experiences with Insite have been very positive. It is recommended that Insite be awarded the design services contract.

Motion by Director Parsons, seconded by Director Lucas to approve awarding design services for Kent-MB-602 to Insite Engineering, Land Surveying and Landscape Architecture in the amount of \$49,500;

**WHEREAS**, the proposed stormwater retrofit project known as Kent-MB-602, located at Haviland Road in the Town of Kent within a recognized FAD basin in project group 2017-11, and is included in the Years 6-10 MS4 regional plan approved by the NYS Department of Environmental Conservation; and

**WHEREAS**, the work consists of providing design and construction administration services for the stabilization of an eroded channel and a pocket wetland located on public and private property; and

**WHEREAS**, a Request for Proposals was advertised and four (4) proposals were received at the East of Hudson Watershed Corporation offices on August 8, 2017; and

**WHEREAS**, the Review Committee of the EOHWC has reviewed all proposals according to the requirements set forth in the EOHWC Procurement Policy and found the proposal of best value to have been submitted by Insite Engineering, Surveying, and Landscape Architecture, P.C. in the amount of \$49,500; and

**WHEREAS**, EOHWC contacted the references for Insite Engineering, Surveying, and Landscape Architecture, P.C. and contacted Insite Engineering, Surveying, and Landscape Architecture, P.C. directly and was assured that they can complete the project for the amount proposed; and

**WHEREAS**, the EOHWC Review Committee has recommended that the corporation accept Insite Engineering, Surveying, and Landscape Architecture, P.C. as best value proposer for the project and proceed with contracts pending the submission of all necessary documents per the EOHWC Procurement Policy; and

**NOW THEREFORE IT IS HEREBY RESOLVED**, by the Executive Committee of the Board of Directors that it accepts Insite Engineering, Surveying, and Landscape Architecture, P.C. as best valued proposer for design of the project for SRP Kent-MB-602 and authorizes the President or Vice President of the Corporation to execute the design contract with Insite Engineering, Surveying, and Landscape Architecture, P.C. subject to the following conditions:

1. Submission of insurance by the engineer as required by the design contract;
2. Review of the design contract by the Corporation's Counsel.

Motion passed; all in favor.

**(R-0831-02)**

## **8) Carmel-AM-111A**

### **a. Work Change Directive**

Kevin noted that a work change directive was submitted to reflect a change in the contract showing that the parking lot element of the project was removed. This project was originally awarded in 2014 and EOHWC was responsible for constructing a parking lot. We pulled support for that project at that time because we cannot build parking lots on behalf of the school district. The project was rebid in 2015 with the school district accepting the cost of the parking themselves. The school district later pulled their financial support. The project sat in limbo because we could not accomplish it. This past July, the school district agreed to let us install the project and all parking lot items were removed from the project. The work change directive removes that item from the construction contract that we had with Sun Up Enterprises. Joanne pointed out that when design and construction are added together the efficiency is \$120,000 per kilogram. Director Burdick expressed concern that we had been taking a very hard line regarding efficiency for at least a year. Kevin explained that better care needed to be paid attention to the efficiency of this project as it was being executed and took responsibility for not looking at what investment was being made. Sabrina added that this particular project was from Years 1-5 and the mind set we are working with today is very effective.

Motion by Director Parsons, seconded by Director Burdick to approve work change directive for Carmel-AM-111A at Falls Elementary School;

**WHEREAS**, Sun-Up Enterprises, Inc. submitted a work change directive request dated July 28, 2017 for the deduction of Bid Basis Item #2 (Concrete Paving/Striping) from the construction contract for Carmel-AM-111A in the amount of \$32,886.00, which was recommended for approval by consulting design engineer Lawrence J. Paggi, P.E. P.C.; and

**WHEREAS**, Carmel-AM-111A is located at Falls Elementary School in the Town of Carmel and includes the construction of a subsurface infiltration area; and

**WHEREAS**, the proposed change directive request is for Sun-Up Enterprises, Inc., to remove items previously to be installed on behalf of, and paid for by, the Mahopac Central School District; and

**NOW THEREFORE IT IS HEREBY RESOLVED**, by the Executive Committee of the Board of Directors of the East of Hudson Watershed Corporation that it approves the change directive request from Sun-Up Enterprises, Inc. dated July 28, 2017.

Motion passed; all in favor.

**(R-0831-03)**

**c. Change Order**

Motion by Director Parsons, seconded by Director Burdick to approve Change Order Number 1 for Carmel-AM-111A in the amount of \$9,975.50 to address various construction cost adjustments, decreasing the construction cost from \$294,316.00 to \$284,340.50;

**WHEREAS**, Sun Up Enterprises, Inc. submitted change order request Number 1 dated August 29, 2017 for Carmel-AM-111A in project group 2013-10 of the first five year retrofit plan; and

**WHEREAS**, Carmel-AM-111A is located at Falls Elementary School in the Town of Carmel and includes the construction of a subsurface infiltration area; and

**WHEREAS**, the proposed change order request is for Sun-Up Enterprises to address various construction cost adjustments including; removal of asphalt paving line items, additional Item 4, 30.53 CY of rock removal, and a Prevailing Wage Labor Cost Increase due to the delay of the project start date; and

**WHEREAS**, this change order, if approved, would have a net decrease to the construction cost from \$294,316 to \$284,340.50, and a change of overall project efficiency from approximately \$100,000/kg to approximately \$96,000/kg with a phosphorus reduction of 3.0 kg/yr;

**NOW THEREFORE IT IS HEREBY RESOLVED**, by the Executive Committee of the Board of Directors of the East of Hudson Watershed Corporation that it approves the change order request from Sun Up Enterprises, Inc. dated August 29, 2017 decreasing the construction cost from \$294,316 to \$284,340.50.

Motion passed; all in favor.

**(R-0831-04)**

## **9) O & M Program Update-2017**

### **a. Payment of NYCDEP Land Use Permit Maintenance Bonds**

Kevin reported that EOHWC is required to pay maintenance bonds on projects located on NYCDEP property. Some will come up in the future and others were agreed to be paid for by the previous administration. Currently, there are two in Brewster, one in Somers and others will come up in the future.

The attached bill was submitted by Somers for reimbursement for having acquired a maintenance bond for installation of a project at their highway garage (S-MU-16/17). The thought on this is because we have paid it in the past for the Town of Somers, we will continue to do so. It is important that we continue to negotiate with the NYCDEP to remove this requirement from projects or they will start adding up on an annual basis. The topic was brought up within Kevin's draft FAD comments to NYCDEP. Kevin estimated that currently, on an annual basis we need to carry \$25,000 for maintenance bonds. Director Williams suggested we consider alternative ideas to address the NYCDEP maintenance bond requirement. He requested that Kevin create a list of all projects that require maintenance bonds and their estimated costs to be discussed at the September Executive Committee meeting. It was further suggested by Sabrina that any entities that currently have maintenance bonds be notified to hold off on renewal until a decision on how to proceed is reached.

Motion by Director Parsons, seconded by Director Lucas to approve payment of maintenance bond in the amount of \$7,500 for S-MU-16/17 to the Town of Somers; all in favor.

## **10) EOHWC/NYCDEP Draft FAD Agreement**

Director Parsons reported that the meeting with the NYCDEP on August 30<sup>th</sup> went well. They will work from George's draft and submit a revised draft on September 5. The only substantive discussion in this meeting was about separating the \$22 million into two separate payments. They may provide \$15 million up front and the remaining \$7 million when we show the need. Kevin pointed out that the other important topic discussed was the look back date, as it will impact all the strategies we have with execution of projects, especially with regard to SE-POT-02. An answer was not provided at the time of the meeting. We must be sure we can use FAD money designated for Years 6-10 to pay for the construction of SE-POT-02. Director Williams requested confirmation that SE-POT-02 would be put on hold until we are sure about paying for it with the FAD funding.

### **11) Checks and Vouchers**

Monthly checks and vouchers were signed. No action taken.

### **12) Other business**

Kevin reported that we are finding ourselves on more private property with Years 6-10. Presently, we do not have a policy in place addressing payment for easements on private property. Director Burdick expressed that we should not be paying for easements. Kevin agreed, but brought up the issue to clarify that this would be the approach going forward in Years 6-10. It was estimated that about 75% of Years 6-10 projects are on private property and concern was expressed with walking away from high kilogram yielding projects because we do not want to pay for an easements. Additionally noted was that some easements would cross multiple properties.

Director Lucas informed members that a conference call has been set up with Metro North Railroad at 2:30 on September 8<sup>th</sup> to discuss phosphorus mitigation in their parking lots. They are a non-traditional MS4 and have no numbers.

### **13) Adjournment**

Motion by adjourn by Director Parsons, seconded by Rich Franzetti; all in favor. Adjourned 10:59AM.