



EAST OF HUDSON WATERSHED CORPORATION

EXECUTIVE COMMITTEE MEETING

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

TIME and DATE: 9:30 AM, Thursday, September 27, 2018

Meeting Minutes

1. Open Meeting

Voting Members in Attendance: Peter Parsons (Town of Lewisboro) for himself and as alternate for Warren Lucas (Town of North Salem); Chris Burdick (Town of Bedford); Rich Williams (Town of Patterson); Vincent Tamagna as alternate for MaryEllen Odell (Putnam County); JoAnne Daley as alternate for James Schmitt (Town of Pawling); Rich Franzetti as alternate for Ken Schmitt (Town of Carmel)

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

2. Approve Meeting Minutes:

a. July 26, 2018

Motion by Director Parsons, seconded by Vincent Tamagna to approve the meeting minutes of July 26, 2018; all in favor.

b. August 14, 2018

Motion by Director Parsons, seconded by Vincent Tamagna to approve the meeting minutes of August 14, 2018; all in favor.

3. Financial Update

Joanne Tavino reported that year to date expenditures total \$971,000 and the fund balance as of August 31st is \$8.6 million. Today's checks total approximately \$346,000. An investment trade was executed today with a yield of 2.1%, bringing interest earned this year to approximately \$62,400 in our treasuries.

a. Usage of Westchester County QIP Funds for O & M

Joanne explained that an agreement needs to be drawn up by Westchester County which George Rodenhausen will work on with them. It will be a reimbursement process whereby we will submit our bills to Westchester County for completed O&M and they will reimburse East of Hudson Watershed Corporation (EOHWC). The vouchers and bills will be submitted by Joanne based upon actual costs and vouchers received from municipalities. Another audit with Westchester County will hopefully not be necessary. George pointed out that that Westchester County will do the first draft. He will contact the law department to get a sense of when the first draft can be expected. Joanne added an amount of

approximately \$166,000 to the budget that will be 2016, 2017 and an estimate for 2018 as coming in to EOHWC for 2019, which would be the amount billed to Westchester to reimburse EOHWC. The calculation for bubble compliance must then be done within the organization of what comes in and goes out.

b. 2019 Draft Budget

Joanne reported that the 2019 Draft Budget has been put in a format in which changes from August can be seen. Not much changed, except that the addition of FAD projects by Kevin and personnel changes. The bottom line is that it added approximately \$3 million to expenditures for those projects and changed the bottom line for the end of the fund balance. An approval was requested to present it to the Board of Directors on October 16th.

Motion by Director Parsons, seconded by JoAnne Daley to approve the 2019 Budget for submission to the Board of Directors at the October quarterly meeting; all in favor.

4. NYS Required Sexual Harassment Policy

Corporate Counsel explained that the purpose of this item on the agenda is because of the requirement in the recently amended New York State Labor Law. Basically, the proposed policy follows verbatim what the state requires. Board members who received training through their municipalities and agencies do not require further training. EOHWC employees will require completing a training course by year's end. It can be completed online or by inclusion in one of the towns training classes. Director Williams and JoAnne Daley offered to look into the possibility of including EOHWC employees in their upcoming training. Director Williams stated that board members will be required to provide proof to the corporation confirming their completion of the training. In addition, Vincent Tamagna suggested that in the event there is an incident of sexual harassment, there should be an individual appointed that it can be reported to. George stated that it can be reported to the Governance Committee or Corporate Counsel. Director Parsons emphasized that a female alternative be made available for reporting an incident. George indicated that Chris Chale will be the female alternative to report an incident. Director Parsons requested its adoption be placed on the October Board of Directors meeting agenda.

5. Project Update

a. Eagle's Ridge Subdivision Agreement

Kevin informed members that Eagle's Ridge project is a multi-million dollar project located in Southeast on the opposite end of the hill of SE-POT-02. The subdivision drains down into Metro North property at the base of the Southeast train yard where maintenance is done. There's a possibility of getting close to between 50-70 kilograms of phosphorus reduction at the project site. A full analysis needs to be done. On site, we are looking to install multiple channel stabilizations and to retrofit existing detention ponds. The issue on the site is that this is private property. Essentially every condominium owner in the development has a right to that property. Sixty signatures will be required in order to get the typical installation agreement we would like to pursue. George noted that the development has a condo board and he has spoken with the attorney. We first found out from the title company when Kevin was looking at this that 50 to 60 names would have to be searched because they are fractional interests in the property for every single property owner. Director Parsons inquired if this was a project we really wanted to go forward with. Kevin said that if we have to chase after that many signatures, the answer would be no, but we are trying to find an alternative, which George is speaking with their attorney to figure out. Director Burdick pointed out that unanimity would be required. George confirmed that a signature would be

needed from all property interests in the development. The draft installation agreement was changed from a recordable easement to a permission to do the work on the property and perform the maintenance. There is a condo board. Director Burdick inquired if the proposed project location was part of the common area. George indicated that it is. The draft agreement would run with the land, which means that unless somebody literally disowns it and rejects it, it will continue in effect. The town of Southeast would be responsible for the O&M. Kevin added that the condo would only be required to do O&M on the existing stormwater elements which are in place. This would follow suit with every other O&M agreement which we've proceeded with wherein the town is responsible and must sign the agreement. George pointed out that the question is whether NYSDEC will accept it as an approved project knowing that we can't record an easement in perpetuity, which is what we've tried to do in the past. Director Williams stated that in five years from now ownership may change sufficiently and attitudes may change, leaving us no authority to go on the property to do the O&M. Director Burdick emphasized that just because it's unrecorded doesn't mean that it isn't an obligation between the homeowners association and EOHWC. George stated that the agreement would have to be written in a way that prevents it from being rejected. Members agreed that the project is worth pursuing because of the high kilogram reduction. Director Parsons inquired if this was one of those areas in which when the Planning Board approved this project, was required to be left pristine or an open space. Director Burdick recommended looking into whether there is a plan filed with the county. Kevin said the level of pressure is very low to correct the problem; however, Metro North and the town have approached the development about the issue. Metro North has to deal with it regularly with all of the flooding that comes down. It's possible that Metro North could have a legal argument against them although he doesn't think anyone has tried to apply that amount of pressure on them. Metro North would most definitely write a letter of support for the project. Director Williams suggested doing an in-depth title search to look at the covenants and restrictions on the property to know what affects the common areas because we need to be aware of what the road blocks will be prior to moving forward.

6. Reimbursement Agreement: Lake Shenorock

Kevin reported that the town of Somers submitted a reimbursement request for stabilization of five outfalls and installation of four hydro dynamic separation units around Lake Shenorock in a non-FAD area. They are requesting that we pick up 25% of all costs and the remaining 75% will be covered by a NYSDEC grant. As noted in the write-up, phosphorus reduction will increase from 7.6 to 8.6 kilograms with the efficiency at approximately \$20,000 per kilogram. Kevin will touch base with the town of Somers regarding the high engineering costs. The total investment they are asking us to make is \$171,000. Joanne confirmed that non-FAD funds were sufficient to cover project costs. Kevin will present a more formal collection of all of the information and a reimbursement agreement for signature at a future meeting.

7. SEQRA Determination: Kent-MB-602

Motion by Director Burdick, seconded by Director Williams to approve SEQRA Negative Declaration for stormwater retrofit project Kent-MB-602.

WHEREAS, EOHWC is considering undertaking the installation of a stormwater retrofit project in the Town of Kent involving construction of one pocket wetland and elimination of an eroded channel at Edward Ryan Memorial Park in the Town of Kent; and

WHEREAS, the Executive Committee of EOHWC has reviewed the Short Environmental Assessment Form dated 9/27/17 and all relevant environmental information related to the proposed project;

NOW THEREFORE IT IS HEREBY RESOLVED, by the Executive Committee of the Board of Directors of the East of Hudson Watershed Corporation that it:

1. Classifies the project as an unlisted action under SEQRA; and
2. Determines that the proposed action will not result in any significant adverse impacts on the environment and that a Draft Environmental Impact Statement will not be prepared.

Motion passed; all in favor.

R-0927-04

8. Award Construction Contract: Kent-MB-602

Kevin reported that the project located in Kent at Edward Ryan Memorial Park involves channel stabilization and installation of pocket wetland on parks property. The approximate efficiency is \$40,000 per kilogram removed at 7.23 kilograms. Four bids were received with the lowest dollar value of \$223,780 submitted by Earth Alterations, LLC. Although EOHWC has not worked with Earth Alterations, LLC in the past, the project engineer, Insite Engineering has and had a very positive experience. Their references have been reviewed by Insite Engineering and a letter from Jeffrey Contelmo is attached recommending Earth Alterations, LLC. Construction is expected to be completed this calendar year. Plantings on the pocket wetland will be completed in spring 2019.

Motion by Rich Franzetti, seconded by Vincent Tamagna to award the construction contract for Kent-MB-602 to Earth Alterations, LLC in the amount of \$223,780.

WHEREAS, the proposed stormwater retrofit project known as Kent-MB-602 is proposed to be located in the FAD basin at Ryan Park in the Town of Kent, New York, and is included in Years 6-10 MS4 regional plan approved by the NYS Department of Environmental Conservation; and

WHEREAS, the work consists of stabilizing channels and the installation of a pocket wetland, all in accordance with plans prepared by Insite Engineering, Surveying, & Landscape Architecture, P.C.; and

WHEREAS, the project was publicly bid and four (4) bids were received and publicly read aloud at the EOHWC offices on September 13, 2018; and

WHEREAS, the lowest bid received was in the amount of \$223,780.00 was submitted by Earth Alterations, LLC and the highest bid received was in the amount of \$305,000.00 submitted by United Septic and Excavation Corp; and

WHEREAS, the phosphorus removal of 7.23 kilograms for this project has an efficiency of approximately \$40,000 Kg P-removed; and

WHEREAS, Insite Engineering, Surveying, & Landscape Architecture, P.C., contacted the references for Earth Alterations, LLC and contacted Earth Alterations, LLC directly and was assured that they can complete the project for the amount bid; and

WHEREAS, Insite Engineering, Surveying, & Landscape Architecture, P.C., has recommended that the EOHWC accept Earth Alterations, LLC as lowest responsible bidder for the project and proceed with contracts pending the submission of bonds and insurance by the contractor; and

WHEREAS, on September 27, 2018, the Executive Committee reviewed all available evidence and resolved that the project known as Kent-MB-602 would not have an adverse impact on the environment and that a draft environmental impact statement would not be prepared;

NOW THEREFORE IT IS HEREBY RESOLVED, by the Executive Committee of the Board of Directors that it accepts Earth Alterations, LLC as lowest responsible bidder in the amount of \$223,780.00 for the project known as Kent-MB-602 and authorizes the President or Vice President of the Corporation to execute the construction contract with Earth Alterations, LLC subject to the following conditions:

1. Submission of bonds and insurance by the contractor as required by the construction contract;
2. Approval and execution of the installation agreement between the Town and the Corporation by the Town Board and by the Corporation's President or Vice President; and
3. Review of the construction contract and installation agreement by the Corporation's Counsel.
4. Execution of an easement and maintenance agreement to be in place for the future of the project between the Town and the Corporation by the Town Board and by the Corporation's President or Vice President.

Motion passed: all in favor.

R-0927-03

9. Award Design Contracts:

a. Solicitation 2018-04

Kevin presented a resolution to award design for Carmel-CF-703 for the stabilization of a classified stream and installation of a filter chamber on town property. The project is estimated to have an efficiency of \$20,000 per kilogram with a yield of close to 30 kilograms of reduction. Three proposals were received and the Review Committee has selected Pitingaro & Doetsch Consulting Engineers, P.C. who submitted a bid in the amount of \$23,500. The professional services agreement that we currently have with Pitingaro & Doetsch will be amended to include Carmel-CF-703.

Motion by Director Burdick, seconded by JoAnne Daley to approve the award for design services for Carmel-CF-703 to Pitingaro & Doetsch Consulting Engineers, P.C. in the amount of \$23,500.

WHEREAS, the proposed stormwater retrofit projects known as Carmel-CF-703 at Woodland Trail is located on private property in the Town of Carmel within a recognized FAD basin in project group 2018-04, 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 eroded channels and the installation of a storm filter with an estimated phosphorus reduction of 32.8 kg./yr. and estimated efficiency of \$20,000/kg.; and

WHEREAS, a Request for Proposals was advertised and three (3) proposals were received at the East of Hudson Watershed Corporation offices on July 24, 2018; and

WHEREAS, the Review Committee of the EOHWC has reviewed the proposal according to the requirements set forth in the EOHWC Procurement Policy and found the proposal of best value has been submitted by Pitingaro and Doetsch Consulting Engineers, P.C. in the amount of \$23,500; and

WHEREAS, EOHWC contacted the references for Pitingaro and Doetsch Consulting Engineers, P.C. and contacted Pitingaro and Doetsch Consulting Engineers, 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 Pitingaro and Doetsch Consulting Engineers, P.C. as best value proposer for the project and proceed with contract 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 Pitingaro and Doetsch Consulting Engineers, P.C. as best value proposer for design of the project for Carmel-CF-703, and authorizes the President or Vice President of the Corporation to execute the design contract with Pitingaro and Doetsch Consulting Engineers, 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-0927-01

b. Solicitation 2018-05

NS-MU-601 is a very large non-FAD channel stabilization project located in North Salem on Keeler Lane. The phosphorus reduction is estimated to be 54.5 kilograms with an approximate efficiency of \$20,000 per kilogram. Six proposals were received and the Review Committee looked over all proposals submitted ranging from \$28,000 to \$440,000. The recommendation being made today is to award the contract to Insite Engineering at \$58,000. Given the size and detail of the project and their experience, Kevin feels Insite Engineering would be the appropriate choice, especially given of the sensitivity NYSDEC and NYCDEP permitting and several private property owners. Currently, KC Engineering has close to nine projects with us and their slate is full. While KC Engineering has not completed any projects yet, they did have some intermediate struggles on one of the submissions they made to us. The budgeted number was \$40,000-\$45,000, so the appropriate number is closer to what Insite proposed. KC Engineering underestimated what is involved for this project. With all those points of consideration, Kevin feels it is best awarded to Insite Engineering. George recommended documenting why it is that we are selecting the higher proposal over KC Engineering, who has already been awarded eight contracts. Kevin added that this would be first time we've stepped out of that box. Redoing the request for proposals would give everyone an unfair advantage because they already know everyone else's price. Rich Franzetti indicated that he had concerns with this as well. If you are going to award a project based on price, then KC Engineering is it; however, there were concerns with the way they approached it in

their proposal. We have the levity or decision-making ability to say they were not responsive to this particular RFP. Vincent Tamagna indicated that it's a matter of who is the most responsive and had the most responsible number. Clearly, it would be Insite. George requested clarification on how KC Engineering was not responsive. Rich explained that he does a weighted assessment. While price weighs into the assessment and all proposers have the same qualifications, KC Engineering's approach and the scope that they've put together didn't completely follow it. Further, the concern lies with low bids not being qualified and not being responsive to what they were being asked for in the scope. Director Burdick agreed with George that it should be documented. He suggested going one step further by requesting that the Review Committee provide a written recommendation regarding the decision so that there is documented proof, particularly since Kevin has indicated that this is the first time we're not taking the low bid. Additionally, Director Parsons noted that responsible governance is to balance things and not risk the house if we are concerned about just piling project after project on one firm. George requested that the board refer this back to the Review Committee for a more complete statement of its recommendation so that the board has something to look at when making a decision.

10. O& M Program Update

Kevin reminded members that as the end of the calendar year approaches, a letter will be sent to everyone reminding them to submit documentation for work completed all year.

11. 2019 Proposed Meeting Dates

The proposed meeting dates were approved for recommendation to the Board of Directors at the October 16th meeting for approval and will be adopted at the Annual meeting.

12. Checks and vouchers

Monthly checks and vouchers were signed. No action taken.

13. Other business

Rich Franzetti announced that he was given an agreement for Ken Schmitt's signature which will need to be presented to the town board for approval. Kevin explained that the town of Carmel had an informal agreement with Putnam County in which they would assist us with the O&M. It specifies that Putnam County has the ability to act as our agent to go on all the identified sites and perform the maintenance on our behalf.

Director Parsons asked for an update on the Bio-Char inquiry made with NYSDEC. Kevin reached out to the company that brought the idea to us to provide updated testing data, which they promised to provide shortly after Labor Day. A request for those updates has been made so they can be included with a formal submittal that we are going to make to the state. To conclude, Director Parsons expressed that if we can utilize this scientific advance, it will be a major benefit to all concerned.

Director Parsons asked Vincent Giorgio to provide an update on whether NYCDEP has any projects that EOHWC could undertake for them. Presently, Vincent still has not received a response but promised to let us know if he does hear anything going forward.

Vincent Giorgio requested that George send an email outlining, in legal terms, if exactly what is being asked is acceptable to the funding agreement so it can be forwarded along to NYCDEP lawyers to make

sure there are no misunderstandings. Additionally, it was requested that the source of funding is being requested for use be included. Kevin informed Vincent that it would be the new FAD agreement funds. George promised to send the requested information in an email.

Kevin announced that a response was received from both the NYSDEC and NYCDEP and they will not agree to allow us to execute projects in Connecticut. The NYCDEP want us to limit to state lines in terms of funding. NYSDEC only wants to install elements within New York State for credit. Both entities disagreed with going down that road, but to that point, what the NYSDEC has no problem with is stepping outside the Corporation's boundaries. FAD projects need to be executed. If we were able to find a project in which a retrofit has not been installed in East Fishkill or another New York municipality that's within the watershed, the NYSDEC does not object as long as the correct agreements are in place for maintenance. As an example, if East Fishkill has already met their quota and there is something that can still be built, then essentially we could enter into an agreement with them and get the credits. As far as O&M is concerned, we would go out to bid and everyone would pick up the expense. Currently, we have not identified any projects yet but wanted to make sure we could go down that road before we consider it. Director Williams asked how this would impact the Dayton Road project. Kevin responded that the decision introduces complication.

14. Adjournment

Motion to adjourn by Director Parsons, seconded by Director Burdick; all in favor. Adjourned 10:43 AM.