



EAST OF HUDSON WATERSHED CORPORATION

EXECUTIVE COMMITTEE MEETING

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

TIME and DATE: 10:30 AM, Thursday, December 19, 2019

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); Rich Williams (Town of Patterson); Chris Burdick (Town of Bedford); 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: Millie Magraw (Westchester County); George Rodenhausen (Corporate Counsel); Kevin Fitzpatrick (EOHWC); Joanne Tavino (EOHWC); Linda Matera (EOHWC)

2) Approve Meeting Minutes of November 21, 2019

Motion by Director Burdick, seconded by Vincent Tamagna to approve the meeting minutes of November 21, 2019; all in favor.

3) Financial Update

Joanne Tavino reported the fund balance as of November 30th was \$20.5 million. The checks drawn in December total \$148,500. Today \$81,855 will be transferred to cover the FAD expenditures for the month. A transfer will be made from the money market into the payroll account for 2020.

4) Project Update

Kevin Fitzpatrick reported that the Year 9 Work Plan was submitted to New York State Department of Environmental Conservation (NYSDEC). We continue to await their approval. Another email will be sent to Bob Capowski and Ken Kosinski to make sure they are okay with what has been proposed. We'll be going out to RFP on many of the projects in the upcoming year and concentrating on FAD specific areas in Cross River, Croton Falls, West Branch and Boyds Corner. The Three Lakes Council located in Lewisboro is a private property owner who did a stormwater and lake management study within their three lakes and is eager to work with us on a future project they have in mind which will be incorporated into Year 9.

Project construction is generally winding down because of the winter. Director Burdick requested an update on the installation of catch basins inserts into Metro North parking lots. Kevin said he waiting is for the review of the installation agreement to move forward. Further research will determine if it is better to wait until after the salt and sand to install them, in which case, installation would take place in March or April.

5) Work Change Directive: Kent-MB-601

Kevin presented Work Change Directive #1 submitted by Legacy Supply, LLC to address an overage in the amount of \$1,515.60 for clay liner that was needed for installation of the ponds. Essentially, the contractor provided and installed an additional 25.26 cubic yards of clay liner in lieu of engineered fill. The cost will be deducted from engineered fill line item as material substitution.

Motion by Rich Franzetti, seconded by Director Burdick to approve Work Change Directive #1 submitted by Legacy Supply, LLC for Kent-MB-601 for the installation of additional clay liner in lieu of engineered fill resulting in no additional increase in contract cost.

WHEREAS, Legacy Supply, LLC submitted work change directive #1 request dated December 19, 2019 for the installation of an additional 25.26 cubic yards of clay in lieu of engineered fill for the construction contract for Kent-MB-601 in the amount of \$1,515.60, which was recommended for approval by consulting design engineer Lawrence J. Paggi, P.E., P.C.; and

WHEREAS, Kent-MB-601 is located at Montrose Drive in the Town of Kent and includes the construction of a multiple pond system; and

WHEREAS, the proposed change directive request is for Legacy Supply, LLC, to provide and install an additional 25.26 cubic yards of clay in lieu of engineered fill. The cost will be deducted from engineered fill line item as material substitution; 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 Legacy Supply, LLC dated December 19, 2019.

Motion passed; all in favor.

(R-1219-03)

6) Change Orders: Kent-MB-601

a. Construction: Change Order #2

Kevin explained that Change Order #2, which was originally presented at the November meeting, was technically not approved. While it was reviewed and discussed, it was not official due to the pending response from the NYSDEC regarding actions that must be taken on site. During conversations with the NYSDEC, it was determined that there are other items which need to be addressed sooner, therefore, Change Order #2 in the amount of \$250,000 is on hold until a consultant can come in and do a complete analysis of the contaminated soil on-site. Rich Franzetti asked if soil sampling had been done yet. Kevin stated that Legacy originally did a composite sampling of all the stockpiles and the full composite came back as carrying semi-volatiles. The limits of where that contamination lies, is the question. If only certain areas on the site are above

the threshold, then the rest of the soil can be treated differently. It was determined that Change Order #2 in the amount of \$250,000 should be rescinded.

Motion by Director Parsons, seconded by Vincent Tamagna to rescind Change Order #2 in the amount of \$250,000 previously presented at the November 21, 2019 Executive Committee meeting; all in favor.

The change order presented today in the amount of \$75,000 will serve as Change Order #2 and is for expenses incurred by the contractor which involved the handling of excavated material on site from an area of possible contamination as well as site stabilization for the winter. Director Williams inquired if consideration was given as to whether it would be worth backing out of the project. Kevin said that the contamination came to light when we made significant progress into the project so it would have to be investigated whether or not it would be worth it. In addition, Kevin added that he had to authorize Legacy to shut down the site due to the issue. Director Burdick expressed that he would have appreciated an email circulated to Board members regarding the site shutdown along with the details and costs associated. Vincent Giorgio asked if the project was located on town of Kent property, and if so, why they are not baring some of the responsibility for the contamination. Kevin agreed that the possibility should be discussed but feels it's important to define the problem and come up with a solution first. Vincent expressed concern that the Corporation may be getting away from its mission by remediating town property instead of building retrofits. Additionally noted was that some of the channel repairs the corporation is paying for should have been maintained by the towns all along. Director Williams felt that the cart may have been put before the horse at the last meeting because it appeared to require a simple solution. Currently, we are finding that we need to define what the pollutants are, how bad it is and to what extent. Knowing the answers will help dictate some of our decisions going forward. Michael Quinn asked if the town of Kent was notified. Kevin said that they had been notified by both email and verbally from the beginning and that he would update them about the outcome of today's meeting. Rich Franzetti suggested that George send the town of Kent a letter notifying them of the situation. Director Williams felt that email documentation is sufficient until the testing is done and we know the full extent of everything and at that point we have to have a conversation about what Kent's involvement is in cleaning this up. At that point, George can send a letter. George agreed and will work with Kevin to put together an email notifying of what is happening and what the next step will be. Kevin asked if the Board wanted to give him authorization to have Paggi Engineering move ahead with the test plan immediately due to the rapidly approaching January 7th Board of Directors' meeting date. Worst case scenario, it can wait for approval at the Executive Committee meeting on January 23rd. Michael stated that it may be more cost-effective to hire a firm directly instead of sending the costs through another firm. The cost being proposed is very large so it may make sense to go direct instead. Kevin expressed concern about the time that would be lost in having to go out to bid and are we going to do better than \$8,000 from Chazen. Director Williams asked why we would have to go out to bid and why we can't just get prices from 2 or 3 different firms. George said our procurement policy allows us to select the best professional engineer. Rich Franzetti recommended presenting the parameters to 2 to 3 different firms and getting estimates in writing to be presented. Joanne Daley pointed out that Legacy Supply likely wouldn't start

construction again until the Spring, therefore, time really is on our side at this point. Michael promised to email Kevin the names of the firms he used to get estimates from for the soil testing in Yorktown. Kevin said that if is able to get the estimates in time, he would schedule a brief meeting of the Executive Committee prior to the Board of Directors' meeting on January 7th to present the estimates to for approval.

Motion by Vincent Tamagna, seconded by Director Burdick to approve change order #2 to account for winter stabilization of the site in the amount of \$75,000.

WHEREAS, Legacy Supply, LLC submitted change order request Number 2 dated 12/19/19 representing an increase in the current contract price of \$494,151.63 for Kent-MB-601 in the year 6-10 retrofit plan; and

WHEREAS, Kent-MB-601 is located on property of Montrose Drive in the Town of Kent and consists of installing multiple ponds; and

WHEREAS, the proposed change order request is for the excavation of material found within the proposed forebays and eventual site stabilization for the winter months until a full testing plan can be conducted. This change order presents an increase in the amount of \$75,000.00 in the overall contract price, increasing the overall construction cost to \$569,151.63; and

WHEREAS, this change order, if approved, would increase the construction cost and would have an updated efficiency of approximately \$52,000/kg with an estimated phosphorus reduction of 12.2 kg/year.

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 Legacy Supply, LLC dated 12/19/19 for an additional amount of \$75,000.00 for Kent-MB-601, increasing the construction cost from \$494,151.63 to \$569,151.63.

Motion passed; all in favor.

(R-1219-04)

b. Engineering: Change Order #1 discussion

Kevin discussed that Change Order #1 for Paggi Engineering addresses the hiring of a consultant to test the soil on site. Christian is currently in the process of getting a proposal from Chazen Companies for the full testing, which Kevin received verbal confirmation that the cost should be approximately \$10,000. We are seeking approval at the January 7th Board of Directors' meeting or the January 23rd Executive Committee meeting. The results of the soil test will dictate what has to be done with the soil, where it can be put on-site and how that will affect the \$250,000 construction change order which is still being debated. George Rodenhausen inquired what it would cost to close the site up completely and not finish the project. Kevin said he will look into the cost but assumes that it will ultimately be very close to the cost of the \$250,000 change order. Michael Quinn asked if initial soil testing was done. Kevin stated that it was not part of pre-construction process, but once the contractor was on site, the soil was tested when they started excavating. Michael pointed out that the first question any contractor asks who is obligated to remove material

from a project is for samples of the material. Director Burdick asked the efficiency on the project. Kevin said with all current change orders, including the pending \$250,000, the efficiency is approximately \$75,000 per kilogram. Vincent Tamagna stated that although it may cost the same to finish the project rather than close it down, it would be best for everything was brought to the table at one time so an informed decision can be made about the cost associated with both options. Kevin said that change order #2 for \$75,000 is to lock down the site because it could not be left open. Legacy had to go in to stabilize the entire site, including the stockpiles, because the testing plan was going to take some time to conduct. Further, Kevin added that the project is locked down and on a work stoppage due to portions of the site being contaminated. Previous to this issue, Legacy was on target to have all plantings in and the project done by now. Vincent Tamagna asked about the cost of the full-testing plan. Kevin explained that while he currently does not have anything in writing, he has a verbal estimate in the amount of \$10,000.00 from Paggi Engineering. Director Burdick cautioned that we need to proceed very carefully, especially if we end having liability for the cost. Director Williams suggested that going forward a policy be put in place in which testing be done before we actually go on site in the event we have a project where there is a need for significant soil removal. This policy should be part of the overall engineering program before we start approving construction projects and ending up where we are today. For now we are going to need to move forward with the soil testing. George Rodenhausen inquired if the soil testing was part of the engineering change order from Paggi. Director Williams indicated that there are actually two parts to that; Paggi's additional cost for being involved in this situation, plus actually getting a firm in there to do the testing.

7) Approve Negative Declaration: Pat-EB-603

Kevin stated that Pat-EB-603 is for the stabilization of two road channels that converge on private property in Lost Lake Community. It's an unlisted action and no negative impact is expected from it.

Motion by Joanne Daley, seconded by Rich Franzetti to approve the SEQRA Negative Declaration for stormwater retrofit project Pat-EB-603 on private property in Lost Lake Community.

WHEREAS, EOHWC is considering undertaking the installation of a stormwater retrofit project in the Town of Patterson involving channel stabilization at Lost Lake Community; and

WHEREAS, the Executive Committee of EOHWC has reviewed the Short Environmental Assessment Form dated 12/19/19 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-1219-02)

8) Award Construction: Pat-EB-603

Motion by Director Burdick, seconded by Rich Franzetti to award the construction contract for Pat-EB-603 to the lowest responsible bidder, Coyle Industries, in the amount of \$165,000.

WHEREAS, the proposed stormwater retrofit project known as Pat-EB-603 is proposed to be located at Lost Lake in the Town of Patterson, 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 in accordance with plans prepared by KC Engineering and Land Surveying, P.C.; and

WHEREAS, the project was publicly bid and seven (7) bids were received and publicly read aloud at the EOHWC offices on December 11, 2019; and

WHEREAS, the lowest bid received was in the amount of \$165,000.00 was submitted by Coyle Industries, Inc. and the highest bid received was in the amount of \$299,957.00 submitted by ELQ Industries, Inc.; and

WHEREAS, the phosphorus removal of 14.6 kilograms for this project has an efficiency of approximately \$15,000 Kg P-removed; and

WHEREAS, KC Engineering and Land Surveying, P.C., contacted the references for Coyle Industries, Inc. and contacted Coyle Industries, Inc. directly and was assured that they can complete the project for the amount bid; and

WHEREAS, KC Engineering and Land Surveying, P.C., has recommended that the EOHWC accept Coyle Industries, Inc. as lowest responsible bidder for the project and proceed with contracts pending the submission of bonds and insurance by the contractor; and

WHEREAS, on December 19, 2019, the Executive Committee reviewed all available evidence and resolved that the project known as Pat-EB-603 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 Coyle Industries, Inc. as lowest responsible bidder in the amount of \$165,000.00 for the project known as Pat-EB-603 and authorizes the President or Vice President of the Corporation to execute the construction contract with Coyle Industries, Inc. 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.

Motion passed; all in favor.

(R-1219-01)

9) O & M Program Update

Kevin asked that towns continue to submit their O&M documentation for 2019. Director Williams requested a schedule be prepared in time for the Board of Directors Annual Meeting so it can be shared with all the supervisors. Kevin added that O&M submissions will be accepted until January 14, 2020.

10) Checks and vouchers

Monthly checks and vouchers were signed. No action taken.

11) Other business

Director Williams informed committee members that he and Vinny Tamagna met with some of the supervisors to discuss the expanded role of the organization. It was generally felt that what the Putnam towns would be most interested in is assistance with their highway departments under the MS4 obligation on doing inspections and policy documents to make sure that they are all identical and meet the criteria and that shared services are continued.

12) Adjournment

Motion by adjourn by Vincent Tamagna, seconded by Rich Franzetti; all in favor. Adjourned 11:20 AM.



East of Hudson Watershed Corporation

2 Route 164, Suite 2
Patterson, NY 12563

PRESIDENT'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the December 19, 2019 meeting minutes approved by the Executive Committee.



Rich Williams, President



Date

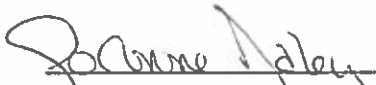


East of Hudson Watershed Corporation

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SECRETARY'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the December 19, 2019 meeting minutes approved by the Executive Committee.



JoAnne Daley, Secretary

1-23-2020
Date