



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, January 23, 2020

Meeting Minutes

1) Open Meeting

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

Others in Attendance: Millie Magraw (Westchester County Planning Dept.); Michael Quinn (Town of Yorktown); George Rodenhausen (Corporate Counsel); Vincent Giorgio (NYCDEP); Kevin Fitzpatrick (EOHWC); Joanne Tavino (EOHWC); Linda Matera (EOHWC)

2) Approve Meeting Minutes of December 19, 2019

Motion by Director Lucas, seconded by Director Parsons to approve the meeting minutes of December 19, 2019; all in favor.

3) Financial Update

Joanne Tavino reported that there were no attachments for financial reports because they were the same as those presented at the January 7th Board of Directors meeting. Checks written today total approximately \$105,000, of which \$23,000 is a change order that will be discussed in agenda item 6b. The vouchers for O&M were due January 14th for work completed in 2019. Of the 15 municipalities that can do O&M, only 5 made submissions. We will proceed with the year-end closing and the towns that did not submit will not receive reimbursements this year. The FAD expenditures amounted to about \$90,000 this month. Joanne and Director Lucas worked with M&T Securities to do another treasury trade with an interest rate of 1.8%. The audit letter of engagement has been sent to the Audit Committee and requires signing today by Director Williams and Joanne. We will move forward with the audit. Our auditors, Sickler, Torchia, Allen and Churchill (STAC), sent a list of about 60 items needed so far. 50 of them have been provided but 10 are being held up because of the delay in O&M submissions. The auditors will be at the EOHWC offices on February 12th & 13th.

4) List of Reporting and Filing Due Dates

Kevin Fitzpatrick reported that the 2019 Annual Report will be sent to New York State Department of Environmental Conservation (NYSDEC) by the end of January. Joanne reported that payroll and W-2's are done automatically by SwiftChecks, and the 941 and NYS-45 have already been filed. The W-3's are complete and the 1099's are being prepared by the auditor.

5) Project Update

Kevin reported that some new projects were identified in Cross River (Lewisboro) at the Three Lakes Association, which represents Waccabuc, Rippowam and Oscaleta. The Waccabuc Country Club would like to work with us to do a project on an access road that goes down to the lake and presents a good opportunity to do subsurface infiltration within their parking lot. In addition to that, there is a lot of infrastructure to look at around Truesdale Lake and the community has reached out to us about it and has even offered to assist with maintenance. Director Parsons recommended that Kevin reach out to Janet Anderson who is the key person on stormwater in Lewisboro, the head of the Three Lakes Association and Lewisboro Planning.

One of the latest submissions that came in is from Rennia Engineering for Eagle's Ridge Subdivision project (SE-DI-815). The phosphorous reduction is estimated to be close to approximately 90 kilograms. It will combine channel stabilization and wet-extended detention ponds. Once the submission is refined and sent to NYSDEC, we'll meet with the private property owners to negotiate. It's likely that we will have to present it before their condo board. We will have to make sure all 150 individual signees are on-board before we can move forward with the project.

a. Sole Source Provider

Kevin said he is looking into identifying FABCO as a sole source provider for catch basin inserts. They are the only provider whose phosphorus reduction filter meets the NYSDEC standards. A draft of the determination has been written and will be shared with Counsel to get assistance shaping it to make sure it's clear. Director Williams explained that there are other catch basin inserts manufacturers however FABCO has the only design approved by NYSDEC. Discussion ensued. Director Parsons suggested language is added to the determination saying that if at a future date another company gets NYSDEC approval for phosphorus reduction, we reserve the right to take a look at them. George Rodenhausen agreed to add the language to the resolution once the background is set.

6) Award Design: Solicitation 2019-08

Kevin explained that Solicitation 2019-08 contains two projects in Westchester County , PR-CR-601 and MK-NC-602. Four proposals were received in total. The Review Committee performed an evaluation of all submissions and recommended awarding Hudson Valley Engineering Associates, P.C. The first project is located in Pound Ridge within the FAD basin in Cross River. Two infiltration trenches will be installed in an abandoned road. The efficiency is estimated to be about \$75,000 per kilogram with a 2.4 kilogram phosphorus reduction. The second project is located in Mount Kisco and includes the installation of catch basin inserts within a commercial development known as Mount Kisco Commons. We have a letter from the property managers stating that they will allow us to install them. It's estimated that it will provide approximately 10.7 kilograms of phosphorus reduction at \$10,000 per kilogram. George inquired if we had an installation agreement in place yet. Kevin stated that we do not have a signed installation agreement yet, but we do have the letter stating that they will allow us to put this together and provide the submittal to them. Director Lucas asked who would assume responsibility for the maintenance. Kevin indicated that the town of Mount Kisco will be required to do the maintenance at this point, however, it may be a good idea to consider hiring a contractor in the future to do the maintenance on all the catch basin inserts. Michael Quinn pointed out that Dvirka & Bartilucci is lowest on one of the projects and asked why it wasn't being awarded to them. Kevin explained that because they were the lowest on one of the projects, a greater evaluation of Dvirka & Bartilucci's standing was triggered and it was determined that it would be awarded to Hudson Valley Engineering Associates instead. Kevin indicated that once a specific location is determined for everything and we identify where the catch basins will be installed, we will get an installation agreement signed. Director Williams requested that George include language in the resolution for MK-NC-602 that design is not advanced further than 30% without a signed installation agreement.

Motion by Director Lucas, seconded by Director Parsons to approve award for design services for PR-CR-601 to Hudson Valley Associates, P.C. in the amount of \$42,800.

WHEREAS, the proposed stormwater retrofit project known as PR-CR-601 located at Ambler Way and Cross Road in the Town of Pound Ridge on public property is located within a recognized FAD basin in project group 2019-08 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 services for the installation of a series of infiltration trenches, as well as all construction administration services with an estimated phosphorus reduction of 2.4 kg/yr. and estimated efficiency of \$75,000/kg; and

WHEREAS, a Request for Proposals was advertised and four (4) proposals were received at the East of Hudson Watershed Corporation offices on November 14, 2019; 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 based upon stormwater retrofit experience to have been submitted by Hudson Valley Engineering Associates in the amount of \$42,800 for PR-CR-601; and

WHEREAS, EOHWC contacted the references for Hudson Valley Engineering Associates and contacted Hudson Valley Engineering Associates 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 Hudson Valley Engineering Associates as best value proposer for the project and proceed with the contract pending 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 Hudson Valley Engineering Associates as best value proposer for the design of the project for PR-CR-601, and authorizes the President or Vice President of the Corporation to execute the design contract with Hudson Valley Engineering Associates 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-0123-01)

Motion by Director Burdick, seconded by JoAnne Daley to approve award for design services for MK-NC-602 to Hudson Valley Associates, P.C. in the amount of \$28,400.

WHEREAS, the proposed stormwater retrofit project known as MK-NC-602 located at Mount Kisco Commons in the Town of Mount Kisco on private property in project group 2019-08 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 services for the installation of catch basin filters within a private parking lot, as well as all construction administration services with an estimated phosphorus reduction of 10.76 kg/yr. and estimated efficiency of \$10,000/kg; and

WHEREAS, a Request for Proposals was advertised and four (4) proposals were received at the East of Hudson Watershed Corporation offices on November 14, 2019; 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 based upon stormwater retrofit experience to have been submitted by Hudson Valley Engineering Associates in the amount of \$28,400 for MK-NC-602; and

WHEREAS, EOHWC contacted the references for Hudson Valley Engineering Associates and contacted Hudson Valley Engineering Associates 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 Hudson Valley Engineering Associates as best value proposer for the project and proceed with the contract pending 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 Hudson Valley Engineering Associates as best value proposer for the design of the project for MK-NC-602, and authorizes the President or Vice President of the Corporation to execute the design contract with Hudson Valley Engineering Associates 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.
3. Not exceed 30% design without signed installation agreement.

Motion passed; all in favor.

(R-0123-02)

7) Kent-MB-601

Director Williams informed members that he and Kevin met with Legacy Supply regarding additional changes to the site and change orders. A number of different things were discussed including their general liability insurance, which is a concern. The backup we requested was provided for their daily cost for the full value of their general liability insurance at \$485 per day. The concern with paying the daily cost is that there is a possibility that we may be paying for the full value even though they may be working on multiple projects at the same time.

a) Approval of Sampling Plan

Director Williams indicated that proposals received from the three soil sampling companies were sent to the Review Committee and they recommended Chazen. After considering the daily charges that Legacy is looking for the corporation to pick up, it was determined that it would be prudent to go with a different company and have it expedited. PVE was ultimately authorized to do the soil sampling because they were able to expedite it the quickest. Kevin said that preliminary results received were good. PVE will provide a written report by the end of today. It has been estimated that there is about 3,000 cubic yards of fill material that has to be relocated. Of that, 500 cubic yards is for immediate unrestricted use and can be removed from the site without a problem. 1,500 cubic yards should be able to be reused for placing berms across the site. This brings us up to about 2,000 cubic yards that can find a home immediately. PVE is writing up several different options for us of where we can truck the material. We can bring it off-site to a facility in Poughkeepsie which is much closer than the others that they recommended to us. There is also a site in Pennsylvania. The full options for each section will be reviewed. Essentially, the plan is to berm it up into quadrants and a home will be found for each of them. Before we can make that determination, we need a full write up from them to understand what each facility is going to be able to take. Since time of the essence, it would be in the corporation's best interest to not have Legacy sit around for another month

being inactive. Pending review of the document submitted to us, we will make a determination between now and next Executive Committee meeting to authorize Legacy Supply to get started once we have a full plan in place for where everything can go when we reopen the site and move forward. George asked if the plan was compliant with regulations and requested to review it when it becomes available. The cost will be unknown until everything we can piece things together. It might be more efficient for us to get everything off the site rather than having Legacy Supply building the berms. There are still a lot of moving parts but we've taken a big step in the right direction in identifying where all of this can go. Action will need to be taken before the next Executive Committee meeting in February. Director Williams requested authorization for George, Kevin and himself to approve the plan and move it forward so Legacy Supply can resume work. An additional change order will likely have to be submitted by Legacy for loading the trucks rather than doing the berming. There is still a little bit of an unknown out there with additional material needing to be excavated, unless there is a way around it. Kevin indicated that Legacy could potentially be back on site next week. The report being provided to us by PVE says that as long as the material finds a home, we record it and know exactly where everything went, we will be in good standing with the NYSDEC and they are willing to write a confirmation of that to us. Director Williams mentioned that he spoke with residents there and they kind of acknowledge that they all knew about the site being a dump for everything for both town and residents. Millie Magraw asked if there is some assurance that the town and neighbors do not continue to use it as a dump. Director Lucas inquired if Kent was going to step up and try to control some of that being that it is town property. Kevin said there will be a security fence up in place to prevent anyone from accessing the site. Director Burdick expressed that a berm may be better on a long-term basis rather than maintaining a fence. Director Williams explained that it's going from vacant land, which everybody felt they had the right to use, to a managed stormwater pond. Kent is going to be doing the maintenance on it so they'll be monitoring the pond. Kevin clarified that PVE will provide a full analysis, recommendation and summary report. Authorization to move forward with the soil sampling plan was approved by the Executive Committee at the January 7, 2020 meeting.

Michael Quinn pointed out that they will likely charge for an additional bond cost. Director Williams said Legacy may actually be able to provide an invoice for the extended bond if they are paying for a defined period on that bond and go farther. There's going to be an additional charge for the additional time that they're holding the bond and that is something they should be able to show us. At present, the bond is not the correct amount. Legacy feels that the increase in the bond is an outstanding issue that is yet to be resolved. Kevin added that when we have this discussion about where the soil can go, we have to keep in mind that the value of that change order most certainly should be decreased because we're already paying for the bond per that change order. We won't know what the contract value at the end is going to be. George stated that it doesn't sound like we can wait in terms of another meeting to decide what to do because it will cost us money to wait, therefore it makes sense to approve the change order now. Further, it's not possible to put a maximum on it because you don't know what the amount is going to be. Director Williams said the soil sampling plan should be reviewed first, then, the Executive Committee should approve George, Kevin and himself signing off on the remediation plan so that Legacy to get back to work. Members of the Committee will be notified of the planned course of action and the options, should more opinions be required. The change order will then be approved at the next meeting. Kevin agreed and added that details of the full plan will be included in the resolution presented at the February meeting.

Motion by Director Burdick, seconded by Vincent Tamagna to delegate the authority to Director Williams, George and Kevin to negotiate and approve a remediation plan; all in favor.

b) Approval of Change Order #3/Legacy Supply

Director Williams asked members their opinion on renegotiating the daily insurance costs portion of Change Order #3. Joanne explained if the decision is made to remove the included cost for five days of daily insurance at \$485 per day, the check would need to be rewritten removing \$2,425. Director Williams said it should be paid less the daily insurance charge. He and Kevin will sit back down with Legacy and have a further conversation with them regarding the daily cost for general liability insurance. Director

Burdick felt that Kent should pick up part of the cost. Vincent Tamagna recommended a letter be sent to Kent explaining that they need to post signage and enforce it going forward. In addition, George recommended finishing the project and figuring out what the extra cost is, then, make a request to Kent. Director Lucas suggested that in the future a page is added that every municipality signs saying they understand that if contamination is found it's their responsibility. Director Williams requested that George draft up a document along the lines of what Director Lucas described. George agreed and will see that it is added to installation agreements for municipal projects.

Motion by Director Parsons, seconded by JoAnne Daley to rewrite the check, removing \$2,425 for the amount for the insurance.

WHEREAS, Legacy Supply, LLC submitted change order request Number 3 dated 1/15/2020 representing an increase in the current contract price of \$569,151.63 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 daily site inspections and demobilization. This change order presents an increase in the amount of \$21,562.58 in the overall contract price, increasing the overall construction cost to \$590,714.21; and

WHEREAS, this change order, if approved, would increase the construction cost and would have an updated efficiency of approximately \$55,000/kg with an estimated phosphorus reduction of 12.2 kg/year.

WHEREAS, EOHWC wants to continue discussion of the inclusion in the change order of the cost of general liability insurance to Legacy Supply during the work stoppage.

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 1/15/2020, not including the cost of general liability insurance, for an additional amount of \$21,562.58 for Kent-MB-601, increasing the construction cost from \$569,151.63 to \$590,714.21.

Motion passed; all in favor.

(R-0123-04)

c) Paggi Engineering/Change Order #1

Kevin explained that change order request #1 from Paggi Engineering for work provided to us in assistance of the previous change orders that Legacy Supply submitted identifying quantities of soil that needed to be relocated on-site, identifying the asphalt, concrete and tires that had been excavated and services rendered by Paggi in reviewing that documentation starting at the end of September. In addition to other conversations which have popped up with the NYSDEC requirement for testing and potential work that may need to be done in relocating a NYSEG utility pole, which was installed adjacent to the project. The total increase amounts to \$9,037. A 10% professional discount was applied to the total cost of the additional services bringing the final amount of the change order to \$8,133.75.

Motion by Direction Lucas, seconded by Director Burdick to approve change order #1 from Paggi Engineering in the amount of \$8,133.75 increasing their design cost from \$42,800 to \$50,933.75.

WHEREAS, Lawrence J. Paggi, P.E., P.C. submitted change order request Number 1 dated 1/15/20 for an additional \$8,133.75 for Kent-MB-601 in project group 2017-05 of the Years 6-10 MS4 regional plan; and

WHEREAS, Kent-MB-601 is located on property of Montrose Drive in the Town of Kent and consists of providing design and construction administration for the installation of multiple ponds; and

WHEREAS, the proposed change order request is for Lawrence J. Paggi, P.E., P.C. to address costs incurred by Lawrence J. Paggi, P.E., P.C. as a result of unforeseen site conditions encountered during construction of the project as an addition to the original scope of work; and

WHEREAS, this change order, if approved, would increase the design cost from \$42,800 to \$50,933.75 and would have an updated efficiency of approximately \$55,000/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 Lawrence J. Paggi, P.E., P.C. dated 1/15/20 for an additional \$8,133.75 for Kent-MB-601 increasing the design cost from \$42,800 to \$50,933.75.

Motion passed; all in favor.

(R-0123-05)

8) O&M Program Update

Kevin stressed that if 2019 O&M submissions have not been made, please do so immediately. Michael Quinn will submit Yorktown's 2019 O&M documents today. Joanne emphasized that the issue is with getting the O&M submissions in because there are a lot calculations and it becomes very complicated. A check cannot be issued without the documentation being submitted. Once all of the payments are received from towns that owe, checks will be issued only to those who have made their 2019 submissions.

9) Checks and vouchers

Monthly checks and vouchers were signed. No action taken.

10) Other business

Director Williams further discussed the soil remediation plan coming back and the recommendation of where the materials will go. The materials will need to be taken off-site as soon as possible. Another change order should be expected from Legacy for loading the materials onto trucks. They will not be trucking it to another location. Kevin indicated that the facilities being provided to us by PVE as part of their recommendation are including the acceptance and transportation costs. Michael inquired if Legacy is hiring the transport and disposal facility or if it's going direct. Kevin said that we can let Legacy know the facility we are going to use and the rate and they will include it in a change order. Director Williams felt that Legacy may not want to lay out the money and if they are going to submit a change order for it, they will add on 15% profit. George explained that a resolution will be needed to authorize Director Williams to select a trucking contractor consistent with the Procurement Policy because he does not have that authority as president. Additionally, Director Williams added that depending on the estimates, members of the Executive Committee will be contacted to render a decision on the trucking contractor. Vincent Giorgio was asked his opinion on whether this is considered an eligible cost. He said that it will be up to the NYCDEP's engineering auditor to determine if it is eligible. If it is not, it will have to be paid with WQIP funds. Director Williams asked George to put together a letter to be sent to Kent telling them we have an issue evaluating how to clean up the site but we realize it is potentially on the town of Kent's property and that they should put their insurance on notice.

Motion by Director Lucas, seconded by Director Parsons to authorize Director Williams to engage a contractor to remove material from the site, if time is of the essence, consistent with the Procurement Policy and of best value to the corporation; all in favor.

George asked where we stand with paying Dvirka and Bartilucci for Y-MU-601. Joanne explained that we wanted to write the check out of the WQIP funds and that's what we've done up until this point with the 2017 contract. There's an invoice in the amount of \$1,500 waiting to be paid for work they've done, which we will issue a check for today. Vinny Giorgio stated that as long as we are using WQIP funds, the agreement between EOHWC and the county is what governs the use of those funds.

11) Adjournment

Motion to adjourn by Director Williams, seconded by Director Burdick to adjourn; all in favor. Adjourned 10:45 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 January 23, 2020 meeting minutes approved by the Executive Committee.



Richard Williams, Sr., President



Date



East of Hudson Watershed Corporation

2 Route 164, Suite 2
Patterson, NY 12563

SECRETARY'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the January 23, 2020 meeting minutes approved by the Executive Committee.

JoAnne Daley
JoAnne Daley, Secretary

February 28, 2020
Date