



# 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, February 27, 2020

### Meeting Minutes

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

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

Others in Attendance: Millie Magraw (Westchester County Planning Department); Vincent Giorgio (NYCDEP); George Rodenhausen (Corporate Counsel); Kevin Fitzpatrick (EOHWC); Joanne Tavino (EOHWC); Linda Matera (EOHWC);

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

##### **a. January 7, 2020**

Motion by Director Lucas, seconded by Director Burdick to approve the meeting minutes of January 7, 2020; all in favor.

##### **b. January 23, 2020**

Motion by Director Lucas, seconded by Director Burdick to approve the meeting minutes of January 23, 2020; all in favor.

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

Joanne Tavino reported that there is currently \$20 million on hand. Checks written today total approximately \$119,000. The audit that was planned to be presented today will be delayed because of the new FAD money that came in during 2019. There is more scheduling that needs to be done before it can be presented. The auditors are waiting for the confirmations back, so if you received a confirmation, please get them back to our auditors as quickly as possible. The audit will be presented at the March Executive Committee meeting in time to do the reporting to NYCDEP by March 31, 2020. Joanne will follow up with the auditor to find out which towns have not submitted their confirmations. With the volatility of the market and all that has been going on with the change in interest rates, we've been doing more treasury trades that we would not have normally done.

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

Joanne reported that all of the January deadlines have been met.

## **5) Project Update**

Kevin discussed the Greenbriar subdivision which sits on a small triangle of property in Somers and falls within the Croton Falls reservoir basin. Kevin will be meeting with the Somers town engineer who happens to live very close to Greenbriar to see if he can get him into the homeowners association for a presentation. It would mean that we would have another FAD project within the town of Somers. Consideration is being given to installing catch basin inserts because it's the least disruptive practice to the homeowners. We would not be taking up any property, just retrofitting the current system.

Kevin reported that the Eagle's Ridge subdivision (SE-DI-815) in the town of Southeast has reached 30% design. It contains approximately 85 kilograms of phosphorus reduction. The DEC has approved the concept of what we proposed to them, which is retrofitting the existing ponds on site in addition to doing a great deal of channel stabilization. Kevin will be meeting with the homeowners association in March to sign the installation agreement which he and George already negotiated with their attorney last year. Since this is a project that could swing us pretty strongly in one direction or the other, an update will be provided at the March Executive Committee meeting letting everyone know that we have an installation agreement signed so that Renna Engineering can be authorized to continue with the design.

### **a. PC-MB-701 (Tilly Foster)**

Kevin reported that the construction on the Tilly Foster project is essentially complete but they exceeded the reimbursement agreement total of approximately \$240,000 because of the construction conditions. It's a project that the Highway Facilities constructed and built. The additional work would bring the total project cost to about \$515,000. It was requested that they provide us with proper documentation of how they got to that number in a formal request and a proposal of how they are requesting to split it 50/50 if we decide to approve the number in excess of the \$240,000. A 50/50 split would be about \$137,000. The project is about 22 kilograms in total. We have not received any documentation for the additional costs but we expect to have it in hand by the March Executive Committee meeting. Director Williams added that even if we were to pay the excess amount of \$137,000, it would still be an efficient project. It was requested that George Rodenhausen add language to the agreement about not funding any additional costs unless we're notified before the costs are incurred, not after the fact.

### **b. Kent-MB-601/Approval of Change Order #4-Legacy Supply**

Kevin indicated that Legacy Supply change order #4 was to address the contract delay as well as additional survey work done to map out the existing conditions on the site and the quantities of stockpiles that have to be handled at some point. The delay has been negotiated by Director Williams and Kevin with Legacy Supply to find a way to best account for the insurance cost which they've incurred. They came up with a formula that appears to be pretty standard for government contracts that we feel we can move forward with. Director Williams stated that it's a formula that is very standard within the industry, which accounts for the overhead, bond and insurance costs. Everything is lumped in. It also brought down the overall cost from what they were looking for from just the bond. Great strides were made in getting the delay cost to be something more reasonable. The problem with their application to the formula at this time is that it's a formula that is designed to be done at the end of a project so you know the full cost. While there is no

issue moving forward with it at this time, we need to recognize that at the end of the project, it needs to be revisited and see if there's any credit due to the Corporation for the project. Joanne added that she and George spoke about the overhead on the survey and George reviewed the contract and found that only 5% is allowed on the survey and not 15%.

Motion by Director Williams, seconded by Director Burdick to approve change order #4 submitted by Legacy Supply in the amount of \$21,601.46, increasing the current contract total from \$590,714.21 to \$612,315.67.

WHEREAS, Legacy Supply, LLC submitted change order request Number 4 dated 2/20/2020 representing an increase of \$21,601.46 in the current contract price of \$590,714.21 for Kent-MB-601 in the year 6-10 retrofit plan; and

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

WHEREAS, the proposed change order request is for delay charges and survey of the project site. This change order presents an increase in the amount of \$21,601.46 in the overall contract price, increasing the overall construction cost to \$612,315.67; and

WHEREAS, this change order, if approved, would increase the construction cost and would have an updated efficiency of approximately \$58,000/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 2/20/2020, for an additional amount of \$21,601.46 for Kent-MB-601, increasing the construction cost from \$590,714.21 to \$612,315.67.

Motion passed; all in favor

R-0227-01

**c. Paggi Engineering/Change Order #2 discussion (Kent-MB-601)**

Kevin reported that change order #2 was submitted by Paggi Engineering to address the rebalancing, re-grading and flood mitigation plan for erosion sediment controls to account for placement of fill on the site. As proposed, it is for \$10,500. The town of Kent is the generator of the material amounting to approximately 750 cubic yards of material which needs to come off-site and taken to a facility in upstate New York. The town of Kent refuses to sign the document as generator of that material, which means it cannot be taken off-site. In lieu of them cooperating, we are proposing that we actually retrofit the on-going construction to be a wet-extended detention pond instead of a multiple pond system. This is going to cut back on the water quality volume that we can treat and on our kilograms, but it also means we do not have to ship all this material off-site while continuing to negotiate with the town of Kent. We can find a home for it on-site and in the end it will mean that we will not have as good of a kilogram reduction, but we will see a savings in cost. If the town of Kent would like to keep the soil on site, that's exactly what we will do. The plan to reconfigure the retrofit is what we need to renegotiate with Paggi and figure out

exactly what needs to be done and take the path of least resistance at this point. We want to get Legacy out there working so they move on from the site. Rich Franzetti asked if the reconfiguration impacts the project that Legacy bid on and if there will be another change order from Legacy for this. Kevin said that he would have to negotiate with them because he's telling them not to excavate about 1,500 cubic yards of soil. We're essentially asking them to do something else. It may not come to a change order, but it may be a work change directive of moving apples into a different cart instead. So we need Paggi to tell us exactly what needs to get done and how Legacy can accomplish that. It should be close to an even swap of completing the contract with this change of work. Director Williams made everyone aware that NYSEG came in and installed a utility pole in the middle of the work and we now have to figure out a way to work around it. The current plan was that we were going to have to have NYSEG on the site to sit there and hold the pole while the excavation was going on around the pole, which was going to cost us through material and potentially could also be required to be taken off the site. We haven't seen the end of the change orders. Director Williams ran some calculations and found that this project, as we were proceeding forward, was going to cost somewhere around \$1,000,000. Proceeding with Kevin's proposal is probably going to bring the total cost of the project in somewhere around \$750,000-\$820,000. Kevin added that the kilogram total will have to be revised from 12.67 to somewhere between six and eight. That will depend largely upon the volume we can maintain on site. Director Lucas asked if there was any liability on Kent's part. It's difficult to understand why they don't want to sign off on moving the materials. Director Williams said they didn't want to sign anything because that would acknowledge their liability to this material that somehow in the future would come back and cost them funds. They are not acknowledging that the material is already there and that they own it. The bottom line, as discussed with Director Fleming, is that we're going to leave all the material on the site and her residents are going to know that there's a contaminated site right there that Kent has to clean up and she's going to have to deal with her residents. Kevin requested authority for Director Williams and himself to address an alternate approach and re-negotiate with Paggi to come up with the work that will be included in the change order but will not necessarily impact the dollar value. The change order presented today will be tabled until more specific details have been worked out.

Motion by Director Parsons, seconded by Director Burdick to authorize Director Williams and Kevin Fitzpatrick to re-negotiate the Kent-MB-601 contract with Paggi Engineering; all in favor.

## **6) Property Acquisition**

Kevin notified members that an opportunity to assist a member municipality with a project was brought to us by Putnam County. The property is located just north of the Putnam Hospital Center at the Drewville Road and Stoneleigh Avenue intersection, which Putnam County is going to be upgrading and amending. They have to perform certain requirements before the permit with the NYSDEC and the NYCDEP in order to make those upgrades at that intersection. They've asked for assistance from East of Hudson Watershed Corporation (EOHWC) to purchase property from the NYCDEP to install the retrofit project on. They have chosen this option instead of going through the federal government because it will cause a delay of two years. If we were to negotiate with the property owner, which happens to be the NYCDEP to purchase that piece of the property for them, they can then move forward and install it in short order. Essentially, since the project is not introducing new impervious cover, it's basically just a retrofit of what's existing there. We have to make sure that the NYSDEC agrees that we can get phosphorus reduction credit for

what Putnam County is proposing to do there before we purchase anything. Director Williams asked if we were going to purchase the property and pay for the retrofit. Kevin said EOHWC will only purchase the property and Putnam County will pay for both the design and the retrofit. The concept still needs to be worked on. It is being brought up today to let the committee know that there are some opportunities out there and that it would be helpful if we advanced the property acquisition policy. Director Parsons asked what happens with ownership of the property after the retrofit is installed. Kevin said we need to decide how to go about property acquisition. Rich Franzetti stated that Putnam County plans to install a roundabout. They plan to take a lot of cut away from there because the two roads go up and there a lot of sight distance issues. The county is aware of the situation of their being sewer and water there. It's a gravity to a pump station. The pump station is at the intersection and goes up the block a bit, then crosses the street and goes to where the NYCDEP just put in their stormwater retrofit on Drewville Road, and then it heads back up across the mountain. Kevin said Putnam County is proposing the area almost directly next to the NYCDEP's existing retrofit. They had a couple different concepts. The NYCDEP's retrofit is to the Northwest, so they were looking to go directly next to it or the other side of Stoneleigh. Either way, it's directly next to the Croton Falls reservoir. They are unsure exactly where they want to purchase the property, but they came to us with the concept. Kevin will work with Director Williams to figure out what's in the Corporation's best interest in the property acquisition concept and the best way to advance it. While we need more details at this point, it might be fair to estimate the property size to be approximately one acre. The idea of purchasing this property actually came from the Land Use Permit Division of the NYCDEP. It was acknowledged that there is a significant utilities hurdle to get over. Kevin said that unless Putnam County can prove it's something they can move forward on, it's not something we'll get involved in. George stated that at some point we need to get the people we work with at NYCDEP to agree that this program is going to work and that we can use their money to buy the land, hold it and then possibly sell it. Not just give it to the county, but sell it back to them. In other words, we have to know that this is a proper use of FAD funds.

## **7) O&M Program Update**

Joanne reported that two checks were received from Southeast and Putnam Valley. Director Parsons said that he recently approved his for payment. Rich Franzetti stated he presented it to the Carmel Board and they will vote on it next week. As soon as all the checks come in, towns receiving checks will be paid. They will be presented to Westchester County once everything has been processed and then we'll get the final balances out to the towns in Westchester. Westchester County will reimburse the Westchester towns once we prove that they have all paid EOHWC. The finance departments in Westchester all understand that it's a three-step process that they have to pay out first in order to be reimbursed.

## **8) Checks and vouchers**

Monthly checks and vouchers were signed. No action taken.

## **9) Other business**

Kevin informed members that we've been advertising for a while now for a full-time Watershed Planner and a good amount of qualified candidates have applied for the position. The cutoff deadline for submission is March 31<sup>st</sup>. We will start looking through the candidates and scheduling interviews towards

the end of March into the beginning of April. Then, at the May Board of Directors' meeting we will be able to recommend a candidate on a probationary basis.

Director Lucas met with Bill Stoecker of Fabco and the communities around Peach Lake, which is one of the basins attached to the FAD. They are interested in installing the detention basins. Bill brought some samples and will go around speaking with residents. The basins will be sized to get an idea of what is out there. The data can be passed along to Kevin once Bill does some of the work and he will figure out the approximate phosphorus load. The quantity of inserts is estimated to be between 50 and 60. Kevin said it will be submitted to NYSDEC as a Year 9 project.

## **10) Adjournment**

Motion to adjourn by Director Burdick, seconded by Rich Franzetti; all in favor. Adjourned at 10:07 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 February 27, 2020 meeting minutes approved by the Executive Committee.



Richard Williams, Sr., President



Date

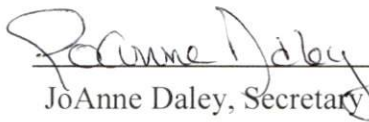



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### SECRETARY'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the February 27, 2020 meeting minutes approved by the Executive Committee.

  
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JoAnne Daley, Secretary

  
\_\_\_\_\_  
Date