



## EAST OF HUDSON WATERSHED CORPORATION

### SPECIAL EXECUTIVE COMMITTEE MEETING

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

TIME and DATE: 10:45 AM, Tuesday, January 7, 2020

### Meeting Minutes

#### 1) Open Meeting

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

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

#### 2) Kent-MB-601 Soil Testing and Delay Claim discussion

Director Williams informed members that this meeting has been called to discuss the soil issue and delay for stormwater retrofit project Kent-MB-601 at Montrose Drive in the town of Kent.

Kevin Fitzpatrick reported that as of January 6, 2020, Legacy Supply, LLC was given the directive to officially close the project site. As of today, it will remain closed for 30 days. This will give us time to determine the sampling plan and the actions that will be taken with the soil on site. Beginning yesterday, Legacy Supply is entitled to a contract extension and a contract cost increase for the delay. Originally, they proposed approximately a \$2,400 per day charge for the contract cost increase. They since renegotiated the cost per day down to \$1,600, removing profit and giving us a discount for the daily closure. Per Director Williams' request Kevin looked into the charge for demobilization/remobilization, which Legacy specified would be \$33,000 to demobilize and \$33,000 to remobilize. This would put us at \$66,000 for a charge to get all of their machines out, wait for testing results and then come back and restart. The question is are we going to approve the rate which they provided to us for the daily closure or do we want to continue to investigate a one-time charge for demobilization/remobilization. Waste Management Resources, PVE and Chazen were all asked to provide proposals to us for sampling. Chazen has already submitted their proposal over the holidays. Waste Management Resources and PVE will be able to submit their proposals by end of day tomorrow. Chazen's proposal was in the ballpark of \$8,800 and provided a testing plan and recommendations for what to do with the material. They can get out and begin testing next week. The sampling itself will take a few days and analyzing and providing results will take two weeks. Director Williams inquired about the timeline for construction to restart once we have the results. Kevin explained that once we know exactly where the contamination is on-site, the extent of it and where the soil can go, we can start immediately getting that soil out of there and to the appropriate destination. If it turns out that the soil cannot leave the site without going to a specialized facility, then we

have a whole separate discussion. The testing plan is going to dictate everything that happens. It's safe to assume that some of it is going to have to go to a specialized facility. Director Williams asked if everyone understood that some of the material had already been taken off-site. Kevin added that the tires, concrete and the asphalt are the materials that were taken off-site. The soil remains on-site and is the big cost item. We won't know until the sampling plan is completed where it can go and how it has to be treated. Kevin also noted that he believes there may be additional materials because there's still a cell that has to be excavated and based on what we found so far, it will most likely not be a large amount. The NYSDEC was contacted months ago at various times. The response we received was from Wesley Silas of the Waste Management Division. He gave us guidance on how to treat it and how to handle the situation, but other than that, no one else has responded. Technically, it's not a spill. Director Lucas asked who advised us of how to handle the situation and if we have insurance that covers issues of this nature. Kevin responded that once the material is found, the guidelines are very clear of how to proceed. Joanne informed members that she spoke with the insurance agent to inquire as to whether we would have a claim and what our policy covered. They are researching it and will get back to us with an answer. Director Lucas said that worst-case scenario, they are going to test it and find volatiles and asked who decides if it has to be taken off-site, or sequestered there at that point. Kevin indicated that as of the present time, it is up to us to follow the guidelines within the state regulations. Director Williams asked what the actual section from the regulations says. Kevin promised to research the exact wording and get back to Director Williams with an answer. Director Lucas asked what the worst-case scenario for the amount of contaminated soil would be. Kevin explained that there is about 3,000 cubic yards and depending on where it's going, it could cost between \$300,000 and \$500,000 to remove the material. Part of the sampling plan will be to define the limits of that contamination, and if the whole site has areas of contamination, then we can take that material and use a lot of it right on-site. Director Williams indicated that we will know the cost of the other two firms' proposals tomorrow. In order to expedite this, Director Williams requested that the committee authorize him as purchasing agent for the Corporation upon recommendation of Kevin to approve the agreement with whichever testing company is selected.

Motion by Director Lucas, seconded by Joanne Daley to authorize Director Williams as purchasing agent for East of Hudson Watershed Corporation upon recommendation of Kevin Fitzpatrick to approve the agreement with a selected soil testing company consistent with the EOHWC Procurement Policy; all in favor.

Further, Director Williams stated that the second part of the equation is whether we are going to go with a delay or demobilization/remobilization. Michael Quinn asked if Legacy provided a breakdown for their remobilization/demobilization because \$66,000 seems like a high number. Kevin said that they did not give a concise breakdown of what that is. Maureen Fleming of Carmel stated that she has not been involved in the process other than receiving complaints from her residents about the project and inquired if there were provisions for a delay in the contract. Kevin said that a dollar amount is not specified because each individual project is going to vary. Sabrina added that if the dollar amount for leaving the equipment on site is too high, then a lower rate should be negotiated. Additionally, it was asked if we have a sense of the estimated time frame to sample the site and do the testing. Kevin indicated that Chazen provided a project schedule of three weeks, which includes a few days testing and 2 weeks of reporting it. Michael recommended that Kevin make the soil testing firms aware of the urgency to see if it can be expedited. Director Williams agreed and offered to meet with Legacy Supply to negotiate the costs of demobilization/remobilization. Kevin will reach out to Jeff Cassidy and schedule a meeting today at 3:30 PM. Director Williams requested the contract and schedule of values be emailed to him for review prior to the meeting and that Legacy bring a breakdown of costs with them. It was recommended that Kevin reach out to Chazen, PVE and Waste Management Resources to get them out there for sampling as quickly as

possible. Sabrina concluded that Director Williams and Kevin should be given the ability to negotiate with Legacy Supply an amount not to exceed \$66,000.

Motion by Director Lucas, seconded by Director Parsons to give Director Williams and Kevin Fitzpatrick the ability to negotiate a rate for demobilization/remobilization for a cost not to exceed \$66,000; all in favor.

### **3) Adjournment**

Motion to adjourn by Director Parsons, seconded by Director Williams; 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 January 7, 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 7, 2020 meeting minutes approved by the Executive Committee.

JoAnne Daley  
JoAnne Daley, Secretary

February 28, 2020  
Date