



**EXECUTIVE COMMITTEE MEETING**

*9:30 A.M., Thursday, September 24, 2020*

*Zoom Videoconference*

**Meeting Minutes**

**1) Open Meeting**

Voting Members in Attendance: Richard Williams, Sr. (Town of Patterson); Chris Burdick (Town of Bedford); Peter Parsons (Town of Lewisboro); Warren Lucas (Town of North Salem); 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: Thomas Snow (NYSDEC); Michael Meyer (NYCDEP); Vincent Giorgio (NYCDEP); Christine Chale (Corporate Counsel); Patrick Logan (Corporate Counsel); Millie Magraw (Westchester County); Michael Quinn (Town of Yorktown); Kevin Fitzpatrick (EOHWC); Joanne Tavino (EOHWC); Linda Matera (EOHWC)

**2) Approve Meeting Minutes**

**a. August 27, 2020**

Motion by Director Parsons, seconded by Director Burdick to approve the meeting minutes of August 27, 2020; all in favor.

**b. September 3, 2020**

Motion by Director Parsons, seconded by Director Burdick to approve the meeting minutes of September 3, 2020; all in favor.

**3) Financial Update**

Joanne Tavino reported that the fund balance at the end of August was \$19.2 million. Checks drawn today are \$374,780. FAD expenditures for this month total \$294,974. While the interest rates have come down, Joanne is working with Steve Cavazutti of M&T Government Banking to try to get better rates on our money market account because we are no longer investing in CDs or treasuries because the rates are too low.

**4) 2021 Draft Budget**

Joanne announced that the 2021 Budget is due to the New York State Authorities Budget Office November 1<sup>st</sup>. Upon approval, it will be adopted at our October quarterly board meeting. Joanne invited questions on the assumptions she used with regard to health insurance and increases.

Motion by Rich Franzetti, seconded by Director Burdick to recommend the 2021 Budget to the Board of Directors; all in favor.

## 5) Tom Snow/NYSDEC

Director Williams welcomed Tom Snow of New York State Department of Environmental Conservation (DEC). Tom has been invited to discuss the possibility of the East of Hudson Watershed Corporation (EOHWC) taking on additional responsibilities such as septic, sewer and educational components.

Tom expressed appreciation for the opportunity to participate in the meeting discussion and congratulated members of the Corporation on its success over the last 10 + years. It was noted that EOHWC is doing a phenomenal job with stormwater retrofit implementation as required through the MS4 permit and the TMDL implementation plan requirements. There isn't another entity in New York that is implementing quite as many stormwater retrofits as EOHWC. While the corporation is actively pursuing phosphorus reductions to achieve the goal requirement of 459.5 for years 1-5 and 6-10 by the end of next year, the DEC is in the process of updating the 2009 implementation plan that spells out a lot of the requirements as they relate to the stormwater retrofit reduction requirement. The DEC envisions stormwater requirements continuing for years 11-15. In this case we are looking at the implementation plan more broadly than just stormwater retrofits.

Director Parsons announced that Lewisboro will be going out to RFP on Monday and Rich Franzetti announced that the town of Carmel sent their RFP out earlier this week. Tom said that it sounds like all of the areas that were identified in the FAD are proceeding forward with a preliminary study. There are other long standing areas in east of the Hudson that have been identified from a sewer perspective. Tom mentioned that he has been working with Supervisor Morrissey who is trying to advance the projects in Somers, Lincolndale and Shenorock. He is hopeful that additional funding will be brought in towards that program or project. There are a lot of efforts going on to make sure that all the programs are well-coordinated and integrated into what everybody is doing. To that extent the EOHWC could potentially help serve or facilitate some of that or serve to help move some of that work forward that could be helpful. There are opportunities along roadsides that could be further pursued from a stormwater perspective. While still in the stormwater field perhaps the EOHWC could work with the municipal DPWs to help identify and pinpoint some of the stormwater projects as they relate to the stormwater conveyance systems. We are going to try to put more emphasis on ditches going forward just because the municipalities have control over those areas. A lot of cases are being found in those areas which tend to be not only just conveyance, but also as part of the conveyance, can be sources of pollutants going directly into the reservoirs or into the streams, which ultimately go into the reservoir. There are certainly some opportunities to think more broadly from a programmatic perspective. The DEC would definitely welcome the opportunity to see how EOHWC could potentially expand beyond just doing stormwater retrofits and possibly get into some of the things that Supervisor Williams mentioned earlier. Director Williams asked if Tom would be in favor of the Corporation looking at sewers and/or septic systems and working with local municipalities on improving those functions. Tom agreed that there are absolutely opportunities to expand the Corporation's portfolio and indicated that the DEC's goal is looking for ways to economize and help. The future of EOHWC can almost be envisioned as something akin to the West of Hudson's efforts through Catskill Watershed Corporation (CWC). Whether or not that happens overnight or over a period of time is certainly something we would think of as a logical progression. Director Burdick felt that Tom's news of the Corporation's future was encouraging and is absolutely in alignment with what is trying to be achieved. There's a great opportunity among all entities to see this go forward. Director Lucas mentioned that these efforts get a lot more focus through EOHWC than it would with 19 municipalities dealing with it individually. We are able to do things that are a little more progressive and have more of an impact. It's beneficial to our communities as a group. Director Parsons added that there are two types of projects on the whole: ones in which some of them provide a significant benefit to the community as well as NYC; and others have relatively little perceived benefit for the community. For example, in the case of Lake Truesdale or Kitchuan the money is available to do a study but there is uncertainty about where the money

to actually do the project would come from without the help of New York City. Tom indicated that one of his roles going forward is to help interface with communities to facilitate these types of things and offered to work with Director Parsons and any other supervisors. Director Parsons expressed the need for Tom's guidance in his situation. Rich Franzetti pointed out that there are bigger administrative issues with this as well. It's not just the money to build and install a sewer system, it's the money to do everything else. The cost could be in the billions to expand existing plants to make them capture and treat this area. Director Lucas added that a few supervisors met with Sabrina Ty before she left to figure out what type of funding they were eligible for and they found out that they would provide 25% of what you don't have. The program was set up in such a way that it's never quite enough to be able to close on some of the larger projects. While some of the funding may work for 1 or 2 little projects, when you start grouping things together for larger ones it tends to be a real problem getting funding for those. Tom explained that we have to start somewhere and everything is not necessarily going to be in place before anything is done. A number of the wastewater issues have been around for a very long time. While this doesn't happen overnight, trying to lay the groundwork to move these things forward as a group can perhaps help do that as opposed to leaving it up to the individual municipalities. Director Burdick remarked that in Bedford it would be impossible to take care of all sewer needs in one fell swoop. Bedford might be considered the epicenter in Westchester County for septic issues but we're chipping away at it as Tom suggested. It's in the first phase and may take multiple phases to provide sewers for all of the areas that need them. It's a massive undertaking but we need to get started on it. EOHWC has shown the capacity to do these things and do them well which is a reason why we have been advocating for the expansion of the authority.

Director Williams inquired when the TMDL report is expected to come out. Tom indicated that he doesn't necessarily have a specific date and things are a little bit slower now with COVID than what they would normally be. Hopefully we will see something around 6-8 weeks. Presently, it is going to staff for review. Once comments are provided by them we will essentially be having conversations with individuals like you to go over some of our thoughts and ideas. Discussions will be had with the City of is being considered 5 to 10 years out. It's possible that EOHWC will be looking at another 10 year approach. As soon as comments are received back from staff at the DEC and depending on what they are, we'll be having conversations with folks including DEP, DOH and EPA. There's a lot of work that's been done through the Watershed Agricultural Council (WAC) through their east of the Hudson watershed program. All that information has been captured and identified as to which farms have been addressed and which still need to be addressed. In some basins pretty much all of the agriculture has been addressed by WAC, however, in a couple of areas there are farms that are fairly sizeable that have not. At this point we are trying to capture all of that information and figure out based on what's been done by WAC and EOHWC to determine where we need to focus going forward. We really try to get down into it from a basin by basin perspective based on what's been done already and what is left that needs to be done to get some of these phosphorus levels reduced. In many cases the City's data over the last 20+ years shows that in most cases the water quality is pretty good and it's likely a result of the work that's been done. In some cases there is work that still needs to be done. Let's make sure we are focusing our collective efforts and resources to those areas where we are going to continue to get the biggest bang for the buck. Director Williams asked what is on the horizon for MS4 regulations. Tom indicated that they are hoping they can go out concurrently with TMDL so folks can see how they are linked. They will be coming out as drafts. We will be going through the same process we did previously where it's reviewed and comments are provided. Director Williams thanked Tom for joining the meeting and providing insight on the future of EOHWC. Director Burdick asked if there was a possibility that Tom could provide a letter or email of support from the DEC endorsing, in concept, the expansion of the EOHWC authority and mission to encompass what was discussed today. It's a helpful tool when talking to our communities and other agencies.

In conclusion, Tom promised to look into the possibility of providing a letter as Director Burdick requested and thanked everyone for the opportunity to discuss the potential of EOHWC taking on additional responsibilities.

## **6) Proposed Change to Certificate of Incorporation**

Christine Chale discussed the memo and resolution provided that outline the process of making changes to the Certificate of Incorporation for EOHWC. The process would require the Board of Directors to approve a modification to the certificate. The Bylaws require a 2/3 approval. The language being suggested is fairly simple because the list of purposes only requires 2 things to add an additional numbered paragraph to relate to a broader purpose of reducing discharge of contaminants into the watershed to achieve compliance with the laws, regulations and permits and protect the water quality. Then, the additional procedure that's added is administering, organizing and implementing programs and projects to achieve compliance. These are lessening the burdens of government-type purposes. They fit very well in terms of the New York statutes and the federal requirements for the not-for-profit entity that EOHWC is. The procedure for adoption would be to have members of this board forward the action to the Board of Directors. The resolution presented today is for the Executive Committee to adopt with recommendation to the Board. Director Williams indicated that while the changes seem fairly simple and straight forward, the process to get there seems a little complicated. It was also pointed out that if we are to make the change, it is New York City's position that these changes are not eligible for funding under the money that we currently have and would need to come directly from the individual municipalities through the coalition. Michael Meyer stated that it doesn't mean that it can't be made eligible for WQIP funds. We found that our accounting and auditing processes is such that they are looking very closely at matching the terms of the agreement with what funding is being spent. We want to avoid having any issues with getting the second invoice paid later on. The contract is specifically limited to retrofits right now. Director Williams agreed that it should be forwarded to the full Board and a coalition meeting should be held with the full Board. If changes are going to be funded by the individual municipalities and not the Corporation we will need to get an agreement in place. We also need to know the estimated cost for making changes to the legal documents. This way going forward everyone knows what the expectation will be. Christine promised to provide a dollar amount for the changes. Director Lucas stated that it would be best to figure out exactly what we're doing so when we go back to the Board we can explain the long-term benefits of making the change. Director Williams suggested scheduling a Coalition meeting to discuss it with the full Board. Christine recommended scheduling it before the October Board of Directors' meeting to discuss the pros and cons of the potential projects that you can do. JoAnne Daley will work with Linda Matera to adjust the start time of the BOD meeting to accommodate the Coalition meeting beforehand.

Motion by Director Burdick seconded by Director Lucas to recommend that the Board of Directors approve the proposed amendment to the Certificate of Incorporation at its next quarterly meeting.

WHEREAS, it is understood that the Funding Agreements would require expenditure of funds provided through those agreements solely for projects consistent with the scope of those agreements and that undertaking projects authorized by the expansion of the purposes would require identification of appropriate funding; and

WHEREAS, the Corporation's counsel has presented the Corporation with a proposed amendment to its Certificate of Incorporation to expand the purposes to include such activities (the "Amendment"); and

WHEREAS, the Amendment proposes to modify the Certificate of Incorporation substantially as follows:

- i. Adding the following subsection (b) to the third numbered paragraph in the Certificate of Incorporation and re-lettering the existing subsections (b) as (c):

(b) Reducing the discharge of contaminants into, and the levels of contaminants in, the New York City EOH Watershed in order to achieve compliance with all related federal, state and local laws, regulations and permits applicable to the municipalities and the businesses and persons located in the New York City EOH Watershed and to protect the quality of the waters therein; and

ii. amending subsection (a) of the fourth numbered paragraph to read as follows:

(a) administering, organizing and implementing any and all necessary programs and projects in order to achieve compliance with the requirements of all federal, state and local laws, regulations and permits in relation to New York City's use of the surface waters within the EOH Municipalities for New York City's water supply, including, but not limited to, the Municipal Separate Storm Sewer System ("MS4") heightened requirements, on a non-profit basis, and to protect the water quality of those waters;

WHEREAS, the Executive Committee has reviewed the proposed Amendment and deems it to be in the best interests of the Corporation;

NOW THEREFORE IT IS HEREBY RESOLVED, by the Executive Committee of the Board of Directors of the East of Hudson Watershed Corporation that it recommends that the Board of Directors approve the proposed Amendment to the Certificate of Incorporation at its next quarterly meeting.

Motion passed; all in favor.

(R-0924-01)

## **7) Project Selection Policy Amendment**

Christine discussed the challenging issue of obtaining mortgage subordinations on some of the retrofit projects. Most of these projects have a very small cost in comparison to the benefit and is more in the interest of EOHWC than in the interest of the private owners. We've had some conversations about the pros and cons of not getting a subordination in specific situations. There are certainly situations where you would want subordinations to be in place when the cost is high and where there is significant investment versus the investment of the developer/owner in the project. The fact that these are fairly low cost projects is what makes this complicated. They've got multiple layers of corporations and of bank financing. In many cases on a simple project a mortgage subordination is usually not that big of a deal because it's not going to impair their security. Projects with more complex layers of ownership and financing become a challenge, therefore, we started talking about the idea of perhaps modifying the Project Selection Policy to identify certain areas where you wouldn't necessarily require a mortgage subordination. Some factors that would be taken into account have been identified: 1) The cost of the project compared with the estimated credits; 2) The expected cost and required access for maintenance; 3) In general, subordination should not be required for low cost, higher efficiency projects, such as the installation of catch basin inserts. Other projects would have to be evaluated on a case by case basis. In the first instance, this is aimed at the catch basin inserts. It could be considered for another project, but that would have to be evaluated. The concern is if in the case of a foreclosure would the bank let you back onto the property and would you be able to continue to maintain these projects. In the case of the inserts it's unlikely that would not be in their interest. It's really dependent on the project.

Kevin explained that for the most part we are going to find that the times we are really going to be concerned with mortgage subordination might actually be projects that we are no longer going to be pursuing anyway. In the case of these private properties where we're going to be going after catch basin inserts, it would be less of a concern because our investment isn't quite as high. In the case of a channel

stabilization project that we are going after on private property oftentimes it's a very clear benefit to the property owner. The ones where we would really be concerned about the mortgage would be a pond system or full bio retention on private property. Those are generally projects we aren't going after anyway but it is extremely important for us to have this document in the corporation's policy to make sure we are addressing these on a case by case basis and not getting tangled up in the minutia of going back and forth constantly trying to deal with banks.

Motion by Director Burdick, seconded by Director Lucas to recommend that the Board of Directors approve the amendment to the Project Selection Policy.

WHEREAS, the East of Hudson Watershed Corporation (the "Corporation") wishes to amend its Project Selection Policy and Procedures (the "Policy") in order to add guidance on when the Corporation will pursue mortgage subordinations for easements it seeks to obtain on project properties; and

WHEREAS, a proposed amendment to the Policy to include said guidance has been prepared and presented to the Executive Committee (the "Amendment"); and

WHEREAS, the Amendment would add the following subsection to Policy Part 4, Executive Committee Project Approvals:

#### ***4.04 Mortgage Subordinations***

Prior to the execution of any easements required by Part 3.02 of this Policy, the EC will determine whether the EOHWC will seek to have the any mortgages or other property interests affecting the subject property subordinated to the easements.

In determining whether to pursue such a subordination, the EC shall consider the following factors:

- (1) The cost of the project as compared to the estimated phosphorus credits, with low cost high-efficiency projects presenting a lower risk in the event that a future mortgage foreclosure would prevent access to a property; and
- (2) The expected cost and required access for maintenance following installation.
- (3) Generally, it is anticipated that subordination would not be required for low cost higher efficiency projects such as the installation of catch-basin inserts. Other projects would be considered on a case by case basis.

Generally, subordinations will not be pursued for low-cost projects such as the installation of Fabco catch-basin inserts or for projects that would benefit the subject property.

WHEREAS, the Executive Committee of the Corporation has reviewed the Amendment and deems it to be in the best interests of the Corporation;

NOW THEREFORE IT IS HEREBY RESOLVED, by the Executive Committee of the East of Hudson Watershed Corporation recommends that the Board of Directors approve the foregoing amendment to the Policy.

Motion passed; all in favor.

(R-0924-02)

## **8) Project Update**

Kevin reported that catch basin inserts are wrapping up in both Katonah and North Salem Metro North sites. They were both installed without issue. The folks at Fabco provided us with photos and video documenting the entire installation. It will be a useful tool to use for encouraging other agencies and private property owners about the ease of installation. At least 2 more quotes are expected from Fabco for installation in the Village of Mt. Kisco (MK-NC-601) on municipal property and the other on private property at Mt. Kisco Commons (MK-NC-602). Both will be presented at the October Executive Committee meeting. In the case of Mt. Kisco Commons, we are currently in negotiations with the property owner's attorney and are hopeful that we can get on the site in November for the actual installation and wrap it up quickly.

Metro North has agreed to allow us to do the catch basin insert installation at the Southeast train station. It's a simple installation and we should be out of there quickly. We are just waiting for them to sign off on the installation agreement. There are other projects that will likely be awarded in November for construction; one in Pound Ridge and the other in Carmel on NYCDEP property which is pending a land permit approval. We are looking forward to having an active fall for the corporation. The Year 10 Work Plan will be presented at the October BOD meeting. Tom Snow gave us a great picture of where they might want us to go for Years 11-15.

Kevin thanked Director Parsons for connecting him with his contact at Metro North. He responded immediately and was able to help Kevin get to the next step in the process.

Kevin announced that new Watershed Planner, Cory Lapidus will be starting Monday, September 28<sup>th</sup>. We look forward to having him on board.

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

Kevin said that we are at the time of year when the highway departments are not going to be addressing our projects immediately. They usually wait for the leaves to fall and then the cleanup occurs. As usual we will probably get an influx of submissions in December. Once Cory is on board here he will become familiar with all the projects and we will do our own inspections to make sure each municipality is taking care of what they have to. Director Parsons inquired if the Town of Kent responded to his invitation to the inspection or anything else. Kevin said he invited them out for the inspection but they didn't respond or show up. They have been notified that the contract is being closed out with Legacy Supply and we are closing the project and submitting for credits. We've done the best we could but have not gotten a response of any kind.

## **10) Board of Directors' Draft Agenda/October 13, 2020**

Director Williams asked if anyone had questions or wished to add anything to the October 13<sup>th</sup> BOD agenda other than the proposed change to the Certificate of Incorporation and the Project Selection Policy Amendment items. No members had questions or additions.

Motion by Director Lucas, seconded by Rich Franzetti to approve the October 13<sup>th</sup> Board of Directors' draft agenda; all in favor.

## **11) Proposed Meeting Dates of 2021**

Director Williams presented the list of 2021 proposed dates for the Board of Directors and Executive Committee meetings and asked if anyone had changes. No changes were suggested. The list will be presented to the Board of Directors at the October 13<sup>th</sup> meeting.

**12) Checks & Vouchers**

Monthly vouchers were signed. No action taken.

**13) Other business**

No other business was brought forward.

**14) Adjournment - Motion to adjourn by Director Burdick, seconded by Vincent Tamagna; all in favor. Adjourned 10:35 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 September 24, 2020 meeting minutes approved by the Executive Committee.

Richard Williams Sr.  
Richard Williams, Sr., President

10/28/2020  
Date

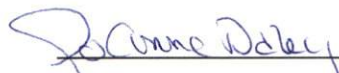


## East of Hudson Watershed Corporation

2 Route 164, Suite 2  
Patterson, NY 12563

### SECRETARY'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the September 24, 2020 meeting minutes approved by the Executive Committee.

  
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JoAnne Daley, Secretary

October 23, 2020  
Date