



## EAST OF HUDSON WATERSHED CORPORATION

### QUARTERLY MEETING OF DIRECTORS AND MEMBERS

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

TIME and DATE: 10:15 a.m., Tuesday, October 13, 2020

#### Meeting Minutes

##### **1) Open of Meeting at 10:15 AM**

Voting Members in Attendance: Rich Williams (Town of Patterson); Chris Burdick (Town of Bedford); Peter Parsons (Town of Lewisboro) for himself and as alternate for Warren Lucas (Town of North Salem); Rick Morrissey (Town of Somers); JoAnne Daley as alternate for James Schmitt (Town of Pawling); Matthew Slater (Town of Yorktown); Michael Quinn (Town of Yorktown); Gina Picinch (Town of Mount Kisco); Ed Brancati (Town of Mount Kisco); Lauri Taylor as alternate for Robert Liffland (Village of Pawling); Tony Hay (Town of Southeast); Maureen Fleming (Town of Kent); Sabrina Charney-Hull as alternate for Ivy Pool (Town New Castle); Rich Franzetti as alternate for Ken Schmitt (Town of Carmel); Sam Oliverio (Town of Putnam Valley); Kevin Hansan (Town of Pound Ridge).

Others in Attendance: Millie Magraw (Westchester County); Chris Chale (Corporate Counsel); Patrick Logan (Corporate Counsel); Michael Meyer (NYCDEP); Vincent Giorgio (NYCDEP); Kevin Fitzpatrick (EOHWC); Joanne Tavino (EOHWC); Cory Lapidus (EOHWC); Linda Matera (EOHWC)

##### **2) Pledge of Allegiance**

##### **3) Approve Meeting Minutes: August 11, 2020**

Motion by Director Oliverio, seconded by Ed Brancati to approve the Board of Directors Meeting Minutes of August 11, 2020; all in favor.

##### **4) Financial Update**

Joanne Tavino reported expenditures year-to-date total \$1.7 million. The current fund balance is \$18.8 million of which \$3.1 million is Putnam, \$4.7 is Westchester and \$11 million is FAD. The current value of our investments is \$8.5 million. We've begun to not reinvest due to low interest rates therefore the balance is coming down but is being moved into the money market account at M&T bank. Our investment income earned so far this year is \$190,000 and the funds are being used for FAD projects.

##### **a. Adoption of 2021 ABO Budget**

Joanne announced that each member has received a copy of the 2021 draft Budget that was presented at the September Executive Committee meeting and was voted on to be presented today. It has been reviewed by the Finance Committee and each member responded with their approval.

Motion by Director Burdick, seconded by Director Oliverio to adopt the 2021 Authorities Budget Office (ABO) budget as presented; all in favor.

Motion by Director Burdick, seconded by Director Oliverio to adopt the 2020 ABO Budget as presented; all in favor.

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

Joanne reported that there are still some financial disclosures that need to be submitted. The O&M submissions are expected sometime in late November/early December when fall cleanup has been completed by towns. No other items are due at this time.

## **6) Project Update**

### **a. Program Summary**

The Program Summary was presented and Kevin invited Members to reach out with questions on specific projects in their towns.

### **b. Year 10/2021 Work Plan**

The Year 10 Work Plan will be submitted to the New York State Department of Environmental Conservation (NYSDEC) by the middle of October. We have enough projects on the docket right now to attain our goal and actually surpass it. The Year 10 Work Plan represents extra projects that are really worth pursuing. The highlighted projects represent those that are outside the FAD basins which go in the opposite direction of what we've been doing with the past few Work Plans. To date we've only had funding available to us towards FAD and FAD-connected retrofits. Moving forward, this Work Plan will set us up for the opportunity to pursue funding for projects outside the FAD basins. The hope is that as we are advancing the conversations with NYSDEC we will be able to find additional funding for these projects. Kevin and Cory have been working to identify the most economically feasible projects that are going to get us our best value. We've tried to highlight municipal properties and a few schools that we might even be able to incorporate an education element into while working with the school districts. The Work Plan doesn't necessarily need to rely on these retrofits to meet the 10 year goal. The current Year 9 Work Plan will be sufficient to meet and exceed that goal. Kevin requested approval of the proposed Year 10 Work Plan as presented.

Motion by Ed Brancati , seconded by Director Burdick to approve the East of Hudson Watershed Corporation Year 10 Work Plan as submitted and detailed; all in favor.

## **7) Approve Appointment of Watershed Planner**

Director Williams announced that the appointment of Cory Lapidus as Watershed Planner was recommended by the Executive Committee but requires approval by the Board of Directors to make the appointment official. Cory introduced himself to the Board.

Motion by Director Williams, seconded by Director Parsons to approve the appointment of Cory Lapidus to the position of Watershed Planner to the East of Hudson Watershed Corporation.

WHEREAS, the EOHWC Executive Committee has recommended that the Corporation hire a full-time Watershed Planner to report to the Director of Engineering and Executive Committee; and

WHEREAS, the Board of Directors authorized the Executive Committee of the East of Hudson Watershed Corporation to hire a qualified Watershed Planner on an interim basis pending approval of permanent appointment by the Board; and

WHEREAS, the addition of the Watershed Planner position is important to the attainment of the Corporation's phosphorus reduction targets;

NOW THEREFORE IT IS HEREBY RESOLVED, by the Board of Directors of the East of Hudson Watershed Corporation as follows:

1. The job description for the new position of Watershed Planner on file with the Secretary is approved, with duties substantially as provided in such position description together with such other or different tasks as may be assigned by the President from time to time in the best interests of the Corporation.
2. The appointment of Cory Lapidus to the position of Watershed Planner at a salary of \$62,000 is hereby approved.

The Executive Committee of the East of Hudson Watershed Corporation is hereby authorized to adjust the salary for the position by up to \$2,000 following the completion of a six month performance review.

Motion passed; all in favor.

R-1013-01

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

Director Williams explained that the Executive Committee has been discussing the possibility of expanding the role of the East of Hudson Watershed Corporation (EOHWC) into other areas such as education or more specifically the potential of building of wastewater treatment plants and/or a septic repair program. Before being able to have serious conversations with other agencies about how that will all be funded the Members need to change our Certificate of Incorporation to expand the role of the EOHWC beyond the MS4 program. It involves a whole process and fees in order to do that. The fees are expected to be around \$3,500. The cost will be broken down among the municipalities and will cost a couple of hundred dollars each. An EOH Coalition meeting was held earlier and it was discussed that we would use the past practice of dividing up that fee among the municipalities based on their required phosphorus contributions. Those numbers are not a significant cost and will be sent to each town.

Christine Chale explained that the Certificate of Incorporation includes very specific language. As it currently reads it only includes in its purposes the stormwater management/stormwater retrofit programs. Some of the language in a few of the paragraphs will need to be changed in order to expand EOHWC's role. The resolution presented today includes the language proposed to be included in the amended Certificate of Incorporation. It's fairly limited in terms of the description but it's important because without this provision, EOHWC's role cannot expand beyond the stormwater retrofits. The discussion of what and how is to come. What is being presented today is only the technical change to the document that will allow the entity to broaden its purposes. It will need to be filed with the Department of State as part of the process. EOHWC Bylaws require a 2/3 approval for any change to the Certificate of Incorporation. A new subsection is being added to the list of purposes reducing the discharge of contaminants into and the levels of contaminants in the New York City East of Hudson 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 East of Hudson watershed

and to protect the quality of the waters therein. Additionally, there is a list of how to go about carrying out those purposes and so we're adding administering, organizing and implementing any and all necessary protocols 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 East of Hudson municipalities for the New York City water supply included but not limited to the Municipal Separate Storm Sewer System MS4 heightened requirements on a non-profit basis and to protect the quality of those waters. It includes the MS4 but it goes beyond that. Those are the amendments being presented.

Director Williams emphasized that this doesn't commit any municipality to incurring any additional costs other than the legal cost which we have an estimate of \$3,500 to change the Certificate of Incorporation but it does open the door for the Corporation to start discussing additional responsibilities and how they will be funded from State and other regional agencies. It's a positive move ahead for the Corporation to make this change however more discussions will need to take place about what we are going to be doing in the future and how it's going to be funded. Director Burdick suggested we deal with the change to the Certificate of Incorporation first because there are some Members that may not be comfortable with speaking to any monetary obligation even though it's not significant. Director Parsons suggested the resolution include a not-to-exceed amount. Director Fleming said that moving forward on the change to the Certificate of Incorporation without a dollar amount would be problematic for her town board. Director Williams explained that the \$3,500 specified in the resolution is the total cost for the legal fees to make the change and would be divided up amongst the municipalities in a manner used in the past to divide costs. Director Williams asked Director Fleming if there was a cost that she would agree to make this change to allow us to move forward that is the top end of the cost that she is willing to commit to today. Director Fleming stated that not having been presented with the exact numbers she does not feel comfortable committing to any costs. Director Morrissey suggested that we amend the resolution to include a not-to-exceed total of \$3,500. Director Williams said that a follow-up letter will be sent to all the municipalities. Director Morrissey inquired if it would be fair to say the municipalities will now be looking toward grant funding for educational programs or some of the other things we are going to pursue. Director Williams said that in addition to pursuing that funding we are going to be talking with State Representatives about outside grants as well.

Motion by Ed Brancati, seconded by Director Parsons to amend the Certificate of Incorporation to expand the role of the East of Hudson Watershed Corporation.

WHEREAS, the East of Hudson Watershed Corporation (the "Corporation") is considering the expansion of its operations in order to, among other things, provide support to East of Hudson municipalities in connection with the treatment of sewage and wastewater in the NYC Watershed; and

WHEREAS, it is understood that the Corporation's current Funding Agreements would require expenditure of funds provided through those agreements to be used solely for projects consistent with the scope of those agreements and that undertaking projects authorized by the expansion of corporate 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 its corporate 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 subsection (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 Board of Directors of the Corporation deems the Amendment to be in the best interests of the Corporation.

NOW THEREFORE IT IS HEREBY RESOLVED, by the Board of Directors of the East of Hudson Watershed Corporation that the Certificate of Incorporation be amended pursuant to the terms of the Amendment.

BE IT FURTHER RESOLVED, that the President of the Corporation, or in his absence or unavailability the Vice President, is authorized and directed to cause a duly executed certificate of amendment of the Certificate of Incorporation to be delivered to the Department of State of the State of New York for filing to accomplish the Amendment, and to do or cause to be done all other things required by law or otherwise necessary or appropriate to implement this resolution.

BE IT FURTHER RESOLVED, by the Board of Directors of the East of Hudson Watershed Corporation that the attorneys' fees incurred in effecting said Amendment are to be paid for by the East of Hudson Coalition and are not to exceed \$3,500.00.

(Vote: Aye: 13, Nae: 1, Abstain: 0)  
Motion passed.

R-1013-02

## 9) Project Selection Policy Amendment

Christine explained that over the last year as catch basin inserts in particular have been explored there are some very efficient projects occurring on properties with some very complex private financing and it becomes pretty prohibitive to spend the time and money to try to get subordinations from banks that are funding these owners. In some cases there are multiple owners or multiple banks. The discussion that we've had is that for some of these projects the efficiency and cost in a way mitigate against spending such an enormous amount of time and money trying to deal with these subordinations. We've proposed a modification to the Project Selection Policy that will allow for the selection of projects where subordination is not going to be required. Primarily at the beginning that will be for catch basin insert projects but there's a possibility it will be for other projects. The Executive Committee would be able to approve a project even if it doesn't have a subordination if those findings can be made. Director Burdick expressed that he completely agrees with the policy change and added that it is extraordinarily difficult to get property subordinations such as those. In many instances they are not needed as a practical matter. Director Parsons inquired how it would be determined whether or not subordination is needed. Christine said that some of the factors are the cost of the project as compared to the estimated phosphorus credits and the expected cost and required access for maintenance. It's really a risk management question. There's a possibility that a bank can prohibit you from gaining access to do the maintenance on the project.

Motion by Director Burdick, seconded by Director Oliverio to revise the Project Selection Policy as discussed.

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, the Corporation's Counsel has presented the Corporation with a proposed amendment to the Policy to incorporate said guidance (the "Amendment"); and

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

### **4.03 Mortgage Subordinations**

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

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.

WHEREAS, the Board of Directors of the Corporation deems the Amendment to be in the best interests of the Corporation;

NOW THEREFORE IT IS HEREBY RESOLVED, by the Board of Directors of the East of Hudson Watershed Corporation, that the Corporation's Project Selection Policy and Procedures be amended pursuant to the terms of the Amendment.

Motion passed; all in favor.

R-1013-03

#### **10) O & M discussion**

Kevin indicated that he and Cory will be visiting all project sites and making sure town efforts are matching up with EOHWC expectations. Director Hay asked if the Town of Southeast Highway Department is expected to accompany them on inspections. Kevin said that he has been keeping in touch with all highway departments and promised to notify them that he and Cory are going to stop by. It will just be a general inspection and any findings that we do have will be communicated to the highway departments.

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

Director Williams presented the list of meeting dates for 2021.

Motion by Director Williams, seconded by Director Burdick to adopt the list of 2021 Meeting Dates as presented; all in favor.

#### **12) Other business**

No other business was brought forward.

**13) Adjournment – Motion to adjourn by Director Burdick, seconded by Director Parsons; all in favor. Adjourned: 10:47 AM.**



**EAST OF HUDSON WATERSHED CORPORATION**

2 Route 164, Suite 2, Patterson, NY 12563

845-319-6349

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**PRESIDENT'S CERTIFICATE**

I certify that the foregoing is a true and correct copy of the October 13, 2020 Quarterly Meeting Minutes approved by the Board of Directors.



Richard Williams, Sr.



Date





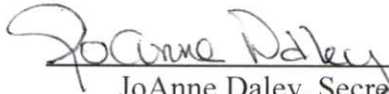
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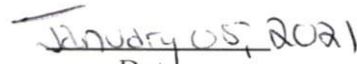
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845-319-6349

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**SECRETARY'S CERTIFICATE**

I certify that the foregoing is a true and correct copy of the October 13, 2020 Quarterly Meeting Minutes approved by the Board of Directors.

  
\_\_\_\_\_  
JoAnne Daley, Secretary

  
\_\_\_\_\_  
Date