



EXECUTIVE COMMITTEE MEETING

9:00 A.M., Thursday, March 25, 2021

Zoom Videoconference

Meeting Minutes

1) Open Meeting

Voting Members in Attendance: Rich Williams (Town of Patterson); Peter Parsons (Town of Lewisboro); Warren Lucas (Town of North Salem); JoAnne Daley as alternate for James Schmitt (Town of Pawling); Rich Franzetti as alternate for Ken Schmitt (Town of Carmel); Matthew Slater (Town of Yorktown)

Others in Attendance: MaryAnn Carr (Town of Bedford); Christine Chale (Corporate Counsel); Patrick Logan (Corporate Counsel); Vincent Giorgio (NYCDEP); Millie Magraw (Westchester County); Patricia Brennan (STAC); Joseph Montalto (STAC); Kevin Fitzpatrick (EOHWC); Joanne Tavino (EOHWC); Marcia Espinosa-Oliva (EOHWC); Cory Lapidus (EOHWC); Linda Matera (EOHWC)

2) Approve Meeting Minutes

a. February 25, 2021

Motion by Director Parsons, second by Director Lucas to approve meeting minutes of February 25, 2021; all in favor.

b. March 8, 2021

Motion by Director Parsons, second by Director Lucas to approve meeting minutes of March 8, 2021; all in favor.

3) Financial Update

Joanne Tavino informed members that going forward Marcia Espinosa-Oliva will be presenting the financial updates. The reported fund balance as of February 28 is \$17.9 million, with \$2.8 of Putnam funds, \$4.1 Westchester funds and \$11 million FAD funds. Checks drawn today total \$31,077. Expenditures for the month of March total \$8,586.

4) 2020 Audit Presentation/Joseph Montalto of Sickler, Torchia, Allen and Churchill

Joseph Montalto presented the 2020 Audit and invited questions. Director Lucas asked whether there are government restrictions on interest income. Joseph said that with NYCDEP, the interest income has to be used for certain purposes. Joanne added that interest income is specifically addressed within the FAD agreement. Director Lucas and Director Williams acknowledged Joanne's work on investing and the interest income it has brought in. Director Lucas inquired about interest income in the Statement of Cash Flows and whether the amount was inclusive of unrealized gains. Joseph indicated that as things are being recognized, there is a delta from year to year that gets reflected. It's due to a timing issue of when the interest matured and basically recognizing it in the current year. Director Williams and members of the

Executive Committee thanked Joanne, Joseph and Patricia Brennan for their work on the 2020 Audit. Joanne requested approval of the 2020 draft Audit for posting to the Authorities Budget Office (ABO) website by March 31 and for presentation at the May Board of Directors' meeting.

Motion by Director Lucas, second by Richard Franzetti to approve the 2020 draft Audit as presented for presentation at the May 11 Board of Directors' meeting; all in favor.

5) List of Reporting and Filing Due Dates

Joanne informed members that the ABO reports are due April 1st and are ready to be posted as soon as the 2020 Audit is accepted by the Executive Committee today. The Project Accounting Report is due to New York City Department of Environmental Protection (NYCDEP) by March 31st. To date, six members have not sent back this year's required compliance forms.

6) Project Update

Kevin Fitzpatrick reported that we've been able to secure funding of approximately \$100,000 from the Army Corps of Engineers (USACOE) to wrap up the Leonard Park project (MK-NC-22), which will provide an estimated 9 kilograms of phosphorus reduction. Yesterday, both Director Williams and Christine Chale signed the necessary paperwork that will be sent down to USACOE to finally execute that agreement.

We will be going to construction on two projects (Carmel-CF-601 and PR-CR-701) in the FAD for channel stabilization. The next project to go to construction will be either the installations of a catch basin inserts in the Village of Mount Kisco (MK-NC-602) on the private property of Urban Edge or at Scolpino Park (SE-DE-715) in Southeast where we are waiting for permits for the turtle issue. We've run into an issue of having to negotiate with the MTA in order to install the Metro North projects targeted along the Harlem Line, which are either owned by Metro North for NYCDEP. It has been a very slow process over the past year. We were able to get comments back from Metro North and their attorneys. After review by Corporate Counsel and Kevin, we are at a point where a decision must be made on these types of projects with Metro North. Essentially, they took our installation agreement, reviewed it and basically rewrote it in its entirety. Many of the items in which we wanted to make sure we were protecting ourselves they would not allow. It comes down to having a discussion of what the risk is on these projects and whether or not we are going to accept it. Instead of allowing us to have these projects for as long as required by the MS4 Permit, they want to have it be a ten-year term which can renew every five years after that. They want to be able to remove the inserts whenever they see fit or feel there may be an issue or when their real estate or parking is at risk. Those are some of the biggest issues with these installation agreements. Metro North's biggest concern is their parking lots flooding. They are also concerned with the inserts not being maintained and causing problems for them. It's certainly not an issue of them not wanting to help but more about the inserts failing and causing a problem that they will have to rely on us to fix. Director Lucas stated that they need recourse and perhaps it's not that much of risk. He inquired how many kilograms we are getting on average for the \$30,000. Kevin said that it depends on the site, however the range is somewhere between 2-5 kgs. In a doomsday scenario where Metro North wants them out, we would lose the kilograms and not get the reduction but we might not necessarily lose the product if we are able to use them in another project that matches those dimensions; it can be adapted to fit a different site if needed. Director Lucas said they can by-pass the insert if they get into a situation where something clogs it in a heavy rain. The question is whether the by-pass would handle a 10" rain. Kevin will do further research. We plan to have a private contractor visit these sites and clean them when needed. Kevin, Cory and any municipal staff that visit the sites will make sure they are clean and there isn't going to be an issue with clogging. Kevin agreed that the risk of losing the kilograms is there, but he doesn't believe that they will get to the point where Metro North will feel it's necessary to pull them out. Director Lucas agreed with Kevin and further suggested considering getting a performance bond from the manufacturer. Christine

asked if Vincent Giorgio had any thoughts or comments from the DEP's perspective. Joanne indicated that these would be paid with WQIP funds because they are neither FAD nor FAD connected sites. Director Williams expressed concern about the ten-year agreement with a five-year renewal and felt that it's necessary to make sure that both the NYSDEC and NYCDEP are going to be okay with those terms. Both should be notified by letter explaining the situation and we should get something back in writing that they are agreeable to the arrangement. Christine agreed and didn't want enter into a contract that they immediately have a problem with. Director Lucas inquired if one of the sites was located in Purdys because the land there is owned by NYCDEP. He offered to reach out to his contact at the MTA to address the issue. Vincent Giorgio requested a letter regarding this specific project and that it is being paid for the Water Quality Funds. Additionally, Vincent inquired about the plan at Purdys (NS-MU-702) where there was an issue with the MTA and that a separate chamber would have to be used which would not be located in the parking lot. Kevin indicated that he has been trying to find other ways around the issue. He further added that Purdys is a special case because if we had just treated everything within the basins themselves, we would be losing out on a lot of kilograms. A different approach can be taken with Purdys by installing a vault adjacent to Muscoot Reservoir and getting increased reduction. Vincent indicated that there could potentially be two issues from NYCDEP: the Land Use Permit issue and what that particular group requires and the the issue of funding it, which should be fine if Water Quality Funds are being used. Director Lucas asked Vincent if he could make sure that NYCDEP has no issue with these being installed on NYCDEP property. Vincent said his understanding of this issue from the past is that NYCDEP needs something from Metro North showing that they are okay with EOHWC doing the installation. At that point the NYCDEP would modify the permit with Metro North to account for these new structures. Director Parsons asked if the parking lots in Golden's Bridge were included. Kevin promised to look into it and get back to him. Director Parsons offered to get involved if Kevin runs into a specific problem.

7) PR-CR-701

Kevin detailed that stormwater retrofit project PR-CR-701 is a channel stabilization project to be installed on private property located in Pound Ridge in a municipal drainage outfall which leads to wetlands in the Ward Pound Ridge Preserve. The project will net close to 9 kilograms of phosphorus removal. The installation agreement has been signed and the construction should be completed quickly. The project was found to have no negative impact on the area.

a. SEQRA Negative Declaration

Motion by Director Parsons, second by Director Lucas to approve the SEQRA Negative Declaration for PR-CR-701 located in Pound Ridge.

WHEREAS, EOHWC is considering undertaking the installation of a stormwater retrofit project in the Town of Pound Ridge involving channel stabilization at 114 Parkview Road North in the Town of Pound Ridge; and

WHEREAS, the Executive Committee of EOHWC has reviewed the Short Environmental Assessment Form dated 3/15/21 and all relevant environmental information related to the proposed project;

NOW THEREFORE IT IS HEREBY RESOLVED, by the Executive Committee of the Board of Directors of the East of Hudson Watershed Corporation that it:

1. Classifies the project as an unlisted action under SEQRA; and
2. Determines that the proposed action will not result in any significant adverse impacts on the environment and that a Draft Environmental Impact Statement will not be prepared.

b. Award Construction

Motion by Director Parsons, second by Richard Franzetti to award the construction contract for stormwater retrofit project PR-CR-701 located in the Town of Pound Ridge to Coyle Industries in the amount of \$112,000.

WHEREAS, the proposed stormwater retrofit project known as PR-CR-701 is proposed to be located at 114 Parkview Road North in the Town of Pound Ridge, New York, and is included in Years 6-10 MS4 regional plan approved by the NYS Department of Environmental Conservation; and

WHEREAS, the work consists of the construction of channel stabilization, all in accordance with plans prepared by Pitingaro and Doetsch Consulting Engineers, P.C.; and

WHEREAS, the project was publicly advertised on the website as well as in the standard local print publication on a three-week period and one (10) bids were received and publicly read aloud at the EOHWC offices on March 3, 2021; and

WHEREAS, the phosphorus removal of 9.25 kilograms for this project has an efficiency of approximately \$15,000 Kg P-removed; and

WHEREAS, the Executive Committee has accepted the bid mistake by Contech Construction Technology, Inc. and authorized the bid withdrawal on the basis of a mathematical error and approves award of PR-CR-701 the next lowest, responsible bidder, Coyle Industries, Inc.; and

WHEREAS, Pitingaro and Doetsch Consulting Engineers, P.C., contacted the references for Coyle Industries, Inc. and contacted Coyle Industries, Inc. directly and was assured that they can complete the project for the amount bid; and

WHEREAS, Pitingaro and Doetsch Consulting Engineers, P.C., has recommended that the EOHWC accept Coyle Industries, Inc. as the second lowest responsible bidder for the project and proceed with contracts pending the submission of bonds and insurance by the contractor; and

WHEREAS, on March 25, 2021, the Executive Committee reviewed all available evidence and resolved that the project known as PR-CR-701 would not have an adverse impact on the environment and that a draft environmental impact statement would not be prepared;

NOW THEREFORE IT IS HEREBY RESOLVED, by the Executive Committee of the Board of Directors that it accepts Coyle Industries, Inc. as lowest responsible bidder in the amount of \$112,000 for the project known as PR-CR-701 and authorizes the President or Vice President of the Corporation to execute the construction contract with Coyle Industries, Inc. subject to the following conditions:

1. Submission of bonds and insurance by the contractor as required by the construction contract;
 2. Approval and execution of the installation agreement between the Town and the Corporation by the Town Board and by the Corporation's President or Vice President;
 3. Review of the construction contract and installation agreement by the Corporation's Counsel;
- and

4. Execution of an easement and maintenance agreement to be in place for the future of the project between the Town and the Corporation by the Town Board and by the Corporation's President or Vice President.

Motion passed; all in favor.

R-0325-01

8) Carmel-CF-601

Kevin stated that Carmel-CF-601 is for channel stabilization in the Town of Carmel on NYCDEP property. There is a Land Use Permit in place for the project. There are two parcels north of the project on private property that some of the work will take place on. Installation agreements have already been signed for both properties. A majority of the work will be done on NYCDEP property to address the sediment loading into the Croton Falls Reservoir.

a. SEQRA Negative Declaration

Motion by Director Parsons, second by Director Lucas to approve the SEQRA Negative Declaration for stormwater retrofit project Carmel-CF-601 located in the Town of Carmel.

WHEREAS, EOHWC is considering undertaking the installation of a stormwater retrofit project in the Town of Carmel involving channel stabilization at Eleanor Drive in the Town of Carmel; and

WHEREAS, the Executive Committee of EOHWC has reviewed the Short Environmental Assessment Form dated 3/15/21 and all relevant environmental information related to the proposed project;

NOW THEREFORE IT IS HEREBY RESOLVED, by the Executive Committee of the Board of Directors of the East of Hudson Watershed Corporation that it:

1. Classifies the project as an unlisted action under SEQRA; and
2. Determines that the proposed action will not result in any significant adverse impacts on the environment and that a Draft Environmental Impact Statement will not be prepared.

Motion passed; all in favor

R-0325-04

b. Award Construction

Kevin informed members that we were notified by Ben Cozzi, Inc. it they made a mathematical error when submitting its bid for stormwater retrofit project Carmel-CF-601 and wished to withdraw the bid. The error was reviewed by our contracted engineer, KC Engineering and they recommended accepting the withdrawal based upon the Board's acceptance. This will move us to the next lowest, responsible bidder, Wernert Construction Management, LLC. It's a slight increase in dollar value but well within a similar range of Ben Cozzi, Inc. Wernert Construction Management, LLC references were checked and we are confident in their ability to accomplish the project.

Motion by Director Lucas, second by Director Parsons to acknowledge the bid mistake and accept withdrawal of the construction bid submitted by Ben Cozzi, Inc. in accordance with General Municipal Law.

WHEREAS, EOHWC issued a notice of public bid for the acceptance of sealed bids for the "Channel Stabilization, Carmel-CF-601" project located in the Town of Carmel (the "Project"), to be opened at 10:00a.m. on March 10, 2021; and

ECMM/3-25-21

WHEREAS, specifications for the Project were prepared by KC Engineering and Land Surveying, P.C., a professional corporation organized under the laws of the State of New York (the “Design Engineer”); and

WHEREAS, sealed bids for the Project were publicly opened and read on March 10, 2021, and a tabulation of bids received was prepared by EOHWC’s Engineer which indicated that the apparent low bidder was Ben Cozzi, Inc.; and

WHEREAS, prior to the award of bids and within 3 business days of the bid opening, Ben Cozzi, Inc. notified EOHWC that it had made an error in preparing its bid and submitted accompanying documentation explaining said bid mistake; and

WHEREAS, the Design Engineer has reviewed Ben Cozzi, Inc.’s documentation regarding the alleged bid mistake and, by letter dated March 17, 2021, recommended EOHWC allow withdrawal of the bid due to a mistake in computing the bid; and

WHEREAS, pursuant to Section 103(11) of the General Municipal Law, where a unilateral error or mistake is discovered in a bid, such bid may be withdrawn after a showing of the following: (1) the mistake is known or made known to the awarding officer, board or agency prior to the awarding of the contract or within three days after the opening of the bid, whichever period is shorter; and (2) the price bid was based on an error of such magnitude that enforcement would be unconscionable; and (3) the bid was submitted in good faith and the bidder submits credible evidence that the mistake was a clerical error as opposed to a judgment error; and (4) the error in the bid is actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor, material, goods or services made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of the original work paper, documents, or materials used in the preparation of the bid sought to be withdrawn; and (5) it is possible to place the public agency, board, officer, or subdivision in status quo ante.

NOW, THEREFORE, BE IT RESOLVED by the Executive Committee of EOHWC as follows:

1. Based on the review of the bid and a technical review by the Design Engineer, the Executive Committee hereby finds and determines that the withdrawal of the bid by Ben Cozzi, Inc. is consistent with the foregoing requirements of the General Municipal Law, and that such withdrawal on the basis of mistake is hereby acknowledged and accepted.

EOHWC is hereby authorized and directed to return any bid bond of said bidder.

Motion passed; all in favor

R-0325-05

Motion by Director Parsons, second by Director Lucas to award the construction contract for stormwater retrofit project Carmel-CF-601 located in the Town of Carmel to Wernert Construction Management, LLC in the amount of \$164,376.

WHEREAS, the proposed stormwater retrofit project known as Carmel-CF-601 is proposed to be located at Eleanor Drive in the Town of Carmel, New York, and is included in Years 6-10 MS4 regional plan approved by the NYS Department of Environmental Conservation; and

WHEREAS, the work consists of the construction of channel stabilization, all in accordance with plans prepared by KC Engineering and Land Surveying, P.C.; and

WHEREAS, the project was publicly advertised on the website as well as in the standard local print publication on a three-week period and one (10) bids were received and publicly read aloud at the EOHWC offices on March 10, 2021; and

WHEREAS, pursuant to Resolution No. R-0325-05, adopted March 25, 2021, the EOHWC Executive Committee has authorized the withdrawal of the bid by Ben Cozzi, Inc. on the basis of bid mistake as provided in General Municipal Law Section 103 subd.11; and

WHEREAS, the phosphorus removal of 4.22 kilograms for this project has an efficiency of approximately \$45,000 Kg P-removed; and

WHEREAS, KC Engineering and Land Surveying, P.C, contacted the references for Wernert Construction Management, LLC and contacted Wernert Construction Management, LLC directly and was assured that they can complete the project for the amount bid; and

WHEREAS, KC Engineering and Land Surveying, P.C., has recommended that the EOHWC accept Wernert Construction Management, LLC as lowest responsible bidder for the project and proceed with contracts pending the submission of bonds and insurance by the contractor; and

WHEREAS, on March 25, 2021, the Executive Committee reviewed all available evidence and resolved that the project known as CARMEL-CF-601 would not have an adverse impact on the environment and that a draft environmental impact statement would not be prepared;

NOW THEREFORE IT IS HEREBY RESOLVED, by the Executive Committee of the Board of Directors that it accepts Wernert Construction Management, LLC as lowest responsible bidder in the amount of \$164,376 for the project known as CARMEL-CF-601 and authorizes the President or Vice President of the Corporation to execute the construction contract with Wernert Construction Management, LLC subject to the following conditions:

1. Submission of bonds and insurance by the contractor as required by the construction contract;
2. Approval and execution of the installation agreement between the Town and the Corporation by the Town Board and by the Corporation's President or Vice President;
3. Review of the construction contract and installation agreement by the Corporation's Counsel; and
4. Execution of an easement and maintenance agreement to be in place for the future of the project between the Town and the Corporation by the Town Board and by the Corporation's President or Vice President.

Motion passed; all in favor

R-0325-02

9) O & M Program Update

Kevin announced that inspection rounds will be made on individual projects after the long winter. Reminders will be sent out to each municipality that have projects which have not been maintained.

Joanne reported that thirteen bills were sent to municipalities that have to pay the Corporation. Seven checks have already been received. Once the remaining six are received, we will pay the municipalities that did the work in 2020. Finally, Joanne will submit documentation to Millie Magraw to make the Westchester municipalities whole.

10) Checks and vouchers

Monthly vouchers were signed. No action taken.

11) Enter into Executive Session to discuss the terms of employment of a particular person or persons, motion proposed by Director Williams, seconded by Director Parsons; all in favor.

12) Motion to come out of Executive Session proposed by Director Williams, seconded by Director Parsons. No action taken in Executive Session.

13) Review/Cory Lapidus

Motion by Director Williams, second by Richard Franzetti to approve the \$2,000 salary increase as per employment agreement for Cory Lapidus; all in favor.

12) Other business

No other business was brought forward.

13) Adjournment - Motion to adjourn by Richard Franzetti, seconded by Director Lucas; all in favor. Adjourned 10:16 AM.