

EXECUTIVE COMMITTEE MEETING  
*9:30 A.M., Thursday, August 26, 2021*

**Meeting Minutes**

**1) Open Meeting**

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

Others in Attendance: Christine Chale (Corporate Counsel); Kevin Fitzpatrick (EOHWC); Keith Giguere (EOHWC); Linda Matera (EOHWC); Cory Lapidus (EOHWC)

**2) Approve Meeting Minutes of July 22, 2021**

Motion by Alternate Franzetti, second by Director Lucas to approve the meeting minutes of July 22, 2021; all in favor.

**3) Financial Update**

Keith Giguere reported there has been no change to the financial update since the August 10<sup>th</sup> Board of Directors meeting. CD's at M&T will mature on Monday, August 30<sup>th</sup>.

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

Linda Matera reported that since the August Board of Directors' meeting Dan Ciarcia/Town of Yorktown completed his Fiduciary Acknowledgement and Conflict of Interest forms. No other submissions have been received to date.

**5) Project Update**

Kevin Fitzpatrick reported that we getting ready for two construction projects this fall. The first project is located at Courtmel Road (NewC-NCR-801) in the Town of New Castle and is for stabilization of two eroded channels on New York City Department of Environmental Protection (NYCDEP) property. Water quality filtration will be installed within the town right of way. The NYCDEP Land Use Permit is currently being finalized. Construction is estimated to start within the next two months. We have been in discussion with the U.S. Army Corps of Engineers (USACOE) to receive funding for construction in which they would cover 75% of the construction cost and the Corporation would cover the remaining 25% using Water Quality Improvement Program funds. Once the agreement has been prepared and reviewed by Counsel, Director Williams will be authorized to sign. The second project we hope to go to construction on in the fall is the SE-EB-715 located at Scolpino Park in the Town of Southeast. While we received the permit to go forward for

turtle protection, we are running into an issue of locating a turtle specialist in the area who requires being certified in turtle monitoring. The New York State Department of Environmental Conservation (NYSDEC) will not provide us with a list of specialists in the area and recommended that we cold-call to find someone. Kevin tried to get Cory Lapidus certified as a bog turtle specialist but New York State would not allow it. Director Lucas mentioned that the Town of North Salem has used a bog turtle specialist by the name of Joe Bridges and will pass his information on to Kevin. Kevin further explained that he has a concern for both projects with the availability of construction materials. A few construction contractors have reached out to him that are having problem finding 12"-18" pipe. It is uncertain how that will delay anything in the next few months, however, it's been reported that there are 12-20 week delays because of the shortage of piping in the tristate area. We will monitor the situation and see how it may affect individual projects. An update will be provided at the September Executive Committee meeting.

#### **a. Tier Bio-filtration Retrofit**

Kevin discussed an idea for tiered bio-retention system as it relates to a project in Lewisboro along Lake Katonah where EOHWC has an extremely narrow easement and there is aging infrastructure. The idea is to treat everything that is coming in from the residential area before it drops into the lake. This is both a very familiar and popular situation throughout our watershed where there's an aging lake community in which a pipe was installed that barely has any room to get through. The tiered bio-retention system that we are looking at can function as a garden area for the private property resident where the project is installed. We think it's something that can engage the property owner a bit more than just replacing the pipe in the ground. Piping is not something private property owners are generally very excited about, but with something like tiered bio-retention, we can engage the property owner and maybe even get them to do a little bit of maintenance being that it is essentially a garden that we are installing on their behalf which also serves as green infrastructure. There are a couple of different project sites that we will be looking to execute this on. We went through a lot of different products to try to find the best one. It turns out that ACF Ferguson provides the model that we likely want to use. It's something to keep in mind as we look at new projects that come up which we can execute around any lake in the watershed with great success. Since it is green infrastructure it would qualify for additional funding. The determination needs to be made if it's going to be rolled out as part of the Year 10 Workplan or a future Workplan. The topic of this discussion leads into a conversation that we need to have about whether we have a new set of phosphorus numbers to reach from NYSDEC. The Year 11 Workplan is due to them October 15<sup>th</sup>. Director Williams explained that Tom Snow mentioned that we can pretty much anticipate that the numbers are not going to change from the 460 kilograms. He further indicated that it is going to get tougher to find good projects as the program continues so we may need to look at some of those set aside. Kevin said that the projects can be found but we don't currently have funding in place to chase another 460 kilograms. Director Lucas suggested that we should continue doing what we are doing until we get more funding. Kevin said he will continue to plan out the Year 11 Workplan.

Director Lucas inquired about the Keeler Lane project (NS-MU-601). Kevin said that the installation agreement is still pending.

## **6) NewC-NCR-801 USACOE Funding Agreement and Project Plan**

Kevin explained that the project at Courtmel Road (NewC-NCR-801) is for channel stabilization and filtration to be installed in the Town of New Castle partially on NYCDEP and town property and is tributary to the Kisco River. The channels are on NYCDEP property and the filtration devices will be installed within the town. Christine Chale mentioned that an installation agreement will be needed because it is on both NYCDEP and town property. Kevin agreed and indicated that the installation agreement with the town will be pursued separately from the Land Use Permit. All other permits have already been acquired from the town. Christine recommended amending the resolution to include authorization for an install agreement with the town. Additionally, Kevin pointed out that in paragraphs 2 and 3 it mentions that the Army Corps funding is for design and construction services. The Army Corps will only be assisting us with construction services, which is 75% of the estimated \$800,000.

Motion by Director Williams, seconded by Director Lucas to approve the resolution as amended by the Corporation to authorize the President of the EOHWC to execute and deliver the Agreement and the Installation Agreement on behalf of the EOHWC.

WHEREAS, EOHWC is considering undertaking a stormwater retrofit project involving the installation of filtration BMPs in the Town right of way and the stabilization of two eroded channels on property owned by the New York City Department of Environmental Protection at Courtmel Road in the Town of New Castle (“Project”); and

WHEREAS, the United States Department of the Army (the “Department”) is authorized to provide design and construction assistance for publicly owned, non-Federal water-related environmental infrastructure and resource protection and development projects in the New York City Watershed, including projects for water supply, storage, treatment, and distribution facilities, and surface water resource protection and development pursuant to Section 552 of the Water Resources Development Act of 1996, Public Law 104-303, as amended (hereinafter “Section 552”); and

WHEREAS, the EOHWC and Department wish to enter into an agreement under which the Department would provide construction assistance for the Project (the “Agreement”); and

WHEREAS, pursuant to the Agreement, the estimated total costs of the Project would be approximately \$800,000, with the Department covering 75% thereof (up to \$600,000) and EOHWC covering 25% (estimated to be approximately \$200,000) using Water Quality Investment Program funds; and

WHEREAS, the Department has presented the EOHWC with a proposed draft of said Agreement, which is on file in the offices of the EOHWC; and

WHEREAS, the EOHWC has considered the proposed Agreement and all other relevant information and believes that entering into the Agreement is in the best interest of the Corporation; and

WHEREAS, on April 22, 2021, by Resolution No. R-0422-01, the EOHWC Executive Committee reviewed all available evidence and resolved that the Project 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 EOHWC as follows:

1. The Execution and delivery of the Agreement and an Installation Agreement with the Town are hereby approved. The President of the EOHWC is hereby authorized to execute and deliver the Agreement and the Installation Agreement on behalf of the EOHWC, in substantially the form on file in the offices of the EOHWC, with such changes as may be approved by the party executing the same on behalf of the EOHWC.
2. The officers, employees and agents of the EOHWC are hereby authorized and directed for and in the name and on behalf of the EOHWC to do all acts and things as may be necessary or, in the opinion of the officer, employee or agent.

Motion passed; all in favor.

R-0826-01

#### **7) Paggi Change Order #3/Kent-MB-601**

Kevin explained that change order #3 from Paggi Engineering was originally submitted back in April 2021. They were asking for additional payment for services rendered in response to construction change orders that occurred on the project. As everyone may recall, there was an environmental issue on site with the soil. Paggi came up with a new design that would allow us to execute our retrofit. They provided services and had to duplicate some of the services again once we had a construction change order and a slight change in design. Paggi submitted a change order in the amount \$6,966 to cover those costs. At the time it was originally submitted, the Executive Committee asked for a breakdown to clarify how everything added up. Kevin believes that Paggi Engineering has provided enough breakdown to sufficiently support the costs.

Motion by Director Lucas, seconded by Director Parsons to approve change order #3 from Paggi Engineering in the amount \$6,966; all in favor.

#### **8) NYCDEP Comments on Model MTA Agreement**

Kevin informed members that no official comments have been provided by NYCDEP on the Model MTA Agreement yet. The comments we did receive both verbally and via email say that we can do anything we feel is appropriate with the WQIP funding because the NYCDEP views capital improvement projects as having a life span of 5 years for both the WQIP and FAD funding. Using WQIP funding satisfied the question of Metro North's rewriting our installation agreement and that the 10 year term on this is acceptable. While it answered the Metro North questions, it brings up

another issue which is the NYCDEP's perspective on the current FAD agreement which is that catch basin insert projects are not considered capital improvement projects. NYCDEP is not looking at a parking lot filled with catch basin inserts as a capital improvement project. They are calling each individual catch basin an individual project which means there is no way we would ever come close to the \$30,000 threshold per basin to use FAD funding for any catch basin insert project. Director Parsons asked if that kills of the catch basin insert projects we've done to date. Kevin said we primarily targeted the areas outside of the FAD so it doesn't affect a lot of our projects. We targeted Peach Lake in North Salem and two subdivisions in Somers. We still have the funding in WQIP. Kevin indicated that Vincent Giorgio provided clarification regarding capital eligibility requirements. A large concrete tank would have to be installed at the end of the line filled with filters and a diversion structure at the piping in order to meet the threshold for FAD funding. Director Lucas asked if a project costing \$100,000 would qualify as a capital improvement if drainage was installed along with other practices. Kevin said only if the pipes were taking the stormwater to a centralized location. Christine asked if it would be worth having a conversation about it with the NYCDEP. Kevin indicated that it would be a worthwhile effort because we are eliminating extremely efficient projects in certain areas and it encourages us to spend money irresponsibly. Director Williams recommended that Kevin speak with Vinny and get documentation about what the most current guidance is on capital projects.

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

Kevin informed members that O&M submittals are trickling in slowly. When doing inspections we are noticing quite a bit of sediment reaching the retrofit showing that O&M hasn't been taken care of in recent years. The MS4 Permit that every town has says they should be maintaining their drainage areas tributary to all these projects. If they don't maintain their drainage area, our project gets bombarded with sediment and increases the price for maintenance in some of these areas. There are piles of sediment in some locations that were not there 6 months ago because they were cleaned up. We need to encourage these particular towns to take care of these issues. All towns are taking on the cost of these efforts by way of bubble compliance. It would be beneficial to remind them that the bubble compliance issue is still there and other municipalities should not be taking on the additional burden of drainage areas that are not being maintained. Director Williams said that he is not sure if the opinion of the Highway Superintendents will be changed by that, however, these issues should be documented. If you find a stormwater retrofit that we have installed having excessive amounts of sediment primarily due to drainage areas not being properly maintained, the town Supervisor and Highway Superintendent should be sent a letter notifying them of the situation. Members agreed that this would be the most effective approach to the issue.

## **10) Checks and vouchers**

Monthly vouchers were signed. No action taken.

## **11) Other business**

No other business was brought forward.

**12) Adjournment - Motion to adjourn by Director Williams, seconded by Director Parsons; all in favor. Adjourned 10:24 AM.**

**PRESIDENT'S CERTIFICATE**

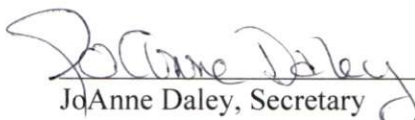
I certify that the foregoing is a true and correct copy of the August 26, 2021 meeting minutes approved by the Executive Committee.

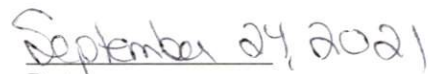
  
\_\_\_\_\_  
Richard Williams, Sr., President

  
\_\_\_\_\_  
Date

**SECRETARY'S CERTIFICATE**

I certify that the foregoing is a true and correct copy of the August 26, 2021 meeting minutes approved by the Executive Committee.

  
JoAnne Daley, Secretary

  
Date