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EXECUTIVE COMMITTEE MEETING

9:30 A.M., Thursday, January 27, 2022

*Zoom Videoconference*

**Meeting Minutes**

**1) Open Meeting**

Voting Members in Attendance: Rich Williams (Town of Patterson); Matthew Slater (Town of Yorktown); Warren Lucas (Town of North Salem); Tony Goncalves (Town of Lewisboro) and JoAnne Daley as alternate for James Schmitt (Town of Pawling); Rich Franzetti as alternate for Michael Cazzari (Town of Carmel); Vincent Tamagna as alternate for MaryEllen Odell (Putnam County)

Others in Attendance: Christine Chale (Corporate Counsel); Patrick Logan (Corporate Counsel); Vincent Giorgio (NYCDEP); Millie Magraw (Westchester); Kevin Fitzpatrick (EOHWC); Keith Giguere (EOHWC); Linda Matera (EOHWC); Cory Lapidus (EOHWC)

**2) Approve Meeting Minutes of November 18, 2021**

Motion by Director Lucas, second by Alternate Franzetti to approve the meeting minutes of November 18, 2021; all in favor.

**3) Financial Update**

Keith Giguere informed members that the financials are still preliminary at this point. The auditors have been contacted to set up an on-site visit. The current FAD balance is \$10,482,000. This month we spent more than we have in the entirety of last year. The FAD expense from the January check register is \$269,781. Director Williams pointed out that \$16,000,000 isn't going to last very long once we get busy. It is time to have a conversation with New York City Department of Environmental Protection (NYCDEP) about funding now that the MS4 Permit is coming out. Director Lucas agreed and mentioned that he notified all the supervisors. He spoke to Tom Snow (NYSDEC) briefly and inquired about the phosphorus numbers. Tom explained that they are coming out in another document that is currently in draft which will be an addendum to the MS4 Permit and we should expect to see it shortly. Kevin said that he thinks that when the numbers do come out they are going to be low on reduction numbers for Westchester County, especially since we've been able to attack the funding we had over the last few years. For instance, we haven't gone after Muscoot or New Croton very hard. In those negotiations it's important to reiterate what we said in the past on funding on the Westchester County level is that it's desperately needed to go after those reservoirs.

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

Linda Matera reported that submissions for the 2021 final payment voucher request were submitted on January 21. The final O&M submissions for 2021 were submitted on January 15. We've received many

of the ABO compliance documents to date. Director Williams mentioned that he would reach out to those in Putnam who were not currently in compliance and asked that Director Lucas reach out to those in Westchester and JoAnne Daley contact James Schmitt.

Director Lucas said that it would be a good idea to let the new Supervisors know who we are and why we are here. It could be set up on a Zoom and would probably not need more than a half hour. Sabrina Charney-Hull agreed that it would be a great idea to get the new people up to speed. Kevin mentioned that Steve Woelfle in Somers was taking Supervisor Scorrano around to the different sites showing him some upcoming projects. Kevin would be happy to sit down with the new Board members and go through requirements, O&M packages, and bring them up to speed on the program. Director Goncalves said that Peter Parsons provided a high-level view of the program but he would appreciate a more detailed overview as well. Kevin said it would be helpful to use the updated EOHWC website because it contains a lot of updated information and even a GIS model.

## **5) Project Update**

Kevin Fitzpatrick reported that the phosphorus total on the current Running Project Status Table is 626 kilograms. A recent submission was made to NYSDEC which brings that total to 665 kilograms. Presently, there are quite a few projects on the spreadsheet that are in the final stages of closeout. The next round of projects that will be coming out this spring will include the installation of a couple of catch basin inserts and possibly channel stabilization. With the addition of these projects we expect to see the total increase to 714. We expect them to be added to the June/July project update. A new round of submittals was received for review of inserts that will go into Carmel around Lake Gleneida and Lake Mahopac. We've already started on preparing the some of those installation agreements. On others we will have to engage the property owners and the town to get them involved. One project in particular around Lake Mahopac has been on the radar with Alternate Franzetti and the Town of Carmel for a couple of years so we are looking forward to getting that underway. We are wrapping up installation agreements for the Keeler Lane project in North Salem (NS-MU-601). It is a massive channel stabilization project on private property. It was a bit of a push to get them signed because there are two separate property owners that have their own concerns on the property but we expect construction to begin in the spring. We are wrapping up Land Use Permit negotiations for Army Corps funding for Courtmel Road in New Castle (NewC-NCR-801). It will be a big undertaking to clean up the channels because they are large enough to drive a bus through them. There's been significant erosion so we are looking forward to getting it completed. Kevin is looking forward to the new numbers that may come out for the stormwater permit and any education opportunities that might be presented so we can renew conversations with the Horace Greely School District. Unfortunately, there are many projects which have been put on the shelf. There's a good chance that we may be able to revisit a lot of them moving forward, which will put to good use the time and work that went into them. We are expecting to wrap up construction at Scolpino Park (SE-EB-715). Yonkers Excavating managed to get through the project this winter. There are just some loose ends to tie up with plantings in the early spring. Kevin invited any project specific questions. Director Lucas thanked Kevin for his work on the Keeler Lane project (NS-MU-601). He expressed appreciation for the amount of time Kevin invested in meeting with the folks

out there and getting through all of the permits and easements.

## **5) Installation Agreement Approvals**

Kevin announced that the two installation agreements being presented today for authorization by the President both involve catch basin inserts. The project at Vail's Grove (NS-EB-901) has been approved by the Town of North Salem and the Town of Southeast is currently in the approval process. The individual property owners have already signed off. The inserts will go in through the Vail's Grove subdivision on Peach Lake and are expected to be installed shortly after fabrication in March. Director Lucas thanked Kevin for his work on this project on private property that has 170 homeowners. It is located in the FAD connected basins and will account for almost 12 kilograms of phosphorus removal. Kevin reminded members that presently NYCDEP does not consider catch basin inserts to be capital improvements because they are looking at them as individual basins. Each individual basin does not exceed the cost threshold so unfortunately we cannot use the connected FAD funding for the project. This is something we should openly discuss with the NYCDEP to make sure they can recognize this as a project in the FAD basins and a capital improvement. We touched on that discussion a couple of months ago but we are probably due for another coordinated effort to have that discussion with them. As it is, this is not a bank-breaking project as it comes in just shy of \$100,000. This is an amount that we should be able to use the FAD funding for so we will continue to push that forward and try to get the NYCDEP to recognize catch basin inserts as qualified FAD projects.

### **a. NS-EB-901**

Motion by Director Lucas, seconded by Director Slater to approve the installation agreement for NS-EB-901 located at Vail's Grove in the Town of North Salem.

WHEREAS, EOHWC is assisting its member municipalities, of which the Town of North Salem and Southeast (the "Municipalities") are two, in complying with the New York State Department of Environmental Conservation ("NYSDEC") Municipal Separate Storm Sewer Systems Permit effective May 1, 2010 ("MS4 Permit") by the design and installation of stormwater retrofit projects approved by NYSDEC; and

WHEREAS, EOHWC is considering undertaking a stormwater retrofit project involving the installation of and maintenance of catch basin inserts in the Municipalities (the "Project") on certain property commonly known as Vails Grove Subdivision, identified as tax map numbers: 7.-1768-1; 7.-1769-1; 7.-1770-1; 7.-1771-1; 7.-1772-1.1; 7.-1773-1; 7.-1773-3; and 79.-1-40 (the "Property"); and

WHEREAS, the EOHWC, Municipalities, and owner(s) of the Property wish to enter into an agreement regarding the installation of the Project at the Property (the "Installation Agreement") and EOHWC has received a draft of said Installation Agreement, a copy of which is on file with the office of EOHWC; and

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

WHEREAS, pursuant to 6 NYCRR 617.5(c)(2), (3), the Project constitutes a Type II action under

the State Environmental Quality Review Act (“SEQRA”) because it consists of the replacement, rehabilitation or reconstruction of a structure or facility, in kind, and/or the retrofit of an existing structure and its appurtenant areas to incorporate green infrastructure.

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

1. The Project is a Type II action under SEQRA and a Draft Environmental Impact Statement will not be prepared.
2. The execution and delivery of the Installation Agreement are hereby approved. The President of the EOHWC is hereby authorized to execute and deliver 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.
3. 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 acting, desirable and proper to effect the purposes of the foregoing resolution.

Motion passed; all in favor.

(R-0127-01)

**b. Y-MU-602**

Supervisor Slater thanked Kevin for his work on the Junior Lake project. The Town of Yorktown is very supportive of the project and is going to be passing the necessary resolution on Tuesday authorizing the Town to enter in the agreement.

Motion by Director Slater, seconded by Alternate Franzetti to approve the installation agreement for Y-MU-602 located at Junior Lake in the Town of Yorktown.

WHEREAS, EOHWC is assisting its member municipalities, of which the Town of Yorktown (the “Municipality”) is one, in complying with the New York State Department of Environmental Conservation (“NYSDEC”) Municipal Separate Storm Sewer Systems Permit effective May 1, 2010 (“MS4 Permit”) by the design and installation of stormwater retrofit projects approved by NYSDEC; and

WHEREAS, EOHWC is considering undertaking a stormwater retrofit project involving the installation of and maintenance of catch basin inserts in the Municipality (the “Project”) on certain property in the Junior Lake neighborhood of Yorktown Heights from Edgewater Street to Longvue Street (the “Property”); and

WHEREAS, the EOHWC, Municipality, and owner(s) of the Property wish to enter into an agreement regarding the installation of the Project at the Property (the “Installation Agreement”) and EOHWC has received a draft of said Installation Agreement, a copy of which is on file with the office of EOHWC; and

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

WHEREAS, pursuant to 6 NYCRR 617.5(c)(2), (3), the Project constitutes a Type II action under the State Environmental Quality Review Act (“SEQRA”) because it consists of the replacement, rehabilitation or reconstruction of a structure or facility, in kind, and/or the retrofit of an existing structure and its appurtenant areas to incorporate green infrastructure.

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

1. The Project is a Type II action under SEQRA and a Draft Environmental Impact Statement will not be prepared.
2. The execution and delivery of the Installation Agreement are hereby approved. The President of the EOHWC is hereby authorized to execute and deliver 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.
3. 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 acting, desirable and proper to effect the purposes of the foregoing resolution.

Motion passed; all in favor.

(R-0127-02)

## **6) Fabco Purchase Order Approvals**

### **a. NS-EB-901**

Motion by Director Lucas, seconded by Alternate Tamagna to authorize the Corporation’s President to sign the purchase order from Fabco Industries, Inc. for stormwater retrofit project NS-EB-901 located at Vail’s Grove in North Salem in the amount of \$99,850; all in favor.

### **b. Y-MU-602**

Motion by Director Lucas, seconded by Alternate Daley to authorize the Corporation’s President to sign the purchase order from Fabco Industries, Inc. for stormwater retrofit project Y-MU-602 located at Junior Lake in Yorktown in the amount of \$72,300; all in favor.

## **7) Review of Form of Installation Agreements**

Kevin said that the updated installation agreement discussion has to do with a conversation that originated with the Army Corps of Engineers (ACOE) and the Kent project where we encountered debris and hazardous contamination. The addition that Christine’s office and Kevin are looking to put into our standard form moving forward has to do with presence of any hazardous material and who is actually responsible for cleanup and any remediation efforts that need to take place because of that. As written,

we would intend on going back to the owner of the property and with municipal projects that would be the town. It is going to highlight any failure of the owner to disclose anything to us and it does not relieve them of responsibility of any cleanup efforts that need to take place on site. It will effectively remove us from liability or exposure to have to clean up those items moving forward. Director Lucas said that what the Town of North Salem does is an environmental Phase 1 Environmental Site Assessment (ESA). It doesn't cost a tremendous amount of money and may be something we want to consider on some of the larger projects. Christine Chale agreed and said that is one of the things she and Kevin have been discussing. It may not be relevant on a catch basin project but when going into project areas where we are digging up something that hasn't been dug up before it's something that should be considered as a matter of course. Borings would not be done unless the Phase One ESA showed something to be concerned about. Borings are usually part of Phase Two. Sometimes if you know something is going to be problematic you do a Phase Two right away but normally you are just going to do a desk review and a site visit. Director Williams indicated that where we are doing excavation such as putting in a pond we should actually be doing deep holes to know the soil conditions. Director Lucas inquired if we would have found anything on the Kent project with a Phase One ESA. Kevin said that the only way we would have found something is if we started excavating randomly through the project area. Christine said that we may not have found anything in Phase One but it forces the owner to go through the questionnaire and ask themselves and those internally what they know about the project, in which case it might have turned up something for them. Director Williams said that you are only going to find out there what people know on Phase One unless you actually go out there and dig around a little. You are not going to find what we found in Kent. Christine said that on one hand, doing the Phase One assessment on some of the larger projects might be prudent in a general sense and then having a provision in your install agreement that says that if we do find something here is where the responsibility lies. Director Williams agreed with Christine but also feels we should be looking when we are doing a soil analysis and have the equipment on the site what is actually being dug up. In regard to Kent we actually did go out and dig a couple of deep holes but apparently didn't dig them in the right location. We might want to have an internal conversation about where those test holes need to be done. Director Lucas expressed concern about the direction we would be going in because there are going to be some private and public property owners that as soon as they see that they are going to immediately back off. Kevin said that is his concern as well but realizes that it is necessary to have something like this. Director Williams said it would be helpful to see the language before it is put in. Kevin said that a draft will be circulated and once everyone has had a chance to review it we can work towards finding language that addresses everyone's concerns. Christine will send the language to members.

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

Kevin reported that the 2021 O&M books have been closed as of last Friday. The submittals are being tallied. We will be notifying each individual town whether they owe money or they should expect a reimbursement from the Corporation. We are evaluating everything that's been done by each town and will be providing updated O&M packages to everybody as we move into the next season.

## **9) Discussion of NYSDEC General Draft Permit**

Director Williams announced that NYSDEC Draft General Permit has been released. Comments are due back by February 18<sup>th</sup>. While there is a lot of improvement from the permit issued back in 2017, there is still a lot of pain for all the municipalities involved. The NYSDEC is looking to adopt this permit at the end of April. Once they adopt it, everyone has 30 days in which to file a Notice of Intent (NOI) to obtain coverage and a few months to start seriously implementing all the program requirements. Director Lucas asked what was meant by a Notice of Intent for coverage. Director Williams explained that in order to get coverage under a general permit you have to file a Notice of Intent and a document with NYSDEC

acknowledging that you're going to be seeking coverage under the general permit and implementing a stormwater management plan in accordance with the MS4 General Permit. Christine said that all of the municipalities will need to do that. Yesterday they announced that the deadline for comments has been moved to March 7. Director Lucas said he asked Tom Snow who said the draft permit only includes proposed phosphorus reduction requirements that must be achieved. A separate document known as the "Draft EOH TMDL Implementation Plan" will be provided which is going to internal review and will give project specific recommendations in the EOH watershed that can be undertaken to reduce the phosphorus. Alternate Franzetti asked if we are looking to submit comments as the EOHWC as was done the last time. Director Williams said everyone should be aware of how this impacts the Corporation. Essentially they are looking for a five year implementation plan back from the Corporation in the first year of the permit term. That means we are going to have to scramble to come up with five years-worth of projects. Then going forward thereafter we have to have bid-ready documents set to go December 31<sup>st</sup> every year for what we are going to implement the next year. It's going to put a little more of crunch on everyone. Alternate Franzetti said he is all for doing the right thing and making this happen but some of the requirements are extreme. Director Lucas asked what the liability is if the requirement is not met. Director Williams said that if the requirement is not met then we are in violation under the Clean Water Act. There's a concern with adopting permit requirements being looked at by other organizations who are looking to make sure we are following the letter of the law. The spreadsheet prepared by Director Williams back in 2017 is being updated and will be shared with everybody. There will be increased frequency in catch basin inspections 3 times per year and roads will need to be swept 2 times per year. Director Williams requested that any comments submitted be shared with the organization so we could see what everybody is doing. If there are any questions, you can contact Director Lucas or him by email. Director Lucas added that every municipality needs to send a letter in their own words and not a canned copy. It's not something we are prepared to do or can do given the current equipment and headcount we have. Director Lucas asked if any towns needed to sign up to be part of the Corporation. Director Williams said that not necessarily but reading through the permit he is not so sure that what we've done meets the specific requirement of the permit. Director Lucas inquired if the EOH as an entity picks up any more requirements as part of this MS4 Permit. Director Williams said not other than having the 5-Year plan up front. Director Lucas clarified that we're not covering all the items in the permit, just the TMDL phosphorus loading. Director Williams said that the permit has nothing to do with the EOH per se. It imposes requirements on each individual municipality. One of the things it says in the permit is that we are going to have to send an educational message out 3 times per year. That may be something we want to talk about doing together collectively. Kevin said that there are definitely pieces to this permit as proposed right now that the Corporation would be happy to take on. We have multiple lake communities in the area that have been reaching out to us asking for help with stormwater treatment. In doing that, we can easily set up an educational 15-30 minute time slot with folks in those communities in addition to the retrofits that we are putting in. The educational element is extremely low hanging fruit that both Kevin and Cory are very happy to take on. With inspections of catch basins, every retrofit that we have has a drainage area that needs to be monitored and inspected. So taking some of that burden away from the municipalities in order to protect the retrofit and the investment that's been made downstream is another easy thing for us to pick up. As we start going through the list we are going to notice there are some logical items that we would be happy to take on. Director Lucas asked if Kevin could give members some idea in a week or two about the educational types of things he is referring to so that when they have meetings they know what not to focus on if we all agree that those are things the Corporation can do. Director Williams said that if the EOHWC goes down the road of providing the educational component of the MS4 permit, we are going to have to figure out how to pay for that. One of the things we have to do is map out specific soil types because they generate phosphorus. The soil types they identified are all wetland soils. Director Lucas asked how far

down it affects and if it affects Westchester County at all. Director Williams said it affects the entire East of Hudson Watershed. Alternate Charney-Hull said it affects Westchester County and whatever it owns in the watershed and its roadways. Director Lucas asked if Mille and those at the Planning Department are taking a look at that to make sure the Department of Public Works understands what the impact is to them and if the County is aware. Millie said that David Kvinge is intimately involved with this. She will talk with him after this meeting to bring these issues to his attention if he doesn't already know of them. Director Lucas said that Vincent Tamagna might want to bring it up in Putnam as well. Director Williams pointed out that there is a video on their website that provides more detail.

#### **10) Checks and vouchers**

Monthly vouchers were signed. No action taken.

#### **11) Other business**

Kevin stated that he would like to bring a paid intern for the summer to assist with evaluations and inspections on site, as well as O&M inspections. Interns have been utilized a few times in the past and it would be another great tool for us to have come the summer. Director Lucas asked if a summer hire had been included in the budget. Kevin said it had not been included. In the past we utilized the Putnam County Pilot Program. We could also advertise with local engineering colleges and see if we could bring someone with an environmental background that could be of assistance. The salary range will need to be evaluated. We will need to consider that this individual will be putting a lot of mileage on their vehicle. Director Williams requested that Kevin present it at the next meeting identifying the salary, putting the budget together and identifying the scope of work they will be doing, then we can consider it at the next meeting. Director Lucas said to make sure that we include it in the 2023 budget.

**12) Adjournment - Motion to adjourn by Alternate Franzetti, seconded by Director Lucas; all in favor. Adjourned 10:32 AM.**

**PRESIDENT'S CERTIFICATE**

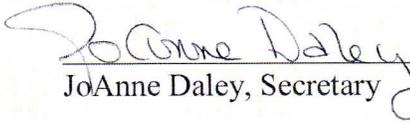
I certify that the foregoing is a true and correct copy of the January 27, 2022 meeting minutes approved by the Executive Committee.

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

  
\_\_\_\_\_  
Date

**SECRETARY'S CERTIFICATE**

I certify that the foregoing is a true and correct copy of the January 27, 2022 meeting minutes approved by the Executive Committee.

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

02-24-2022  
Date