

EXECUTIVE COMMITTEE MEETING  
9:30 A.M., Thursday, November 17, 2022  
EOHWC Board Room, 2 Route 164, Patterson NY 12563

**Meeting Minutes**

**1) Open Meeting**

Voting Members in Attendance: Richard Williams, Sr. (Town of Patterson); Warren Lucas (Town of North Salem); Dan Ciarcia for Matthew Slater (Town of Yorktown); JoAnne Daley for James Schmitt (Town of Pawling); Tony Goncalves (Town of Lewisboro); Rich Franzetti for Michael Cazzari (Town of Carmel)

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

**2) Approve Meeting Minutes of September 22, 2022**

Motion by Alternate Daley, seconded by Director Lucas to approve the meeting minutes of October 27, 2022; all in favor.

**3) Financial Update**

Keith Giguere reported that in the last month we made over \$15,000 on interest income in our bank accounts. We still have \$9,826,000 in FAD funds and a total of \$15,187,000 available for projects. Director Williams said they had some conversations with New York State Department of Environmental Conservation (NYSDEC) and New York City Department of Environmental Protection (NYCDEP) and were made aware that we have at least another \$10 million coming and right after the beginning of the year we can start working on the agreements. Kevin said that from our perspective, we can hit the ground running as soon as the permit comes out. It's a transition from what we've been doing right into the next step because we have plenty of projects in the hopper that can keep us moving forward right into the next permit. Director Williams informed Alternates Ciarcia and Franzetti that there's a new stormwater design manual out. The actual permit will be out before the first of the year. Alternate Franzetti asked if they will allow comments on the permit again. Director Lucas said it's not likely.

**4) Project Update**

Kevin reported that there are no major updates since the October meeting, but we will be scheduling construction over the next few months for 9 different projects that will be scheduled over the next 6 months beginning in December and going into the spring. We have submitted a request to the U.S. Army Corps of Engineers (ACOE) for funding on 3 projects which are outside of the FAD basin and

in Westchester County. Two are in Yorktown and one is in Lewisboro. We are optimistic that with the ongoing relationship with ACOE, they are going to look favorably upon the work we're doing. If approved, that would amount to close to \$2 million in funding from ACOE for that group of projects. We are expecting agreements back from ACOE for an ongoing project that we have in New Castle (NewC-NCR-801.) They are sending a signed agreement back to us which will be circulated to Counsel for review and Director Williams for signature.

Director Williams said we are still having discussions with the New York State Department of Transportation (DOT). We received email correspondence back that they are still waiting for their counsel to respond to them. He asked Vincent Giorgio if we go into an agreement with the DOT to undertake their obligation under the current Years 1-10 MS4 Permit, would the DEP funding be eligible to be used. Vincent said his initial response would be no, but it would depend. Director Lucas said it would depend on who is getting the credit. Director Williams said it's more about our phosphorus number increasing if we could get an agreement with the DOT and join together. Vincent said that in that case, he would be more inclined to say yes. Director Williams said there will be a whole process and we would have to vote to accept them in. If they come in then they are coming in with a financial contribution as well, but it may not be tied into the FAD basins. Christine said she was thinking about whether we would need to do a new agreement, could we codicil the old one to allow for something like this even if it's to the benefit of the DEP in the broader sense and if it's an appropriate way to benefit everybody. Director Williams expressed concern with how long it would take the DEP to get through anything with a contract. The topic was brought up today to get it on everybody's radar so we can think about the best way to make it happen and keep us going. Kevin said it's a great idea to get everybody into the same room to have that discussion because to Mike Meyer's point, we are running a lot of projects right now and eventually they are going to have to bridge to the next permit. There's a balance of what funding is going to be able to be used when and how, without the Corporation having to issue stop-work orders, for example, on projects for just that reason when we have good projects that can move forward, and we can continue doing them. Having everybody sit down and have that conversation and along with the DOT will be able to iron this out more quickly. Director Williams said we are aware that we need to keep the Years 6-10 projects to about 10% over the current phosphorus loading reduction that we're obligated to meet so that we're not doing way too much and can start carving some projects out. Kevin said that by the end of the year we'll be able to give an updated list of how much closer we are to that 10%. Alternate Franzetti inquired what was meant by the 10% overage. Director Williams explained that we are currently designing projects based on the number that is going to well-exceed our phosphorus reduction number plus 10%. We are spending funds on projects that will ultimately roll over into Years 10-15 when the contract doesn't allow us to do that. Director Lucas said that in getting back to the topic of the DOT, they need help, and the DEC would greatly appreciate it because they are doing nothing. They keep coming back and saying that they don't have anything that is stormwater related. Director Goncalves asked if culverts could be included. Kevin said not the pipes themselves, but if there is existing erosion that's coming out of that culvert and it's chopping away at the stream bank, then we can help with that. In those cases, the DEC has asked us to try to incorporate more than just bank stabilization when we're doing those types of projects with channels, but particularly with culvert replacement it's something the municipalities are doing anyway, I think they understand there is only so much we can do. So instead of doing all riprap, we might go heavy into some vegetation that can allow for additional nutrient pickup.

##### **5) Kent-MB-1000 Easement discussion**

Kevin explained there is a substantial development project in the Town of Kent on Longfellow Road just past Route 84 that we received the 60% design on Monday. The private property owner, Paul Camarda, who we have a previous relationship with from a project we did on the other side of Route 311, came to us and said he has a site with multiple municipal discharges that have eroded away most

of the hillside. There's an obvious stormwater retrofit project that can be done there. He came to us to see whether we can partner up with him again. Previously, Director Williams and Kevin met with him to discuss an easement payment for the site. As presented to us currently, the size of the easement would be about 4.1 acres. We had 2 property assessments done to identify the monetary value for an easement of that size which was done about a year ago. Within the last year we concluded what dollar value we thought was appropriate. This topic was discussed at a previous Executive Committee meeting, and we talked about a \$140,000 payment for the easement for the 4.1 acres. Director Williams, Paul Camarda and Kevin negotiated that number even though it is considerably below the appraisal value for the site. Presently, we have enough information to make the decision as to whether we are going to enter into a memorandum of understanding with him for payment towards that easement. We are at 60% design and are ready to submit to the DEP and DEC for all the permits. The design came in at approximately 75 kilograms of reduction with an estimate for construction of \$1.1 million. Any easement payment would be above that. We are operating right around a \$15,000 per kilogram number. With the easement, it jumps up to \$16,000 per kilogram. It is in a FAD-connected basin. So far, we are working with a handshake agreement with Mr. Camarda that we are going to continue with this. Clearly, it's fully in our benefit to do a retrofit project on the site given the conditions. The easement gives us the right to go on the property and maintain the retrofit to ensure that the practices are kept in place. Kevin said there is going to be a long swale that will collect all of the municipal discharge and bring it down. Director Lucas said if we are impacting his property by doing this, it should be put into the easement language. Kevin said it is definitely affecting his ability to develop the property by putting this in. Director Lucas said we should decide on the dollar amount that way because it will help us in a similar situation in the future. Christine asked if Kevin shared the appraisals with the Board. He said he had not. Director Lucas asked what we are paying for. Kevin said we are paying for the land we are occupying with the project, which is the value of the 4.1-acre easement. It will absolutely make it a better lot for Camarda to utilize. There is a clear benefit to the Corporation, Carmel and the drinking water supply. Alternate Ciarcia said the precedent he's worried about us setting is if somebody has an eroded channel on their property that's got wetland constraints that they can't do anything with and we're going onto their property, we don't want to set the precedent that we're going in and fixing their property and paying them money to do it. Director Williams said we have the ability to say no. If it's appropriate and it benefits us and the watershed, then we would say yes. Director Lucas asked if we are buying a conservation easement so the property owner can't do something else on the property that we may not want. Director Williams said it's a drainage easement, which is a negative easement across someone's property similar to a conservation easement. Director Lucas inquired about what a drainage easement does. Director Williams explained that a drainage easement says the drainage is going in one direction and must continue to go in that direction. Director Lucas asked if the property owner would be upset about giving us a drainage and conservation easement to prevent development over the easement area. Kevin said it would be impossible to develop over the stormwater practice we would install. If he were to try, he would have to remove a substantial swale and replace it with manholes, which essentially for our purposes, we would still have all the kilograms we need. As part of our installation agreement, we can put the language in that they are not allowed to alter our installation. There may already be language in the agreement that says the owner does not have the right to alter or change any installation that we put in without our approval. Christine asked if there is a maintenance requirement. Kevin said we can write it into the agreement to require him to do maintenance. The bulk of the value to us is in eliminating the gouges coming down the road. In addition to that, it's some stormwater treatment that will be done within the roadway prior to discharge. What we have done with Paul Camarda with the previous project (Kent-MB-311) made him responsible for the maintenance of the installation. In this case, the maintenance is going to be weed whacking, lawn mowing and clearing a swale to make sure the channels do not come back. We can work with him to include simple language this time around as well. Kevin did not think Paul would have a problem with that but didn't want to assume he would agree to taking on the maintenance. Director Williams said a portion of the practice

is in the road right of way, which remains with the Town of Kent. Kevin said that in the roadway portion that Kent is responsible for, there are jelly fish, which are chamber units in which the filter is removed, and a vac truck is used to clean them. Director Williams said we would not want Paul to be responsible for that because he is not geared up for it. Kevin has already spoken with the Town of Kent and told them that the only way we can do this project is to have this element in the roadway and they are agreeable. It is going to take another presentation to them so that they are very clear about what is going on, but the conversation has already been had with the town supervisor. It will have to be presented to their town board before Supervisor McGlasson signs it. Vincent Giorgio asked if NYSDEC is ok with EOHWC assigning the responsibility of maintenance to a private entity. Christine said that if it is on private property the town is obligated to maintain the project if the private entity does not. Director Williams said that the maintenance obligation language would all be part of the easement as well. Kevin said that for the December meeting we will look to have a memorandum of understanding addressing any payment and an installation agreement as well. Christine said she would contact Kevin to discuss the specifics. Director Williams said the drainage easement should be part of that as well. Director Lucas also suggested drafting a resolution.

#### **6) Checks and vouchers**

Monthly vouchers were signed. No action taken.

#### **7) Other business**

Alternate Franzetti asked for clarification on the 10%-over rule for Years 6-10 projects and if we can carry over anything over that into the next cycle. Director Williams said that we can ask NYCDEP but it's unlikely they will allow it. Vincent said we can bring it up in negotiations and see what they say.

Director Goncalves asked if the project at Lewisboro Town Park is on the schedule. Kevin said he received an email this morning saying that they would like to start December 1<sup>st</sup> and he has scheduled a kickoff meeting with Coyle Industries and Renna Engineering.

**8) Adjournment - Motion to adjourn by Alternate Franzetti, seconded by Alternate Ciarcia; all in favor. Adjourned 10:10 AM.**