

EXECUTIVE COMMITTEE MEETING
9:30 A.M., Thursday, September 28, 2023

Meeting Minutes

1) Open Meeting

Voting Members in Attendance: Richard Williams, Sr. (Town of Patterson); Robert Scorrano (Town of Somers); Warren Lucas (Town of North Salem); JoAnne Daley for James Schmitt (Town of Pawling); Tony Goncalves (Town of Lewisboro); Vincent Tamagna for Kevin Byrne (Putnam County); Richard Franzetti for Michael Cazzari (Town of Carmel);

Others in Attendance: Millie Magraw (Westchester County); Janet Anderson (Town of Lewisboro); Vincent Giorgio (NYCDEP); Christine Chale (Corporate Counsel); Cassandra Britton (Corporate Counsel); Kevin Fitzpatrick (EOHWC); Keith Giguere (EOHWC); Linda Matera (EOHWC); Cory Lapidus (EOHWC)

2) Approve Meeting Minutes of August 24, 2023

Motion by Director Scorrano, seconded by Director Lucas to approve the meeting minutes of August 24, 2024; all in favor.

3) Financial Update

Keith Giguere reported that as of the end of August, total cash was \$15,652,000 of which \$9,928,000 is FAD related. Interest on the last two investments were both well over 5%. All EOHWC investments are US Treasuries. Putnam County Savings Bank is paying over 6% on our checking account.

4) 2024 Preliminary Budget

Keith presented the preliminary budget for 2024 and mentioned that it is difficult to anticipate expenditures as far as construction and engineering are concerned. It's all dependent on what happens with getting additional funding. The interest income for next year is not as high as it could have been because we will have to use all the investment funds in order to cover expenditures. Director Williams said he doesn't have a problem moving forward with the budget, but it should be revisited in January because we may need to start slowing down projects, so the money lasts longer. Director Lucas asked Vincent Giorgio about the status of the funding from the New York City Department of Environmental Protection (NYCDEP). Vincent said that they are currently working on the contract with the legal department and are getting close to having something to present to EOHWC. Director Lucas asked about how long it would take for the Corporation to receive the check. Vincent said he doesn't have an exact estimate, but it could be a year to a year and a half. Director Williams pointed out that we still do not have an MS4 Permit so we don't know what our obligation is. Vincent said he believes the contract that the NYCDEP has with NYSDEC specifically says Years 11-15. Alternate Franzetti mentioned that we will not have another chance to review the MS4 Permit before it is released, and they will not be taking any additional public comments.

5) List of Reporting and Filing Due Dates

Linda Matera reported that the only change to the Reporting and Compliance Report has to do with the O&M payments to the Westchester municipalities. It is still in the review process by Westchester County. Millie Magraw said that the review should be complete by the end of next week.

6) Project Update

Kevin reported that two channel stabilization projects (NS-MU-601, NewC-NCR-801) will be closing out once the plantings are done in the fall. NYSDEC has already given us credit for NewC-NCR-801. We will submit for NS-MU-601 for 31 kilograms to NYSDEC once we can get access to the property again in November. We had the construction kickoff on PC-MB-1000 on John Simpson Road to allow the contractor to begin preparing for the project, but we cannot officially break ground until November 1st due to the bat restrictions within the area. NewC-NCR-601 is a project that was going to be done in coordination with New Castle. It would have netted us approximately 20 kilograms of phosphorus reduction. It involves stabilizing a failing bank along the roadside next to a nature conservancy. We were going to stabilize that bank and offer water quality treatment, but the bank is in a dire state. The town has chosen to use the FEMA funding that they have already secured and take care of the existing DPW project themselves. Kevin will submit it to NYSDEC and perhaps we can get credit for that stabilization. The NYSDEC recently said we should do some type of water quality treatment in addition to stabilization. Although they are flexible, we do not have a definite answer yet. It would provide about 10 kilograms of phosphorus reduction for the stabilization. We can always revisit the location in the future to pursue the extra 15-20 kilograms for water quality treatment.

7) Fabco Purchase Order/C-NC-1000

Kevin presented the Fabco purchase order for C-NC-1000 in the amount of \$19,174. The project will net 3.7 kilograms of phosphorus reduction. It will be installed at the Lakeland School District and can be completed in a half day. We will coordinate with the school district to make sure the work is done on off-hours or holidays. Presently, the plan is to install it during the Veteran's Day holiday or Thanksgiving weekend. The town is responsible for doing their own O&M and they may choose to do it themselves or could pay a contractor. Alternate Franzetti asked if Fabco is the only company that manufactures this sort of catch basin insert. While filters may be an effective way to get rid of phosphorus, it is very cost intensive. Director Lucas felt strongly that a better price needs to be negotiated on the filters. Different basins get different amounts of water and there is no way of knowing whether the filter has been used up by looking at it. Kevin said they will look at all the products that are out there to see if there is a similar, yet competitive product. He reminded members that a determination was made on this about five years ago to make Fabco a sole source. Cory said between 1 and 4 filters are in each unit depending on how much water is getting to it. Catch basin inserts are really the only viable option at this time to install in parking lots because of the large phosphorus load. The issue with doing any other type of filter units is that they are not approved by NYSDEC and it's very difficult to get them approved. Cory explained that they are analyzing how the product is behaving right now and how long it takes for them to fill up or get clogged. Director Williams said the reason he doesn't want them in his town is because they are only looking for low maintenance practices that aren't expensive. Cory said they are low maintenance but expensive. Director Lucas asked how long the filters typically last. Cory said it's somewhere between 1-2 years. Director Williams asked Cory how it's measured because he has basins that take in 2,000 gallons a year and others that take 100,000 gallons a year. Cory said that they are breaking it down piecemeal for each individual catch basin. Unfortunately, our current funding prevents us from testing them. Kevin said that no new projects have been added using Fabco catch basin inserts and they will continue looking at the data. Director Goncalves inquired about the zero-cost line item on the quote for cartridges. Kevin said that the cost of the cartridges is included in the initial installation. Director Lucas said he received a list from Cory

of about 6 or 7 projects indicating that the highlighted ones need work. All were highlighted so it's not clear what work needs to be done on them. He was expecting more of a list detailing the nature of what was to be done and would appreciate having a little more information.

Motion by Alternate Tamagna, seconded by Alternate Scorrano to approve the Fabco quote for the installation of catch basin inserts at Walter Panas High School C-NC-1000 in the amount of \$19,174.

Motion passed.

(Vote: Aye:6; Nay:1; Abstain:0)

8) Award Construction/Y-MU-40

Kevin presented the construction award for a bioinfiltration practice on municipal property at Hallocks Mill in Yorktown. The project is to install a Focal Point system which involves bioinfiltration on the upper levels and subsurface infiltration on the lower. Six bids were received ranging from approximately \$750,000 to \$1,600,000. The \$750,000 bid was presented using an unapproved alternative that would have led to the redesign of the project. Additionally, the alternative came in the morning of the bid opening rather than with any lead time for discussion, or consideration by other contractors. Because of that, Hudson Valley Engineering Associates, as well as Kevin, recommend awarding the project to Coyle Industries, Inc. in the amount of \$1,398,200. This project is receiving Army Corps of Engineers funding to cover about 75% of the construction cost. The efficiency of the project as proposed with Coyle would be \$50,000 per kilogram and the project is estimated to remove approximately 30 kilograms of phosphorus. Director Williams asked Christine Chale if it is not acceptable in New York State to allow approved equals. Christine said that it is allowed and what was said in the engineer's report is that it is not an equal because it was not an acceptable substitution. The bid submitted wasn't bidding on what was being asked for. They were bidding on a different product that they were proposing, and the engineer's conclusion was that it was not equal. Director Lucas asked for clarification. Director Williams explained that within New York State approved equals must be allowed. Alternate Franzetti asked what Article 11, Section 1101 of our instructions says to bidders. Kevin indicated that it states that you must provide an alternative for that reason 15 days before, so that an alternative can be vetted and provided to all other contractors. Director Williams said that one of the statements that was made was that it was not an approved equal. He wanted to make sure that everyone understands, and that the motion reflects that it is not a question of it being equal products and different manufacturers. The products were very dissimilar and did not meet the specifications of the bid. Kevin added that we are in the middle of finalizing this with the Army Corps of Engineers and we don't want to lose the 75% match for a project that was already presented to them in one form. In addition, there are wastewater lines that encompass the project site. Re-designing the project would jeopardize our proximity to those lines. The present design gives us ample room to construct and stay away from the lines.

Motion by Director Williams, seconded by Alternate Franzetti to reject the bid for Y-MU-40 submitted by Nicky Diggs Excavation for the reasons heretofore stated. Motion passed; all in favor.

Motion by Alternate Tamagna, seconded by Director Scorrano to award the construction contract for Y-MU-40 to Coyle Industries, Inc. in the amount of \$1,398,200.

WHEREAS, EOHWC is assisting its member municipalities, of which Town of Yorktown (the "Town") is one, in complying with the New York State Department of Environmental Conservation ("NYSDEC") Municipal Separate Storm Sewer Systems General Permit No. GP-0-15-003 ("MS4 Permit") by the design and installation of stormwater retrofit projects approved by NYSDEC; and

WHEREAS, the Project consists of the installation of bio-infiltration system (the “Project”) at the Intersection of Rt 202 and Hallocks Mill Rd, Yorktown NY, 10598 on certain property identified as tax map number 37.10-2-68 (the “Property”), all in accordance with plans prepared by HVEA Engineers (“HVEA”); and

WHEREAS, the Project was publicly advertised on the website as well as in the standard local print publication and 6 bids were received and publicly read aloud at the East of Hudson Watershed Corporation (“EOHWC”) offices at 2 Route 164, Suite 2, Patterson, NY 12563 on September 14, 2023, and

WHEREAS, the estimated phosphorus removal of 30 kilograms for this Project has an efficiency of approximately \$47,000 Kg P-removed; and

WHEREAS, HVEA has reviewed all bids and provided their letter of recommendation dated September 26, 2023 together with the bid tabulation.

WHEREAS, based on the Engineers review and recommendation, the bid of Nicky Diggs Excavation does not conform to the bid specifications and is deemed nonresponsive; and

WHEREAS, HVEA has recommended that EOHWC accept Coyle Industries, Inc. as lowest responsible bidder for the Project and proceed with contracts pending the submission of bonds and insurance by the contractor; and

WHEREAS, on December 15, 2022, by Resolution No. R-1215-01, the EOHWC Executive Committee reviewed all available evidence and resolved that the Project was an unlisted action that 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’s Board of Directors that it accepts Coyle Industries, Inc. as lowest responsible bidder in the amount of \$1,398,200.00 for the Project and authorizes the President or Vice President of EOHWC 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 for the Project.
2. Review of the construction contract by EOHWC’s Counsel.

Motion passed; all in favor.

R-0928-01

9) Project discussion/L-CR-804

Kevin explained that the project at Tarry-a-Bit Drive in Lewisboro consisted of three channels on Three Lakes Council property. It was the Corporation’s intent to go in and fully stabilize the channels prior to discharge into Lake Waccabuc. These channels all carry stormwater and overflow from Tarry-a-Bit Drive, which is an unpaved private road. Through the course of the project, we were not able to secure access to the two eastern channels but were able to get access to the closest one to Main Street. There has been a lot of push back from some residents on the street. As we whittle back the project to avoid those conflicts, we are down to the current project that we are looking to install which is channel stabilization on Three Lakes Council property with access coming in from the main street and not utilizing or touching the private road whatsoever. As of now, the legal counsel for the property owners sent in a FOIL request about a month or two ago. They were

asking about the details of the project. While we are trying to work through what we need to provide, we also have a stop work order on the project. We are ready to go to bid for construction, but we've paused to review where we are and the possible liability or problems that we might encounter moving forward. We have access through a different path that doesn't utilize the private road so there's nothing that should be holding us up because we have clear access to the channel we need. Christine asked if access is needed from the other property owner that originally indicated that they were willing to do it. Kevin said that we can utilize their property as well. We originally had an agreement with Three Lakes Council, one with the property owner midway down the road who asked us to not go forward until this issue gets settled, then there was an additional property owner closer to Mead Street, which we can access. Kevin said he has been working with them to get access to that location. Kevin indicated that even if the remaining property decides not to go forward, we absolutely still have a project to do on the other side of the road, however this would make it a larger project. We do not need to access the private property driveway to get to the project. Unfortunately, the pending litigation is based on a project that was proposed 3-4 years ago and is very different from what is currently being proposed. Cory added that we've gotten approval from a nature conservancy that partially holds a deed to that land. It had a stipulation in the contract when it got pushed over to the Three Lakes Council and they were fine with what we are planning to do on the property. Director Williams asked if there's any opportunity to get the property owners that are raising the objection to understand what is going on. Director Goncalves offered to speak with them if needed. Kevin said he is in favor of meeting with them. Originally, we were going to use Tarry-a-Bit Drive to get to the channel until we received push back and we then decided to go parallel to Mead Street on the Three Lakes Council property. Discussion ensued. Director Williams said that if we move forward with the project, we run the risk of having unnecessary litigation.

Motion by Alternate Franzetti, seconded by Alternate Tamagna to enter into attorney/client discussion; all in favor.

Motion by Director Lucas, seconded by Alternate Tamagna to come out of attorney/client discussion; all in favor.

10) SEQRA Update/Kent-MB-1000

Kevin explained that this is to update the previous Short Environmental Assessment Form provided about a month ago. The update shows less than 10 acres of disturbance on the project so that it could be classified as an unlisted action. We can move forward with declaring ourselves as the lead agency on the project and send it out to all interested parties. When it's going to be a coordinated review, we declare ourselves lead agency on a project. Previously, we had blanket determinations from every municipality saying East of Hudson Watershed Corporation is the lead agency on their project. A coordinated review is done when we are involving NYCDEP and NYSDEC for larger permitting.

Motion by Alternate Franzetti, seconded by Director Goncalves to declare the East of Hudson Watershed Corporation lead agency on stormwater retrofit project Kent-MB-1000; all in favor.

11) Woodard and Curran Sewer Study Update

Director Williams presented the Woodard and Curran Wastewater Needs Summary Report. Director Lucas observed that there are no real numbers provided. Director Williams expressed concern that the original intent of the study was to come up with a list of stormwater needs within the watershed and associate costs with them so we could approach the state for funding to deal with stormwater in the region. It appears that the direction of this study is that they are going to pick three projects and figure out the cost for only those three. It's a preliminary report to their recommendation that they pick three projects and do engineering reports. Kevin said they were supposed to meet with the

towns and evaluate the studies they had. Director Williams said he, Christine and Kevin met with Woodard and Curran and had a discussion. Additional information was requested at that time, which was never provided. A list was requested of who they met with and when. Director Goncalves said they met with Lewisboro several times. Director Williams asked if Woodard and Curran will be coming to the October Board meeting. Christine said that was something that was going to be discussed and decided at today's meeting. We asked them to be tentatively available to talk to the Board at the next meeting because in order to move forward with their proposal, they would need to have some concurrence with their recommendation of how they are selecting projects and the methodology for determining what they are planning to work on. Director Lucas said he expected them to go into a little more detail on every project that is listed and come up with a total dollar amount. They came up with \$193,000,000 which is unclear how they got that number because he doesn't see a tally anywhere. Christine told them she couldn't understand the spreadsheet without having something tabular. Alternate Tamagna pointed out that we should at least have a summary if we've paid them \$70,000 to date. Alternate Franzetti said we need to understand how they recommended Southeast, Patterson and Mount Kisco for further investigation. The town of Carmel and Mahopac should have one that's looked at. Kevin explained that Woodard and Curran took all the conversations they had with towns and the reports they received and narrowed it down to projects that already have funding and that is what they recommended moving forward with. Discussion ensued. Director Goncalves believed that it should match up with the expectations in the RFP. Director Williams asked Kevin to contact Ken Kohlbrenner to ask for the additional information that was requested.

12) O&M Program Update

Kevin reported that we are in the process of sending out detailed reports to each town and offering to meet with anyone who has questions. Cory has been reviewing each town individually. The intention is to get them out to everyone and then we will revisit sites that we feel need attention toward the end of the year to make sure items that needed to be addressed have been taken care of. If you have not received it yet, you will soon.

13) October 10, 2023 Board of Directors Meeting Agenda

Director Williams presented the October 10th Board of Directors' agenda and asked if anyone had additions or questions. No additions or questions were brought forward.

14) Checks and vouchers

Monthly vouchers were signed. No action taken.

15) Other business

No other business was brought forward.

16) Adjournment - Motion to adjourn by Alternate Franzetti, seconded by Alternate Tamagna; all in favor. Adjourned 10:50 AM.