

**MILK RIVER INTERCOUNTY DRAIN DRAINAGE DISTRICT
DRAINAGE BOARD MEETING MINUTES
MARCH 19, 2020**

A meeting of the Milk River Intercounty Drain Drainage Board was held on Thursday, March 19, 2020, via teleconference per the State of Michigan Executive Order No. 2020-02, dated March 13, 2020, and Executive Order No. 2020-15, dated March 18, 2020, due to the COVID-19 pandemic.

Members Present Via Teleconference

Michael R. Gregg, Chair, Michigan Dept. of Agriculture & Rural Development, State of Michigan
Elmeka N. Steele, Esq., Wayne County Drain Commissioner, Wayne County
Matthew Coppler, City Manager, City of St. Clair Shores
Brian Baker, Chief Deputy, Public Works Office, Macomb County
Joe Rheker, City Manager, City of Harper Woods

Others Present Via Teleconference

Kyle Seidel, Anderson, Eckstein and Westrick
Brent Avery, Southeast Macomb Sanitary District
Brett McDonald, Southeast Macomb Sanitary District
Lori Hicks, Southeast Macomb Sanitary District
Bruce Smith, City of Grosse Pointe Woods
John Brennan, Fahey, Schultz, Burzych & Rhodes
Russ Strassburg, Tetra Tech
Greg Tupancy, Tetra Tech
Brady Harrington, State of Michigan
Elizabeth Barrera, Wayne County
Kip Walby, City of St. Clair Shores

1. Call to Order

Mr. Gregg called the meeting to order at 10:15 a.m. Votes will be taken by roll call vote and Board Members will not communicate via text or other private methods of communication while this meeting is in session. Mr. Gregg introduced Brady Harrington as the alternate for Mr. Gregg in case he is unable to attend a meeting.

2. Approval of Agenda

Mr. Baker moved to approve the agenda with the addition of “Basin Hydraulic Update” under item 4.c. Hydraulic Model Update, and the deletion of item 4.d. Quarterly Budget Report. The motion was supported by Ms. Steele. Motion adopted.

3. Approval of the Minutes for:

a. February 20, 2020, Milk River Intercounty Drain Drainage Board Meeting

Mr. Baker moved to approve the minutes of the February 20, 2020, Milk River Intercounty Drain Drainage District Board Meeting as presented. The motion was supported by Mr. Coppler. Motion adopted.

b. February 20, 2020, Milk River Intercounty Drain Drainage Board Closed Session

Mr. Baker moved to approve the closed session minutes of the February 20, 2020, Milk River Intercounty Drain Drainage District Board Meeting, as presented. The motion was supported by Mr. Coppler. Motion adopted.

4. Reports

a. Operations and Maintenance (O&M)

The Operations and Maintenance (O&M) update was presented by Brent Avery and Brett McDonald. Mr. McDonald commented that there have been no discharge events since the last MRIDDD meeting. The Milk River water level has been raised back to the normal elevation level. He suggested sandbagging along the Milk River.

Mr. Rheker moved to receive and file the Operations and Maintenance Report. The motion was supported by Mr. Baker. Motion adopted.

b. Priority 1B and Select Improvements Project – Construction Update

The Drainage District Board received the Engineering Services and Construction Contract Status Report as of March 11, 2020, and the Summary of SRF Loan Costs Reports. Mr. Tupancy commented that the engineering contract is invoiced up to the end of February 2020 and the construction contract is invoiced to the end of January 2020. Mr. Tupancy reviewed the following work being performed: Basin 2 has concrete work being done and a flushing lane is being created, Basin 1 is cleaned up from debris that got in when the temporary wall collapsed, working on the storm pump electrical switch over from the old system to the new system, working on electrical and miscellaneous building work at the recirculation station, and cleaning out the intake pipe. The intake pipe cleanout is going as scheduled, and they are working on cleaning it out with the help of SEMSD personnel pushing out the debris.

Mr. Smith asked if the root ball has been removed.

Mr. Tupancy replied that they are waiting to inspect the root ball after the intake pipe is cleaned and inspected. Per the mediation agreement, the pipe needed to be cleaned out prior to the root ball inspection taking place. He reviewed the Cost of Outstanding Items list as of March 19, 2020, explaining the cost for project engineering on the intake pipe is the design of how to remove the root ball, the extended general condition costs were agreed to through mediation, and Spence Brothers agreed not to add a contractor mark up on the 72" intake root ball. The \$3,482,394 SRF loan balance total does not include the cost of outstanding items know to date as of March 19, 2020, for \$3,400,678.

Mr. Baker asked if the \$3,400,678 included the additional amounts billed of \$800,000 over three years.

Mr. Tupancy replied it does not include the additional amounts billed. He tried to capture all additional costs but if anyone sees something that is missing, let him know.

Ms. Steele thanked Mr. Tupancy for the comprehensive list of outstanding costs and commented that she would like to have Suzanne Abouzenni, Division Director, review and understand the project costs. Wayne County will try to put together two or three additional funding sources.

Mr. Gregg agreed with Ms. Steele regarding the comprehensive list of outstanding costs. He commented that he would like to have the additional funding sources before the next MRIDDD Board meeting.

Ms. Steele replied that she will try to get the additional funding sources to the Board Members so they have ample time to review it before the April 16, 2020, Board Meeting.

Mr. Rheker asked if the total additional construction cost is approximately \$9,000,000.

Mr. Tupancy replied that there is an additional \$3.8 million for construction change order 1, which is included in the SRF loan balance of \$3.5 million, and the \$3.4 million for engineering and construction listed on the Cost of Outstanding Items as of March 19, 2020 document.

Ms. Steele moved to receive and file the Construction Reports. The motion was supported by Mr. Rheker. Motion adopted.

c. Hydraulic Model Update and Basin Hydraulic Update

Mr. Seidel presented and reviewed the 2020 Milk River Hydraulics Study. The Study determined peak flows into the river, projected potential high summer lake levels, and surveyed the river cross sections at the Rosedale Bridge, Lakeshore Drive Bridge, Milk River Tainter Gates, Lakefront Park Vehicle Bridge, and Lakefront Park Pedestrian Bridge to complete an HEC-RAS (Hydraulic Engineering Center - River Analysis System) hydraulic model. The hydraulic model started with a 3-inch higher still water lake level than last year. AEW ran thirty variations of the model and Mr. Seidel presented the best, reasonable choice. They used SEMCOG LIDAR for both Wayne and Macomb Counties plus or minus ½ foot contours. He suggested the MRIDDD inform the impacted property owners of the potential flooding risks and take measures to provide sandbags to property owners for their installation to protect their properties. He recommended that MRIDDD look into a sandbag operation to build a one-foot high sandbag levee on both sides of the Milk River banks totaling 9,000 linear feet. This would require 54,000 to 72,000 bags and 720 to 960 tons of sand. He presented a St. Clair Shores bid tab summary for the purchase of a sandbag making machine. The estimated cost of material and equipment is approximately \$40,000 with no installation.

Mr. McDonald commented that the cost of labor through Landscape Services, Inc. (LSI) is \$50 per man hour. He is working with LSI to come up with a quote but as a rough calculation, the cost would be approximately \$100,000 based on discussions with St. Clair Shores and 2,000-man hours bringing the total for material and installation to \$140,000. This price does not include placing the sandbags along the Milk River banks.

Mr. Seidel suggested that an advisory committee be established to make a recommendation to the Board on how the sandbagging project could proceed.

Mr. Gregg asked how much a higher-resolution survey would cost to more accurately determine the extent of potential flooding impact on properties.

Mr. Seidel replied that it would cost 10s of 1,000s of dollars. An aerial flight could be done using LIDAR with a .2 feet accuracy. A ground survey crew could find the lowest point in the rear yard elevation compared to the house; however, this would take two to four weeks and time is of the essence at this point.

Mr. Baker asked if there was any property damaged due to flooding last year.

Mr. Smith replied that Grosse Pointe Woods had no property flooding claims along the Milk River.

Mr. Coppler replied that there was some yard flooding at a property in St. Clair Shores. He believes there is an obligation to do what is practical to minimize where the highest risk of property damage exists. He suggested that correspondence be sent to impacted residents. The City of St. Clair Shores had a public meeting scheduled but it had to be canceled due to the State of Michigan Executive Orders on social distancing.

Mr. Rheker agreed with Mr. Coppler's statement that we have an obligation to the impacted residents.

Mr. Smith agreed with the comments of Mr. Coppler and Mr. Rheker. He added that the Board needs to look into every option to help prevent potential flooding for the residents along the Milk River.

Mr. Gregg commented that he believes there is an obligation to the communities with property owners along the impacted areas to come up with the best solution. He asked Mr. Seidel to prepare a detailed survey.

Mr. Seidel commented that a ground survey could be done showing projected high-water levels over the summer, however, it could take three to four weeks to be completed due to COVID-19. He suggested that a letter be sent to the impacted residents notifying them of the plan of action and possibly recommending the purchase of flood insurance even if the property is not in the flood plain.

Mr. McDonald suggested utilizing the City of St. Clair Shores' sandbagging bid results to begin the process of selecting a vendor.

Mr. Brennan advised that this project could be considered maintenance and the MRIDDD could contract with the City of St. Clair Shores to utilize their bid results.

Ms. Steele recommended that under PA 222, any subsequent reports, analysis or calculations be done pursuant to the request of Council to seek advice and consultation to receive proper legal advice and the documents should be marked privileged. She asked Mr. Brennan if this sandbagging project could be part of the Priority 1B Project and the costs could be assessed as

part of the project costs. Another option would be to pay for it through Milk River Operation and Maintenance costs if it cannot be done through the Priority 1B Project.

Mr. Brennan replied that he believes this would be considered a Priority 1B Project Improvement and will get confirmation back to the Board.

Basin Hydraulic Update

Mr. Strassburg reviewed the draft summary on the secondary containment weir extension. It was recommended to go with the secondary containment weir extension of .86 feet, which is at the FEMA 50-year still water lake elevation and 0.3 above the USACE projected June 2020 still water lake elevation. If the lake elevation is projected to exceed the 50-year elevation or the required pumping rate exceeds that of three large and three small pumps, the weir elevation should be re-evaluated. With the proposed extension, the RTB is projected to be able to operate two large pumps and four small pumps up to approximately the 50-year lake elevation. Mr. Strassburg has a conference call today with EGLE to discuss the weir extension.

Mr. Gregg asked what would be EGLE's concerns with the weir extension.

Mr. Strassburg replied that EGLE is concerned about water backing up into homes, avoiding pressure flow through the basins, and that there is enough pumping capacity to not flood the upstream residents. He suggested moving forward to get a quote from Spence Brothers to install a semi-permanent weir extension, which could then be included as a change order for the project. The Board would need to move quickly since Spence Brothers are working in Basin 2 now. The approximate cost would be between \$15,000 to \$30,000.

Mr. Brennan asked if that would fall under the 10% contingency already included.

Mr. Strassburg replied yes, it would fall under the 10% contingency.

5. New Business

Ms. Steele informed the Board that she received a Freedom of Information Act (FOIA) request from Brett Solomon of Solomon Diving for copies of the recent meeting minutes.

Mr. Baker asked if the lag in Wayne County processing payments has been resolved.

Ms. Steele replied that invoices were processed but the checks should have gone out yesterday. Due to the furlough, there has been a delay. Wayne County should be going back to business as usual on March 30, 2020, and SEMSD should receive their check by early April.

Ms. Barrera commented that the SEMSD O&M and pass-through costs have been processed through January 2020 for approximately \$299,000 and the check is in the mail. The balance of \$829,000 for the fixed sewer costs will be in the next check run. Payments should be issued weekly until the invoices are caught up; however, she will let everyone know when the fixed sewer cost invoices are processed.

6. Unfinished Business

a. AT&T Lease Renegotiation

Ms. Steele commented that AT&T has not responded to her correspondence dated March 11, 2020, to discuss modified lease terms.

b. Discussion of Sand, Sandbags and Sandbagging Machine

After discussing various options to help prevent potential flooding along the Milk River, it was decided to move forward with looking into a sandbagging operation.

Mr. Gregg directed Mr. Brennan to draft language for the MRIDDD to work with the City of St. Clair Shores. After a discussion on options to minimize the potential flooding impact, it was recommended to create a subcommittee to research the labor and equipment needed to produce the sandbags, labor to build a sandbag levee, AEW survey work, prioritize the worst locations first, and create correspondence to be sent to the affected property owners. The subcommittee would consist of Mr. Gregg, Mr. McDonald, Mr. Seidel, Mr. Smith, and Mr. Coppler.

Mr. Coppler moved to 1) create a subcommittee consisting of Mr. Gregg, Mr. McDonald, Mr. Seidel, Mr. Coppler, and Mr. Smith to investigate and implement a riverbank improvement along the Milk River (sandbag preparation and installation); 2) authorize Legal Counsel to provide an opinion that this work could be completed through the open Priority 1B Improvement Project or as otherwise permitted under the Drain Code; 3) after Counsel's review, authorize Legal Counsel to draft an agreement; 4) authorize the MRIDDD Chairman to execute the agreement upon Legal Counsel's recommendation; and 5) authorize an expense not to exceed \$200,000 in support of the study and work to be done. The motion was supported by Mr. Baker. Motion adopted.

c. Mediation Update

Mr. Brennan gave an update on the agreement and exhibit that the Chairman executed. He received a 36-page exhibit from Spence Brothers that incorporates various emails, documents, and agreements that need to be reviewed since it does not flow well. He forwarded the exhibit to Mr. Tupancy, Mr. Strassburg, and Mr. Ard for review. There is a problem with using this as an exhibit since it references a series of documents and it is not one clear, concise document that reflects what the parties agreed to. Mr. Brennan contacted Mr. Gallant to get one concise document that makes sense, but it will need to be reviewed by Tetra-Tech to get an operating technical specification exhibit that both Spence Brothers and Tetra-Tech can utilize. Spence Brothers will not execute the mediation agreement until this exhibit is corrected.

The following individuals had to excuse themselves from the meeting due to other obligations: Mr. Baker, Mr. Seidel, Mr. McDonald and Mr. Avery.

7. Approval of the SEMSD Operations and Maintenance Invoice

The SEMSD Operations and Maintenance (O&M) Invoice for February 2020 was reviewed. The February 2020 O&M 2-2020 invoice totaled \$51,837.33. The total amount billed included February's O&M invoice and the reimbursable pass-through costs.

Mr. Rheker moved to authorize the payment of SEMSD Invoice O&M 2-2020. The motion was supported by Ms. Steele. Motion adopted.

8. Public Comment

Mr. Gregg announced Public Comment and asked for any public participants to identify themselves before making public comment. No public comment was made.

9. Next Drainage Board Meeting

The next regularly scheduled meeting is Thursday, April 16, 2020, at 10:00 a.m. located at St. Clair Shores City Hall, Geer Conference Room, 27600 Jefferson Avenue, St. Clair Shores, Michigan 48081 pending the expiration of Executive Order 2020-15, which expires April 15, 2020, at 11:59 p.m.

10. Adjournment

Ms. Steele moved to adjourn the meeting. The motion was supported by Mr. Rheker. Motion adopted.

There was no further discussion to come before the Drainage Board. The meeting was adjourned at 1:29 p.m.

Brian Baker, Chief Deputy Macomb County Public Works Commissioner

NOTE: The foregoing minutes are subject to Milk River Intercounty Drain Drainage Board approval.