

**MILK RIVER INTERCOUNTY DRAIN DRAINAGE DISTRICT
DRAINAGE BOARD MEETING MINUTES
MAY 14, 2020**

A meeting of the Milk River Intercounty Drain Drainage Board was held on Thursday, May 14, 2020, via teleconference in compliance with the State of Michigan Executive Order No. 2020-02, dated March 13, 2020, and Executive Order No. 2020-75, dated May 6, 2020; electronic (telephonic or video conferencing) attendance will meet the quorum requirements, all votes will be taken by roll call, and public participation will be allowed at the designated portion of the agenda in accordance with the recommendations of Executive Order 2020-75.

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
Bryan Babcock, P.E., Director of Public Works/Water, City of St. Clair Shores
Brian Baker, Chief Deputy, Public Works Office, Macomb County
John Szymanski, Acting City Manager, City of Harper Woods

Others Present Via Teleconference

Kyle Seidel, Anderson, Eckstein and Westrick
Lori Hicks, Southeast Macomb Sanitary District
Bruce Smith, City of Grosse Pointe Woods
Frank Schulte, City of Grosse Pointe Woods
Brett Smith, City of Grosse Pointe Shores
John Brennan, Fahey, Schultz, Burzych & Rhodes
Russ Strassburg, Tetra Tech
Greg Tupancy, Tetra Tech
Brady Harrington, State of Michigan
Patrick Cullen, Wayne County
Elizabeth Barrera, Wayne County
Jim Grezlak, Wayne County
Kari Blanchett, PFM Financial Advisors

1. Call to Order

Mr. Gregg called the meeting to order at 1:35 p.m. Board Members will not communicate via text or other private methods of communication while this meeting is in session.

2. Approval of Agenda

Ms. Steele moved to approve the agenda with the addition of items 5.a. Harper Woods Chapter 20 Drainage District and 6.b. AT&T Cell Tower Lease. The motion was supported by Mr. Babcock. Motion adopted.

3. Approval of the Minutes for:

a. April 16, 2020, Milk River Intercounty Drain Drainage Board Meeting

Mr. Babcock moved to approve the April 16, 2020, Milk River Intercounty Drain Drainage District Board Meeting minutes as presented. The motion was supported by Mr. Baker. Motion adopted.

b. April 30, 2020, Milk River Intercounty Drain Drainage Board Public Informational Meeting

Mr. Babcock moved to approve the April 30, 2020, Milk River Intercounty Drain Drainage District Board Public Informational Meeting minutes as presented. The motion was supported by Mr. Baker. Motion adopted.

4. Reports

a. Operations and Maintenance (O&M)

The Operations and Maintenance (O&M) update was presented by Kyle Seidel. Mr. Seidel commented that SEMSD is back to full staffing (no staggered shifts) while adhering to the COVID-19 social distancing requirements. The SEMSD is staffed for the anticipated wet weather this weekend and is anticipating 1-2 inches of rain. The staff is prepared to do early pumping to avoid a peak situation and running five pumps at once. There will be a delivery on May 20, 2020, of Hypochlorite Solution (chlorine) to the Milk River. There has been no basin activity since the last board meeting. The Milk River effluent weir is uniformly extended to 10 inches tall. The river water is 2.5 inches below the weir now and with an eastern wind, the water goes up 1-2 inches on the weir extension. Storm pumps 1 and 3 are out of service so there are only five pumps that could potentially run at one time. Storm pump 4 had vibration testing this week and is next in the rotation to go to Kennedy Industries. EGLE will be sending its 2019 Annual Report of Discharge and it will be posted on the SEMSD website. He showed pictures of the modified Milk River Control Room. There were originally two smaller rooms; SEMSD staff removed the wall and made it one large room to help with social distancing while monitoring the SCADA system.

Mr. Baker asked about the SEMSD operational staffing changes.

Mr. Seidel replied that Mr. McDonald resigned as of May 15, 2020, as the SEMSD/SMDA Chief Engineer. Kip Walby was hired as the SEMSD/SMDA Director of Operations as of May 18, 2020. The SEMSD/SMDA Board will be reelecting another board member to replace SCS Mayor Walby.

Mr. Gregg commented that he will be looking forward to Mr. Walby joining future meetings.

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

b. Sandbagging Project

Mr. Seidel reviewed the Army Corps of Engineers' Lake Level Report and as of May 10, 2020, the lake level mean is 577.21, which is a ½ inch below the projected mean. Last month's high lake level projection was showing 4 inches higher than last year's high lake level. This month is showing 2 inches higher than last year's high lake level. The lake level is currently tracking below the mean; however, with today's rain, this will increase and go above the mean by next week. He commented that the April 30, 2020, Public Informational Meeting went well. He displayed pictures of the sandbagging operation and an updated map, which included DroneView Lidar data. The yellow shading represents the sandbag levee that is installed and the red shading represents what needs to be installed. Mike Harrington will be staking out the rear yards on Liberty, Clairwood, and Doremus on May

18th or 19th. The estimated sandbag levee needed for Liberty, Clairwood, and Doremus is 7,000 linear feet.

Mr. Baker asked if the water shown on the map is getting into the streets due to the local storm sewer systems or the Milk River.

Mr. Seidel replied that he is only mapping the effects the Milk River has on local streets. Doremus and Liberty are dewatered by pump stations on their street.

Mr. Schulte commented that GPW purchased a 12-inch diversion tube, which is easily deployed, to close off the boat ramp. The diversion tubes are filled with water and a sandbag is placed behind it every three feet to prevent rolling. The boat owners at the Marina have been notified that if the water rises, the boat ramp would be closed. The diversion tubes were highly recommended by the Clay Township Supervisor.

Mr. Babcock suggested using the diversion tubes for some of the rear yards. He commented the Sub-Committee is tracking the production/installation hours and he suggested tracking the production of sandbags so they do not overproduce.

Mr. Seidel replied that the tubes would work if the grade is the same and it had a firm base; otherwise, the grade would need to be leveled. It is an option to consider. LSI currently has 7,200 sandbags stockpiled.

Mr. Baker asked Mr. Seidel if he believes that sandbags are the better choice over the diversion tubes for this flood prevention project. He commented that he would like to come up with the most efficient, cost-effective way to use the sandbags and/or the diversion tubes.

Mr. Seidel commented that with the design and layout of the rear yards, it would be difficult to use the diversion tubes due to the varied grades. He believes there would be leaking under the tubes and it would need to fit around the landscape and trees. There would also be less control over what could be done with the tubes. He suggested testing the GPW diversion tube and see how it works in a rear yard.

Mr. Gregg thanked Mr. Seidel for all his hard work on this flood prevention operation project. The sub-committee meets weekly with Mr. Seidel as the host and the project is moving ahead nicely.

Mr. Seidel reviewed the following expenses already incurred, projected out the cost of the total project, and an additional \$100,000 may be needed to complete the project.

Submitted Pay Estimate	Date	Vendor	Invoice No.	Amount	Budget Remaining	Notes
					\$ 333,000.00	
01	4/2/20	Sand Master	1148	\$ 31,672.48	\$ 301,327.52	SB Machine and bags
00	4/7/20	AEW, Inc.	0125892	\$ 2,234.50	\$ 299,093.02	Engineering Services
01	4/21/20	Grosso Trucking & Supply Co.	62759	\$ 3,604.59	\$ 295,488.43	Sand purchase
01	4/21/20	LSI	183615	\$ 390.00	\$ 295,098.43	4/21/20 Sandbag Production
01	4/22/20	LSI	183616	\$ 1,775.00	\$ 293,323.43	4/22/20 Sandbag Production
01	4/23/20	LSI	183617	\$ 2,525.00	\$ 290,798.43	4/23/20 Sandbag Production
01	4/24/20	Grosso Trucking & Supply Co.	62288	\$ 1,686.29	\$ 289,112.14	Sand purchase
01	4/24/20	LSI	183618	\$ 3,480.00	\$ 285,632.14	4/24/20 Sandbag Production
01	4/25/20	LSI	183619	\$ 2,850.00	\$ 282,782.14	4/25/20 Sandbag Production
01	4/27/20	LSI	183620	\$ 2,905.00	\$ 279,877.14	4/27/20 Sandbag Production
01	4/27/20	LSI	183625	\$ 2,230.00	\$ 277,647.14	4/27/20 Sandbag Installation
01	4/28/20	Grosso Trucking & Supply Co.	62965	\$ 1,673.70	\$ 275,973.44	Sand purchase
01	4/29/20	DroneView	1483	\$ 12,800.00	\$ 263,173.44	Aerial Topo
01	5/4/20	LSI	184098	\$ 23,260.00	\$ 239,913.44	4/28/20 to 5/2/20 Prod. & Installation
02	5/1/20	Grosso Trucking & Supply Co.	63168	\$ 1,631.88	\$ 238,281.56	Sand purchase
02	5/4/20	Grosso Trucking & Supply Co.	63369	\$ 1,662.82	\$ 236,618.74	Sand purchase
00	5/8/20	AEW, Inc.	0126308	\$ 27,365.30	\$ 209,253.44	Engineering Services
02	5/12/20	LSI	13062	\$ 39,199.75	\$ 170,053.69	5/4/20 to 5/9/20 Prod. & Installation
02	5/7/20	Grosso Trucking & Supply Co.	63524	\$ 1,669.31	\$ 168,384.38	Sand purchase
02	5/11/20	Grosso Trucking & Supply Co.	62267	\$ 1,693.54	\$ 166,690.84	Sand purchase
02	5/13/20	Grosso Trucking & Supply Co.	63783	\$ 2,526.19	\$ 164,164.65	Sand purchase

Mr. Baker moved to authorize an additional \$100,000 for the flood prevention operation project and authorize Wayne County to pay the invoices out of the O&M fund balance for a total of \$433,000. The motion was supported by Mr. Babcock. Motion adopted.

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

The Drainage District Board received the Engineering Services and Construction Contract Status Report and the Summary of SRF Loan Costs Reports as of May 7, 2020. Mr. Tupancy commented that the engineering contract is approximately 79% completed and invoiced through April 30, 2020. The construction contract is approximately 81% completed and invoiced through January 31, 2020. Spence Brothers recently submitted pay app 38 and 39, which will bring the invoiced through date to March 31, 2020. He reviewed the updated May 7, 2020, cost of outstanding items list noting \$2,378,341 in additional money would be needed to complete the construction work. Change Order No. 3, which includes the mediation agreement, contract time, and contract price, increases the contract price by \$2,378,341 and extends the final completion date of the contract to June 29, 2022. The SRF Loan Balance Costs Report reflects an overage of \$4,276,049.

Mr. Brennan commented that the warranty issue still needs to be addressed, and Spence Brothers need to come up with the reduced general condition costs for the time period after the mid-term substantial completion date. Both issues would have financial impacts. The change order is required per the mediation agreement.

Mr. Baker asked if the \$4,276,049 in SRF Loan costs includes the \$2,800,000 three-year community assessment.

Mr. Tupancy replied that it does not include the three-year assessment. It is a running balance of the construction loan overages.

Mr. Tupancy reviewed the following work being performed: Storm pumps 1 and 3 are being worked on and will be moved to the new control system by early next week; storm

pump 4 had pre-testing done and will be removed for service when pumps 1 and 3 are back in service; the contractors are working and adhering to COVID-19 guidelines with no issue so far; site work will begin with the paving going from asphalt to concrete at no cost to the MRIDDD; Rotor Electrical has progressed nicely on the electrical system; all work in the sanitary pump room is complete; Kennedy Industries will come out next week for the groundwater pumps start up and training will be scheduled; Basin 1 and 2 are online; the concrete pour in Basin 2 is complete; work at the recirculation station includes work on the ventilation systems, plumbing, piping, and electrical; the new screen on the intake pipe is scheduled to begin in June. He commented that the intake pipe work may go past the Memorial Day weekend deadline due to the installation of a chemical pipe within the intake pipe to help control mussels. He will contact Mr. Smith to discuss the possibility of working past the deadline date so additional costs are not incurred to finish the job at a later date. All heavy equipment will be removed.

Mr. Smith requested an estimate of the extra time needed. He believes something can be worked out so the MRIDDD does not incur additional costs.

Mr. Baker moved to receive and file the Construction Reports. The motion was supported by Mr. Szymanski. Motion adopted.

Mr. Babcock moved to approve and authorize payment of Change Order No. 3 for \$2,378,341.00. The motion was supported by Ms. Steele. Motion adopted.

5. New Business

a. Harper Woods Chapter 20 Drainage District

Ms. Steele commented that Joseph Colaianne, Harper Woods' Legal Counsel, contacted her and Harper Woods is exploring establishing a Chapter 20 Drainage District for the Milk River Intercounty Drain Drainage District's assessments. She asked the Board if they would like MRIDDD legal counsel to be involved in the discussions.

Mr. Szymanski commented that Harper Woods is in the process of exploring a Chapter 20 Drainage District due to complex litigation and will be handled within the next few months. This must be settled before tax bills are prepared and mailed.

Mr. Brennan commented that he had been in contact with Harper Woods' legal counsel regarding the new drainage system. This Chapter 20 is being explored due to the litigation that Joseph Colaianne, Clark Hill Attorney, discussed at the December 19, 2019, MRIDDD Board Meeting. He commented he would like to be involved if the Board agrees.

Mr. Gregg commented that he would like legal counsel involved from the beginning.

Mr. Smith asked how this would impact the Milk River Drain Drainage District.

Ms. Steele replied that generally if a Chapter 20 Drainage District is established, Harper Woods' infrastructure would become the Chapter 20's infrastructure. Assessed costs would go to the Chapter 20 entity and not Harper Woods. The MRIDDD needs to be sure our interests are protected as it relates to being able to assess future costs and be paid for the services.

Mr. Gregg commented that this is a unique situation.

Mr. Brennan commented that this is the class action suit in taking the stormwater assessments and recasting them as general taxes that are being imposed in violation of the Headlee Amendment. The MRIDDD needs to protect ourselves in the event there is a challenge and we are not able to assess anyone for that share.

Ms. Steele suggested Terry Donnelly and Kari Blanchett be involved in the Chapter 20 Drain Drainage discussions.

Mr. Brennan agreed with Ms. Steele's suggestion.

Mr. Baker moved to authorize legal counsel, Fahey, Schultz, Burzych & Rhodes, to be involved in the Harper Woods Chapter 20 Drainage District discussions and represent the MRIDDD Board. The motion was supported by Mr. Babcock. Motion adopted.

6. Unfinished Business

a. Discussion of Financing Options

Ms. Steele commented that Mr. Tupancy has done an excellent job of keeping the Board informed of the additional outstanding costs. She thanked Ms. Barrera for working with Ms. Blanchett to come up with these financing options. The Board previously authorized researching financing options to decide how to handle the additional costs. There is the option to increase the community supplemental funding, but the Board wanted to investigate other options due to some communities experiencing financial hardship from the COVID-19 pandemic. She introduced Kari Blanchett, PFM Financial Advisors, to review the financing options.

Ms. Blanchett reviewed the attached Milk River Intercounty Drain Drainage District Financing Completion of 2016 Project (SRF 5446-01) dated May 9, 2020, PowerPoint presentation. She explained there are limited financing options, such as cash funding/prepayment by assessed units, additional SRF funding, grants/other programs, issuance of municipal bonds, or a combination of the options. She understands the MRIDDD went to the State and asked about additional funds from the SRF Loan and they were told that is not an option. Even if the SRF Loan funding would approve additional funds, the process would take too long. The Government is working on new programs and if one becomes available that would benefit the MRIDDD, she will bring it forward. The current programs are short-term lending programs. She asked for the exact dollar amount needed for the project and what needs to be financed. She was asked to price out \$3,000,000 & \$5,000,000 loans. The displayed tables show an estimate of each unit's apportionment and allocation of a bond amount based on a loan valued at \$3,000,000, \$4,400,000, and \$5,000,000 with terms of 10, 15, and 20 years. She reviewed the bond sale methods, such as competitive sale, negotiated sale, and direct or private placement. In the current market, she would recommend the negotiated bond sale and reviewed the municipal bond ratings.

Mr. Baker asked to verify that the SRF loan could not be extended and he suggested getting a definitive no.

Ms. Steele replied that there was an email from Karen Nichols on June 8, 2018, that states the loan amount is finite. Should any new bids come in higher than originally accepted, there will not be any increase to the loan amount. The difference would be the responsibility

of the MRIDDD. She is not aware of any change in circumstances to allow us to extend the amount, but she will reach out to confirm. Ms. Steele will also check on segmenting the financing for a reapplication; however, timing may not work as the money is needed before the closing happens in the Fourth Quarter of 2020.

Ms. Barrera commented that there was a meeting held approximately one year ago, where it was established there was no way to increase the SRF loan. She commented that there is approximately \$2,000,000 to \$3,000,000 in the construction account with the SRF drawn down less any pay apps.

Mr. Smith asked when we need to have the remaining \$4,400,000.

Mr. Brennan replied that the general condition costs agreed to through mediation could come in at any time. He suggested a bridge loan as an option.

Ms. Blanchett commented that she could look into this option, however, in Michigan it would require a bank to provide financing.

Mr. Babcock moved to receive and file the PFM Financing Options. The motion was supported by Mr. Szymanski. Motion adopted.

Mr. Baker moved to have a Milk River Intercounty Drain Drainage District Special Board Meeting on May 28, 2020, at 11:30 a.m. to discuss financing options. The motion was supported by Mr. Babcock. Motion adopted.

b. AT&T Cell Tower Lease

Ms. Steele reviewed the correspondence from AT&T dated May 13, 2020. AT&T is proposing \$1,400 per month effective August 1, 2020, which is lower than the current \$2,000, a 3% rent increase every five years effective December 1, 2022, and an extension of the lease through November 30, 2047, **OR** a lump sum payment of \$220,000 where the MRIDDD would grant a 55-year easement on the property, and assign the lease rights and rental income, **OR** termination with a 30-day prior written notice to lessor.

Mr. Brennan requested the Board Members with cell tower leases to email the agreements for his review.

Mr. Baker moved to authorize legal counsel, Fahey, Schultz, Burzych & Rhodes, to work with AT&T's Attorneys to resolve the lease situation. The motion was supported by Ms. Steele. Motion adopted.

7. Approval of the SEMSD Operations and Maintenance Invoice

The SEMSD Operations and Maintenance (O&M) Invoice for April 2020 was reviewed. The April 2020 O&M 4-2020 invoice totaled \$59,535.37. The total amount billed included April's O&M invoice and the reimbursable pass-through costs.

Ms. Steele moved to authorize the payment of SEMSD Invoice O&M 4-2020. The motion was supported by Mr. Babcock. 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 Meetings

The next special board meeting is scheduled for Thursday, May 28, 2020, at 11:30 a.m. via telephonic and video conference per Executive Order 2020-75, dated May 6, 2020, which expires on June 30, 2020, at 11:59 p.m.

The next regularly scheduled board meeting is Tuesday, June 16, 2020, at 1:30 p.m. via telephonic and video conference per Executive Order 2020-75, dated May 6, 2020, which expires on June 30, 2020, at 11:59 p.m.

10. Adjournment

Mr. Baker moved to adjourn the meeting. The motion was supported by Mr. Babcock. Motion adopted.

There was no further discussion to come before the Drainage Board; the meeting adjourned at 4:51 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.