

**MILK RIVER INTERCOUNTY DRAIN DRAINAGE DISTRICT
DRAINAGE SPECIAL BOARD MEETING MINUTES
MAY 28, 2020**

A meeting of the Milk River Intercounty Drain Drainage Board was held on Thursday, May 28, 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
Kip Walby, Southeast Macomb Sanitary District
Lori Hicks, Southeast Macomb Sanitary District
Bruce Smith, City of Grosse Pointe Woods
Cathy Behrens, City of Grosse Pointe Woods
Frank Schulte, City of Grosse Pointe Woods
Brett Smith, City of Grosse Pointe Shores
William Snyder, City of Harper Woods
John Brennan, Fahey, Schultz, Burzych & Rhodes
Russ Strassburg, Tetra Tech
Greg Tupancy, Tetra Tech
Patrick Cullen, Wayne County
Elizabeth Barrera, Wayne County
Jim Grezlak, Wayne County
Moyna Moore, Wayne County
Kari Blanchett, PFM Financial Advisors
Terry Donnelly, Dickinson Wright

1. Call to Order

Mr. Gregg called the meeting to order at 11:42 a.m. Board Members will not communicate via text or other private methods of communication while this meeting is in session.

2. Approval of Agenda

Mr. Babcock moved to approve the agenda as presented. The motion was supported by Mr. Szymanski. Motion adopted.

3. Approval of the Minutes for:

a. May 14, 2020, Milk River Intercounty Drain Drainage Board Meeting

Mr. Baker moved to approve the May 14, 2020, Milk River Intercounty Drain Drainage District Board Meeting minutes as presented. The motion was supported by Mr. Babcock. Motion adopted.

4. Reports

a. Sandbagging Project Update

Mr. Seidel commented that Lake St. Clair's water level increased six inches due to the recent rain event. As of May 28, 2020, the lake level was at 577.42 and is trending down. The month of May had record water levels and will break the 2019 record by two-three inches. The current lake level mean is 577.34. He displayed a map showing the sandbag levee operation; the yellow shading represents what is installed and the red shading represents what needs to be installed. The sandbag levee has at least a six-inch freeboard above the highest estimated lake level along the Milk River and Lake St. Clair. He commented that LSI completed the 1,550 feet sandbag levee on Doremus Street and is working on Westbury Street today. There have been 6,100 linear feet of sandbag levee completed on the right side of the riverbank from the Retention Treatment Basin to the Rosedale Bridge, including the GPW Lake Front Park and Lake Shore Drive, with approximately 6,000 linear feet to be completed.

Mr. Seidel reviewed the expenses already incurred and projected another \$300,000 would be necessary to complete the project. He commented that the Board had already approved \$433,000 for the project and there is a project fund balance of approximately \$162,000. Mr. Seidel presented two options to complete the project; 1) authorize an additional \$127,000 or a total budget of \$560,000 or 2) authorize an additional \$167,000 or a total budget of \$600,000. He recommended the Board authorize the total budget of \$600,000 as the current budget will be exhausted before the next MRIDDD Regular Board Meeting.

Mr. Gregg commented that it would be prudent to approve additional funding since the project will run out of funds before the next MRIDDD Regular Board Meeting.

Mr. Babcock commented that he believes when the budget was originally set, the MRIDDD Board had no idea there would be so many sandbags needed on Liberty and Clairwood.

Mr. Seidel commented that the estimate was 9,000 linear feet of sandbags were needed and now it is approximately 12,000 linear feet. Sandbagging at the GPW Lake Front Park, Doremus, Liberty, and Clairwood were not included in the original sandbag estimate. After review by the project team, it was determined to protect these locations as they are all influenced by the increase in water surface because of the discharge of the Milk River RTB.

Mr. Baker asked if the Board will be approving the actual vendor payments and is the increase in costs primarily from LSI.

Mr. Seidel replied it is his understanding the Board gave authorization to Mr. Seidel to review and submit invoices for processing to Ms. Barrera, Wayne County, for payment with a copy to Mike Gregg and Elmeka Steele. The additional costs are across the board, which include sandbags and sand, the production and labor costs from LSI, and the field administration of the project from AEW. He displayed the breakout of the vendor costs of \$271,081.73, which are made up of the following:

<u>Vendor</u>	<u>Amount Paid</u>
AEW	\$ 29,599.80
Grosso Trucking	22,388.08
LSI	174,621.37
Sand Master	31,672.48
DroneView	<u>12,800.00</u>
Total	\$271,081.73

Ms. Barrera commented that the following payments have been processed:

DroneView \$12,800.00 check date May 27, 2020
 Grosso Trucking \$6,964.58 check date June 10, 2020
 LSI \$39,415.00 check date June 10, 2020
 Sand Master \$31,672.48 check date June 10, 2020

Mr. Gregg thanked Mr. Seidel for a job well done in establishing this project and keeping it on track.

Ms. Steele moved to authorize an additional \$167,000 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 \$600,000. The motion was supported by Mr. Szymanski. Motion adopted.

5. New Business

a. Financing Options

Ms. Steele commented that she reached out to Karen Nichols of EGLE to request a segmented SRF loan. She thanked Mr. Tupancy and Ms. Barrera for sending EGLE the requested documents they needed for their review. Ms. Nichols indicated that there is no guarantee; however, she will reach out to management. Ms. Steele asked Ms. Barrera if she had heard back from Ms. Nichols.

Ms. Barrera replied she did receive a response from Ms. Nichols which stated, she has not been able to discuss this with management but hopes to do it today. Ms. Nichols did indicate that the costs associated with the temporary sandbagging or flood study would not be funded.

Ms. Steele commented that Ms. Nichols asked if EGGLE approves the segmented loan, could the closing happen in the first quarter of 2021. Ms. Barrera has reviewed the numbers and it was determined that a fourth-quarter closing would be preferred.

Mr. Gregg agreed with closing the fourth quarter of 2020.

Ms. Steele will forward any communication from Ms. Nichols to the MRIDDD Board. She suggested moving forward with options on a segmented loan scenario.

Ms. Szymanski commented that Harper Woods is exploring a Chapter 20 Drainage District with litigation tied to it. If the Chapter 20 Drainage District is established, the Harper Woods infrastructure would become the Chapter 20 infrastructure. He asked how that would affect the financing and what is the drop-dead date for the Chapter 20 Drainage District.

Ms. Steele replied she spoke with Terry Donnelly after the last Board meeting. Mr. Donnelly will reach out to Joseph Colaianne, Harper Woods' Legal Counsel, and possibly come up with some alternatives to establishing the Chapter 20 Drainage District.

Mr. Donnelly commented he has reached out to Mr. Colaianne and has not heard back yet. He asked Mr. Szymanski to have Mr. Colaianne contact him regarding alternatives to the Chapter 20 Drainage District.

Ms. Steele commented that she is not sure what the structure of the Chapter 20 Drainage District would look like if it does occur. However, there must be language in the agreements that if there are outstanding assessments owed by the City of Harper Woods, the new entity would assume the liability. The Board will be moving as quickly as possible to acquire additional funds. She recommends a parallel path with the MRIDDD Board moving forward with the financing options understanding that Harper Woods is also on a parallel path to determine what it needs to do concerning the litigation and Chapter 20 Drainage District.

Mr. Gregg asked Ms. Steele to explain the supplemental funding from the communities so everyone understands.

Mr. Steele explained that the supplemental funding was established due to the improvement project costs exceeding the SRF loan. The Board authorized supplemental funding from the communities to cover the costs above and beyond the O&M assessment and SRF loan assessments. Since that had been authorized, the costs have increased again and to have an additional supplemental assessment would cause hardship on the communities.

Ms. Barrera commented that for the first year, \$788,836 was collected. This year Wayne County invoiced for three quarters and half of that has been collected, however, the invoices went out less than a month ago. The collected supplemental balance is \$1,200,000. She asked if the City of Harper Woods would still be paying the supplemental funding.

Mr. Szymanski replied that the City of Harper Woods intends on paying all supplemental funding at the appropriate time. He will need to know what the new supplemental funding will be as it will need to be included in the litigation and is pertinent to the case.

Ms. Barrera commented that there will be one more invoice going out in July for this year and then there is one more year left.

Ms. Blanchett commented that she could proceed by adopting a resolution at one of the next MRIDDD Board meetings that provide flexibility on who you would sell the bonds (i.e., the State Revolving Fund or public issuance) to.

Mr. Donnelly commented that he would like to speak to Mr. Colaianne, Harper Woods' Legal Counsel, before we proceed with the bond issue.

Mr. Brennan agreed with Mr. Donnelly's comment as we need to have a better understanding of Harper Woods and the potential Chapter 20 Drainage District.

Mr. Baker commented that the Board needs the funding and by the next meeting we should know what the State can offer. He pointed out that if the City of Harper Woods does not work out as we hoped it would, would there be enough time to even get short-term financing.

b. AT&T Cell Tower Lease

Mr. Brennan commented that he reviewed the cell tower lease and the proposal. He discussed the following items with Michael Atkins, a consultant for AT&T:

1. AT&T will be converting to a 5G system and will need fewer large towers and our tower lease was identified as one which could be removed.
2. There is little negotiating room for what AT&T wants to pay. They could increase more than the proposed \$1,400/month but will not go up to \$2,000/month. The Board is currently receiving over \$2,000/month.
3. The 3% increase every five years remains the same. However, the proposed lease would not be based on five-year renewables; it would extend to 2047.
4. Mr. Atkins claimed the right of first refusal language was just an upgrade and could be redlined on the term sheet. Mr. Brennan advised to just leave the original language as is.
5. Mr. Atkins is willing to delete the proposed 24/7 Access language.
6. AT&T understands this is a public board and will not impose deadlines that make it impossible for the Board to consider the proposal and alternatives.

Mr. Brennan commented he would need to see the entire proposed replacement lease before making recommendations. He does not, however, advise the Board to take the \$220,000 buyout, which would extend out to 55 years. The rent could go from \$20,000 to \$16,000 per year. The Board needs to decide whether the decrease in rent is acceptable and what would be an acceptable lease amount.

Mr. Babcock commented that if there is not an increase in rent, he would prefer to have it removed. AT&T is difficult to deal with and he does not like the radio frequencies that the cell tower emits. He asked AT&T for documentation on safe radio frequencies when they originally built the tower and it was difficult to obtain. He does not believe there is harm for the employees, however, when you go on the roof, there are precautions taken before work can be done due to the radio frequencies.

Ms. Steele agreed with Mr. Babcock and commented that if there is work to be done in a particular zone, the tower must be shut down before any work can be done. She is concerned that AT&T wants to execute the lease to lower the rent, then claim they have a system upgrade and want access granted under the FCC requirements. She does not believe in a rent decrease and there have been coordination problems in the past when AT&T wanted to upgrade. The revenue from the cell tower lease is 1% of the O&M budget; and other than the \$16,000 - \$20,000 in revenue, AT&T is difficult to work with and she would not recommend executing the lease.

Mr. Brennan agreed with Ms. Steele and commented that his experience with cell tower leases is that they continue to grow and interfere with the use of the property. The current lease expires in December 2022.

Mr. Baker commented that it is up to Harper Woods and Grosse Pointe Woods since it is their revenue stream. He likes the revenue stream, however, he does not have to deal with the AT&T hassles.

Mr. Szymanski commented that he would need to speak with Mr. Rheker to get more information and become more familiar with the situation.

Mr. Smith commented that the City of Grosse Pointe Woods has an AT&T cell tower behind City Hall. He needs to get with legal counsel, look at the GPW lease, compare the two leases, and get back to the Board with his findings.

Mr. Brennan asked if he could contact GPW legal counsel to discuss the lease.

Mr. Smith replied yes, Mr. Brennan could contact GPW legal counsel. He commented that Verizon has submitted applications for 5G, and they are going from 5 sites to 39 sites.

Mr. Gregg commented that the Board can revisit the cell tower lease at the June 16, 2020, MRIDDD Board Meeting. That will give Mr. Brennan time to speak to GPW about their cell tower lease.

6. 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.

7. Next Drainage Board Meetings

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.

8. Adjournment

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

There was no further discussion to come before the Drainage Board; the meeting adjourned at 1:12 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.