

**MILK RIVER INTERCOUNTY DRAIN DRAINAGE DISTRICT
DRAINAGE BOARD MEETING MINUTES
May 20, 2021**

A meeting of the Milk River Intercounty Drain Drainage Board was held on Thursday, May 20, 2021, via teleconference in compliance with State Public Act 254 of 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.

Members Present Via Teleconference

Michael R. Gregg, Chair, Michigan Dept. of Agriculture & Rural Development, State of MI
Reporting from Mason, MI
Elmeka N. Steele, Esq., Wayne County Drain Commissioner, Wayne County
Reporting from Oakland County, MI
Karen Czernel, Deputy, Public Works Office, Macomb County
Reporting from Commerce Twp., MI
Bryan Babcock, P.E., Director of Public Works/Water, City of St. Clair Shores
Reporting from St. Clair Shores, MI
Bruce Smith, City Administrator, City of Grosse Pointe Woods
Reporting from Grosse Pointe Woods, MI

Others Present Via Teleconference

Kyle Seidel, Anderson, Eckstein and Westrick
Brent Avery, Southeast Macomb Sanitary District
Kip Walby, Southeast Macomb Sanitary District
Pete Trombley, Southeast Macomb Sanitary District
Dianne Schelosky, Southeast Macomb Sanitary District
William Snyder, City of Harper Woods
Frank Schulte, Grosse Pointe Woods
Shawn Murphy, Grosse Pointe Woods
Steven Schmidt, Grosse Pointe Woods
Art Bryant, Grosse Pointe Woods
Elizabeth Barrera, Wayne County
Moyna Moore, Wayne County
Patrick Cullen, Wayne County
Gregg Tupancy, Tetra Tech
Russ Strassburg, Tetra Tech
Brady Harrington, State of Michigan

1. Call to Order

Mr. Gregg called the meeting to order at 10:03 a.m.
Current legislature validates meeting structure; additionally, the State of Emergency ordinances were confirmed to be in place in the County of Wayne and the city of Grosse Pointe Woods. The board will be proceeding with a virtual meeting, hosted by Kyle Seidel.

2. Approval of Agenda

Mr. Gregg requested the agenda be amended to include a review of the July MRIDDD Board meeting date, item 5b, under New Business. Removal of Sandbags, Item 6c under Unfinished Business was also added to the agenda.

Mr. Smith, City of Grosse Pointe Woods, made a motion to approve the agenda as amended. The motion was supported by Mr. Babcock, St. Clair Shores. Motion passed.

3. Approval of the Minutes for:

a. April 15th, 2021, Milk River Intercounty Drain Drainage District Board Meeting

Mr. Babcock, St. Clair Shores, moved to approve the minutes for the April 15th, 2021, Milk River Intercounty Drain Drainage District Board Meeting as presented. The motion was supported by Ms. Czernel, Macomb County. Motion passed.

4. Reports

a. Operations and Maintenance

Mr. Trombley reported on the Operations and Maintenance. There has been a good stretch of dry weather. The collection system is up and running and there is no water in the basin. There has been no run time on Pump #4, but it is ready to go. They have been working with the contractors to support the dismantling and removal of Pump #5, which went smoothly. The old switchgear has been removed. The SEMSD has been working on various preventative maintenance matters, they have been cleaning the sanitary well and have performed an in-house repair on a sanitary well that had become clogged. It is back up and working well. The SEMSD has been working with Tetra Tech and Spence on-site to address some nagging issues with the flushing system, disinfection product loading ports for the disinfection tanks, and working with the contractor and subs to expedite the work. Kyle Seidel presented pictures on screen of the Milk River facility. These included switchgear components being loaded onto a stake truck and the installation of the spiral staircase. Pump #5 has been removed and the enclosure to the discharge tube was noted. This area goes about 50 feet deep into the discharge port. Also noted were the components of Pump #5 being loaded onto trucks to be transported to Kansas City. Mr. Walby reported that Mr. Avery will resume the painting project at the Milk River this summer.

Mr. Walby also reported that the landscaping is approximately 85% completed. Monday, they started to install the spruce trees and removed any dead plants or trees. Pictures of the facility were presented showing the berm and the various trees that have been installed. The mulch is down, and a boxwood hedge has been planted by the building. They are currently under budget and will be planting a few more items after they evaluate the site. Mr. Smith, Grosse Pointe Woods, requested some photos to present to neighbors and residents in Grosse Pointe Woods.

Kyle Seidel reported on the lake levels and sandbags. The lake levels look great currently. The May 2021 projection at its highest end, is 9 inches lower than last year. The data was presented on screen and shows to be in favor of removing the sandbags sooner than the predicted date of December 2021. The risk of flooding has diminished. The US Army Corps of Engineers has 100 years of data history regarding the lake levels on record. It is not predicted to have repeated flooding according to the historical data and therefore, we can determine that by the time the lake returns to the high levels, the sandbags would be considerably deteriorated and need to be removed

or replaced. It was noted and suggested that consideration be given to removing the sandbags earlier than determined previously. Mr. Seidel showed data from USGS Water Watch for the Nation and the State of Michigan. The data showed substantially less rain and lower lake level projections. The river gages with over 30 years of data, show substantially less rain and will not be seeing the higher lake levels. A summary table showed the estimated costs to remove the sandbags. It is estimated that \$210,000 would go to labor, there would also be equipment and restoration costs, with a total of approximately \$400,000 to remove the sandbags. It was noted that quite a few residents have called to inquire about when the sandbags could be removed with the lower lake levels. The Army Corp projections will not be at a level that the Milk River will impact structures on properties and therefore the need for the sandbags is not required at this time. It is his recommendation that based on the water levels, it would be worth discussing removing the sandbags now and not wait until December. This item will be further discussed under Unfinished Business, item 6c.

A motion to receive and file this report was presented by Karen Czernel, Macomb County. Mr. Smith, Grosse Pointe Woods, supported the motion. The motion passed.

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

Greg Tupancy reported that Pump #5 has been removed and taken off-site. Preliminary reports on the pump and motor will be available at the end of May or the beginning of June. Pump #4 is still in its acceptance and testing phase and has passed enough so that Pump #5 could be removed. There is still work to do on Pump #4 to be fully accepted. The damaged pavers have been replaced and sealed. The site restoration crew has been out and finished the work that remained. The site will be quiet thru the rest of summer with the work to resume around November. Spence does have some painting to do, which is different from the work SEMSD has been doing. Other items that needed to be addressed by Spence, include items that were brought up by the Grosse Pointe Woods Building Department. Spence is still waiting for the list of items and will then determine if the said items are outside of the contract conditions. Once received, those items will be addressed by the board and decided how to best resolve those items with the city.

Mr. Tupancy reported on the engineering and construction status report. Tetra Tech is tracking well with forecasted expenses and is 88% completed on the construction part of their contract. Spence has achieved 94% completion of their contract with Pay Application #49. There has been no change in the allowance authorization.

A motion to receive and file the Project-Construction Update was made by Mr. Smith, Grosse Pointe Woods. Mr. Babcock, St. Clair Shores, supported the motion. Motion passes.

5. New Business

a. FY 2022 Sewer Rates

Mr. Seidel presented the April 29, 2021 letter sent from the SEMSD to the Board Chair for FY2022 Sewer Rates, displaying the monthly fees for the Milk River. This is a rates package, which uses a 5-year flow average to apportion the rates. The SEMSD charges the same rate for excess flow as it does for base flow. Milk Rivers 5-year average percentage is 8.29% of the total. The chart shows that the Milk River District has \$196,669.73 per year in fees. The Milk River

has seen some higher flows since 2015. More apportionment has been charged to the Milk River due to these higher flows. This is for the sewage discharge fees.

Mr. Smith, Grosse Pointe Woods, made a motion to receive and file the FY 2022 Sewer Rate Report. Mr. Babcock, St. Clair Shores, supported the motion. Motion approved.

b. July MRIDDD Meeting Date

Discussion occurred regarding the prospective date for the July MRIDDD meeting. The date of the July meeting is set for July 22, 2021, at 10:00 a.m. The Board decided to stay with the date of July 22, 2021. No further action is required at this time.

6. Unfinished Business

a. Request by Spence Bros. regarding the release of the Project Contingency

Mr. Tupancy reported that a letter was submitted by Spence Bros. dated April 21, 2021, requesting a Release of Retainage. Spence has reached the 94% completion requirement of the contract and is within its rights to request a release. It was discussed that a second and separate application should be submitted for the release of contingency, so as not to be confused with any other paperwork. Also discussed is the Tetra Tech letter which listed an Irrevocable Letter of Credit requirement that is in accordance with Public Act 524. There was a discussion regarding the MRIDDD board meeting that took place in February. The meeting minutes note that Spence was required to submit a list of the sub-contractors that would be getting paid and the amount to be paid to each subcontractor, this information is included in the May 20, 2021 board packet. On page 5 of the meeting notes, a motion was made stating when Spence achieved 94% completion, the retainage would be released and that an irrevocable letter would not be required to be submitted for the release. Spence has complied with the list of requirements. Mr. Babcock, St. Clair Shores, noted that the spreadsheet shows some of the work is not complete. The spreadsheet also shows that most of the subcontractors that are 100% complete have been paid. Some of the larger subcontractors have not completed all their work. Concerns were brought up that an Irrevocable Letter of Credit may be required in the event all of the work does not get completed. Mr. Tupancy reminded the board that there are bonds in place to cover the work in the event the contractor does complete the project. It was also noted that the Board is not able to dictate which sub-contractor will be paid or partially paid. The total amount of retainage currently being held is \$1.9 million. Spence is requesting that \$1.12 million be released, reducing the retainage to \$820,000. There is a total of 36 subcontractors. Rotor and Cavanaugh are major mechanical subcontractors and are a large part of the Pump #5 installation. This makes up a significant part of the balance due to the subcontractors. Mr. Gregg noted that it would be advisable for the Board to display a level of goodwill towards the subcontractors who may be directly contracted for work in the future. Mr. Strassburg noted that the amount of retention specified on the documents added up to \$1.942 million and Spence is requesting that \$1.12 be released, which would make them close to paying off all of the subcontractors. Mr. Babcock, St. Clair Shores, inquired about the benefits of requiring a letter of credit. A letter of credit requires that the funds be held in the event the work does not get completed. It does cost the contractor money to obtain the letter. Many factors are involved with obtaining the Irrevocable Letter of Credit. Mr. Tupancy reminds the board that with the good faith relationship established with Spence and the bonds that are available, the odds of Spence walking away from the job without completing it are very little. Ms. Steele, Wayne County, reviewed the language of Act 524. The Statute states that any time after 94% of the work is complete, the retainage can be released, only if the contractor provides an Irrevocable Letter of

Credit. As the public owner, the Milk River Board could choose to waive that requirement if so desired, as was done in the February meeting.

Mr. Babcock, St. Clair Shores, made a motion to reduce the retainage as recommended by Tetra Tech, but require the contractor, Spence, to provide an Irrevocable Letter of Credit as required and stated in Public Act 524. Mr. Smith, Grosse Pointe Woods, supported the motion.

Mr. Tupancy clarified that the Letter of Credit amount will be the amount of the release of retainage, not the full amount. This would not cover the \$820,000. Motion passes.

The terms and conditions of Statute 524 prevail. Ms. Steele and her office will contact Mr. Brennan to inform him of the decision. The letter from the contractor will be presented to the Board for review and at that time, be determined if acceptable.

b. FY 22 Milk River 9 Month Budget

Ms. Moore reported that moving up the sandbag removal project would have an impact on the proposed FY22 9-month budget. Ms. Moore noted that there is approximately \$460,000 in the FY22 budget that is designated for the sandbagging project. It was suggested that the budget discussion be postponed until a decision is made on when the sandbags would be removed to understand how to cover the \$460,000 that would be needed in this Fiscal Year. An analysis would need to be done to possibly do a one-time assessment of the O & M Budget. The budget year currently ends September 30, 2021. Mr. Gregg questioned if the cost could be extended over both fiscal years. Ms. Moore noted that it would be possible, but maybe better addressed after decisions were finalized on the project. Mr. Walby noted that it will take 8-9 weeks to organize the project and may go into the next fiscal year. Mrs. Moore suggests that while there may be enough money in the reserve for this fiscal year, it may be a better option to do a special assessment for this project. The current budget did not include this expense. The costs are budgeted for FY22 and therefore work would have to wait to begin until October 2021. A look into the current budget and analysis of the reserve would be advised.

Discussion of FY22 Budget continued after approval of the Removal of the Sandbags:

The approval of the sandbag removal project in this fiscal year will have an impact on the budget, therefore, Ms. Moore will have an update to the board at the next MRIDDD meeting on how it will impact the reserve and if there will be a recommendation for a special assessment. Ms. Moore recommends postponing the discussion about the FY22 9-month budget until the June MRIDDD meeting.

c. Removal of Sandbags

Mr. Babcock, St. Clair Shores, noted that a similar situation occurred in St. Clair Shores in the '80s and '90s. The sandbags were in some instances left in place and the residents put dirt and planted grass seed over the sandbags to make a natural berm and protect their properties. This may be an option along the Milk River if the residents are willing or wanting to keep them to protect their properties. This potentially saves money in the future from having to reinstall them later. Mr. Seidel noted that a letter would be going out to the residents to inform them of the updates to the sandbag situation. There could potentially be an agreement for the resident to sign off on this option or to have the sandbags removed. The cost would remain the same if the sandbags were taken out before or after the October 1, 2021, date. The longer they are out there the more

difficult they are to remove as deterioration of the bags occurs. Mr. Smith commented that it would show that there is a good faith effort being put forth to the residents affected if removal of the bags occurred before the scheduled date. The residents would be able to better enjoy their properties and the restoration could occur late this summer. Mr. Smith also noted that the City of Grosse Pointe Woods would handle the city park internally, therefore saving the district costs. If approved, a notice would go out to the public. The residents could choose the option of having the sandbags removed or left in place. This restoration project would be a one-time-only good faith option.

Mr. Walby noted that the SEMSD would also be willing to pick up all the sandbags at the recirculation station and along with the Ford property and fix up the property.

If approved, a public notice could be sent out to the impacted residents. Mr. Seidel noted that the current contract and prices agreed upon with AEW could be used for rates. Ms. Steele clarified that the Drainage District does not have a current contract with AEW, but a does have a signed proposal that approves payment for general services as needed by the Milk River.

A motion was made by Mr. Smith, Grosse Pointe Woods, to start the sandbag removal project, review the finances at the next meeting, create a small subcommittee to meet to work out the details of the project, and send an informational letter out to the residents affected by the sandbag removal project. Mr. Babcock, St. Clair Shores, supported the motion. Motion passes.

Discussion occurred regarding the logistics of the removal and disposal of the sandbags. The details of the project will be worked out in a subcommittee. Disposal costs are included in the estimated project costs. Mr. Seidel will be the point person for the sandbagging subcommittee. The subcommittee shall be comprised of municipal members, including but not limited to Mr. Smith, Grosse Pointe Woods, Mr. Babcock, St. Clair Shores, Mr. Schulte, Grosse Pointe Woods, and Mr. Walby, SEMSD. The removal of the sandbags will not occur until residents are notified. The plan and budget for the project will be presented at the June 17th, 2021, MRIDDD meeting. The funds to cover the costs would potentially be taken out of the reserves or covered by a special assessment. A suggestion was put forward to look into stimulus funds as they can be used for infrastructure repair, which this project would fall under. Ms. Moore may investigate who to contact to see if any stimulus money could be used to offset these expenses. Furthermore, the contract with AEW will be reviewed and the signed proposal for as-needed engineering will be looked at and be resolved at the June 17th, 2021, MRIDDD meeting.

7. Approval of the SEMSD Operations and Maintenance Invoice

Kyle Seidel presented the O & M Invoice on screen. Mr. Walby reviewed the invoices and expenses.

A motion to approve the SEMSD Operations and Maintenance Invoice was made by Ms. Steele, Wayne County. Ms. Czernel, Macomb County, supported the motion. Motion passed.

8. Public Comment

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

9. Next Drainage Board Meeting

The next regularly scheduled board meeting is planned for Thursday, June 17, 2021, at 10:00 a.m. This meeting will be held in a virtual format.

10. Adjournment

Ms. Czernel, Macomb County, moved to adjourn the MRIDDD meeting. The motion was supported by Mr. Babcock, St. Clair Shores. Motion adopted.

There was no further discussion to come before the Drainage Board; the meeting adjourned at 12:21 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.