

**MILK RIVER INTERCOUNTY DRAIN DRAINAGE DISTRICT
DRAINAGE BOARD MEETING MINUTES
April 28, 2022**

A meeting of the Milk River Intercounty Drain Drainage Board was held on Thursday, April 28, 2022, located at City of St. Clair Shores City Hall, 27600 Jefferson Avenue, St. Clair Shores, Michigan, 48081.

Members Present

Michael R. Gregg, Chair, Michigan Dept. of Agriculture & Rural Development, State of MI
Elmeka Steele, Esq., Wayne County Drain Commissioner, Wayne County
Brian Baker, Chief Deputy, Public Works Office, Macomb County
Bryan Babcock, P.E., Director of Public Works/Water, City of St. Clair Shores
James Kowalski, Director of Public Services, City of Grosse Pointe Woods

Others Present

Kyle Seidel, Anderson, Eckstein and Westrick
Kip Walby, Southeast Macomb Sanitary District
Pete Trombley, Southeast Macomb Sanitary District
Dianne Schelosky, Southeast Macomb Sanitary District
William Snyder, City of Harper Woods
Susan Como, City of Grosse Pointe Woods
Russ Strassburg, Tetra Tech
Greg Tupancy, Tetra Tech
John Brennan, Fahey, Schultz, Burzych & Rhodes
Moyna Moore, Wayne County

1. Call to Order

Mr. Gregg called the meeting to order at 10:09 a.m.

2. Approval of Agenda

Mr. Baker, Macomb County, made a motion to approve the agenda as presented, with the exception of moving item 5d FY23 Budget to 5a. The motion was supported by Mr. Kowalski, Grosse Pointe Woods. Motion passed.

3. Approval of the Minutes for:

a. March 24, 2022, Milk River Intercounty Drain Drainage District Board Meeting

Mr. Babcock, St. Clair Shores, moved to approve the minutes for the March 24, 2022, Milk River Intercounty Drain Drainage District Board Meeting. The motion was supported by Mr. Kowalski, Grosse Pointe Woods. Motion passed.

4. Reports

a. Operations and Maintenance

Mr. Trombley reported that they have received about ½ dozen light to moderate wet weather events in the district, since the last meeting, with no pumps into the basins. They are ready for the wet weather season. Spring cleaning has begun, power washing and cleaning the sanitary wells. The

disinfection system on the recirculation station has been started. Sodium chloride has been added to the lake water intake crib, with the current temperatures it is a good time to start chlorinating to dissuade the zebra mussels. This is at the Recirculation Station. The pump room is cleared out in anticipation of the contractor starting the floor. A fault on the 3rd aeration blower was noticed and corrected. All 3 blowers are now running properly. It was also noted that DTE Transformer #1 was down, but both feeds should be up and running by the weekend. Photos were displayed on the screen showing the lake levels and the new Kubota. A garden is also being installed on location. No complaints from residents have been noted.

A motion to receive and file the Operations and Maintenance report was made by Mr. Baker, Macomb County. Mr. Babcock, St. Clair Shores, supported the motion. Motion passed.

b. Priority 1B and Select Improvements Project

- **Construction Update**

Mr. Tupancy reported on the Improvement Project update. It was reported that the floor tiles were removed, and no asbestos was found to be present. There was no change to the engineering and construction update since the last meeting. A Pay Ap was received from Spence for \$888,000 to be submitted to Wayne County for payment. Mr. Strassburg noted that funds may need to be shifted to a different account, there would be no cost increase. He will bring a proposal to the next MRIDDD meeting. It was noted that all seven pumps are installed, pump #4 has been installed and they are working on owner acceptance.

- **Substantial Completion**

Spence submitted a request for Substantial Completion and Tetra Techs' response is noted in the Board Packet. The SCADA system has been reviewed and a 5-page letter was submitted on the deficiencies of the system. Tetra Tech has not approved the substantial completion date and liquidated damages will begin after the 29th of April. Mr. Brennan noted that the contract specifies a fine of \$3,000 per day shall be applied for not meeting the substantial completion deadline. There has not been a complaint received that anything was delaying or holding up the progress. It was recommended that Tetra Tech submit a letter to Spence to put them on notice that liquidated damages will begin on May 1, 2022. The mediation agreement is clear on the parameters for liquidated damages. Liquidated damages as outlined in the contract shall accrue as of the revised substantial completion date if the contract work is not completed. Greaser issues were discussed. Mr. Trombley reported that Pent Air will be in to fix the issues with the grease, specifically with pump #4. Eaton will also be out to address the issues. Once addressed, there will need to be 240 minutes of run time and four individual start and stops. If the pump fails, the time frame starts over for acceptance of the pump. The Substantial completion date resets if there is a problem. Mr. Brennan noted that if the contractor fails to perform his obligations, at the written direction of the owner, the Contractor shall pay the owner the indicated amount as liquidated damages and not as a penalty. If not paid in 15 days, it can be deducted by the owner from any money payable. The owner will notify the Contractor in writing of any claim for liquidated damages pursuant to the paragraph on or before the date the owner deducts the money. This can be done at any time, damages are accrued as calendar days. Damages are \$3,000 as of every calendar day that expires after the substantial completion day and \$2,000 for each calendar day after the final completion date. These run concurrently and could result in \$5,000 per day. A letter shall be drafted by Mr. Brennan as directed by the Board to inform Spence that liquidated damages are accruing and notices will be sent with the payment applications noting the deductions. Article 11 in the General Conditions of the contract declares the final completion date. It was noted that the bond company

should be put on notice of the liquidated damages being applied. Discussion occurred regarding FOIA requests from Titus Welding, implying that they have not yet been paid.

It was noted that the initial testing was done and was accepted 13 months ago. It starts over at this time. There has not been a final acceptance on pump #4. 240 minutes of testing must be completed during a wet weather event. Mr. Trombley noted that the pump will not be run for the risk of possible damage to the pump due to the greasers not operating properly.

Ms. Steele, Wayne County, made a motion for Tetra Tech to inform Spence Bros., on behalf of the Board, that liquidated damages are accruing as of May 1, 2022, and will be deducted against the money currently held as retainage or as a payment application. The motion was supported by Mr. Baker, Macomb County. Motion passes.

- **Eaton Video Waiver**

Mr. Tupancy noted that the contract calls for the training sessions to be videoed. Part of the controls for the pump is made by Eaton Corp. Eaton is requesting that a waiver be signed by the contractor. This matter is between Spence and Eaton Corp. A video with restricted use will not be accepted. This does not conform with the contract. The video will be used for internal purposes and training. Mr. Brennan does not recommend signing the waiver and suggests letting Spence know that they are expected to videotape the training sessions as provided by the terms of the contract. This is an unconditioned requirement. Mr. Brennan will draft a letter of response to Spence.

A motion was made by Mr. Babcock, St. Clair Shores, to authorize legal counsel to draft a response letter to Spence. Mr. Kowalski, Grosse Pointe Woods, supported the motion. Motion passes.

- **Cross Connection Study**

This study comes from the Grosse Pointe Woods Mechanical Permit listing. This is required to release the permit. There are three items to be addressed. These are outside the realm of the contractor's responsibility. Mr. Strassburg will work with Grosse Pointe Woods to complete the study.

5. New Business

a. FY23 Budget

Ms. Moore reviewed the FY23 Budget as presented in the board packet. This budget covers a full year beginning July 1, 2022, extending thru June 30, 2023. The overall budget stands at \$4,122,643. This is an increase of 7.4% or \$284,000 from FY2022. Capital expenditures were reviewed composing the \$273,000 needed to go forward with the Building Repairs and Maintenance. Ms. Moore reviewed the SRF Loan information and confirmed that there is \$4.8 million in fund balance. Mr. Baker inquired if additional reserves need to be added to the SRF. Ms. Steele noted that it might be prudent to have 25% of the O&M budget in the reserve for unforeseen items. Ms. Moore will follow up with the requirements. This budget goes into effect on July 1, 2022. Mr. Kowalski, Grosse Pointe Woods, requested a meeting with Wayne County, which is scheduled for June 14, 2022, to review the Central Chargebacks. Ms. Moore will try to move the meeting up so the budget may be approved at the May MRIDDD meeting.

Mr. Babcock, St. Clair Shores, moved to receive and file the FY23 Budget presentation. Ms. Steele, Wayne County, supported the motion. Motion passes.

b. SCADA Server Equipment: Software Upgrades

Mr. Walby reported the upgrades are in the 2023 budget and were approved by the SEMSD Board. The hardware upgrades are needed for both the SEMSD and Milk River. This gives unlimited licenses to work with the system. The cost would be split 50/50 between SEMSD and Milk River. The estimated payment in 2025 is \$18,500. There is currently a 6-week delay in the installation process. The server operates in two remote locations. The server would be able to operate both locations, but the locations would be separated, one at Milk River and one at the SEMSD location, they are currently both located at the SEMSD. This expense will be seen in the July or August billing.

A motion to authorize the purchase of the SCADA Server and Wonderware licenses was made by Mr. Babcock, St. Clair Shores. Ms. Steele, Wayne County, supported the motion. Motion passes.

c. MRIDDD Annual Performance

Mr. Seidel reported on the annual performance of the RTB over three different periods. Over the last few years, the rainfall has been over the average. The sludge in the basement was an issue and has been corrected. This is a snapshot of how the basin is performing and the improvements made. In 2017 there were 97 parts per million of total suspended solids. In 2021 the number was 51.6 parts per million. The amount of sludge on the floor shows the improvements, keeping the material from going into the lake. The numbers are consistently staying around 50-60 parts per million. Sample pumps are in use to transport the samples for compliance testing as discharging occurs. The numbers are taken as the water leaves the basins. The sampling pumps are on the SCADA system. All data is readily available on MI Waters.

Ms. Steele, Wayne County, motioned to receive and file the MRIDDD Annual Performance report. The motion was supported by Mr. Baker, Macomb County. Motion passes.

d. SEMSD Rates/O&M

Mr. Walby reviewed the SEMSD rates and O&M for the new Fiscal Year. The SEMSD rates went down by around \$13,000. The O&M rate went down from \$56,644.54 to \$56,409.79.

A motion to receive and file the SEMSD rates was made by Mr. Kowalski, Grosse Pointe Woods. Mr. Baker, Macomb County supported the motion. Motion passes.

A motion to approve the monthly O & M was made by Ms. Steele, Wayne County. Mr. Babcock, St. Clair Shores, seconded the motion. Motion passes.

6. Unfinished Business

a. GPW Inspection Letter-Compliance

Mr. Walby reported on the completion of the doors. It was noted that there have been delays in receiving the doors. The hatch doors have also been delayed. The original delivery was April 11, 2022, and was delayed to April 20th. There has not been a new date received yet for delivery. The area is currently covered and secured.

Mr. Baker, Macomb County, made a motion to receive and file the GPW Inspection Letter-Compliance report. Mr. Kowalski, Grosse Pointe Woods, supported the motion. Motion passes.

b. Cell Tower Update

This item was tabled for the May 26, 2022, MRIDDD meeting.

7. Approval of the SEMSD Operations and Maintenance Invoice

Mr. Walby reviewed the monthly invoice and pass-thru costs for March as noted in the Board Packet.

A motion to approve the SEMSD Operations and Maintenance Invoice as presented was made by Mr. Baker. Mrs. Steele 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 noted.

9. Next Drainage Board Meeting

The next regularly scheduled board meeting is planned for Thursday, May 26, 2022, at 10:00 a.m. This meeting will be held at St. Clair Shores City Hall, 27600 Jefferson, St. Clair Shores, MI 48081.

10. Adjournment

Mrs. Steele, Wayne 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 12:20 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.