

In the Matter Of:
East Chicago Waterway Management

DISTRICT BOARD OF DIRECTORS' MEETING

October 17, 2018



Iseminger & Associates, Inc.
877-337-7379

1 EAST CHICAGO WATERWAY MANAGEMENT
2 DISTRICT BOARD OF DIRECTORS' MEETING
3 City of East Chicago, Engineering/Annex Building
4 4444 Railroad Avenue
5 East Chicago, Indiana
6 October 17, 2018
7 Wednesday, 5:00 p.m.

8
9 Transcript of the proceedings had in the
10 above-entitled matter, on the 17th day of
11 October, 2018, at 5:00 p.m., at the City of East
12 Chicago, Engineering/Annex Building, 4444 Railroad
13 Avenue, East Chicago, Indiana, before Peggy S.
14 LaLonde, Certified Shorthand Report and Notary
15 Public for the County of Porter, State of
16 Indiana.

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21 ISEMINGER & ASSOCIATES, INC.
22 14 Indiana Avenue
23 Valparaiso, Indiana 46383
24 (219) 464-2178
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A P P E A R A N C E S:

- MR. JOHN FEKETE, President
- MR. JOHN BAKOTA, Board Member
- MR. HENRY RODRIGUEZ, Board Member
- MR. PATRICK RODRIGUEZ, Board Member
- MR. KEVIN DOYLE, Board Member
- MR. RAY LOPEZ, Board Member
- MR. FERNANDO TREVINO, FMT Consulting
- MS. ELLEN GREGORY, Ellen Gregory Law

ALSO PRESENT:

- DAVID ALONZO, BMO Harris
- MIKE WINN, Army Corps of Engineers

* * * *

District Board of Directors' Meeting
10/17/2018

1 MR. FEKETE: All right. I'd like to call
2 to order the Chicago Waterway Management District
3 Board of Directors' meeting. Today's date is
4 October 17th, and the time is 5:08.

5 First order of business is the
6 roll call. John Bakota?

7 MR. BAKOTA: Yes.

8 MR. FEKETE: Henry Rodriguez?

9 MR. HENRY RODRIGUEZ: Yes.

10 MR. FEKETE: Patrick Rodriguez?

11 MR. PATRICK RODRIGUEZ: Yes.

12 MR. FEKETE: Ted Zagar?

13 (No Response)

14 MR. FEKETE: Kevin Doyle?

15 MR. DOYLE: Yes.

16 MR. FEKETE: Ray Lopez?

17 MR. LOPEZ: Yes.

18 MR. FEKETE: John Fekete? Yes. We have a
19 quorum.

20 Next order of business is the
21 Executive Director's Report, Mr. Trevino.

22 MR. TREVINO: Fernando Trevino, FMT
23 Consulting. I'd like to start off by going over the
24 contents of your Board packet. You have the Board
25 agenda for today's Board meeting. You have the

1 Board minutes for September 19, 2018. You have the
2 Claim docket dated October 17, 2018. You have FMT
3 Consulting Performance Evaluation form in your
4 packet. You have approval memo, subject matter FMT
5 Consulting, Inc., 2019 additional hours approval
6 memo dated October 17, 2018.

7 You have a spreadsheet entitled,
8 2019 Budget approval consideration dated October 17,
9 2018, and backup description for some of the items
10 in the 2019 budget, which includes FMT Consulting
11 budget estimate calculation, along with the office
12 assistant budget estimate, and Attorney Ellen
13 Gregory estimate.

14 You have a document titled,
15 Second Modified Great Lakes Legacy Act Project
16 agreement between the United States EPA and East
17 Chicago Waterway Management District and Atlantic
18 Richfield and BP Products North American related to
19 the Great Lakes Legacy Act Project. You have a
20 Statement of Work that's attachment to that
21 document, that's dated October 9, 2018. And you
22 have a Cost Share Agreement between Atlantic
23 Richfield Company, BP Products North American, and
24 East Chicago Waterway Management District and that
25 document is also for the Great Lakes Legacy Act

1 Project. That revision date is October 16, 2018.

2 You have a letter dated
3 October 17, 2018, related to Right of First Refusal
4 on certain properties owned by the District.

5 You have First Merchants Bank
6 statements for account ending in 608 and 616 for the
7 month of September 2018. And you also have account
8 information for our 12-month CD and 24-month CD with
9 First Merchants for accounts ending in 898 and 936.

10 You have BMO Harris Bank ECI
11 Facility Trust report dated September 20, 2018.
12 Along with a bank statement for the month of
13 September 2018 for account ending in 712.

14 You have the Army Corps of
15 Engineers Board report dated October 17, 2018, with
16 a couple attachments.

17 You have Attorney Ellen Gregory
18 report to the Board dated October 16, 2018.

19 You have Atlantic Richfield
20 report, monthly progress report number 43 for
21 September 2018, regarding the ECI refinery site
22 investigation activities. And that's dated
23 October 4, 2018. You have a second report from
24 Atlantic Richfield Company, that one is dated
25 September 7, 2018, monthly progress report number

1 42, for the month of August 2018.

2 And you have a copy of a letter
3 from Congressman Pete Visclosky to the President of
4 the Board, John Fekete, that was dated May 25, 2005.

5 That concludes the items in your
6 Board packet. I want to go over a couple of
7 friendly reminders, that my 2018 performance
8 evaluation is due this month. I have handed out a
9 form and I believe I have received most of them
10 back. I appreciate your input in putting together a
11 summary report, as I have done in prior years.

12 We had a Finance Committee
13 meeting yesterday. We reviewed the 2018 budget
14 status and the 2019 proposal budget, which is on the
15 agenda for approval consideration. Part of the 2019
16 budget includes additional hours memo for FMT
17 Consulting, which is also on today's agenda for
18 approval consideration. The 2018 budget is on
19 track. We don't have any line items that are over
20 budget or on the verge of being over budget. And
21 the 2019 budget forecast is presented here to the
22 Board for approval consideration. As I mentioned,
23 it's on the agenda.

24 The Canal Street Bridge Project:
25 I had a follow up meeting with the stakeholders on

1 September 24, 2018 to continue talks related to the
2 Canal Street Bridge. Originally we had asked BP if
3 they were interested in taking the lead on the
4 project and entering into an MOU with the District,
5 and maybe a cost sharing scenario. And they
6 responded that they after vetting that process out
7 with management, they preferred us to take the lead.
8 We'll be exploring hiring a company to do an
9 engineering assessment of the project. At the last
10 Board meeting, the Board approved MOU with the City
11 to partner on the project. We are waiting the MOU
12 to be approved from the City before proceeding on
13 the project. And I have a follow-up meeting with
14 the stakeholders on October 22nd.

15 User fees: We plan to have a
16 recommendation on the 2019 User fee rate at the next
17 Board meeting in November.

18 The Great Lakes Legacy Act
19 Project: The Board might recall we have been
20 working hard on finalizing the Project Agreement and
21 Statement of Work. Both of those agreements
22 includes the District, along with AR and BP and EPA.
23 And then there is a third agreement, the site, that
24 we refer to as the Site Agreement or Cost Share
25 Agreement with BP, and those agreements kind of

1 define the work and financial responsibilities for
2 the parties for the Great Lakes Legacy Act Project.

3 At the last Board, Rich Nagle of
4 EPA spoke during our Board meeting, has been working
5 hard on finalizing the necessary documents to get
6 the project going. On the Board's agenda for
7 Board's approval consideration is the documents that
8 are related to the Great Lakes Legacy Act Project.

9 Just to review the action items
10 on your agenda. We have the meeting notes, the
11 Claims docket, 2019 FMT Consulting additional hours
12 approval memo, the 2019 budget, approval of the
13 Project Agreement Statement of Work and Site
14 Agreements, documents related to the Great Lakes
15 Legacy Act Project. And Board resolution 2018-2,
16 that grants AR and BP, Right of First Refusal for
17 various parcels owned by the District.

18 Regarding the Dredging Project,
19 you have a project report for the Board and Mike
20 Winn is here to give the Board an update on the
21 Dredging Project.

22 And Attorney Ellen Gregory will
23 be giving update on various legal matters.

24 That concludes my report.

25 MR. PATRICK RODRIGUEZ: President Fekete,

1 I'd like to make a motion with respect to the
2 agenda.

3 In recognition of the Board's
4 motion at the August 15th Board meeting to withdraw
5 participation in GLLA Project if the documents
6 related to the project were not finalized/approved
7 by today's Board meeting, also in recognition that
8 the documents have been finalized and presented to
9 the Board for review; I make a motion to defer
10 taking final action on agenda items 9 and 10 of the
11 Project Agreement, Statement of Work and Site
12 Agreement until no later than November 9th, to allow
13 the Board ample time to review the documents. In
14 addition, since the Right of First Refusal on the
15 properties has not been finalized and is related to
16 the Great Lakes Legacy Act Project, I move that that
17 action be deferred as well.

18 MR. LOPEZ: I would second.

19 MR. FEKETE: Any discussion?

20 Comments/Questions: None.

21 MR. FEKETE: Hearing none, I'll ask for a
22 roll call vote. John Bakota?

23 MR. BAKOTA: Yes.

24 MR. FEKETE: Henry Rodriguez?

25 MR. HENRY RODRIGUEZ: Yes.

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1 MR. FEKETE: Patrick Rodriguez?

2 MR. PATRICK RODRIGUEZ: Yes.

3 MR. FEKETE: Kevin Doyle?

4 MR. DOYLE: Yes.

5 MR. FEKETE: Ray Lopez?

6 MR. LOPEZ: Yes.

7 MR. FEKETE: John Fekete? I vote yes.

8 That motion is approved, which means we have a much
9 shorter agenda for today.

10 Next order of business is
11 approval consideration of the Board meeting notes
12 for September 19th. I would entertain a motion to
13 approve.

14 MR. BAKOTA: Motion to approve.

15 MR. LOPEZ: Second.

16 MR. FEKETE: All in favor signify by
17 saying aye?

18 (All signify aye.)

19 MR. FEKETE: Motion approved.

20 Accounting consultant report.

21 MR. TREVINO: I do have a summary for Mr.
22 Anderson. Mr. Anderson was not able to make it so
23 I'm pinch hitting for him. So, if you go to page 2,
24 it's a summary of the statement of cash receipts and
25 cash disbursements. So the receipts total is

10

1 approximately 587,000 and some change, disbursements
2 262,000 and some change, and increase in cash of
3 \$324,878.39. The cash balance as of January 1st of
4 this year was \$3,070,037.28. The cash balance at
5 the end of September 30th, of 2018, was
6 \$3,394,915.67. And the bottom of that kind of puts
7 a summary of all our dollars.

8 You have a summary of what the
9 Operating Account is, the User fee account, and then
10 the two million that we put in Certificates of
11 Deposit, and that total matches the cash balance
12 that I read as of September 30th.

13 If you go to the last page,
14 shows our budget summary. And so if you look at the
15 first column, it's our 2018 budget appropriations.
16 The second column is our accounts payable at the end
17 of 2017. The third column is our budget amendment.

18 So you might recall that we have
19 had two budget amendments for the Trust and the two
20 total 37,000.

21 If you go to the cash
22 disbursements, the second to the last column, it's
23 cash disbursements for October and that's the total
24 for today's Claim docket.

25 And then the last column is

1 unused budget. So you can see there is dollars in
2 every line item indicating that, you know, we are
3 above budget on each line item.

4 And then as I mentioned, the
5 Claim docket that's in your packet is our monthly
6 Claim docket for October 17th, and that total is
7 \$31,240.05.

8 MR. FEKETE: Okay. Very good. Next order
9 of business is approval of accounts payable voucher
10 dated today's date, October 17, 2018. I would
11 entertain a motion to approve.

12 MR. HENRY RODRIGUEZ: I make a motion.

13 MR. DOYLE: Second.

14 MR. FEKETE: Roll call vote. John Bakota?

15 MR. BAKOTA: Yes.

16 MR. FEKETE: Henry Rodriguez?

17 MR. HENRY RODRIGUEZ: Yes.

18 MR. FEKETE: Patrick Rodriguez?

19 MR. PATRICK RODRIGUEZ: Yes.

20 MR. FEKETE: Kevin Doyle?

21 MR. DOYLE: Yes.

22 MR. FEKETE: Ray Lopez?

23 MR. LOPEZ: Yes.

24 MR. FEKETE: John Fekete? I vote yes.

25 That motion is approved.

1 You have before you the FMT
2 Consulting performance evaluation. I would
3 encourage everyone to take a look at that and fill
4 it out and turn it in as appropriate to Mr. Trevino.

5 Next order of business is the
6 additional hours for FMT Consulting. Fernando?

7 MR. TREVINO: Yes. Consistent with what
8 we did for this year, 2018, my contract only allows
9 up to 1500 hours and anything above and beyond 1500
10 hours requires Board approval. And so consistent
11 with the anticipated scope of work that we had in
12 '18, we anticipate in '19, the recommendation is to
13 approve the 175 additional hours.

14 MR. FEKETE: This is primarily driven by
15 the Great Lakes Legacy Act Project?

16 MR. TREVINO: Great Lakes Legacy Act
17 Project and then another out of scope project that
18 you have, we have on our radar set next for the
19 Canal Street Bridge Project.

20 MR. FEKETE: Okay. Any questions for Mr.
21 Trevino?

22 MS. GREGORY: Those are all subject to
23 being reimbursed, the Great Lakes costs are subject
24 to reimbursement by BP once those documents are
25 finalized.

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1 MR. FEKETE: Right. Thank you for that
2 clarification.

3 MR. LOPEZ: Motion to approve.

4 MR. DOYLE: Second.

5 MR. FEKETE: Roll call vote. John Bakota?

6 MR. BAKOTA: Yes.

7 MR. FEKETE: Henry Rodriguez?

8 MR. HENRY RODRIGUEZ: Yes.

9 MR. FEKETE: Patrick Rodriguez?

10 MR. PATRICK RODRIGUEZ: Yes.

11 MR. FEKETE: Kevin Doyle?

12 MR. DOYLE: Yes.

13 MR. FEKETE: Ray Lopez?

14 MR. LOPEZ: Yes.

15 MR. FEKETE: John Fekete? I vote yes.

16 Motion carries.

17 Approval consideration for 2019
18 budget. I think as Mr. Trevino mentioned, there was
19 a Finance Committee meeting yesterday and basically
20 there was nothing significant changed to the budget.
21 There was additions, just a couple of placeholders
22 we had, and other than that, it was the
23 recommendation of the Finance Committee that we
24 approve this budget.

25 MR. PATRICK RODRIGUEZ: With the

1 recommendation of the Committee, I'd like to make a
2 motion to approve the budget.

3 MR. BAKOTA: Second.

4 MR. FEKETE: Roll call. John Bakota?

5 MR. BAKOTA: Yes.

6 MR. FEKETE: Henry Rodriguez?

7 MR. HENRY RODRIGUEZ: Yes.

8 MR. FEKETE: Patrick Rodriguez?

9 MR. PATRICK RODRIGUEZ: Yes.

10 MR. FEKETE: Kevin Doyle?

11 MR. DOYLE: Yes.

12 MR. FEKETE: Ray Lopez?

13 MR. LOPEZ: Yes.

14 MR. FEKETE: John Fekete? I vote yes.

15 Motion carries.

16 BMO Harris Trust report.

17 MR. ALONZO: David Alonzo, BMO Harris.

18 With my kids schedule it's been a little rough
19 getting out here, but I try to get out when I can,
20 when schedules don't conflict.

21 So report, you know, there is
22 nothing too crazy going on with the interest earned.
23 We had some payout last month, when I wasn't here.
24 So the first page, of course, shows the historical
25 value chart.

1 Page 2, goes through the summary
2 of the year end balances going back from 1997 up
3 until now. The Trust value as of September 30th,
4 was \$4,708,356. That was a positive difference of
5 \$215 from last month's meeting.

6 Going on the third page, the pie
7 chart. That \$215 was primarily just from the Money
8 Market account. We are holding a bit more in there
9 than usual, but about 749,000. One note though too
10 is the interest rate on that Money Market has come
11 up a little bit, which is good. Earning a little
12 more interest while holding it in that account.

13 When it comes to the CD, we
14 don't really have anything coming due the rest of
15 the year. Coming into next year, in June and July,
16 we'll have about 2.4 million coming up. And I would
17 anticipate interest rates a little more exciting at
18 that point. Interest again is paid quarterly, so
19 we'll see some interest hit here at the end of this
20 month, and that should be reported in the November
21 meeting. Beyond that, that's all I had. Was there
22 any questions?

23 Comments/Questions: None

24 MR. FEKETE: Thank you very much.

25 U.S. Army Corps Dredging Project

1 report. Mr. Winn.

2 MR. WINN: Mike Winn, Army Corps of
3 Engineers. So CDF construction dredging was
4 completed on 21st September, approximately 223,000
5 cubic yards were dredged from the federal and
6 non-federal channel and placed in the CDF. CDF
7 nothing significant to report.

8 For the PCA revision, we met
9 with ECWMD on 23rd August. The Corps provided a
10 response letter to Ellen at ECWMD on October 4th
11 regarding the notice of the resolution. And both
12 Corps and ECWMD agreed to extend the informal
13 negotiations.

14 For the Feddeler parcel
15 resolution, the chief of real estate in our office
16 is actually going to be in our downtown office next
17 week, so he will be signing that. We'll be
18 finalizing that determination.

19 For the Parkway improvements, we
20 awarded that contract on 25th of September, and I
21 also included in the packet some document
22 attachments, including the storm sewer map provided
23 by the Sanitation District as -- John -- you asked
24 for.

25 MR. BAKOTA: Just to make it clear, this

1 is running on the west, parallel to the CDF. It
2 would be the west side.

3 MR. WINN: This is Indianapolis Boulevard.

4 MR. BAKOTA: You know, none of those sewer
5 grates have a symbol, that it discharges into the
6 waterway. And if it does, it has to have an emblem
7 of a trout and it says, discharges into waterway.

8 MR. WINN: Well, apparently the Corps
9 doesn't own that sewer, so we can't make any changes
10 to it.

11 MR. BAKOTA: Well, I guess I would refer
12 to the Sanitary District then.

13 MR. WINN: Right. And in the
14 corresponding e-mail, we actually have in here
15 attachments 2 and 3, basically Sanitation District
16 said that if we are not connecting to any combined
17 sewer, we don't need a permit.

18 MR. BAKOTA: I understand. I guess I'll
19 have to contact the Sanitary District because they
20 are suppose to have those grates identified that it
21 goes in the waterway.

22 MR. FEKETE: You've got this to help.

23 MR. WINN: This map was provided by them.

24 MR. BAKOTA: I read the letter. All
25 right, thanks.

1 MR. WINN: Hopefully that clears that
2 issue up.

3 MR. FEKETE: A full service organization.
4 Thank you.

5 MR. WINN: Too bad I can't change that
6 sewer grate.

7 MR. BAKOTA: It may come back to you,
8 wait.

9 MR. WINN: So we awarded the contract 28
10 August, on the entrance road resurfacing. I think
11 we are still working on receiving the contract for
12 the schedule. I'll keep the Board up and informed.
13 That's it.

14 MR. FEKETE: Thank you. This is your last
15 meeting?

16 MR. WINN: This is my last meeting until
17 we start getting closer to dredging, and then I will
18 come back, especially with the public meeting.

19 MR. LOPEZ: Thank you, because you give us
20 a lot of information and you give us the answers.

21 MR. WINN: Okay. Thanks.

22 MR. FEKETE: Have a good holiday season
23 and see you in the Spring.

24 MR. FEKETE: Ellen Gregory.

25 MS. GREGORY: Ellen Gregory, with Ellen

1 Gregory Law. We continue to have bi-weekly meetings
2 with the ECI group. Primarily we've been working on
3 the Great Lakes Legacy Act documents.

4 As Fernando mentioned, there are
5 several documents in your Board packet to review and
6 we'll be moving forward with those hopefully in the
7 near future.

8 We've been working with Jim
9 Wieser on the property Right of First Refusal for
10 some parcels that ECWMD owns. That will be
11 proceeding on the same schedule as the Great Lakes
12 Legacy Act documents.

13 Just to clarify something that
14 Mike Winn mentioned, we've agreed with the Corps to
15 extend the informal negotiation period on the
16 dispute under the tipping fee agreement and the
17 informal negotiations period has been extended until
18 December 4th. And that's all I have.

19 MR. FEKETE: Any questions for Miss
20 Gregory?

21 MR. PATRICK RODRIGUEZ: Is there any
22 movement on the Feddeler issue?

23 MS. GREGORY: The Corps is getting their
24 letter out, I guess next week. And then once we get
25 the Corps letter, then we'll review that with Jim

1 Wieser and figure out how to go forward with that.

2 MR. PATRICK RODRIGUEZ: Thank you.

3 MR. FEKETE: Any new business to come
4 before the Board?

5 Comments/Questions: None.

6 MR. FEKETE: Any other business?

7 Comments/Questions: None.

8 MR. TREVINO: Let me just say, I wanted to
9 say that I think the Board acted reasonably in their
10 motion to defer approval of the Project Agreement
11 and the Statement of Work and the Site Agreement. I
12 think the documents are very elaborate in nature.
13 There are some extensive provisions and requires
14 thorough review. So I think it was reasonable to
15 defer approval until the Board had felt a little
16 more comfortable and more time to review those
17 documents.

18 So, I know you provided a date
19 of November 9th, so I'll be reaching out to the
20 Board to schedule a follow-up meeting, and obviously
21 would have to be a special board meeting, so we'll
22 have to go through the proper announcement protocol
23 and so forth. I'll be following up with the Board
24 on that action.

25 MR. FEKETE: Okay. Thank you. Any other

1 business to come before the Board? Any public
2 comments? Hearing none, the next Board meeting is
3 November 21st, 2018, at 5:00 p.m., in this facility.

4 MR. BAKOTA: I make a motion to adjourn.

5 MR. PATRICK RODRIGUEZ: Second.

6 MR. FEKETE: All signify by saying aye.

7 (All signify aye.)

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9 ***** Meeting is adjourned *****

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C E R T I F I C A T E

I, Peggy S. Lalonde, Certified Shorthand Reporter (CSR), and Notary Public within and for the County of Porter, State of Indiana, do hereby certify that I appeared at the City of East Chicago, Engineering/Annex Building, 4444 Railroad Avenue, East Chicago, Indiana, on the 17th day of October, 2018, to report the proceedings had of the District Board of Directors' Meeting.

I further certify that I then and there reported in machine shorthand the proceedings given at said time and place, and that the testimony was then reduced to typewriting from my original shorthand notes, and the foregoing transcript is a true and accurate record of said proceedings had.

Dated this 13th day of November, 2018.

Peggy S. LaLonde



Peggy S. LaLonde, CSR

My Commission expires: 2/06/2026

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\$215 16:5,7	223,000 17:4	9 4:21 9:10	approved 7:10,12 10:8,19 12:25
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