

EAST CHICAGO WATERWAY MANAGEMENT
DISTRICT BOARD OF DIRECTORS' MEETING
City of East Chicago, Engineering/Annex Building
4444 Railroad Avenue
East Chicago, Indiana
April 15, 2015
Wednesday, 5:00 p.m.

Transcript of the proceedings had in the
above-entitled matter, on the 15th day of
April, 2015, at 5:00 p.m., at the City of East
Chicago, Engineering/Annex Building, 4444 Railroad
Avenue, East Chicago, Indiana, before Peggy S.
LaLonde, Certified Shorthand Report and Notary
Public for the County of LaPorte, State of
Indiana.

ISEMINGER & ASSOCIATES, INC.
14 Indiana Avenue - Suite A
1st Source Bank Building
Valparaiso, Indiana 46383
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East Chicago Waterway Board
April 15, 2015

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A P P E A R A N C E S:

- MR. JOHN FEKETE, President
- MR. HENRY RODRIGUEZ, Secretary
- MR. JOHN BAKOTA, Board Member
- MR. TED ZAGAR, Board Member
- MR. KEVIN DOYLE, Board Member
- MR. FERNANDO TREVINO, FMT Consulting
- MS. ELLEN GREGORY, East Chicago Waterway Board
of Directors' Attorney

ALSO PRESENT:

- DANIEL NETHERTON, U.S. Army Corps of Engineers
- DAVID ALONZO, BMO Harris
- TIM WESCOTT, Tetra Tech
- JIM ANDERSON, CliftonLarsonAllen

* * * *

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1 MR. FEKETE: I'd like to call to order the
2 District Board of Directors' meeting. Today's date
3 is April 15th, and the time is now 4:59. Roll call.
4 John Bakota?

5 MR. BAKOTA: Here.

6 MR. FEKETE: Henry Rodriguez?

7 MR. HENRY RODRIGUEZ: Here.

8 MR. FEKETE: Patrick Rodriguez?

9 (No response)

10 MR. FEKETE: Ted Zagar?

11 MR. ZAGAR: Here.

12 MR. FEKETE: Kevin Doyle?

13 MR. DOYLE: Here.

14 MR. FEKETE: Ray Lopez?

15 (No Response)

16 MR. FEKETE: John Fekete. Here. We have
17 a quorum. The Consulting Engineer report, Mr.
18 Trevino.

19 MR. TREVINO: Fernando Trevino, for FTP
20 Consulting. I'd start off by going over the
21 contents of your Board packet. You have the Board
22 minutes for March 18th, 2015. You have the
23 financial statements dated March 31st, 2015, from
24 CliftonLarsonAllen. You have the claim docket for
25 Board consideration dated April 15th, 2015. You

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1 have a couple tax forms for signature, Form
2 1099-Misc, and there's one more, Form 1096. You
3 have a User Fee status report dated April 14th,
4 2015, and it shows what User Fees have been paid and
5 which ones are still outstanding.

6 You have a First Merchants Bank
7 statement for the month of March 2015, for account
8 ending in 616. And also, immediately behind that
9 statement you have the User Fee deposits that were
10 deposited into that account. And the User Fee
11 deposit memos are dated March 6th, two of them are
12 dated March 26th, one is dated March 24th. And
13 another First Merchants Bank statement for the month
14 of March 2015 for account ending in 608.

15 You have the ECI Facility Trust
16 report dated April 14th, 2015.

17 And you have BMO Harris brokerage
18 account statement for the month of March 2015 for
19 account ending in 534 and account ending in 761.
20 You have two People's Bank statements for the month,
21 both are for the month of March 2015, for account
22 ending in 46 and 47.

23 You have a letter from myself to
24 Board of Public Works president, Val Gomez,
25 forwarding our resolution to accept the property

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1 within the CDF that was approved at the last Board
2 meeting.

3 You have Tetra Tech's progress
4 report for the Great Lakes Legacy Act project for
5 the month of March 2015. A letter from the Indiana
6 Department of Natural Resources dated April 6, 2015.

7 You have an e-mail from Attorney
8 Ellen Gregory to Paul Atkociunas from EPA
9 forwarding our response to the federal interest in
10 an oil pollutant incident. You have the Army Corps
11 report dated April 15th, 2015. And you have, last
12 but not least, Attorney Ellen Gregory's report to
13 the Board dated April 15th, 2015.

14 Couple items to go over. The 2015
15 User Fee collections to-date are right around
16 143,000. The Great Lakes Legacy Act project, as a
17 reminder, the Community Engagement Plan was
18 finalized and distributed. There's a meeting
19 planned next week, April 23rd, at 1:00 p.m., at City
20 Hall/Council Chamber, and that will be with the
21 adjacent landowners. And we have been reaching out
22 to each of the stakeholders with phone calls and
23 trying to maximize attendance at the stakeholder
24 meeting. And another meeting is planned next week
25 with IDEM's Care Committee. No, the following week,

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1 that's April 28th, at 1:00 p.m.

2 I've been working with EPA on cost
3 share agreement. Now that Tim's got some free time
4 after April 15th, we'll get a chance to take a look
5 at that and hopefully we can reach an agreement on
6 that.

7 The Great Lakes Legacy Act project
8 team has been working on funding options for the
9 remediation phase. A follow-up meeting is scheduled
10 tomorrow between EPA, BP, Tetra Tech and Waterway
11 Management District.

12 As I mentioned, the progress report
13 is in your Board packet and Mr. Jim Wescott is here
14 to give an update on a couple of those items. The
15 Army Corps report is in your packet. The project
16 manager, Natalie Mills, wasn't able to attend
17 tonight's meeting, but Daniel Netherton is here to
18 report in her stead.

19 Attorney Ellen Gregory will give an
20 update on legal matters, including the AOC on the
21 south tank farm, along with the draft statement of
22 work that we received, our response to the notice of
23 federal interest we received last month, progress on
24 the PCA and conference call that we have tomorrow
25 with the Attorney General's Office regarding User

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1 Fees.

2 Some of the regular meetings I have
3 been attending on behalf of the District include the
4 BP bi-weekly meetings, the Great Lakes Legacy Act
5 project team meetings, the Roxanna/Marsh Area
6 Development meetings with EPA, City and other
7 stakeholders, the dredging project meetings, the on
8 occasion Wildlife Management Plan meetings. And
9 that concludes my report.

10 MR. FEKETE: Any questions for Mr.
11 Trevino?

12 (No Response)

13 Thank you very much. Next order of
14 business is the approval consideration of the Board
15 meeting notes. I'd just like to offer two
16 corrections, if I may. Page 9, line 14, should be
17 accounting consultant. And page 23, line 13, the
18 spelling of Feddeler is F-E-D-D-E-L-E-R.

19 MR. TREVINO: I had a couple other. On
20 page 4, you covered a couple of them that I saw, on
21 page 4 it's not Tim Wescott, it's Jim Wescott. And
22 Diana Mally is M-A-L-L-Y.

23 MR. FEKETE: Motion to accept with
24 corrections as noted?

25 MR. BAKOTA: Motion to accept.

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1 MR. FEKETE: Entertain a second?

2 MR. HENRY RODRIGUEZ: Second.

3 MR. FEKETE: I have a motion and second.

4 Any questions?

5 (No Response)

6 I will take a voice vote. All in
7 favor signify by saying aye.

8 (All signify aye.)

9 Any opposition?

10 (No Response)

11 Hearing none, motion is approved.

12 Accounting consultant report.

13 MR. ANDERSON: Tim Anderson,
14 CliftonLarsonAllen. Everybody has got a copy of the
15 statement through March 31st. Page 2 of that
16 statement shows our cash receipts and disbursements
17 through March 31st. We've got the budget transfer
18 from the Trust account, 268,000, some interest
19 income on the User Fees that we collected through
20 March, for a total of 416,000 for the three months
21 ending March 31st.

22 Our disbursements are listed, legal
23 fees, engineering, accounting, Great Lakes Legacy
24 Project. So we have disbursed 178,000 through
25 March 31st. So our cash has increased 238,000 for

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1 that three-month period. We started the year with
2 2,006,000 in the Operating and the User Fee
3 accounts. At the end of March the total of those
4 two accounts is 2.2 million.

5 Page 3 just shows the actual ins and
6 outs of those cash accounts for the three months.
7 The Operating account at the end of March had
8 769,000 in it. And our User Fee had a million 475.
9 And the Operating cash account, that 769, is our
10 unspent budget for 2015 to-date.

11 Page 4 is the important page, shows
12 what was budgeted for the year, what was spent
13 through March and our April disbursements are
14 listed. So as of today, after you cut the checks
15 that we have on the claims docket today, there's an
16 unused budget of 710,000 and that's that last column
17 is the unused budget. And we are not even close on
18 any of the line items as of March 31st. Any
19 questions on the report?

20 (No Response)

21 There was another item Fernando had
22 on the agenda for me and that was the 1099 federal,
23 form 1099 miscellaneous. And what that is, each
24 year we are, by law we have to report non employee
25 compensation paid to independent contractors. And

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1 that's us, FMT, Ellen -- not Ellen because you are
2 part of the corporation now?

3 MS. GREGORY: Yes.

4 MR. ANDERSON: And I think we sent one to
5 Olga. But we cover the people who are not
6 incorporated and who are earning non employee
7 compensation. Any questions on that?

8 (No Response)

9 That's my report.

10 MR. FEKETE: Thank you.

11 MR. TREVINO: Tim, if John signs these
12 today, do we give these to you?

13 MR. ANDERSON: Yes. We electronically
14 transmit the forms. The forms have been mailed to
15 the recipients already and then we just
16 electronically file with the IRS.

17 MR. FEKETE: I sign this then?

18 MR. TREVINO: Yes. That one and another
19 form.

20 MR. FEKETE: Okay. The next order of
21 business is the approval consideration for accounts
22 payable voucher dated April 15th, 2015. I'll
23 entertain a motion to accept.

24 MR. RODRIGUEZ: So moved.

25 MR. FEKETE: Do I have a second?

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1 MR. BAKOTA: Second.
2 MR. FEKETE: Roll call vote. John Bakota?
3 MR. BAKOTA: Yes.
4 MR. FEKETE: Henry Rodriguez?
5 MR. HENRY RODRIGUEZ: Yes.
6 MR. FEKETE: Patrick Rodriguez?
7 (No Response)
8 MR. FEKETE: Ted Zagar?
9 MR. ZAGAR: Yes.
10 MR. FEKETE: Kevin Doyle?
11 MR. DOYLE: Yes.
12 MR. FEKETE: Ray Lopez?
13 (No Response)
14 John Fekete? I vote yes. Motion is
15 approved. BMO Harris report.
16 MR. ALONZO: David Alonzo with BMO Harris
17 Bank. So I am going to run through the report for
18 the Trust. Our first page of course will show the
19 historical return since 1997 of the Trust. And then
20 the bottom will be the distributions by year since
21 1997. The market value as of yesterday's business
22 was \$5,735,668. From our last meeting that was a
23 positive gain of \$3,610. Year to-date total
24 distributions are \$268,519.
25 Going on to the last page of the

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1 report, the positive gain from last month was
2 attributed to the CD, 60 month CD that ends in 724.
3 That's where most of that interest was made. The
4 money market of course earns minimal interest, but
5 little bit of gain there too. Next month at our
6 meeting the CDs that I have highlighted in the last
7 column in yellow, those will be paying interest here
8 in a few days, so that number will be reflected in
9 the next meeting as an increase.

10 And then as a last note, we do have
11 those two certificates. They will be maturing at
12 the end of June for about 2.6 million. So we'll
13 want to probably schedule some time to meet with the
14 Finance Committee prior to that June meeting. Any
15 questions at all?

16 (No Response)

17 MR. FEKETE: Thank you very much. Next
18 order is Mr. Wescott, Great Lakes Legacy Act.

19 MR. WESCOTT: Jim Wescott. So the main
20 things, I guess, the additional field work report I
21 talked a little bit about last month. I'm still
22 working on the feasibility study, which should be
23 done in the next four to six weeks, which will cover
24 all the different options whether they are feasible
25 and the cost, and have recommendations about which

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1 options make the most sense for different parts of
2 the project area.

3 To make sure that we incorporate all
4 of the stakeholder interests there is a meeting, I
5 can't remember if Fernando mentioned the meeting,
6 that's next week at City Hall, on Thursday. Is that
7 open for the public or just the User Group?

8 MR. TREVINO: It's open to the public, but
9 it's specifically for the adjacent landowners.

10 MR. WESCOTT: And potentially there will
11 be a second stakeholder outreach effort with the
12 Care Committee. It hasn't been scheduled yet I
13 believe or maybe it has.

14 MR. FEKETE: The Care Committee agenda
15 came out and it was pending -- you're on it, pending
16 your okay.

17 MR. WESCOTT: I'm okay.

18 MR. TREVINO: Actually, I think, Jim, you
19 had sent it to me and I just wanted to make sure
20 that --

21 MR. WESCOTT: Actually it was okay with me
22 as long as it's okay with you and Fernando.

23 MR. FEKETE: The way it came out, it says,
24 if Jim Wescott can't make it, a presentation then
25 would be a phone conference call.

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1 MR. WESCOTT: So then when we meet with
2 the adjacent property owners on the 23rd, which is
3 Thursday, and then the Care Committee is on Monday.
4 I think both of them are at 1:00 o'clock in the
5 afternoon.

6 And then the big thing is tomorrow
7 with BP, not that it's a big thing, but kind of a
8 big thing. And hopefully we get some clarity. Once
9 the feasibility study is done and also once we have
10 an idea of how the non federal partners group shapes
11 up, then we can move forward quickly with the
12 design. I still think it's feasible given the time
13 frame to get a design done in the Fall so that the
14 federal partner, EPA, if it all comes together, can
15 have construction in the Spring, but there is still
16 a lot of things up in the air. But I think given
17 the events of the last 30 days and there's a lot of
18 momentum building to get something done, so
19 hopefully the non federal partners can kind of come
20 together and move it forward.

21 I will be doing a lot of sampling
22 next week. I've got sampling at Indiana Harbor
23 Canal on Wednesday and we work with the Park
24 Department because we have to use the Park
25 Department property to use a crane to get equipment

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1 into the Indiana Harbor Canal. And I'll be on Lake
2 George Canal Tuesday through Friday doing soil
3 borings. I've already kind of coordinated with the
4 Corps because they're mobilizing equipment as well
5 and hopefully stay out of each others way.

6 MR. BAKOTA: Where is the borings, in the
7 water?

8 MR. WESCOTT: The one at Lake George
9 Canal, I've go two near the railroad bridge near the
10 west end and then two along the bank of the south
11 tank farm. Potentially the project would do
12 something to fix the bank on the south tank farm.
13 And then we also potentially put a sheet pile wall
14 across the canal at the west end to kind of fill
15 that in with sand and bury it basically. And then
16 the Indiana Harbor Canal sampling is to further
17 delineate the high PCB hit that we got in the Fall
18 and try to make sure we kind of get all that
19 material out.

20 MR. BAKOTA: Is that site specific? It's
21 just in one area?

22 MR. WESCOTT: Yeah. We haven't seen any
23 high PCB anywhere in the Grand Cal. We see low
24 levels, but not above 50 parts per million and this
25 was 80 parts per million. So above 50 the disposal

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1 becomes more expensive.

2 MR. BAKOTA: Is it a large area?

3 MR. WESCOTT: We don't know yet. We only
4 have one. We are going to come in next week and try
5 to take a lot more samples to sort of get an idea,
6 is it a big area or a small area. But it's the
7 same, we talked last month, it's the same area that
8 we'll probably put the sedimentation basin. So
9 we're going to dig it all out anyway. I just need
10 to make sure once we dig it out that some of the
11 material may have to go to one landfill and some of
12 it may need to go to another landfill because of the
13 different levels of hazard. So all the sampling
14 should be done in the next 30 days. The feasibility
15 study should be done in the next 30 to 60 days at
16 the latest. And if the money comes together, the
17 design will go forward and then it's just a matter
18 of getting everybody onboard. Are there any
19 questions?

20 (No Response)

21 MR. FEKETE: Very good. Thanks, Jim.
22 U.S. Army Corps.

23 MR. NETHERTON: Daniel Netherton filling
24 in for Natalie, project engineer CRO out of our
25 Calumet office. Update on CDF construction facility

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1 operation and dredging. Contractor has returned to
2 the site and they have started mobilization this
3 week, and will continue mobilization through the
4 next week. And the plan is to start dredging on the
5 27th of April.

6 There's also coordination between
7 the Corps and contractor regarding the scope of work
8 for the wastewater treatment plant modification to
9 the contract to discharge water from the site to be
10 an alternate to the discharge into the sewer.

11 The permanent well installation
12 contracts, that is ongoing. The eight new wells
13 have been drilled and developed and they are
14 starting testing on those and they are continuing to
15 tie those into the existing grade system and hook up
16 electrical. That's probably ongoing for at least
17 another month.

18 CDF documentation, permits, meetings
19 with the Corps, ECI, IDEM, and EPA scheduled for 13
20 May.

21 And oil boom coordination. Arco has
22 placed a boom on the west side of the railroad
23 bridge. I think our contract has a contact directly
24 with Arco to open the boom when they need it for the
25 Indianapolis Boulevard bridge.

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1 PCA and non federal funding, they're
2 meeting Monday on both of them. I was not involved
3 with that. But I think that's to provide comments
4 to two sections of the EPA by 27 April.

5 And then Feddeler parcel resolution,
6 Ellen will speak on that.

7 Parkway Improvement, that work is
8 complete along Indianapolis Boulevard.

9 And then the web site is
10 coordination with the ECIWD and the State of Indiana
11 regarding the dredging site for the next contract
12 that will be awarded. Submission with our Corps IT
13 and how that's suppose to be hosted. Any questions?

14 (No Response)

15 MR. FEKETE: Thank you. Next up is
16 Attorney Ellen Gregory.

17 MS. GREGORY: Ellen Gregory, with
18 Bamberger, Forman, Oswald & Hahn. To address the
19 Feddeler question Daniel just raised, we are having
20 an appraiser do an appraisal of the Feddeler
21 interest in the parcel that's on the CDF. And the
22 original contract, I think, had 90 days. And we had
23 an update from him within the last few days and he's
24 expecting to be able to deliver that on schedule.

25 Fernando mentioned the AOC for work

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1 on the south tank farm. We have a draft work plan
2 from BP that has been submitted to US EPA for
3 approval. And Fernando and I are receiving updates
4 and progress reports on that work.

5 On the PPA, as Daniel mentioned, we
6 had a call on Monday. Jim Roth is to provide
7 comments before the next biweekly call on the first
8 two sections of the PCA.

9 On the User Fees, we had one inquiry
10 from an attorney who did not identify his client,
11 about the authority of the District to assess User
12 Fees. We have a call tomorrow with the Attorney
13 General's Office, Fernando and I do, to go over a
14 response to that inquiry.

15 And then last, Fernando mentioned we
16 have submitted a written response to the US EPA's
17 oil incident notification. Fernando and I had a
18 follow-up telephone call last week with on scene
19 coordinator who indicated that EPA has no plans to
20 pursue any kind of enforcement against the District
21 with respect to that incident. And that's all I
22 have for today. Any questions?

23 (No Response)

24 MR. FEKETE: Hearing none, thank you very
25 much. Any new business to come before the Board?

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(No Response)

Any other business?

(No Response)

Any public comments?

(No Response)

Next Board meeting will be May 20th,
2015, at 5:00 o'clock, in this facility. I'll now
entertain a motion for adjournment.

MR. BAKOTA: Motion to adjourn.

MR. FEKETE: Do I have a second?

MR. HENRY RODRIGUEZ: Second.

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

(All signify aye.)

MR. FEKETE: This meeting is adjourned at
5:25.

(MEETING 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 LaPorte, 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 15th day of April, 2015, 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 23rd day of April, 2015.



Peggy S. LaLonde, CSR

My Commission expires: 3/14/2018

