

EAST CHICAGO WATERWAY MANAGEMENT
DISTRICT BOARD OF DIRECTORS' MEETING
City of East Chicago, Engineering/Annex Building
4444 Railroad Avenue
East Chicago, Indiana
November 18, 2015
Wednesday, 5:00 p.m.

Transcript of the proceedings had in the
above-entitled matter, on the 18th day of
November, 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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November 18, 2015

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. KEVIN DOYLE, Board Member

MR. RAY LOPEZ, Board Member

MR. FERNANDO TREVINO, FMT Consulting

MS. ELLEN GREGORY, East Chicago Waterway Board
of Directors' Attorney

ALSO PRESENT:

JIM WESCOTT, Tetra Tech

TIM ANDERSON, CliftonLarsonAllen

DAVID ALONZO, BMO Harris

* * * *

November 18, 2015

1 MR. FEKETE: I'd like to call to order the
2 meeting of the East Chicago Waterway Management
3 District Board of Directors. Today's date is
4 November 18th, 2015, and the time is 5:06. We'll
5 have a roll call. John Bakota.

6 MR. BAKOTA: Here.

7 MR. FEKETE: Henry Rodriguez?

8 MR. HENRY RODRIGUEZ: Here.

9 MR. FEKETE: Patrick Rodriguez?

10 (No Response)

11 MR. FEKETE: Ted Zagar?

12 (No Response)

13 MR. FEKETE: Kevin Doyle?

14 MR. DOYLE: Here.

15 MR. FEKETE: Ray Lopez?

16 MR. LOPEZ: Here.

17 MR. FEKETE: John Fekete? Here. We have
18 a quorum. Okay. First order of business the
19 Executive Director's report, Mr. Trevino.

20 MR. TREVINO: Yes. I'll start off by
21 going through the contents of your Board packet.
22 You have the Board minutes for October 21st, 2015.
23 The financial statements from CliftonLarsonAllen
24 dated October 31st, 2015. The claim docket for
25 approval consideration dated November 18th, 2015.

3

November 18, 2015

1 You have the State Board of Accounts audit report
2 for the period January 1st, 2010 through
3 December 31st, 2014. The filing date of
4 November 6th, 2015. You have a local counsel legal
5 services agreement contract in your Board packet,
6 that's on the agenda for approval consideration.
7 You have First Merchants Bank statements for
8 accounts ending in 608 and 616, and both are for the
9 month of October 2015. You have ECI Facility Trust
10 report from BMO Harris bank dated November 16th,
11 2015. BMO Harris brokerage account statement for
12 account ending in 534, also for the month of
13 October 2015. BMO Harris bank statements for
14 account ending in 761 and also for the month of
15 October.

16 You have Tetra Tech's progress
17 report dated November 9th, 2015. You have a letter
18 from me to Diane Mally of EPA regarding the 2014
19 work in-kind report summary. You have Arcadis
20 report dated November 9th, 2015, and it's for
21 progress report for the month of July 2015. You
22 have the Army Corps Board report dated
23 November 18th, 2015. And last but not least, you
24 have Attorney Ellen Gregory's report to the Board
25 with revision date of November 16th, 2015.

4

November 18, 2015

1 Just to go over a couple items.
2 The Board approved the 2016 budget proposal, which
3 was forwarded to IDEM and EPA for their
4 consideration.

5 As approved in our October
6 meeting, I attended the real estate seminar
7 yesterday. Tetra Tech regarding the Great Lakes
8 Legacy Act project. Tetra Tech is working on
9 finalizing the remedial design. Tim Anderson and
10 Jackie Smith of EPA concluded their work for
11 calculating indirect cost rates for the project. So
12 I submitted the 2014 cost share report to the EPA
13 for their consideration. As I mentioned, a copy of
14 the transmittal is in your packet.

15 We have been working on
16 remediation cost share strategies. Some of the
17 areas we've been exploring include the Trust
18 dollars, reimbursement from the Corps for CDF
19 construction, and also we've been pursuing project
20 partners. As a reminder, the Board approved the
21 project agreement amendment to add BP and that's
22 been sent to EPA and BP for their counter
23 signatures.

24 As I mentioned Tetra Tech's
25 project report in your packet and Mr. Jim Wescott is

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1 here to give us an update and additional
2 information.

3 Regarding the dredging, as I
4 mentioned, copy of the report is in your packet.
5 Natalie wasn't able to make this evening's meeting.
6 We've been working with the Corps and BP on renewing
7 the Section 10 permit. BP has asked us if we could
8 sign the manifest for the AOC site investigation
9 work, so Ellen and I have been working on amending
10 that Section 10 permit agreement to incorporate
11 that. And BP has verbally agreed to pay for any
12 cost affiliated with adding that scope of work.
13 Attorney Ellen Gregory will be giving an update on
14 some legal matters. And that concludes my report.

15 MR. FEKETE: Any questions for Mr.
16 Trevino?

17 (No Response)

18 MR. FEKETE: Hearing none, thank you.

19 Next order of business is
20 approve the minutes of the October 21st meeting.
21 I'll entertain a motion.

22 MR. BAKOTA: Motion to approve.

23 MR. FEKETE: Do I have a second?

24 MR. HENRY RODRIGUEZ: Second.

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

November 18, 2015

1 All in favor signify by saying aye.

2 (All signify aye.)

3 MR. FEKETE: Any opposition?

4 (No Response)

5 MR. FEKETE: Motion is approved.

6 Accounting consultant report, Mr. Anderson.

7 MR. ANDERSON: Tim Anderson,

8 CliftonLarsenAllen. You guys have a copy of the
9 October 31st report in your packet. Page 2 of the
10 report has the cash receipts and cash disbursements
11 for the ten months ended October 31st. Cash
12 receipts, which include the transfer from the Trust
13 account of 268,000 and the User fees of 425,000,
14 along with some interest. Our cash receipts through
15 October 31st were 697,000. And the disbursements,
16 you can see the list of items. The big item is the
17 Great Lakes Legacy project. So we've spent through
18 October 31st, 566,000. So our increase in cash for
19 the year has been 131,000. Our cash balance
20 beginning of the year was 2,006,000 and our cash
21 balance reconciled at October 31st is 2,138,000.

22 Page 3 shows the transactions of
23 each account. We have two accounts, the Operating
24 account and the User fee account at the Waterway.
25 And you can see the Operating account is where we

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1 write checks out of for all of our expenses. And
2 the User fee account, we pretty much just deposit
3 the User fees into that account and transfer at the
4 beginning of the year for the budget. So that shows
5 the breakdown, there's 381,000 in the Operating
6 account, which is basically our unspent budget
7 through October 31st. And then there is a million
8 seven in the User fee account as of October 31st.

9 The last page, page 4, the
10 landscape page, that shows, the notable item on this
11 schedule is the far right column that shows what we
12 have left to spend of our appropriation for each
13 line item and that's after you sign the checks
14 through today. So after today's claim docket that's
15 what's left for each item of our budget. So we have
16 324,000 left to spend I guess next month and January
17 for each of these line items. Any questions I can
18 answer for you?

19 MR. LOPEZ: No, thank you.

20 MR. ANDERSON: As Fernando said we did get
21 the audit report finally and it's a clean opinion.
22 It's the best they can give you. And they didn't
23 have any -- last time they were out they nicked us
24 for not having a capitalization policy and they
25 nicked us for not reporting the Trust money on the

1 financial. So we got that fixed this time and so
2 they came through and they audited, I think it was
3 four years, '10, '11, '12, '13, and also '14, and
4 they didn't have any comments in their letter.

5 MR. FERNANDO: If you read the report,
6 it's kind of a fancy way of saying good job.

7 MR. ANDERSON: They don't say it anywhere.
8 I'm looking for it and it's not in there.

9 MR. LOPEZ: A note on page 3, last
10 paragraph, did you see those?

11 MR. ANDERSON: Yes. It's not in English.

12 MR. LOPEZ: Standard operating procedure
13 in accounting and they come back and said you did do
14 this.

15 MR. ANDERSON: I don't know why they word
16 the thing the way they do.

17 MR. TREVINO: If you hone in, what was the
18 paragraph --

19 MR. ANDERSON: I think it's the second to
20 the last paragraph that says, in our opinion these
21 statements are presented fairly and in accordance
22 with the standard that they make you report on.

23 MR. FEKETE: But in previous, in the
24 earlier paragraph right before, this is not in
25 accordance with accepted standards in the United

1 States. So it's crazy.

2 MR. TREVINO: Right, that's what I'm
3 saying. When I got it, I mean when we had our exit
4 meeting, you know, they basically said we didn't
5 have any issues or findings.

6 MR. ANDERSON: We were hoping for a
7 congratulatory letter. What they do say in that
8 report, it is correct, they say the statements are
9 not GAP, which is generally accepted accounting
10 principles, but we are not allowed to do GAP. So it
11 is kind of confusing. But they do say later on in
12 the letter, that the statements are fairly stated in
13 accordance with their prescribed form. So it's as
14 good as you're going to get from the State.

15 MR. TREVINO: Well, the other thing, it
16 was for a five-year term, so the audit period. And
17 so, you know, if we just had standard accounting
18 practices and issues during that time it would be
19 great, but we have had a lot of things that happened
20 in five years. I mean we separated our accounting
21 management from the City. We started collecting
22 User fees in that timeframe. We went to an 80/20
23 ratio on our Trust and non Trust for our budget. So
24 then we also purchased and implemented a new
25 accounting software. So there was a lot of things

1 that happened in that time period. So I think, you
2 know, the fact that we didn't have any issues or
3 comments says a lot about the team that's been
4 working on it since then.

5 Ellen is making sure our
6 contracts and our policies and resolutions are
7 appropriate and right. The Board's leadership in
8 asking all the right questions, keeping us on our
9 toes and making us alert. Tim Anderson,
10 CliftonLarsonAllen and his staff, constructed the
11 initial framework and process when we separated from
12 the City. So there was a lot, even with BMO Harris
13 and First Merchants provided a lot of the
14 information that they requested. So there was a lot
15 -- and you have to give credit also to the City of
16 East Chicago because in that timeframe there was
17 about a year and a half of timeframe that they were
18 managing it. So it was a good job by everybody.

19 MR. ANDERSON: There was a lot of things
20 that could have gone wrong and didn't. So very well
21 stated, Fernando.

22 MR. TREVINO: Let's not forget Olga. Olga
23 provides a lot of the financial data and support
24 with Tim and CliftonLarsonAllen. Good job by
25 everybody.

November 18, 2015

1 MR. FEKETE: Very good, thank you. Next
2 order of business is approval consideration for
3 accounts payable voucher register dated
4 November 18th, 2015.

5 MR. LOPEZ: Motion to accept.

6 MR. FEKETE: I have a motion. Entertain a
7 second.

8 MR. DOYLE: Second.

9 MR. FEKETE: I have a second. We'll have
10 a roll call vote. John Bakota?

11 MR. BAKOTA: Yes.

12 MR. FEKETE: Henry Rodriguez?

13 MR. HENRY RODRIGUEZ: Yes.

14 MR. FEKETE: Patrick Rodriguez?

15 (No Response)

16 MR. FEKETE: Ted Zagar?

17 (No Response)

18 MR. FEKETE: Kevin Doyle?

19 MR. DOYLE: Yes.

20 MR. FEKETE: Ray Lopez?

21 MR. LOPEZ: Yes.

22 MR. FEKETE: John Fekete? I vote yes.
23 The motion is approved. And we have discussed the
24 State Board of Accounts audit report which was the
25 next item. So moving along, the approval

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1 consideration for the local counsel service
2 agreement. Mr. Trevino, do you want to explain this
3 to us for the record?

4 MR. TREVINO: Yes. So this is a similar
5 agreement that we had when Attorney Ellen Gregory
6 was working for herself and we had to change it when
7 she started working with Bamburger, and now that
8 she's working for herself again, we had to renew
9 this agreement, which is a subcontract agreement
10 with Jim Wieser for his real estate expertise. So
11 it just memorializes the contract and the
12 relationship between Ellen Gregory and Mr. Jim. Do
13 you want to add anything?

14 MS. GREGORY: No, that's pretty much it.
15 When he sends his monthly invoices they will appear
16 on my invoice and get paid through my invoice.

17 MR. FEKETE: Okay. Thank you for the
18 explanation. I'll entertain a motion to approve.

19 MR. BAKOTA: Motion to accept.

20 MR. FEKETE: We have a motion to accept.
21 I would entertain a second.

22 MR. LOPEZ: Second.

23 MR. FEKETE: We have a second. Okay, roll
24 call vote. John Bakota?

25 MR. BAKOTA: Yes.

1 MR. FEKETE: Henry Rodriguez?

2 MR. HENRY RODRIGUEZ: Yes.

3 MR. FEKETE: Patrick Rodriguez?

4 (No Response)

5 MR FEKETE: Ted Zagar?

6 (No Response)

7 MR. FEKETE: Kevin Doyle?

8 MR. DOYLE: Yes.

9 MR. FEKETE: Ray Lopez?

10 MR. LOPEZ: Yes.

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

12 Motion is approved. Next order is the BMO Harris
13 report, Mr. Alonzo.

14 MR. ALONZO: David Alonzo, BMO Harris. So
15 I'm going to run through our report here, the Trust
16 report. This is from November 16th values. Again
17 first page goes to the historical data so you can
18 see where the withdrawals and values were since
19 1997. The Trust value on November 16th was
20 \$5,788,375. From our last meeting there was a
21 positive gain of \$27,256. Now that gain includes a
22 deposit from BP. There was a check for \$12,200 that
23 was deposited in there. That gain was not
24 necessarily all interest. There was about \$15,056
25 in gains from the CD that paid interest over that

1 quarter. So again these CDs pay interest quarterly.
2 Pretty much we had all of them paying at the end of
3 last month, that's why it wasn't reported on last
4 month, again that's \$15,056 gain. The year-to-date
5 disbursements were \$268,519 from the budget.

6 Third page is going to really just
7 highlight the values in green showing the values as
8 of November 16th from last month. So we can see the
9 CDs that paid the interest out, which ones paid out,
10 which is pretty much all of them. The next time
11 we'll be reporting interest on those CDs will be
12 really in February meeting because most of these are
13 going to be interest in January 19th, 22nd and the
14 30th. So between now and then we'll see some
15 interest gained off that money market account. That
16 BP deposit did go into the money market that's why
17 we see the value on the money market of 488 last
18 time, now it's 501. That got us back to that half
19 million we are trying to maintain in that account.
20 Any questions at all on that?

21 (No Response)

22 Interest rates haven't moved
23 very much. Right now we're in a good position in
24 these rates. We've got some flexibility to get to
25 the money if you needed to and really nothing

November 18, 2015

1 maturing until October of next year.

2 MR. FEKETE: We'll just wait to see what
3 the Fed goes with the interest rate.

4 MR. ALONZO: We can always move around
5 maybe that three-year flex if we had to, but I don't
6 anticipate that moving too much to get where we are
7 with the point nine right now.

8 MR. FEKETE: Thank you very much.

9 MR. LOPEZ: Thank you.

10 MR. FEKETE: Great Lakes Legacy Act
11 Project report, Mr. Wescott.

12 MR. WESCOTT: Jim Wescott. So Fernando
13 mentioned we are just trying to wrap up the design
14 on the permit applications and get the funding like
15 before. Fernando is looking at a number of
16 different sources. I'm trying to stall a little bit
17 just to kind of see if things come together so that
18 we can economize the permitting. So we are actually
19 putting permits together for something that could be
20 executed. And I just need to maybe continue to talk
21 to Fernando over the next couple of weeks to see how
22 things are shaking out. Otherwise we'll put the
23 design and the permits will be for the entire
24 project as we have discussed before, the Grand Cal,
25 Indiana Harbor, and Lake George. So there's at

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1 least a complete draft of everything that you would
2 need to execute. But I think ideally what you'd
3 want to try to get the permits for something that
4 actually could be executed in the next 18 to
5 24 months so that you don't have to go back and do
6 it again. We're trying to get there, if we can get
7 there. We are pretty close I think. It's just we
8 have to talk through what is reasonably able to do
9 in the next year or two.

10 MR. LOPEZ: Thank you.

11 MR. WESCOTT: Anybody have any questions?

12 MR. FEKETE: So your report will be coming
13 out January, February timeframe.

14 MR. WESCOTT: Yeah. The entire design
15 package with all the drawings, supporting materials,
16 specifications and permit applications probably will
17 be January.

18 MR. FEKETE: Okay.

19 MR. WESCOTT: Originally the schedule has
20 December, but like I said, I'm just trying to slow
21 things down to see if money catches up. I don't
22 know if money is there to catch.

23 MR. FEKETE: Give you more, like you said,
24 more finite project to describe.

25 MR. WESCOTT: Correct.

1 MR. FEKETE: Okay. Any questions for Mr.
2 Wescott?

3 (No Response)

4 MR. LOPEZ: Thank you.

5 MR. FEKETE: Thank you. Attorney Ellen
6 Gregory report.

7 MS. GREGORY: Ellen Gregory, with Ellen
8 Gregory Law. There's not too much to report other
9 than what Fernando mentioned. On the consent
10 degree, we continue to have biweekly calls. The AOC
11 work on the south parcel has begun and is scheduled
12 to be completed in February of 2016. We are having
13 biweekly, essentially biweekly calls. Although a
14 couple of them have been delayed on the PCA
15 amendment with the Army Corps.

16 The Feddeler parcel, the Army
17 Corps real estate person was to have responded to us
18 their comments on the appraisal of the Feddeler
19 parcel that was put together by David Begoin. We
20 still haven't heard from them. I got an e-mail
21 today from the Corps real estate person that the
22 person has done the analysis but has not yet put
23 together a report.

24 As Fernando mentioned we are
25 working on modification to the Section 10 permit

1 agreement with BP to coordinate disposal of waste as
2 being generated during the AOC work.

3 And finally on property
4 transfers, Attorney Jim Wieser is trying to
5 coordinate with Michael Elam to set up a call or
6 meeting to move forward on property transfer issues.

7 And finally on the Section 10
8 permit extension, nothing has really happened on
9 that. BP again is trying to coordinate with the
10 Army Corps to get the Army Corps to move forward and
11 letting them know how they want us to proceed on
12 getting extension to the Section 10 permit. And
13 that's all.

14 MR. FEKETE: Any questions for Miss
15 Gregory?

16 (No Response)

17 Thank you very much. Any new
18 business to come before the Board?

19 (No Response)

20 Any other business?

21 (No Response)

22 Any public comment?

23 (No Response)

24 Our next Board meeting will be
25 December 16th, 2015, at 5:00 p.m., at this facility.

November 18, 2015

1 And before we adjourn I'd like to wish everybody a
2 Happy Thanksgiving. I would entertain a motion for
3 adjournment.

4 MR. BAKOTA: Motion to adjourn.

5 MR. FEKETE: Do I have a second?

6 MR. HENRY RODRIGUEZ: Second.

7 MR. FEKETE: All in favor signify by
8 saying aye.

9 (All signify aye.)

10 MR. FEKETE: We are now adjourned. Thank
11 you very much.

12 (MEETING ADJOURNED.)

13 * * * * *

24 C E R T I F I C A T E

25 I, Peggy S. Lalonde, Certified Shorthand

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November 18, 2015

1 Reporter (CSR), and Notary Public within and for the
2 County of LaPorte, State of Indiana, do hereby certify
3 that I appeared at the City of East Chicago,
4 Engineering/Annex Building, 4444 Railroad Avenue, East
5 Chicago, Indiana, on the 18th day of November, 2015, to
6 report the proceedings had of the District Board of
7 Directors' Meeting.

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

14 Dated this 4th day of December, 2015.

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19 Peggy S. LaLonde, CSR

20 My Commission expires: 3/14/2018
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