

In the Matter Of:
East Chicago Waterway Management

DISTRICT BOARD OF DIRECTORS' MEETING

April 17, 2019



Iseminger & Associates, Inc.
877-337-7379

District Board of Directors' Meeting
04/17/2019

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 April 17, 2019
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 April, 2019, 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.
17
18
19
20

21 ISEMINGER & ASSOCIATES, INC.
22 2 Indiana Avenue
23 Valparaiso, Indiana 46383
24 (219) 464-2178
25

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

MR. JOHN FEKETE, President

MR. JOHN BAKOTA, Board Member

MR. PATRICK RODRIGUEZ, Board Member

MR. RAY LOPEZ, Board Member

MR. FERNANDO TREVINO, FMT Consulting

MS. ELLEN GREGORY, Ellen Gregory Law

ALSO PRESENT

MR. TIM ANDERSON,
CliftonLarsonAllen

MR. MICHAEL WINN
Army Corps of Engineers

* * * *

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1 MR. FEKETE: All right. I'd like to call
2 to order the East Chicago Waterway Management
3 District Board of Directors' meeting. Today's date
4 is April 17th, and the time is 5:09.

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

7 MR. BAKOTA: Yes.

8 MR. FEKETE: Henry Rodriguez?

9 (No Response)

10 MR. FEKETE: Patrick Rodriguez?

11 MR. PATRICK RODRIGUEZ: Yes.

12 MR. FEKETE: Ted Zagar?

13 (No Response)

14 MR. FEKETE: Kevin Doyle?

15 (No Response)

16 MR. FEKETE: Ray Lopez?

17 MR. LOPEZ: Yes.

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

20 Executive Director's report, Mr.
21 Trevino.

22 MR. TREVINO: Fernando Trevino with FMT
23 Consulting. I'd like to start off by going over the
24 contents of your Board packet. You have the Board
25 minutes from March 20, 2019. You have the claim

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1 docket dated April 17, 2019, and that's on agenda
2 for approval consideration.

3 You have First Merchant's Bank
4 statement for accounts ending in 608 and 616, for
5 the month of March 2019. And you also have two
6 reports from First Merchant's Bank for the two CDs
7 we have with First Merchant's. The one is a
8 12-month CD and the other is a 24-month CD, and both
9 of the reports have creation date of April 15, 2019.

10 You have a letter from Atlantic
11 Richfield Company dated April 10, 2019, to myself,
12 regarding their recommendation for the sheet pile
13 wall design contractor approval recommendation and
14 the backups. Also affiliated with that letter is an
15 e-mail from me to Paul Johnson, and dated April 10,
16 2019, clarifying a couple of questions that I had on
17 the Atlantic Richfield recommendation letter.

18 You have BMO Harris Bank ECI
19 Facility Trust report dated March 31, 2019 and
20 various backups. And also a BMO Harris Bank account
21 statement for the month of March 2019 for account
22 ending in 712, and also some notes that were
23 provided from BMO Harris, David Alonzo.

24 You have a People's Bank account
25 summary. One is for the ArclerMittal tipping fee

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1 escrow account and the other for ArclerMittal
2 dredging account, and the account number ends in
3 301.

4 You have an e-mail from myself
5 to BP regarding the District's position on their
6 request for us to be on the Notice of Intent for the
7 storm water discharge related to their pipeline
8 construction.

9 You have the Army Corps of
10 Engineers report to the Board dated April 17, 2019.

11 You have Attorney Ellen
12 Gregory's report to the Board dated April 17, 2019.
13 You have an e-mail to and from Ellen Gregory and
14 Kevin Jerbe, extending the informal distribution
15 resolution period to April 26, 2019.

16 You have a letter from Mayor
17 Anthony Copeland to Allison Crane dated April 3,
18 2019, regarding the south tank farm sheet pile wall
19 project.

20 You have the User Fee cover
21 letter and the User Fee communicator, both dated
22 March 27, 2019, that went out to the User Fee
23 entities, and went out on March 27th.

24 You have an Entry of Default and
25 Order setting hearing on damages that was filed in

1 the Lake Circuit Court regarding an unpaid User Fee
2 account were M & M Management, and it was filed by
3 Attorney Jim Wieser. And you have an update that I
4 printed off the INDOT cite regarding the
5 Indianapolis Boulevard Bridge closing. They are
6 estimating it will be closed until June 28th of this
7 year.

8 That concludes the items in your
9 Board packet. I'd like to go over a couple of
10 items. I mentioned the User Fee packets went out on
11 March 27th. We already have started receiving User
12 Fee checks this week. An update on the User Fee
13 payments and deposits will be provided at next
14 month's Board meeting. The Board might recall that
15 we have had one delinquent User Fee payment from
16 prior years. We have tried to pursue collection in
17 a friendly manner, to no avail. And as I mentioned,
18 in your packet is a copy of the court filing to
19 pursue the nonpayment and it was filed by Attorney
20 Jim Wieser.

21 The Great Lakes Legacy Act
22 Project. I have a draft report of the 2018 cost
23 share report and the first quarter of 2019 cost
24 share report. I am just waiting to insert the fixed
25 cost calculation that Tim is working on. And I

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1 spoke with Tim before the meeting and he's going to
2 try to provide that to me this week. So once I get
3 the INDOT rate, I'll finalize the draft. I am going
4 to give EPA and AR/BP an opportunity to revisit per
5 the site agreement.

6 BP is recommended a sheet pile
7 wall design contractor and that recommendation is in
8 your Board packet.

9 We are also working on a press
10 release that will go out next month related to the
11 Great Lakes Legacy Act Project. Also we are working
12 with the Corps and EPA to finalize what written
13 agreement will be necessary for the use of the CDF
14 for the Great Lakes Legacy Act Project.

15 I mentioned that there is a
16 letter from Mayor Copeland to BP regarding the south
17 tank farm sheet pile wall. The letter basically
18 summarizes the City's position and desire to have
19 the wall function as a docking wall. Had a meeting
20 this morning with BP and City of Hammond, and
21 basically to present a summary of the project to the
22 City of Hammond. So they are aware of the project.

23 Army Corps of Engineers, the
24 report is in your packet and Mike is here to give an
25 update on the project. We had a meeting last week

1 with the Corp to try and resolve the ArclerMittal
2 tipping fee dispute. We also discussed amending the
3 PCA and MOU Agreement or mechanism for using the CDF
4 for the Great Lakes Legacy Act Project.

5 Attorney Ellen Gregory will
6 provide more details during her report. The tipping
7 fee dispute, informal negotiations was extended to
8 April 26th, and I mentioned that e-mail exchange is
9 in your Board packet.

10 The dredging public meeting for
11 the 2019 dredging season is scheduled to happen
12 after our next public Board meeting, which is May
13 15. And the time is scheduled for 6:00 p.m., and it
14 will be in this conference room, as I mentioned,
15 following our Board meeting.

16 The Canal Street Bridge Project,
17 Attorney Wieser is trying to coordinate a meeting
18 with Lake County Highway Department to see if they
19 are willing to cooperate and provide funding or
20 other resources towards eliminating the bridge
21 remnants.

22 Attorney Ellen Gregory will be
23 providing various updates on legal matters. And
24 that concludes my report.

25 MR. FEKETE: Any questions of Mr. Trevino?

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1 (None) Hearing none, thank you very much.

2 Next order of business is
3 approval consideration of the Board meeting notes
4 for last meeting, which was March 20, 2019.
5 Entertain a motion to accept.

6 MR. BAKOTA: Motion to approve.

7 MR. PATRICK RODRIGUEZ: Second.

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

10 (All signify aye.)

11 MR. FEKETE: Motion carries. Next is
12 Accounting Consultant report, Mr. Anderson.

13 MR. ANDERSON: Tim Anderson, from CLA. I
14 didn't hit the Board packet, so I have copies of the
15 statements. So this financial statement is as of
16 March 31, '19. Page 2 is the first page with
17 numbers on it, and this shows our receipts and
18 disbursements through March 31st, of '19. We have
19 the big Trust transfer from the Trust, which is
20 shown up at the top, in addition to the interest
21 income. So our cash receipts are 253,000 and our
22 disbursements are listed by line item. So we have
23 spent 74,000. So our cash is increased 179 from
24 January 1st through March 31st. Cash at the
25 beginning of the year was 3.3 million. And as of

1 March 31st, we had 3.5 million. And that's just in
2 our Operating account and the User Fee account, that
3 does not include the Trust money.

4 So our Operating account has got
5 943,000 in it and then the User Fee money is now in
6 two accounts. It's in the User Fee checking and
7 then the Certificates of Deposit that we hold.

8 Page 3 just shows the goings on
9 of those two accounts. The Operating account, which
10 is at a top. That's where we take our budget money
11 from. That's got the 943,000 in it. And then the
12 User Fee account, again it's got two components now,
13 it's got a checking account and the Certificates of
14 Deposit. So there is two and a half million in the
15 User Fee money now, and that seems like that's
16 really grown over the years. I don't know how long
17 we have been assessing User Fees, but there is a
18 bunch of money in that account now, so that's good.

19 The important page is number 4,
20 and since it's not on your computer -- Mr. Lopez --
21 we actually can read it. So this is probably the
22 way to do this.

23 MR. LOPEZ: They sent me all kinds of
24 information from the State Board of Accounts.

25 MR. ANDERSON: So on this page you see the

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1 budget appropriations all the way to the left. You
2 see it's nearly a million dollars budgeted. We add
3 to it the payables from last year that we pay this
4 year. So our total appropriated balance is a
5 million sixteen thousand. We have spent the 74,000
6 through March that we saw on the other page. And
7 then you have a Claims Docket in front of you today
8 for 27,800 probably. And then you can see to the
9 right what we have left, after we pay those bills
10 today and that will roughly equate the balance of
11 our Operating account. So we are not even close on
12 anything at this point.

13 So I always want you guys to
14 feel comfortable that you have budget to approve the
15 Claims Docket. We watch that very closely to make
16 sure we aren't going over. Any questions?

17 MR. BAKOTA: Looks good.

18 MR. LOPEZ: Thank you, sir.

19 MR. FEKETE: Thank you very much. That
20 leaves us to the Approval Consideration for the
21 Accounts Payable voucher dated today's date,
22 April 17, 2019.

23 MR. PATRICK RODRIGUEZ: So moved.

24 MR. BAKOTA: Second.

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

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1 MR. BAKOTA: Yes.

2 MR. FEKETE: Patrick Rodriguez?

3 MR. PATRICK RODRIGUEZ: Yes.

4 MR. FEKETE: Ray Lopez?

5 MR. LOPEZ: Yes.

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

7 That motion is approved.

8 Next we have AR/BP recommendation,
9 Sheet Pile Wall Design.

10 MR. TREVINO: So the Sheet Pile Wall
11 project is affiliated with the Great Lakes Legacy
12 Act Project and we have a Cost Share Agreement with
13 AR/BP related to the sheet pile wall. And as the
14 project progresses, we are going through -- right
15 now we are going through the design phase of it.
16 AR/BP has reviewed two potential bidders and they
17 were reviewed, the cost and their expertise. And
18 now is recommending a particular design contractor,
19 which is Wood. And so I wanted to present that to
20 the Board for your review and consideration.

21 MR. BAKOTA: I make a motion that the
22 Board recognize the April 10, 2019 recommendation by
23 Atlantic Richfield and British Petroleum, that Wood
24 Environmental Infrastructure Solutions to design the
25 sheet pile wall, along the south tank farm, and that

1 the Board has no objection to Atlantic Richfield and
2 British Petroleum contracting with Wood for that
3 work.

4 MR. LOPEZ: Second.

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

6 MR. BAKOTA: Yes.

7 MR. FEKETE: Patrick Rodriguez?

8 MR. PATRICK RODRIGUEZ: Yes.

9 MR. FEKETE: Ray Lopez?

10 MR. LOPEZ: Yes.

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

12 That motion is approved.

13 Next order of business is the BMO
14 Harris Bank Trust report.

15 MR. TREVINO: So there is the monthly BMO
16 Harris Trust report in your packet. Mr. Alonzo was
17 not able to make today's meeting, so I will give a
18 quick summary in his stead.

19 Page 1, highlights the
20 historical value of the Trust since 1997, and
21 distributions each year since 1997.

22 Page 2, the current value of the
23 Trust, as of March, 31, is 4.5 million. This is an
24 increase of \$43 from the last meeting. Increase was
25 due to interest on the Money Market only.

1 Page 3, shows the values of the
2 Money Market essential business checking account and
3 CD. The next interest payout for the CD will be at
4 the end of April 2019, which will be reported at our
5 next meeting. Two CDs mature this year, one at the
6 end of June and the other at the end of July. So
7 discussion with the Finance Committee will need to
8 happen over the next few months. So I'll be
9 reaching out to the Finance Committee to review the
10 expiring CD and come up with a recommendation for
11 the Board.

12 MR. FEKETE: Any questions for Mr.
13 Trevino? (None) Thank you very much for filling
14 in.

15 U.S. Army Corps report, Mr. Winn.

16 MR. WINN: Mike Winn, for the Corps
17 report. The CDF construction treatment ongoing
18 until late Spring, early Summer dredging schedule
19 had to start in probably mid to late June. Public
20 meetings scheduled for Wednesday, May 15, after the
21 ECWMD Board meeting.

22 CDF documentation nothing.

23 The oil boom coordination, nothing
24 significant to report.

25 The PCA and non-federal funding for

1 the Corps and ECWMD met on April 9th to discuss the
2 letter dated 12 March, regarding Arcler/Mittal
3 tipping fee disputes. The Corps and ECWMD agreed
4 that formal response is due by 26th of April.

5 So also on April 9th, Corps and
6 ECWMD discussed the Lake George dredging MOA. Per
7 ECWMD's request, the Corps will discuss with EPA to
8 enter agreement with the Lake George dredging that
9 ECWMD won't be a signature to the m o a.

10 The Corps sent final determination
11 letter on the Feddler parcel on 6th February.
12 Unless anyone has any comments, I'll issue that
13 response. I sent that will to ECWMD back in
14 February.

15 MS. GREGORY: We need to put together cost
16 by next month, submit our costs that we incurred and
17 those will be considered credited.

18 MR. WINN: On the Feddler parcel. For New
19 Products, the Parkway Improvement and Entrance Road
20 contract, still submitting a letter for review and
21 approval. I think they should be starting probably
22 late in may. That's all I have.

23 MR. FEKETE: Any questions for, Mr. Winn?
24 (None)

25 MR. WINN: Thank you.

1 MR. FEKETE: Next order of business is
2 Attorney Ellen Gregory report.

3 MS. GREGORY: Ellen Gregory, with Ellen
4 Gregory Law. I just wanted to clarify one item that
5 Mr. Trevino covered that relates to the delinquent
6 User Fee matter. Jim Wieser is handling that and
7 the document in the Board packet is actually the
8 Court's default judgment entry, and that entry
9 states that a hearing on damages will occur on
10 April 30th. So even though the User didn't answer
11 the complaint, and therefore there was a default
12 judgment, there still is going to be a hearing on
13 what the damages are. I assume Jim Wieser will be
14 covering that.

15 On the Tipping Fee dispute, I
16 think both Mr. Trevino and Mr. Winn covered where we
17 are on that. April 26th is the deadline by which
18 the Corps said they will have a written position
19 statement. April 26th will then be the end of the
20 informal negotiations period, and depending on what
21 the position statement says, we would then move into
22 the formal dispute resolution procedure. And that's
23 all I have.

24 MR. FEKETE: Any questions for Miss
25 Gregory?

1 New business, any new business
2 to come before the Board?

3 I have something, and since Miss
4 Gregory had mentioned an update on the Tipping Fee
5 Agreement discussion, I'd like to just basically
6 entertain a motion and in so doing, I want to read
7 this. We are in an informal negotiations period
8 with the Army Corps regarding the dispute related to
9 the Tipping Fee Agreement and Cost Sharing for the
10 construction, operation, and maintenance of the CDF.
11 I will therefore entertain a motion that the Board
12 give Fernando Trevino and Ellen Gregory, the
13 authority to investigate possible environmental
14 litigation law firms to represent the District in
15 this matter.

16 MR. BAKOTA: I will make that motion.

17 MR. PATRICK RODRIGUEZ: I'll second.

18 MR. FEKETE: Roll call vote. John Bakota.

19 MR. BAKOTA: Yes.

20 MR. FEKETE: Patrick Rodriguez?

21 MR. PATRICK RODRIGUEZ: Yes.

22 MR. FEKETE: Ray Lopez?

23 MR. LOPEZ: Yes.

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

25 That motion is approved.

1 Any other business to come
2 before the Board? Public comments?

3 MR. RODRIGUEZ: Mr. President, on Friday,
4 April 26th, City of East Chicago will host Earth
5 Day, Arbor Day, the day of service at Marktown
6 Center, 3509 Spruce Street, 10:00 a.m. to 2:00 p.m.
7 So if you are interested, contact Parks and
8 Recreation at 219-391-8474 to RSVP. I was on this
9 project and we planted three trees in Tod Park.
10 It's very good project. Since we are doing
11 environmental projects here on the Board, I thought
12 maybe Board members could show up and plant some
13 trees. If you are interested, please call by
14 tomorrow or next couple of days -- before the 26th
15 -- and reserve a couple of trees. You can plant one
16 tree, two trees, or three trees, take a group with
17 you.

18 MR. FEKETE: What is the date again?

19 MR. PATRICK RODRIGUEZ: April 26th, starts
20 at 10:00 a.m. until 2:00 p.m., Marktown Center, 3509
21 Spruce Street.

22 MR. FEKETE: Along the same line, I know
23 there is going to be an event at Roxana on Monday,
24 the 22nd, and I believe that's at 3:00 o'clock,
25 acknowledging Earth Day. That's at the Roxana Marsh

1 area, Knights of Columbus. I said I would pass that
2 along as well, both endeavors are well received.

3 Any other public comments?

4 (None) Hearing none, our next Board meeting, May
5 15, 2019, at 5:00 p.m., at this facility.

6 I would entertain a motion for
7 adjournment.

8 MR. BAKOTA: Motion to adjourn.

9 MR. PATRICK RODRIGUEZ: Second.

10 MR. FEKETE: All in favor signify by
11 saying aye.

12 (All signify aye.)

13 MR. FEKETE: Motion carries. This meeting
14 is concluded.

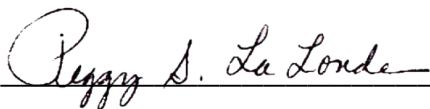
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16
17 ***** Meeting is adjourned *****
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C E R T I F I C A T E

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 April, 2019, 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 12th day of May, 2019.



Peggy S. LaLonde, CSR

My Commission expires: 2/06/2026



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