

**Curtice & Branches Intercounty Drain**

**Intercounty Drain Drainage Board Meeting Minutes**

**Tuesday, November 21, 2023**

The Drainage Board for the Curtice & Branches Intercounty Drain met at the office of the Midland County Drain Commissioner, 220 W. Ellsworth St., Midland, Michigan at 10:00 a.m. on Tuesday, November 21, 2023.

Present: Mike Gregg, MDARD, Chairman  
Joe Sova, Midland County Drain Commissioner  
Terry Walters, Gladwin County Drain Commissioner

Also Present: Lucy Zeestraten, Gladwin County Deputy Drain Commissioner  
Norma Stuart, Midland County Deputy Drain Commissioner  
Christian Valesano – Spicer Group  
Nick Czerwinski – Spicer Group  
Joe Brezvai – MDARD  
Robert Bendzinski – Bendzinski & Co.  
Roger Swets – Dickinson Wright PLLC  
Tonya Lewandowski – ECT (via Teams)

Chairman Gregg called the meeting to order at 10:00 a.m.

Terry Walters made a motion to elect Midland County to serve as secretary, seconded by Joe Sova.  
Motion carried.

Chairman Gregg stated that changes to the agenda should be made to add Apportionments between counties and to review and approve the Order Describing the Drainage District from the 197 hearing held earlier in the year. Sova made a moved to approve the agenda with the changes. Walters seconded the motion.

Motion carried.

Walters made a motion to accept and file the minutes from August 25, 2023. Sova seconded the motion.

Motion carried.

Chairman Gregg then consulted with Nick Czerwinski regarding the opeing of the bids received for the construction of the drain. Czerwinski said that two bids had been received. Chairman Gregg read the bids.

Bilacic Trucking - \$ 2,289,686.00

L J Construction - \$ 3,167,894.50

Sova made a motion to have Spicer Group review the bids and to make a recommendation of award for the project. Walters seconded the motion.

Motion carried.

There was no public comment.

Chairman Gregg stated that there were no appeals or changes from the 197 Hearing, Day of Review of Drainage District Boundaries and that a motion needed to be made to accept and sign the order. Sova made the motion to accept and sign the order, seconded by Walters.

Motion carried.

The order was circulated for signatures.

Chairman Gregg asked if the Route & Course includes the upper end that we have not received the ROW on yet. Christian Valesano stated that it did. An historical easement does exist for the south side of the drain in that area. All work is being performed from the south side of drain so we are good to go.

Walters explained that the ROW was sent to the landowner but has not been received back as of today.

Chairman Gregg then went over the process for setting the apportionments between the counties and the appeal process. Historical percentages from 1949 project were 68.5% - Midland, 31.5% Gladwin. The project in 1949 did not include the whole drain. Valesano went through the methodology used to arrive at the percentages for the upcoming project. It was decided that the apportionments would be Midland – 69.7% and Gladwin – 30.3%. Sova made a motion to accept the apportionments between counties based on zone factor calculations. Walters seconded the motion.

Motion carried.

Chairman Gregg will work on the Final Order and circulate it for signatures.

Chairman Gregg called on Robert Bendzinski and Roger Swets regarding different financing options available to the board. Swets explained that back in August it was discussed that COC for the full amount, and bonding for full amount but adding a clause about the redemption right in the bonds to allow to pay down bonds early as grant money comes in. But doing it this way, it can cause complication to selling bonds and the interest rate would be higher. Bendzinski stated that some banks are leery and not lending due to the failure of other banks in the past. The grant reimbursements that come in quarterly could allow us to borrow net funds for the project. The problem with that is that monthly payments are required to the contractor during the construction phase, but that the grant money will come in every quarter. That NRCS will need to inspect and improve the work that is being billed as completed before any reimbursement can be made. Czerwinski stated that the draft COC from the last meeting has been updated with numbers from ECT, FSBR and the construction bid. Costs less the \$1.4 million in grant funds, would be \$2.5 million assessment to the district. Bendzinski stated that a 2 year note would be appropriate for paying the contractor until bonding could be secured. Swets stated that the note would be a 434 note without prepayments and that the note would be paid back with the grant funds received. Bendzinski stated that a 15% contingency should be built into the COC to cover any costs that end up being not eligible for reimbursement of the grant. Swets stated that another option would be to assess the full cost of the project, then reduce the assessments after the grant is received. This could cause a nightmare administratively. Bendzinski stated that he would like to look at creating 2 series of bonds. One would be a 20 yr. bond issue, and the other a 434 note due in 3 years. He will also check on doing a negotiated sale. Chairman Gregg asked when we could have a final COC done. He thinks that November 30, 2023, should be the latest date for a COC. The mailing for the Day of Review of Apportionments has to be mailed out by December 8<sup>th</sup> or 9<sup>th</sup> to meet the 10-day deadline for the DORA to be held in December. Bendzinski stated that the 434 note without prepayments will cost about \$60,000 in interest each year, with the maturity being in September 2026.

Swets would like to check with the banks that the counties (Isabella & Huntington) use to see if they can come up with another financing solution.

Chairman Gregg asked about prepayments and the notices. Bendzinski stated that in 1995 the SEC enacted a rule that stated any obligated municipality liable for 10% or more of the bond issue, will have to sign off and agree to continuing disclosure for the life of the bond. The Township(s) would have to pass a Resolution authorizing the continuing disclosure agreement and every year they would have to do an update and file their annual audit.

Swets suggested that the Drain Commissioners speak to the townships that would be subject to the yearly reporting. The way around them having the do continuous reporting would be for that township to prepay their assessment if they are at the 10% or more in total at large assessment.

Bendzinski stated that the size of the borrowing should be set by February 7, 2024, so any prepayments should be in by February 2, 2024, so that we can finalize the amount needed to borrow.

Chairman Gregg asked Swets when would the bond resolution be required to meet the borrowing deadline. Also, a full faith and credit resolution will be needed by both counties. Chairman Gregg suggested January 18, 2024, for a board meeting to finalize all numbers before going to the County Boards for a Full Faith and Credit Resolutions on the bond and notes.

Bendzinski stated that on August 31, 2023, we received Qualified Status from Treasury.

Chairman Gregg asked if there was any DNR property in the district. There is quite a bit of DNR/State property in the district in Midland County. So we will look into those parcels to see if the DNR would pay assessments on those properties.

Chairman Gregg presented the financial report. Current balance is (\$393,465.56). Walters made a motion to accept and file the Treasurers report, seconded by Sova.  
Motion carried.

Tonya Lewandowski stated that as soon as the NRCS finalizes the Supplemental Agreement for construction, the portal will open and then the reimbursement request will be resubmitted.

Chairman Gregg presented the following drain orders for approval and signatures.

Spicer	#224946	\$ 6,755.50
Spicer	#225319	\$ 6,290.00
Spicer	#224346	\$ 7,739.25
FSBR	#15486	\$ 770.00
FSBR	#14763	\$ 132.50
FSBR	#14043	\$ 1,220.63
ECT	#235532	\$ 350.00
ECT	#235531	\$ 1,900.00
ECT	#234696	\$ 1,482.50
ECT	#234461	\$ 1,520.00

Sova made a motion to pay the invoices when funds become available, seconded by Walters.  
Motion carried.

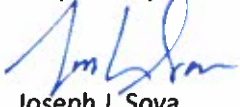
Drain Orders were circulated for signatures.

There was no public comment

Date of next meeting is set for January 18, 2024 at 10:00 a.m. at Midland County.

Sova made a motion to adjourn, seconded by Walters. Meeting adjourned at 12:11 am

Respectfully submitted,



Joseph J. Sova

Midland County Drain Commissioner