

AGENDA

SOUTHWESTERN ILLINOIS FLOOD PREVENTION DISTRICT COUNCIL BOARD OF DIRECTORS MEETING

Wednesday, February 17, 2010, 7:30 a.m.

Metro-East Park and Recreation District Office
104 United Drive, Collinsville, Illinois 62234

1. Call to Order
2. Approval of Minutes of January 20, 2009
3. Presentation of Findings and Cost Estimates by Col. Thomas E. O'Hara, Commander of the St. Louis District, U.S. Army Corps of Engineers
4. Program Status Report from Chief Supervisor
5. Budget Update
6. Other Business

EXECUTIVE SESSION (tentative)

7. Adjournment

Next Meeting: March 17, 2009

MINUTES

SOUTHWESTERN ILLINOIS FLOOD PREVENTION DISTRICT COUNCIL BOARD OF DIRECTORS MEETING

January 20, 2010

The regular meeting of the Board of Directors was held at the Metro-East Park and Recreation District Office at 7:30 a.m. on Wednesday, January 20, 2010.

Members in Attendance

James Pennekamp, President (Chair, Madison County Flood Prevention District)
Dan Maher, Vice President (Chair, St. Clair County Flood Prevention District)
Tom Long, Madison County Flood Prevention District
Ron Motil, Madison County Flood Prevention District
John Conrad, Secretary/Treasurer (Chair, Monroe County Flood Prevention District)
Bruce Brinkmann, Monroe County Flood Prevention District
Paul Bergkoetter, St. Clair County Flood Prevention District
Alvin Parks, Jr., St. Clair County Flood Prevention District
Dave Baxmeyer, Monroe County Flood Prevention District

Others in Attendance

Alan Dunstan, Madison County Board Chair
Mark Kern, St. Clair County Board Chair
Delbert Wittnauer, Monroe County Board Chair
Les Serman, SW Illinois FPD Council
Joe Parente, Madison County
Kevin Koenigstein, Monroe County Treasurer
Linda Lehr, Monroe County
Terry Liefer, Monroe County Commission
Ron Dell, Dupon Mayor
Rich Sauget, Jr., Sauget Mayor
Herb Simmons, East Carondelet Mayor
Christopher Wilson, U.S. Army Corps of Engineers
Maggie Hales, East-West Gateway Council of Governments
Paul McNamara, Village of Caseyville
Randy Bolle, Prairie Dupont Levee District
Craig Brauer, TWM
Rich Bright
Kim Diamond, Husch Blackwell Sanders
Dave Diestelkamp, Jacobs Engineering
Darryl Elbe, Hoelscher Engineering
Pam Hobbs, Geotechnology, Inc.
Gary Hoelscher, Hoelscher Engineering
David Human, Husch Blackwell Sanders
Charles Juneau, Juneau Associates, Inc. P.C.
Mary Kane, Stifel, Nicolaus, Inc
Ron Keepes, Juneau Associates, Inc. P.C.
Jule Levin, Prairie DuPont Levee District

Mike Lundy, SW Illinois Development Authority
Todd Oetting, Alton Chemical Corp.
Jon Omvig, AMEC
Bob Shipley, Metro-East Sanitary District
Bill Stahlman, Tri-City Regional Port District
Mike Sullivan, Prairie DuPont Levee District
Chuck Unger, The Bank of Edwardsville
Rich Wilburn, Oates Assoc.
Dennis Wilmsmeyer, Tri-City Regional Port District
Harry Wilson, Husch Blackwell Sanders

Call to order

President Jim Pennekamp called the meeting to order.

Approval of minutes of December 16, 2009

Motion was made by Paul Bergkoetter, seconded by Tom Long, to approve the minutes of the December 16, 2009 meeting. Motion carried, all voting aye.

Program Status Report from Chief Supervisor

Mr. Pennekamp called on Mr. Sterman for a report. Mr. Sterman noted the following:

1. The financial advisor is under contract and at work. Kevin Hoecker from Scott Balice and Ben Wolfe from ButcherMark will make a report on their activities later in the agenda. I've asked them to focus their initial activities on an early bond issue given our cash needs over the next six months.
2. Requests have gone out to the levee districts for financial information. I will be following up on those requests in the next few days. This will support the financial capacity analysis that is part of the financial advisor's scope.
3. We have reached agreement with AMEC Earth & Environmental on the levee certification inspection contract. The contract has not yet been signed, but they have agreed to start work. More on this subject will follow later in the agenda.
4. We have started the process of gathering voluminous amounts of data required for certification. Letters have gone out to the levee districts and the Corps of Engineers with a list of the required information. Everyone has been very cooperative so far.
5. We have not yet sent out an RFP for design services, but we have slowed the process down a bit to allow for better coordination with the inspection work that will be taking place over the next few months.
6. The Corps of Engineers is working on cost estimates for Wood River and MESD and they are on track to produce those estimates in the next month. There is a meeting tomorrow in Alton to go over their preliminary findings and estimates in the Wood River Levee District.

7. The status of the requests for information from federal agencies regarding the information used as the basis for deaccreditation of the levee systems in our area has resulted in a mixed response. The Corps has substantially responded with a CDROM of 93 documents, mainly electronic mail messages and copies of procedure memoranda. We have received nothing from FEMA. The information in the response from the Corps reveals no specific formal correspondence, data or analysis that was provided to FEMA to justify deaccreditation. FEMA has indicated in media reports that the Corps' presentation at the August 15, 2007 levee "summit" was the basis for deaccreditation. Mr. Sterman suggested that this was scant information upon which to base such a historic and costly decision as deaccreditation of the levee system.
8. FEMA was here for a series of meetings to discuss flood insurance last month. The purpose was to clarify a number of issues about the flood insurance program. However, it seems that FEMA was neither forthcoming nor fully accurate in providing information at the meetings, and if the purpose of the visits was to clear up our misgivings about the program, it did not succeed.

Mr. Pennekamp asked about the timing for the issuance of the RFP for design services. Mr. Sterman responded that RFP would go out in the next two or three weeks.

Request for Funding for Cost-Share on Project in the Wood River Levee District

Mr. Sterman noted that the Wood River project is the most advanced of the projects in our system. There is an existing agreement between the Corps and the levee district obligating us to provide cost-share for this project. The latest installment is for about \$2.2 million, which will match about \$4.1 million in federal economic stimulus funds. The money will be used to construct relief wells. We are asking for authorization to invoice the counties for their share of these funds and to provide these monies to the Corps of Engineers.

Mr. Bergkoetter asked about the 51 wells for the design flood event. He asked whether these wells are in excess of the 100-year flood event and whether we need to keep these costs separate from what we are spending to achieve 100-year flood protection. Mr. Sterman explained that Corps must build to the authorized level, which is the 500-year flood. He indicated that it was a legitimate question whether we should be spending money to go beyond the 100-year level of protection.

Motion by Ron Motil, second by Alvin Parks to authorize the Chief Supervisor to invoice the counties for a total of \$2,200,000, that amount to be divided among the counties in accordance with Council policy, to serve as cost-share for Federal projects in the Wood River Drainage and Levee District and to make payment to the USACE. Motion approved, all voting aye.

Report from the Financial Advisor

Mr. Sterman introduced Kevin Hoecker from Scott Balice for report. Mr. Hoecker discussed a number of subjects, including the merits of negotiated vs. competitive sale of bonds, who should issue bonds, and some thoughts about how to maximize yield and determine the optimum amount to be issued. He also discussed the merits of Build America Bonds and how they might benefit the Council.

Mr. Hoecker discussed his thinking with respect to how we will go about determining who will issue the bonds, whether it will be the counties, a third-party issuer or the Council itself. He has met with our bond counsel, Chapman and Cutler, to discuss this issue. In the end, we will look at what approach will get us the best yield and drive down the cost of issuance of bonds.

Mr. Maher asked what the market looks like today. Mr. Hoecker said that the market is excellent right now with historically low interest rates. Many clients with large projects are tempted to issue as many bonds as possible, but there are factors such as negative arbitrage that could make that approach undesirable.

Mr. Long asked whether we would be eligible to issue Build America Bonds. Mr. Hoecker responded that there is no question that we would be eligible. Our project is undertaken for a governmental purpose. Any entity that can issue tax exempt bonds should be able to issue Build America Bonds.

Authorization to Amend Contract with East-West Gateway Council of Governments to Include Analysis of Flood Insurance Costs

Mr. Pennekamp noted the ongoing discussions concerning the cost of flood insurance and the economic impact on the community. He noted that there was a proposal now in front of us to determine the extent of flood insurance costs. He asked Mr. Sterman to explain.

Mr. Sterman noted that we have an existing contract with East-West Gateway to provide research and other services, and we have also been talking with Patrick McKeehan of the Leadership Council Southwestern Illinois about an overall economic impact study of the levee deaccreditation. He noted the extent of excess flood insurance premiums that could amount to \$30-\$50 million a year – money that will likely leave the area since we do not expect to have a flood that will generate any claims. Mr. Sterman said that he asked East-West Gateway to put together a cost estimate to determine the amount of excess flood insurance premiums. That estimate is shown in the memo to the Board at \$11,760. This amount will include a survey of major businesses as well as other analyses of secondary information.

Chairman Kern said that he asked FEMA when they were here if they had any estimates of how much additional flood insurance premiums they would take in once the levees were deaccredited. He asked if we could request that information from FEMA. Mr. Sterman agreed to make this request. He also noted that we have many large businesses that would have to get insurance outside the federal program and this will be a huge cost as well.

Mr. Sterman recommended that the Board authorize the Chief Supervisor to amend the existing contract with the East-West Gateway Council of Governments to include research services to develop an estimate of excess flood insurance and business interruption insurance premiums to be paid for residential and commercial properties in the American Bottom, should it be declared by FEMA as a special flood hazard area. The cost of the work will not exceed \$11,700 and be concluded by the end of February, 2010.

Motion by Mr. Maher, second by Mr. Parks to endorse the staff recommendation. Motion approved, all voting aye.

Resolution Expressing Official Intent to Reimburse Expenditures with the Proceeds of a Bond Issue

Mr. Pennekamp asked Mr. Sterman to explain. Mr. Sterman said that this was a pro forma resolution to apply bond proceeds toward the project. He called the Board’s attention to Exhibit A, which sets forth the projects that would be paid for with bond proceeds and the fact that this was just a guess at this point since we do not have a design on which to base a list of projects and their costs.

Motion made by Mr. Long, second by Mr. Motil to approve the attached resolution expressing the Council’s official intent to reimburse expenditures with the proceeds of a bond issue. Motion approved, all voting aye.

RESOLUTION expressing official intent regarding certain capital expenditures to be reimbursed from proceeds of an obligation to be issued by the Southwestern Illinois Flood Prevention District Council.

* * *

WHEREAS, the Board of Directors (the “*Board*”) of the Southwestern Illinois Flood Prevention District Council (the “*Council*”), has developed a list of capital projects described in *Exhibit A* hereto (the “*Projects*”); and

WHEREAS, all or a portion of the expenditures relating to the Projects (the “*Expenditures*”) (i) have been paid within the 60 days prior to the passage of this Resolution or (ii) will be paid on or after the passage of this Resolution; and

WHEREAS, the Council reasonably expects to reimburse itself for the Expenditures with the proceeds of an obligation:

NOW, THEREFORE, Be It and It Is Hereby Resolved by the Board of Directors of the Southwestern Illinois Flood Prevention District Council, as follows:

Section 1. Incorporation of Preambles. The Board hereby finds that all of the recitals contained in the preambles to this Resolution are full, true and correct and does incorporate them into this Resolution by this reference.

Section 2. Intent to Reimburse. The Council reasonably expects to reimburse the Expenditures with proceeds of an obligation.

Section 3. Maximum Amount. The maximum principal amount of the obligation expected to be issued for the Projects is \$80,000,000.

Section 4. Ratification. All actions of the officers, agents and employees of the Council that are in conformity with the purposes and intent of this Resolution, whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

Section 5. Severability. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

Section 6. Repeal. All resolutions or parts thereof in conflict herewith be and the same are hereby repealed and this Resolution shall be in full force and effect forthwith upon its adoption.

Adopted January 20, 2010.

EXHIBIT A

DESCRIPTION OF CAPITAL PROJECTS

Planning, design and construction for projects in the amount of \$80,000,000 to support the restoration of a minimum of 100-year flood protection in the American Bottom area of Southwestern Illinois, including the Wood River Levee and Drainage District, Metro-East Sanitary District, Prairie DuPont Levee and Sanitary District, and Fish Lake Drainage and Levee District. These projects will include the construction and reconstruction of earthen levees, pump stations, gravity drains, relief wells, cutoff walls, drainage ditches and other structures and facilities determined to be necessary to enable the levee system to protect the American Bottom area in Madison, St. Clair and Monroe counties, Illinois against a flood estimated to occur with a 100-year frequency.

Budget Update

Mr. Sterman noted that since the inception of the Council, we have spent about \$3.7 million, almost all of which is on program expenditures. Only a very small amount has been spent on administration. Looking ahead, we will have sufficient funds for the next few months to move the project forward. That assumes we will not pay the counties back during that period for the funds that they advanced to the project prior to the collection of the sales tax. He indicated that we may need to move the bond issue ahead more quickly than originally anticipated.

Report from the U.S. Army Corps of Engineers

Christopher Wilson, representing the USACE, gave the report. He noted the leadership meeting taking place in Alton tomorrow regarding the Wood River Levee District. Mr. Wilson described the request to reprogram funds internally to put toward temporary measures involving the uncontrolled underseepage problem described in earlier meetings. He described the process for coming up with cost estimates for MESD and the progress on the underseepage analysis in the Prairie DuPont/Fish Lake levee districts.

Mr. Sterman noted that future meetings concerning release of information in individual levee districts should involve leadership from all areas within the Council's jurisdiction since we regard this as a regional project. We should not consider the meeting concerning the emergency situation in Wood River as a precedent. Mr. Wilson agreed.

Mr. Dunstan asked whether the uncontrolled underseepage situation in Wood River had been declared an emergency. Mr. Wilson replied that it was not determined to be an emergency.

Mr. Sterman asked what the schedule is for the Limited Reevaluation Review for Prairie DuPont/Fish Lake. Mr. Wilson said that this would be a primary focus for fiscal year 2011.

Other Business

There was no other business.

A motion was made by Mr. Maher, second by Mr. Baxmeyer to go into executive session for the purpose of discussing pending litigation. Mr. Long noted that this action should be taken by roll call vote. Mr. Pennekamp asked for a roll call vote and the vote was as follows:

- Mr. Long – aye.
- Mr. Motil – aye.
- Mr. Parks – aye.
- Mr. Bergkoetter – aye.
- Mr. Brinkmann – aye.
- Mr. Baxmeyer – aye.
- Mr. Conrad – aye.
- Mr. Maher – aye.
- Mr. Pennekamp – aye.

Executive Session

An executive session of the Board of Directors was convened at 8:40 am and concluded at 9:33 am.

Open Session

The Board of Directors reconvened in open session at 9:35 am. Mr. Pennekamp noted that all members present prior to the executive session were still present. He indicated that in the executive session we discussed legal matters with the Council’s legal counsel and gave them direction.

Contract with AMEC Earth & Environmental to Conduct Levee System Certification Inspection

Motion by Mr. Maher, second by Mr. Parks to direct legal counsel, Husch Blackwell Sanders to enter into contract with AMEC Earth & Environmental to conduct a levee system certification inspection in anticipation of litigation. Motion was approved eight members voting aye, and Mr. Long voting nay.

Motion to adjourn by Mr. Maher, second by Mr. Parks. Motion approved, all voting aye.

Respectfully submitted

John Conrad,
Secretary/Treasurer, Board of Directors

Memo to: Board of Directors
From: Les Sterman
Subject: Program Status Report
Date: February 12, 2010

As work continues and more information becomes available, we are executing a project strategy even while continuing to reshape it. It will probably be six months before we can have a definitive concept plan and cost estimate for the project (a project timeline is shown in Attachment 2), which contributes to uncertainty and doubt about the future, but I'm confident that we are working in a methodical, yet urgent manner toward an ultimate resolution of the flood protection problem in the American Bottom. Major activities now underway are summarized below:

1. Levee Certification Inspection. The consulting team led by AMEC Earth & Environmental executed its contract with Husch Blackwell Sanders on February 4th, although work has been underway on the project for several weeks. Early work has involved making arrangements to collect a large array of supporting materials, data and analysis required to determine compliance with 44 CFR 65.10, the FEMA standard for certifying levee systems. The Council has sent data requests to the levee districts and the Corps of Engineers. Coordination meetings have been held with the Corps and with the staff of the Metro-East Sanitary District. All parties have been fully cooperative and the project is proceeding on schedule with completion expected in June, 2010.
2. Levee System Design. A request-for-proposal was sent on February 3 to the three firms selected by the Board to compete to furnish design services to the Council. Proposers were requested to submit a conceptual design proposal and cost estimate to the Council. This is well beyond the typical requirements for a qualifications-based design proposal, so the Council is providing a \$75,000 stipend to firms submitting fully responsive proposals. A description of the required conceptual design proposal is shown as attachment 1 to this memo.

There will be a pre-proposal conference on March 4, at which the Corps of Engineers has been invited to present its conceptual design proposals and cost estimate. These should be considered a baseline or starting point for analysis. Proposals are due on April 30 and it may be possible to select consultants at the May meeting of the Board. We may also convene an expert panel to review the proposals and make recommendations to the Board.

3. Financial Analysis. The financial analysis is well underway with progress being made on both major tasks, the fiscal capacity analysis and bond issue advisory services. Data is now being collected. There is no product yet to report.
4. Flood Insurance. The FOIA request to FEMA for information regarding the deaccreditation of the levee systems is still pending. A request for expedited processing of this request was denied by FEMA.

HR 3415, introduced by Rep. Costello is still pending and there are ongoing grass-roots efforts to encourage our congressional delegation to support the bill. Sen. Durbin has been meeting with FEMA to find ways of providing relief to the mandatory flood insurance requirement, but no specifics have been forthcoming yet.

The Leadership Council and East-West Gateway are underway with the economic impact analysis of deaccreditation. Businesses are being surveyed now and we should begin seeing results shortly.

5. Executive Order 2006-5. This Executive Order limits development in floodplains, particularly of “critical facilities” such as roads, bridges, schools, and other public and private developments. While this Order is a reasonable approach to limiting development in areas that are likely to remain in unprotected floodplain status on a permanent basis, we maintain that it should not apply to those areas that have been historically protected, but where the level of protection may be temporarily impaired and is being restored. Sen. Haine has introduced legislation, SB 2556, that codifies the executive order and defines floodplains such that areas like ours that are taking steps to fully restore protection will be excluded. A hearing on the bill has been scheduled for February 16, and I expect to testify in support.

Attachment 1

Conceptual Design Proposal and Cost Estimate

The Council is seeking the most cost-effective and timely design solution to restoring flood protection to the levels required by FEMA under 44 CFR 65.10 and maintaining eligibility for assistance under Public Law 84-99 administered by the Corps of Engineers. Proposals will be evaluated in large measure based on the quality, creativity, and credibility of the conceptual design proposal and the likelihood of achieving the Council's time and cost objectives while meeting legal requirements (e.g. levee certification and accreditation) for adequate protection from a flood event with a 1- percent chance of being equaled or exceeded each year (the 100-year flood).

Initial estimates for the project prepared by the Corps suggest that the project may cost significantly more than the funding, both local and federal, that we can project to be available in a reasonable time frame (5-7 years). However, those estimates are based on a narrow range of traditional design solutions to reduce underseepage. Rather than continuing to put the region at grave economic risk over a long and uncertain period of time, the Council is willing to consider a wider range of alternative design solutions that could reduce time and cost and mitigate flood risk to acceptable levels under federal law. Such an approach could minimize undesirable economic and environmental impacts.

Respondents are therefore urged to consider innovative, cost-effective ways to upgrade flood protection and achieve the outcomes desired by the Council. These might include:

1. Design solutions that will better utilize existing assets that, while they may be beyond theoretical design life, continue to meet adequate performance standards.
2. Operating and maintenance strategies that can substitute for capital improvements.
3. Longer term capital improvement plans that can provide for replacement of capital assets over a longer time period while maintaining compliance with FEMA and Corps requirements in the short-term.
4. Strategies that might reduce flood risk through both structural and non-structural approaches (e.g. purchase of flood easements upstream or downstream to reduce the base flood elevation).
5. Innovative construction techniques, contracting or procurement methods to reduce time and cost.

The conceptual design proposal should consist, at a minimum, of the following elements:

- ✓ a general description of all principal project elements (e.g. berms, relief wells, cutoff walls, flood easements, etc.) shown on base maps of appropriate scale or in some other schematic representation. The proposal may include alternative design elements that may be feasible or cost-effective.
- ✓ a description of all significant assumptions that contribute to design choices.
- ✓ an order-of-magnitude cost estimate, including unit costs for each major design element and estimates of other overall costs such as for contingencies and inflation.
- ✓ a description of construction methods, including any innovative methods to reduce time or cost.
- ✓ a description of procurement and contracting strategies to compress the project schedule and cost.

- ✓ an estimated schedule for design, construction, and development and presentation of certification documentation.
- ✓ a general explanation of design choices, risks, and other decision-making factors that the Council should consider in developing a strategy to build the project.
- ✓ a description of additional design solutions or construction strategies with potential to reduce the time or cost of construction that should be investigated during the design of the project.
- ✓ a description of approaches to maximizing the use of local labor, and local and disadvantaged businesses in the construction of the project.

