

EAST SHORE CONSERVANCY DISTRICT

AMENDED* MEETING MINUTES

September 11th 2020

Meeting was called to order at 1:08 P. M. by Acting Chair Jim Bremner who recognized the posting of the Agenda in accordance with the Indiana Open Door Law. Mr. Bremner was standing in for Chair Fritz Steck due to a scheduled absence.

Present: ESCD Board members present – Welch, Bremner, Cleveland, and Johnson. Consultants in attendance for the meeting were Buzz Krohn and Brandon Barthel of Krohn Associates and Alan Hux of Taft Law. Clark attended as Deputy Secretary to the Board to take meeting minutes.

Minutes of August 7th meeting were approved by a motion from Welch and a second from Johnson. Motion passed unanimously.

Old Business: The engagement letter for Krohn & Associates was approved by a motion from Johnson and a second from Welch. Motion passed unanimously.

The engagement letter for Alan Hux, Taft Law was approved by a motion from Welch and a second from Johnson. Motion passed unanimously.

Clark requested that the Board formally provide their **consensus of acceptance of the draft 2021 budget** presented at the August 7th meeting by Krohn & Associates. The Board accepted the draft 2021 budget. It was explained that the draft budget is submitted to the State's Gateway system and that it could be reduced when the Board receives Form 1782 from the Department of Local Government Finance (DLGF) in December. It was made clear to the Board members that the budget cannot be increased.

The Rates & Charges subcommittee Bremner reviewed the analysis Johnson and he did to get to a starting point for discussions with Krohn. Their plan was to emulate the approach used by the South-West Lake Maxinkuckee Conservancy District (SWLMCD) ten years ago by using bathrooms to establish a variable component for the rate.

Krohn then presented his rates and charges power point (see attached) discussing both the rate schedule that uses a bathroom count, and how the Special Benefits Assessment (SBA) is determined. The SBA is used to cover costs of operations and maintenance until such time as it may not be necessary.

Krohn went on to explain how the Exceptional Benefit Assessment (EBA) is determined from an appraisal report that will be submitted to the Board by a group of three appraisers over the next couple months. This report should be done no later than January or early February of 2021 so the rate can be assigned as a 2021 rate so it can be collected with property taxes due in the spring and fall of 2022. The EBA **should*** cover 125% of whatever the **annual*** maximum debt **service*** is determined to be. It will also be used for the first five years to cover replacement costs because the Indiana Finance Authority,

who manages all State Revolving Fund loans, requires a fully funded one-year debt reserve and a one-year replacement reserve. The EBA will be a uniform fee for each Freehold. For 2021 only the User Fee and the SBA will be charged.

Additional discussion included early pay offs, the timing of SBA and EBA levies and the appraisal protocol.

This discussion was set aside for a later date due to time constraints.

Hux presented Resolution No 2020-0911-1, A Resolution Establishing a Schedule of Rates and Charges to be Collected by the ESCD from the Users of the Sewage Works of said Conservancy District and other matters connected therewith to the Board. and went on to offer that the rates are to cover all the SRF funds that IFA would be loaning to the District. Welch read the resolution to the Board. Cleveland asked if the rates and/or charges can be changed. Hux confirmed they can always be changed by resolution after this Resolution No 2020-09-1 is passed on second reading. Hux explained that the Board first adopts the Rate Resolution on first reading. Then the Board holds a public hearing after which, if there are any changes the Board wishes to adopt, those changes can be made before finalization. Welch made a motion to pass the Rate Resolution on first reading. Johnson second the motion. Motion passed unanimously.

The two appraisals done of the East Shore Corp's assets were presented by Hux to the Board. He stated that the State statute says that a conservancy district can pay no more than the average of two appraisals.

Bremner read the Cleland Environmental Engineers appraisal dated August 19th, 2020 and gives an estimated value of \$2,209,000:

- 2000 system - \$696,675 less \$253,007 depreciation for a total of \$443,668;
- Land: 12.69 acres - \$23,000;
- 2020 system - \$1,742,004. (This part was determined by actual costs of the project due to age.)

He then read the Jones Petrie Rafinski appraisal dated August 26th, 2020 and gives an estimated value of \$3,161,770:

- 2000 system - \$1,402,083 less \$714,508 depreciation for a total of \$687,575;
- Land: 12.69 acres - \$22,100;
- 2020 system - \$2,474,195. (This part was determined by a collection of numbers developed from this project as well as other projects around the State.)

The average of the two appraisals is \$2,685,385.

The Option to Purchase was introduced by Bremner who stated that Welch and Cleveland had reviewed the document. Welch reported that he and Cleveland discussed it and Welch then relayed their joint comments to Hux so those changes could be made to the document and it could be sent to the Board. The discussion included

1. Amount of land to be involved in the transfer. *Cleveland wants the District to only purchase "the land it needs to support today's system." Welch disagrees and believes the entire 12.69 acres should be included in the purchase.*

2. Remediation of the land. *Bremner asked Clark to respond and she explained that ESC has received and accepted a quote for the remediation and that it should be done within the next two weeks. The plan was approved by the State and County Health Departments and ESC would receive a certificate from the County when it is done to their satisfaction.*
3. The condition of the older system that was built in 2001. *Clark noted that the useful life tables are provided in the Cleland appraisal and the life of that system is estimated at 50 to 65 years.*
4. Warranty on the old system. *The proposal is that the ESC will provide a one-year warranty on the older part of the system.*

Welch suggested passing a motion to approve the Option to Purchase. Cleveland asked for more time until he has the chance to review not only both appraisals, but also the as-built drawings of both the old and new systems before making his decision.

Hux raised the issue of timing on the sale and how it relates to the potential State financing that the District is attempting to secure. Krohn states that it doesn't seem the Board will make a decision today and that may jeopardize the 2% financing that has been discussed with IFA. Hux asks if Krohn can check to see if IFA would consider lending funds in February or March of 2021. Krohn will ask about this. No motion was made, a decision was tabled until the next meeting.

At this point the meeting was closed and the Public Hearing on the Draft 2021 Budget was opened as scheduled at 3:00 p.m.

This discussion will be covered in the minutes for the public hearing, a separate document.

The public hearing was closed at 3:31 p.m.

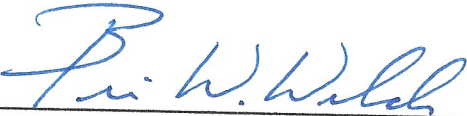
The regular meeting was opened again at 3:31 p.m.

The District Plan was presented by Hux. Cleveland raised issues about the Plan that he feels need to be added. Discussions occurred about how to handle those not presently connected to the system and how long they should have before they have to hook up to the system. Krohn confirms that those not hooked up would be assessed an exceptional benefit assessment. Cleveland disagrees with that. It was explained that that would mean others would need to carry the full burden to make up for those that he would 'forgive' from the EBA. After much discussion Cleveland states that he wants to find a way to protect those with a hardship. Several versions were discussed. **Cleveland stated in regards to the exceptional benefit, that he believes the assessment based on a uniform per freehold calculation is inequitable and should be based on an assessed value. He also stated that the District Plan needs to include the core economic terms. Bremner stated that the calculation per freehold assessment is an accepted method of assessing the benefit and was used in the South-West Lake Maxinkuckee Conservancy District. Bremner also stated that he believes the assessment on an appraised value basis is inequitable. A debate ensued. There was also a debate about putting the core economic terms in the plan*.** Hux stated that the State statute and the court doesn't allow for this type of discrimination – this has been, and will be, determined by the court when the District Plan is considered by the court.

Johnson asks about a way to make regulations for what this Board wants to see. Bremner asks her if she would be willing to consolidate the issues discussed here into some type of a document that the Board could consider. She agreed. At this point Hux asked if the Board would be willing to set up an earlier

meeting, before the October 11th meeting for the Rate Resolution public hearing, so a decision can be reached? The Board agreed to set a meeting for September 25th and Clark will make the arrangements.

Bremner called for adjournment at 4:15 p.m. and it was seconded by Johnson.



Board Secretary Brian Welch
September 21, 2020

AS AMENDED 10/1/2020