

LOOKING GLASS RIVER INTERCOUNTY DRAIN

DRAINAGE BOARD MEETING

Thursday, January 11, 2018

Shiawassee County Emergency Operations Center
Corunna, Michigan

MEMBERS PRESENT: Michael Gregg, Michigan Department of Agriculture & Rural Development
Phil Hanses, Clinton County Drain Commissioner
Carla Clos, Ingham County Deputy Drain Commissioner
Tony Newman, Shiawassee County Drain Commissioner
Ken Recker, Livingston County Deputy Drain Commissioner

MEMBERS ABSENT: None

ALSO PRESENT: Christine Kosmowski, Michigan Department of Ag & Rural Development
Jenna Jullie, Shiawassee County Deputy Drain Commissioner
Alan Boyer, LSG Engineers & Surveyors
Mike Woodworth, Woodworth & Associates
Gina Woodworth, Woodworth & Associates
Alexis Vlahakis Cole, Woodworth & Associates
Kay Nickols, Woodhull Township Supervisor
Mark Fulks, Perry Township Supervisor
Jerry Gutting, Antrim Township Supervisor
Ron Hoeft, LSG Engineers & Surveyors
Seth Gibson, Clinton Conservation District
Tim Chattaway, Chattaway Excavating
Chris Tomac, Wombat Services
Charles Shaw
Shawn Weaver

Chairman Gregg called the meeting to order at 10:12 a.m.

2. Review and set the agenda

Request to add “information packet review” under 4a, and amend 4e to remove the governance resolution and replace with “Liebengood Tree Maintenance Agreement”

MOTION by Hanses to approve the agenda as amended. SECOND by Newman. MOTION CARRIED unanimously.

3. Approval of the November 8, 2017 meeting minutes

MOTION by Clos to approve the minutes of November 8, 2017 as presented. SECOND by Newman. MOTION CARRIED unanimously.

4a. (1) Inspection report from Clinton County and LSG Engineers and Surveyors

Boyer explained that Chattaway Excavating has completed work on Contract 2 which lies east of M-52 and Wombat Services has completed most of the work on Contract 1 which lies west of M-52. LSG has inspected these areas and has prepared pay requests for board action for the work that was completed in 2017.

Those in attendance viewed the video acquired during the December 12, 2017 helicopter inspection.

4a. (2) Public information packet review

Woodworth distributed a narrated power point presentation video, a list of frequently asked questions, and a press release. The video and questions are intended to be placed on each county's websites. Notifications to district property owners and municipalities will direct people to view this information. Woodworth talked of the logistics involved in noticing the district of this size about the day of review for the district boundary revisions and apportionments. It was recommended to use a mailing service to send out notices. The day of review should be scheduled concurrently in each county. Clos and Newman wish to have LSG staff available at their day of review and the expenses attendant to having engineering staff there will be the responsibility of Ingham and Shiawassee counties accordingly. May 2, 2018 was selected as the day of review for each of the four counties.

MOTION by Clos to set the date for the concurrent Day of Review of District Boundaries and Apportionments as May 2, 2018. SECOND by Hanses. MOTION CARRIED unanimously.

MOTION by Hanses to authorize Woodworth & Associates to coordinate the noticing of the Day of Review meeting and preparation of the applicable notice. SECOND by Clos. MOTION CARRIED unanimously.

4b. Approve contractor payments

Boyer presented the contractor pay requests. On Contract 1, Wombat Services has submitted for payment #1 in the amount of \$50,087.50 for the work completed in 2017. On Contract 2, Chattaway Excavating has submitted for payment #3 for the remaining balance on the contract in the amount of \$86,787.50. The annual maintenance expenditure of \$180,000 was reached with these payments.

MOTION by Newman to authorize payment on Contract 1, Pay Application No. 1, and Contract 2, Pay Application No. 3 as recommended by the engineer. SECOND by Hanses. MOTION CARRIED unanimously.

4c. Discuss further work and take appropriate action

Newman explained his preference to continue with additional maintenance since contractors are available and on site. He noted at least two large log jams in Clinton County. He suggested starting at the Clinton/Shiawassee county line and working upstream and preferred not waiting until next year or later to proceed. He suggested change orders to the existing contracts to include more work. Both contractors confirmed that they are agreeable to additional work at the same per foot rate. Chair Gregg asked Boyer if he would be able to prioritize additional work. Boyer estimated that with the remaining dollars available for 2018 maintenance, an additional four miles could be worked on during this year but he would have to go back and review the helicopter inspection in greater detail to figure out which reaches would make the most sense. He felt he could complete that review in one to two weeks. In prioritizing work, it should project out two to three years. Hanses stated that he feels the board needs to have a

written maintenance plan to work from covering multiple years. Boyer felt he could develop such a plan in short order. He said it could be something very simple and would not propose it would be elaborate. Gregg noted that if the board was to continue working under change orders on the current contracts, another note or advances out of revolving would be required. Recker noted that his constituents have been begging for something to be done downstream of the Livingston/Shiawassee county line for years. Gregg stated that if we were not to authorize additional work now, that doesn't mean that it could not be done this summer or fall. Newman responded that while we could approve work late summer, by November we would have to be done to avoid conflicts with hunters. He was concerned with additional delays in moving forward. Newman asked the opinion of the township officials in attendance. Shiawassee officials who spoke favored continuing to move forward with work.

MOTION by Newman to have LSG to work with Drain Commissioners to develop a maintenance plan for the drain and proceed with additional work by change orders to existing contracts not to exceed the maintenance expenditure limit for 2018. SECOND by Clos.

Discussion – Hanses, while not opposed to additional work, expressed concern that little work is planned in Clinton County and project costs continue to rise. Recker questioned the apportionments between the counties. They were previously established at Ingham 8%, Livingston 5%, Shiawassee 69%, and Clinton 18%. Hanses stated the importance of working with LSG to prioritize work areas. Clos was not opposed to work in Clinton County if needed to avoid flooding.

MOTION CARRIED.

MOTION by Clos to authorize changes orders to be prepared and signed by Chair Gregg in coordination with the Drain Commissioners of the Counties where the work is to be performed. SECOND by Newman. There was no additional discussion. MOTION CARRIED unanimously.

Discussion took place regarding how to fund any additional work.

MOTION by Clos to have Treasurer Shiawassee County prepare a recommendation for financing of the authorized work to be presented at the next meeting. SECOND by Newman. There was no additional discussion. MOTION CARRIED unanimously.

4d. Treasurer's report

The treasurer distributed copies of a draft computation of cost. After receipt of expected payments the cash balance will be \$81,334.64. Jullie noted that there is \$55,173.50 yet to be paid for the balance remaining on Contract 1 to Wombat Services.

MOTION by Clos to receive and file the Treasurer's report. SECOND by Hanses. MOTION CARRIED unanimously.

4e. ~~Discuss the Governance Resolution~~ Liebengood Tree Maintenance Agreement

Woodworth and Hoeft explained a situation with Mr. Liebengood, a landowner concerned with cutting trees along the drain. The Landowner agreed to sign an agreement that he would remove any trees that fell into the drain on his property. Woodworth drafted a Tree Management Agreement stipulating certain requirements of the landowner. It is a personal contract with the landowner only and expires if he violates the agreement, sells the property, dies, and, if none of those events occur, finally expires December 31, 2027. Much discussion ensued among the board members. Contractor Tomac explained

that all dead and fallen trees in and along the drain were removed and he felt that any trees that were left were not likely to fall within the next five years.

MOTION by Newman to adopt the Tree Management Agreement with the condition of not setting precedent for other lands and to authorize Chair Gregg to sign the agreement on behalf of the board. SECOND by Clos. MOTION CARRIED unanimously. *An unsigned copy of the agreement is attached for reference.*

6. Other Business

There was no other business.

7. Public Comment

Jerry Gutting, Antrim Township Supervisor had questions on how additional work would be prioritized. Boyer responded that he would identify reaches of the drain that need work, and not identify specific locations of each problem. He will identify what reach needs the most attention, where the worst backups are, and try to address those first and then do other reaches later. Gutting was concerned that some parts may be skipped and logs from those areas may float downstream to create bigger jams.

A landowner questioned whether landowners on tributary drains would be assessed as part of the Looking Glass Drainage District. The answer was yes.

8. Set the date, time, and location of next meeting

The next meeting was scheduled for 9:30 a.m. (*later changed to 10:00 a.m.*) on Wednesday, January 31, 2018 at the Shiawassee County Drain Commissioner's Office.

9. Adjourn

MOTION by Hanses to adjourn the meeting. SECOND by Recker. MOTION CARRIED unanimously.

Chair Gregg declared the meeting adjourned at 1:00 p.m.

Respectfully submitted,


Phil Hanses, Secretary

Note: These minutes are subject to approval at the next scheduled drainage board meeting.

Approved by the Drainage Board on January 31, 2018

Agenda

Looking Glass River Intercounty Drain Drainage Board Clinton, Ingham, Livingston, and Shiawassee Counties

10:00 a.m., Thursday, January 11, 2018
Shiawassee County Emergency Operations Center
149 Corunna Avenue L-1
Corunna, Michigan

1. Call to order and roll call

Board Members

Michael Gregg, Chair, Michigan Dept. of Agriculture & Rural Development
Phil Hanses, Clinton County Drain Commissioner
Patrick Lindemann, Ingham County Drain Commissioner
Brian Jonckheere, Livingston County Drain Commissioner
Anthony Newman, Shiawassee County Drain Commissioner

Engineer

Alan Boyer, P.E., LSG Engineers and Surveyors

2. Review and set the agenda
3. Approval of the November 8, 2017 meeting minutes
4. Communications and reports of board members, committees, and consultants
 - a. Receive an inspection report from Clinton County and LSG Engineers and Surveyors & informational packet review.
 - b. Approve contractor payments
 - c. Discuss further work and take appropriate action
 - d. Treasurer's report
 - e. ~~Discuss the Governance Resolution~~ Liebengood Tree Management Agreement
5. Approval of invoices
6. Other business
7. Public comment
8. Set the date, time, and location of the next meeting
9. Adjourn

COMPUTATION OF COST

Looking Glass Joint
(#00284 &)

Presented to the
Drainage Board on
1/11/18

Date	Funds in	
01/31/2017	Loan from Mrs. Lee	\$ 400,000.00
	Interest	\$ 132.64
Total		\$ 400,132.64

Date	D.O. Expenses		
10/06/2015	04473 Woodworth	\$ 16,095.60	
10/06/2015	04474 LSG	\$ 7,292.50	
11/20/2015	04500 Streamside	\$ 488.75	
07/18/2016	04638 Woodworth	\$ 1,613.75	
12/16/2016	04698 Independent Newspaper	\$ 139.20	
12/16/2016	04699 Ing Co #3095, #3164, & #3141	\$ 404.25	
12/16/2016	04700 Woodworth	\$ 3,684.28	
12/16/2016	04701 LSG	\$ 29,344.95	
		<hr/>	
03/15/2017	04711 Woodworth #441	\$ 101.00	Balance
03/15/2017	04725 Chattaway pmt 1	\$ 36,575.00	
03/15/2017	04726 Dickinson & Wright #073337-01	\$ 4,700.00	
03/15/2017	04730 Ing Co #3300 & #3254	\$ 269.50	
03/15/2017	04731 LSG #2680	\$ 12,137.50	
05/04/2017	04746 Helicopter flyover	\$ 608.00	
06/22/2017	04788 Ing Co #3325	\$ 77.00	
06/22/2017	04789 Woodworth #550	\$ 305.53	
06/22/2017	04790 LSG #2789	\$ 3,240.00	
08/16/2017	04833 Ing Co #3439	\$ 115.50	
11/07/2017	04914 Woodworth #662, #592, #705, #737	\$ 6,077.76	
11/07/2017	04915 LSG #3026	\$ 4,515.00	
11/07/2017	04916 Ing Co #3226 & #3459	\$ 308.00	
11/07/2017	04917 Clinton Co: DR-2017-034	\$ 906.10	
11/08/2017	04926 Chattaway pmt 2	\$ 43,125.00	
12/13/2017	04939 Helicopter flyover	\$ 524.00	
12/31/2017	04960 Chattaway Pmt 3	\$ 86,787.50	\$ -
12/31/2017	04961 Wombat	\$ 50,087.50	\$ 55,173.50
12/31/2017	04962 Woodworth #758, #820	\$ 3,653.33	
12/31/2017	04963 LSG #3115	\$ 5,467.50	
12/31/2017	04964 Ing Co #3569	\$ 154.00	
Total		\$ 318,798.00	
		<hr/>	
		\$ 81,334.64	

55,173.50 still
owed on Contract 1

**LOOKING GLASS RIVER INTERCOUNTY DRAIN
TREE MANAGEMENT AGREEMENT**

THIS TREE MANAGEMENT AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2018, by and between **Kirk M. Liebengood**, whose address is 6051 Grand River Road, Laingsburg, Michigan 48848 (“Landowner”), and the **Looking Glass River Intercounty Drain Drainage District**, a Michigan body corporate, whose address is 525 West Allegan Street, P.O. Box 30017, Lansing, Michigan 48909 (“Drainage District”).

WITNESSETH:

WHEREAS, Landowner is the owner of a certain parcel of land commonly known as 6051 Grand River Road, Laingsburg, Michigan 48848, and further described and depicted in the attached **Exhibit A** (“Property”); and

WHEREAS, said Property is subject to an easement granted for purposes of the construction, operation, inspection, maintenance, repair, and improvement of the Looking Glass Intercounty River Drain (“Drain”), a duly established intercounty drain recognized by the provisions of Michigan Public Act 40 of 1956, as amended (“Michigan Drain Code”); and

WHEREAS, the foregoing easement interest was conveyed by a certain Release of Right of Way dated January 28, 1886, currently recorded in the Office of the Shiawassee County Drain Commissioner; and

WHEREAS, certain trees are located on the Property in close enough proximity to the Drain channel that they are at risk of falling into the Drain (“Trees”); and

WHEREAS, the Drainage District intended to remove these Trees to prevent them falling into and obstructing the Drain, but Landowner has requested that they be allowed to remain on the Property; and

WHEREAS, the Drainage District is willing to allow the Trees to remain on Landowner’s Property subject to the terms and conditions contained in this Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED that the Drainage District permits the Trees to remain on Landowner’s Property upon the following conditions:

1. Along that part of the Drain depicted in the attached **Exhibit A**, if any Tree or portion of Tree on the Property falls into the Drain channel, Landowner shall remove that fallen Tree or portion of Tree in its entirety at his sole cost and expense within ten (10) calendar days after that Tree or portion of Tree has fallen.
2. Landowner shall not leave, place, store or allow to be left, placed or stored any logs, branches, brush, debris, other items in or along the Drain channel.

3. In the event Landowner fails to remove a fallen Tree or portion of Tree as required by this Agreement, the Drainage District may remove that Tree or portion of Tree and any costs and expenses incurred in such removal shall be paid by Landowner within thirty (30) days of the Drainage District's mailing Landowner an invoice for same.
4. Nothing contained in this Agreement shall prevent or limit the Drainage District from removing any standing Tree or portion of standing Tree along that part of the Drain depicted in the attached **Exhibit A** if such removal is necessary to maintain the hydraulic capacity of the Drain and keep it fully operational. Removal under this paragraph shall be at the expense of the Drainage District.
5. Landowner shall pay all increased costs incurred by the Drainage District to operate, inspect, maintain, repair, and/or improve the Drain that result from the Trees being left undisturbed along that part of the Drain depicted in the attached **Exhibit A**.
6. Landowner shall defend, indemnify, and hold harmless the Counties of Clinton, Ingham, Livingston and Shiawassee, the Looking Glass River Intercounty Drain Drainage Board, and the Drainage District, their successors in office and interest, representatives, members, and employees, against any and all claims or liability, regardless of kind or character, for injuries, losses, or damages allegedly sustained by any person or entity in connection with, or in any way related to, this Agreement. Landowner further agrees to pay all actual costs, including attorney, engineering, and expert fees, reasonably incurred by the Drainage District in response to any such claim or liability.
7. This Agreement does not satisfy or excuse the Landowner's obligation to obtain any other permits, licenses, or permissions that may be required on account of the rights of others or federal, state, and local laws, ordinances, regulations, and requirements. This Agreement is conditioned upon Landowner timely and lawfully obtaining all necessary permits, licenses, and/or permissions.
8. This Agreement does not affect or alter the liability of the Property for Drain assessments levied, or to be levied, by the Drainage District nor does it excuse, diminish or otherwise affect Landowner's obligation to comply with all applicable provisions of the Michigan Drain Code.
9. This Agreement contains the entire agreement of the parties with respect to the subject matter. All previous negotiations and statements by them or their representatives regarding the subject matter are merged into this Agreement. There are no third-party beneficiaries, and none are intended. No modification of this Agreement shall be valid or binding unless that modification is contained in writing dated and signed by the parties.
10. This Agreement is not assignable by Landowner and shall automatically terminate upon the earliest happening of any of the following events: (1) a violation of the terms and conditions of this Agreement by Landowner; (2) Landowner's conveyance of the Property without his retention of an ownership interest therein; (3) Landowner's death; or, (4) on December 31, 2027.

11. This Agreement will be construed in accordance with Michigan law, and any legal action related to it shall be brought in a Michigan court of competent jurisdiction. If any portion of this Agreement is determined to be invalid, the remaining portions shall continue in effect.

**LOOKING GLASS RIVER INTERCOUNTY
DRAIN DRAINAGE DISTRICT:**

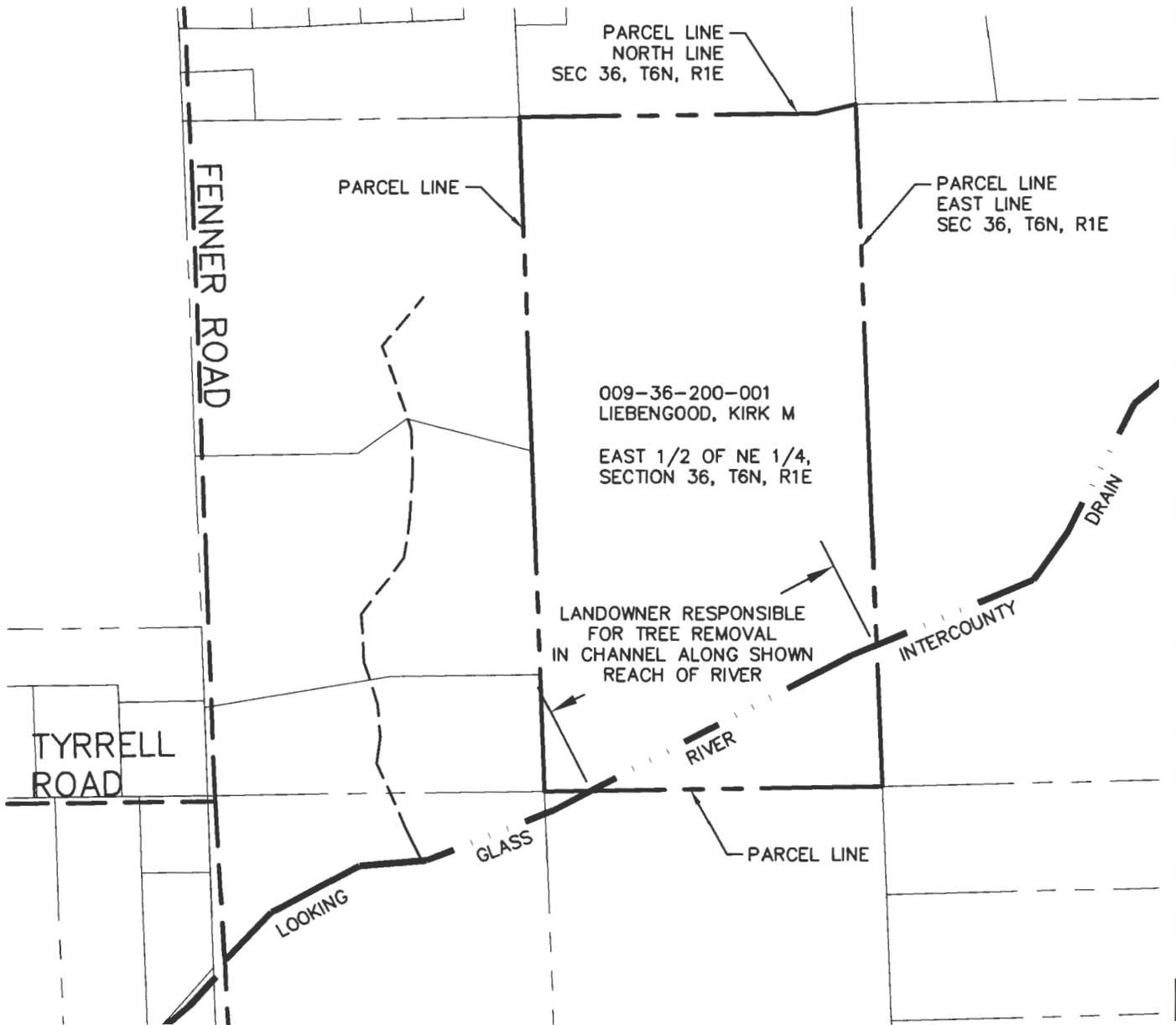
Michael R. Gregg, Chairperson
Looking Glass River Intercounty Drain Drainage Board

LANDOWNER:

WITNESSED BY:

Kirk M. Liebengood

EXHIBIT A



FILE: L:\1489 (SCDC LOOKING GLASS DRAIN)\C\6 PLANS\009-36-200-001.DWG - PLOT DATE: 1/10/2018 3:42 PM BY: Ron Hoett SCALE: 1:1

LSG
Engineers
& Surveyors

3135 PINE TREE ROAD
SUITE D
LANSING, MI 48911
PH. (517) 393-2902
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PREPARED FOR:
**LOOKING GLASS RIVER INTERCOUNTRY
DRAIN DRAINAGE DISTRICT**
SHIAWASSEE, CLINTON AND
LIVINGSTON COUNTIES

TREE MANAGEMENT AGREEMENT
FOR
009-36-200-001
6051 GRAND RIVER ROAD
LAINGSBURG, MICHIGAN

FILE: 009-36-200-001.DWG
DESIGNED BY: RAH
DRAWN BY: RAH
CHECKED BY: ADB
DATE: JANUARY 9, 2018
SCALE:
HOR: 1" = 500'
VERT: N/A
PROJECT NO:
1489
SHEET NO:
A-1