

**GREEN BROOK FLOOD CONTROL COMMISSION
MEETING MINUTES**

LOCATION: Virtual Meeting

DATE: December 2, 2020

MEETING CONVENEED: 7:30PM

NOTE: Adequate notice of this meeting was provided informing the public of the time and place according to the provisions of the Open Public Meetings Law (Chapter 231, P.L. 1975).

IN ATTENDANCE:

Raymond Murray . GBFCC Chairman
John Ferguson . South Plainfield
Theodore Bassman . Scotch Plains
Rich O'Connor - Engineer, GBFCC
Rob Zucker . Winning Strategies
Alek Peterson . USACE NY District
Alice Tempel . South Plainfield
Stacy Narvesen . Dunellen

William Crosby . GBFCC Treasurer
Joe Skupien . Somerset County
John J. Sweeney - Middlesex
Jessica Dunne . Dunellen
Harry Allen . North Plainfield
Pedro Esteves . Plainfield
Valerie Bogart . Somerset County
Bethany McClanahan . USACE NY District

MINUTES

The October 2020 minutes were approved. A copy of the approved minutes is available on the GBFCC website.

BILLS

The typical three bills, Grotto Engineering, Tina Totten, & Winning Strategies, and one additional to the Courier News advertising for the RFP. Bills presented were reviewed and found to be in order. A motion was made to approve payment of the bills. Motion carried.

CORRESPONDENCE

No external correspondence.

The GBFCC maintains a correspondence file that is available for inspection as may be necessary and upon request.

BUDGET

Budget was introduced last month. Proposed 2021 budget was reviewed & recommended to be approved. A motion was made to approve budget. Motion carried.

NOMINATING COMMITTEE

Mr. Crosby contacted other members of the nominating committee. They reached out to a few people to gauge interest. The result is the committee recommends the reappointment of the existing officers.

Ray Murray . Chairman
John Sweeney . Vice Chairman
William Crosby . Treasurer

Mr. Murray asked for any other nominations from the floor. None were made. A motion was made to approve the officers for 2021. Motion carried.

REQUEST FOR PROPOSAL for 2021

The Commission posted in the Courier News Request for Proposal for Professional Services for Engineer & for Government Relations for upcoming year. The only two respondents were our current providers who submitted proposals which are compliant and for the same billing amounts as last year. A motion to reappoint Winning Strategies for Government Relations and Grotto Engineering for Engineering & Administrative Services for the 2021 year was made. Motion carried.

ARMY CORPS OF ENGINEERS . . . Alek Peterson, Project Manager

Borough of Middlesex (Segments C, H, B, D).

- Contracts B-1, B-2 & B-3 are completed.
- B-4 is schedule for future years and B-5 is not built yet. p
- Currently two active construction sites:
 - Segment C-2 Contract 1 consists of floodwall west of South Lincoln Ave. & heading up towards Lee Drive. Floodwall completed. Grading, seeding, grass is done. Only activity left for this contract is acquiring residential property at 174 South Lincoln Ave. In negotiations with the homeowner. Once acquired, Carbro Contractors will demolish and then we will grade & seed that area. Touch up grading & seeding is all that needs to be done.
 - Segment C-1 which consists of a base floodwall (900-feet) which is in place. Two coats of stain have been put on the unprotected side. Staining of the protected side is dependent upon weather. There is a hydraulic gap open from behind Lee Drive up to about Clay Ave., at 207 Pond. That was put in place to avoid inducing flooding or increasing water surface elevation levels as we continue with construction and plan for a levee on the opposite bank.
- The options consist of 125-feet of linear floodwall - both the base gap & the optional flood wall are dependent on the Segment H levee on the left bank of Bound Brook South. That contract would be coming up summer of 2021. Once we issue a construction contract for the Segment H levee on the other side, we would look to complete that base gap and the optional flood wall. The optional floodwall, the levee and the generator building for the pump station and the fuel cell are on 207 Pond. Right now, we are in the condemnation process and are we are coordinating with the Division level to advance that package to Headquarters. Hopefully after HQ, it can go to DOJ, so we can get it logged in & gain access to the property and complete the remaining work.
- We have awarded the culvert for Segment C-1 to Carbro Contractors for \$7.8 million currently Carbro has cleared north and south areas up against railroad embankment of NJ Transit. Have been removing trees, taking out stumps and beginning to put the culvert pieces into the railroad embankment. Right now, coordinating for the temporary access construction permit to be able to put the culvert in. That and the occupancy permit would come from NJ Transit. We expect to get those soon so Carbro can access the embankment. The track in that location would be taken up, fill would be removed, and the pre-cast culvert would be put in place. It would happen over a 2- or 3-day period, to be coordinated with Transit, typically a weekend or a low-volume time. As mentioned before, for the levee, generator building, fuel cell, and the optional floodwall, we need 207 Pond.
- Right now, we considering award of all remaining options to Carbro Contractors under terms that if we don't have access to 207 Pond by a certain date, those items can be deleted from the contract with no additional cost. The advantage to that would be to allow the construction contractor to begin constructing the pump chamber for the pump house, which is not on 207 Pond.

- In 2021, the main construction contract that we are looking to award hopefully in the Summer, would be Segment C-2 & H. On the construction sequencing map, that would be number 5. The base contract we are looking to award would include two closure gates across South Lincoln on both the north & south sides of bridge, and any accompanying monoliths to support the closure gates. One in ongoing C-2 contract 1 area and the other on the South side in the C-2 & H area. The main option we would be looking to award is the segment H levee, which is the levee east of South Lincoln, terminates where the C-1 options are. As mentioned before, we want to award the construction contract for that option hopefully in 2021. We are acquiring the necessary real estate in that area. We would coordinate construction of that levee with closing the base gap in number 2 and building the optional flood wall at the left, west end of the C-1 options.
- In future years, we would look to move up to award C-3 & C-4.
- Anticipate a design contract to be awarded for C-5 in early 2021. (number 8 on diagram)
- B-4 (floodwall left bank) is at 90% design now, so that would be coordinated to be awarded at same time as C-5 levee.
- Completed investigations for the purple oval number 10 - C & D. Next step would be to award a design contract, pending funding.

Expect to receive \$157 million in FY21, not sure how the change in Administration will affect that, but still anticipate that. How much of the \$157 million we can use is dependent upon how much we receive from the NJDEP, the non-federal sponsor, at the 75/25 cost share.

We have carryover funding going into next year of nearly \$20 million. With the carry over & the potential FY21 funding, we could have anywhere in the \$40 million to \$60 million range to work with and we anticipate that would be sufficient for the C-1 options and the C-2 & H base.

Upper Basin

Completed Validation report and Director's report to both NJDEP & GBFCC. The report recommended a General Reevaluation Report (GRR) be initiated as the two detention basins and the channel in Plainfield were found to be not feasible. Hope to continue construction in lower basin & Stony Brook. Right now, we are coordinating with our division level & expect to have a meeting later this week with our Colonel to clarify the position on Stony Brook. Higher level investigations indicated that Stony Brook might not be a good candidate to reauthorize. The District position currently is that we would like to see this as a system and leave Stony Brook in. We expect to have some meeting this week on that.

Not likely that any reauthorization of cost for the project would make the Water Resources Development Act 2020 which is anticipated this month. If the Commission of any local constituents would like to contact your congressmen or senators to get it in WRDA 2020, the district has no opposition to that.

Mr. Murray: The Commission had a call with NJDEP & NY District discussing the Stony Brook right before the Thanksgiving holiday. The current view that USACE is putting forward is that the Stony Brook needs to be reexamined because of the cost & benefit that will be received. The position of the Commission & NJDEP is that this was approved as an overall project. We understand the need for a re-study of the Upper Basin because it physically cannot be built the way it was designed, but the rest of it should be left as it was designed. If you nit-pick smaller segments, the overall project will fall apart. The District is in agreement with the Commission but are getting pushed in a different direction by HQUSAE. Rob Zucker will explain more, but know we are working with the congressional offices to let them know this is a concern.

Mr. Peterson: We are continuing to work & coordinate internally. Our position in the validation & directors report was that this is a system and there were life safety risks associated with project.

Mr. Murray: There was a lot of work in directors report to show that the six deaths in 1973 were directly related to flow coming off the Stony Brook. Regardless of the economic benefit, and recognizing it is a smaller portion of the project, this is where we lost lives in 1973 and we are working hard to impress that fact in our discussions.

Mr. Sweeney: Where do we stand with NJ state funding? That has always been a concern.

Mr. Murray: I'd let Alek explain more about the NHDEP money timeline, but we have been working on ways to possibly segment parts of the contracts/options so that if additional money became available, we could take advantage of it.

Mr. Peterson: We have about \$20 million of carryover from FY20 into FY21. We had prepared a table for NJDEP basically outlining what we could potentially do in FY21 and subsequent years. We had different scenarios, one being what could be done with the \$157 million federal & the \$52 million DEP match, and the consensus is that we would not have a limitation on funding and that would likely be sufficient to complete C,H,B,D system in Middlesex. There were hints at whether we would receive \$6.5 million as the NJDEP match or up to \$10 million. There were two columns in the table with what could be done in FY21 thru FY24 is we received \$6.5 million vs of \$10 million. We provided that to NJDEP for internal coordination. As mentioned before, our priority would be to complete C-1 and issue the base C-2, H contact and the segment H levee option.

There are also some non-structural efforts in Piscataway and Bridgewater for nine structures. We have begun evaluating for those structures and hope to have that completed in February time frame.

Also, there is some potential environmental mitigation that could be done for the project moving forward to compensate for riparian . river corridor impact as well as wetland impact. There is potential to obligate money there. Also looking for capacity in design contract for C-7 & D. So, we do have options.

We are coordinating actively with Real Estate monthly hoping to identify any risky properties that could potentially go to condemnation so we can begin negotiation process early if warranted to minimize risk of delay in schedule.

Do not want to speak for NJDEP and their intentions for FY21 so this is me speaking on that.

Mr. Sweeney: OK thank you. Sounds like NJDEP might do what they can in terms of the state portion of funding to keep this project going.

Mr. Murray: It was good to hear that they were the ones that hinted that the match number could go up to \$10 million, given the right back up to go with it.

One other thing to mention in case people did not see in today's paper, NJDEP will be getting a new commissioner in the near future. Commissioner McCabe has announced her retirement. Hopefully, the new person lives somewhere in the Green Brook basin and they are sympathetic to the project.

COMMENTS FROM THE COUNTIES

Somerset County – Joe Skupien

We will be following very closely the developments on the Stony Brook and confident the Commission will do everything that it can to get us the answer we are all looking for.

Middlesex County –

None.

Union County –

None.

GBFCC ENGINEER . Rich O'Connor

Thank you for your confidence & we look forward to continuing to work with you.

WINNING STRATEGIES (WSW) . Rob Zucker

I would like to express that too. Thank you for the opportunity to continue to represent the Commission.

One of the big things since we last spoke is the release of the Energy & Water Appropriations Bill from Senate. This is a measure that the Senate had held acting on and did not disclose their position on earlier this year as part of our typical appropriations process. It was released on Nov 11th. It contains the full \$157.4 million, which is the same level as the House & same level as was requested of the Trump Administration and USACE in their budgets in February. With the spending bill number being the same in the House & Senate, we are optimistic for it to be the same in the final version. Nevertheless, we are making the rounds and touching base over the last month just to make sure we maintain that level of support, which would be a record in terms of resources allocated to this project and that is exciting in terms of what it would enable. Especially considering that over the past several years we have been asking, and making the case on Capitol Hill, to accelerate the amount per year to get a better bang for the buck on the project progress overall.

Waiting to see how all these final deliberations play out. The money for all Federal Departments and Agencies that is being provided under the Continuing Resolution (CR) runs out on December 11th. There is speculation on whether Congress will be able to reach an agreement. If it were just up to staff, I think they could, but since it is not just up to staff, and politics plays a role, it will be interesting to see, including whether or not the President, in his own unique way, decides that he doesn't want to sign the bill. It is not related to our spending, but it looks like we are going to see the potential of a Presidential veto and a veto override for the first time during this administration with the President explaining on Twitter that he intends to veto the Defense Authorization Act yesterday evening. Congress saying this morning that they are going to pass it. We may find that if there is a willingness to override a veto on the Defense Authorization Act, maybe that will embolden Congress even in the face of potential opposition by the President on a large-scale spending package. When he signed a large-scale spending package in 2018, he talked about how much he didn't want to sign it and how he never wanted to sign a big omnibus like that again, but nevertheless, I don't think there is any appetite for a government shutdown on Capitol Hill. It's possible that if we saw a veto of the Defense Authorization Act be successful, maybe then that would embolden the Congress to both act and even if the President choose to veto it on his way out the door so to speak, Congress will override it. If it does not get acted on before the end of the year, we would expect negotiations to pick up right where they left off. We would be in a situation of either a CR going for some duration of time from December 11th, and if Congress thought they could get a better package before January 20th, or else we may see a CR to

sometime into the next Administration. The changeover happens at noon on January 20th. If reduced in the new Congress, which is sworn in on January 3rd or thereabouts as it falls on a Sunday this year, I could see this funding amount agreed to.

I think the question becomes where we stand in terms of a budget process for next year & how long it takes for a newly sworn in President Biden to do his own work on a budget for FY22. It is very possible given the large amount of funding, even if there are not doubts about the Stony Brook component, it is possible that the Corps may not seek so much more additional money in FY22, because of the substantial amount to spend in FY21. Alek just spoke of the carry over funding. We will be watching and advocating on that strongly.

With respect to the Stony Brook, after the discussion that took place where the District was explaining their lack of agreement with the comments that were handed back by HQ about potentially removing the Stony Brook as a component of the overall work due to the approach of it as a system. I have spoken directly with staff for Senator Booker and Senator Mendez's offices. We have not connected with Congressman Malinowski's office yet, but do not read anything into that other than that they are busy. I expect to speak with them shortly. I think staffs for both Senators have not heard of an effort by the Corps to short circuit the director's report as a means of officially changing any scope of the project, let alone telling Capitol Hill so I do not believe there to be a problem now, but we are trying to be very pragmatically paranoid. We told the staff that will be asking them to be in touch with the EPW or TNI Committees just to be sure that HQUSACE would not be conducting any mischief in the late hours of the day for the reauthorization of WRDA. In the next several days it is possible that WRDA gets a ride on an end of year spending bill. We have been asking them to raise the cost cap earlier this year based on a director's report that would have been pending approval and now as much as we would like that, we do not want any negative action taken as part of raising the cost cap pursuant to a director's report.

I think we are both playing defense & offense at same time. We have a good chance of ensuring a bad thing does not happen in this reauthorization, but it might limit our ability to achieve what we thought was reasonable earlier this year, which would have been raising the cost cap as well. With that, we have talked about all things being on the table to get the attention of the incoming Administration, including the meeting about appointment of a new assistant Secretary for Civil Works where they would have discussion with Senators, let alone what we hope would be a better relationship between our Democratic Senators and Democratic President. That is where we stand heading into the final weeks of the year. I am happy to answer any questions. We will be active on the Stony Brook issue in the coming weeks and month. We are striving for there to be a single briefing, by Ray, to all three, if not four Hill offices, that have been very helpful on the project as soon as this coming Monday.

QUESTIONS / COMMENTS

Mr. Peterson: The only other item to mention is the Upper Basin and the potential initiation of a General Reevaluation Report to look at unauthorized alternatives to provide flood risk management in that area. The validation & director's reports have concluded that the Oakway & Skytop detention basins are not viable.

Mr. Murray: If the director's report is not finalized in the very near future will that effect the potential funding of the GRR?

Mr. Zucker: I think the GRR provision in the House WRDA, that we would hopefully expect to see in the consensus WRDA, we still have that authorization process, not even the undertaking of the work part of it, just wanted to mention that.

Mr. Harry Allen: I have been thinking about non-structural alternatives as an interim measure for flood control in the Upper Basin, especially on the Stony Brook. Do we have access to the Stormwater Management Plans of all the towns in the Upper Basin or is that something that just the towns have?

Comment: I do not know specifically about the Upper Basin towns, but every town does need to have one and I am sure they are available from the towns. They also should be on file with DEP and the County as well because the County would have had to review and approve them. I do not think the Commission would have them, but they are available.

Mr. Allen: That would be interesting to look at. There are a lot of non-structural alternatives that could be put into place to at least minimize runoff, for example buffer zones and things like that. Wondering what these towns are doing about it.

Mr. Murray: A lot of the non-structural alternatives that might be in play, would have to be locally funded. It would not be anything the Corps would be able to implement.

Mr. Allen: I understand, but we are doing the same thing with bridges. I know Joe Skupien is doing this too. We are reconstructing the bridges looking at a 100-year flood control plan. The counties are doing that. It would seem to me that we are already taking some measures that would be mitigation of a long-term flood problem. I thought the sub-basins and the drainage basins of all the little towns that are tributary to the Stony Brook, especially from my & North Plainfield's point of view, would be helpful to mitigate the problem. For instance, regarding the Crab Brook along Route 22, there was a plan from the Dept of Transportation to modify the Crab Brook, originally, they were going to put up flood walls and so on. We were recommending non-structural, green alternatives to those. Particularly on the sub basins, even that little Crab Brook has flooding on the tributary. Those types of things are where I am coming from. I am a pollution guy; more than a flood guy, but they are related.

Mr. Zucker: One other point to bring up about the NJDEP Commissioner changing. Something that Ray has done on behalf of the Commission over the past year, especially with the notion of bigger chunks of money requiring bigger matches, is the outreach to local legislators in a more intensive way to make sure that the money is something that they are accountable for within the State budgeting process. I think that although it has already been talked about, NJDEP's willingness or assertion that they have funds to apply to this project, I think that process for whoever the successor is, offers the Commission a good opportunity to engage State legislators that would be involved in signing off on the nomination, let alone voting on it, a chance to raise the profile of this project and what is coming down the pike very shortly for the decision makers.

Mr. Allen: We got some money before from the Community Development Block Grants from DEP. Also got some money for some flood control related projects through the scouts and the environmental commission. There is money for smaller projects, outside of the Federal sphere, although it would be nice if the Federal government participated.

Mr. John Sweeney: I would like to send holiday greetings to one & all. God Bless, Stay Healthy & Well.

Everyone shared holiday well wishes and Happy New Year.

Mr. Murray: For the foreseeable future, we will hold these meetings virtually, except for the Memorial Service in August.

The GBFCC website got a facelift. It is more user-friendly. Much of what we talk about here is on the website including maps, treasurer report & budget, schedule of meetings, minutes, and links to the Executive Board Members.

MEETING ADJOURNED: 8:20 PM

Upcoming 2021 GBFCC meeting dates:

Wednesday, February 3, 2021, 7:30 pm

Wednesday, April 7, 2021, 7:30 pm

Wednesday, June 2, 2021, 7:30 pm

Saturday, August 7, 2021, 9:30 am at American Legion Pavilion· 707 Legion Place, Middlesex

Wednesday, October 6, 2021, 7:30 pm

Wednesday, December 1, 2021, 7:30 pm