

**REGULAR DRAINAGE MEETING**  
**Wednesday, June 10, 2020 9:30 AM**  
**This meeting was held electronically due to Covid-19 concerns.**

6/10/2020 - Minutes

1. Open Meeting  
Hardin County Drainage Chairperson Granzow opened the meeting. Also in attendance were Trustee BJ Hoffman; Trustee Renee McClellan; Lee Gallentine of Clapsaddle-Garber Associates; Michael Pearce; and Denise Smith, Drainage Clerk.
2. Approve Agenda  
Motion by McClellan to approve the agenda. Second by Hoffman. All ayes. Motion carried.
3. Approve Minutes  
Motion by McClellan to approve the minutes to Drainage Meeting dated June 3, 2020. Second by Hoffman. All ayes. Motion carried.
4. Approve Claims For Payment

Motion by Hoffman to approve claims for payment with pay date of Friday, June 12, 2020. Second by McClellan. All ayes. Motion carried.

DD 14 WO 291 Prof Svc to 5/30/20 Inv Plugged tile	Clapsaddle-Garber Assoc	\$ 589.70
DD 11 WO 294 Prof Svc to 5/30/20	Clapsaddle-Garber Assoc	\$ 1,007.25
DD 1 WO 244 Prof Svc 3/27/20 to 5/30/20	Clapsaddle-Garber Assoc	\$ 508.80
DD 48 WO 237 - Prof Svcs 4/25/20 to 5/30/20	Clapsaddle-Garber Assoc	\$ 971.30
DD 9 WO 229 Prof Svc to 5/30/20 Reclass Hrg	Clapsaddle-Garber Assoc	\$ 10,030.70
DD 14 WO 290 - Prof Svcs to 5/30/20 Blowout Repair	Clapsaddle-Garber Assoc	\$ 2,264.05
DD 25 WO 1 - Prof Svcs After 4/25/20 to 5/30/20	Clapsaddle-Garber Assoc	\$ 6,232.15
DD 26 WO 266 - Tile repair, parts, equip., labor	Honey Creek Land Improvement, LLC	\$ 11,392.50
DD 31 WO 278 - Prof Svcs After 3/27/20 to 6/4/20	Clapsaddle-Garber Assoc	\$ 1,076.25
DD 41 WO 194 - Prof Svcs After 9/14/2018 - 5/30/20	Clapsaddle-Garber Assoc	\$ 217.00
DD 48 WO 274 - Prof Svcs After 4/25/20 to 5/30/20	Clapsaddle-Garber Assoc	\$ 3,436.50
DD 52 WO 215 Crop Dmg Claim 2020-4 Alfalfa Sdg	Shaun Piel	\$ 430.00
DD 55-3 WO 201 - Prof Svcs After 3/27/20 - 5/30/20	Clapsaddle-Garber Assoc	\$ 751.30
DD 55-3 WO 284 - Prof Svc to 5/30/20 Beaver Dam Rmvl	Clapsaddle-Garber Assoc	\$ 290.20
DD 68 WO 293 - Prof Svcs to 5/30/20 Inv Sum	Clapsaddle-Garber Assoc	\$ 769.55
DD 86 WO 252 - Prof Svcs After 4/25/20 to 5/30/20	Clapsaddle-Garber Assoc	\$ 1,130.20
DD 102 WO 265 Prof Svc to 5/30/20 Reclass Rpt	Clapsaddle-Garber Assoc	\$ 753.30
DD 109 WO 269 - Tree Removal, labor, haul off	Honey Creek Land Improvement, LLC	\$ 2,920.00
DD 109 WO 269 - Prof Svcs After 1/31/20 to 5/30/20	Clapsaddle-Garber Assoc	\$ 1,603.00
DD 124 WO 259 - Prof Svc After 4/25/20 to 6/4/20	Clapsaddle-Garber Assoc	\$ 641.90
DD 128 WO 279 - Prof Svcs After 4/25/20 to 6/4/20	Clapsaddle-Garber Assoc	\$ 605.40
DD 131 WO 275 - Prof Svcs After 3/27/20 to 6/4/20	Clapsaddle-Garber Assoc	\$ 935.80
DD 143 WO 241 - Prof Svc 3/27/20 to 5/30/20 Hearing	Clapsaddle-Garber Assoc	\$ 285.00
DD 143 WO 261 - Prof Svcs After 3/27/20 to 5/30/20	Clapsaddle-Garber Assoc	\$ 253.80
DD 158 WO 285 - Prof Svc to 5/30/20 Inv Plug Tile	Clapsaddle-Garber Assoc	\$ 753.50
DD Big 4 Main WO 292 - Prof Svcs to 6/4/20	Clapsaddle-Garber Assoc	\$ 1,093.05
DD Big 4 Lat 4 WO 195 - Prof Svc 4/6/18 to 5/30/20	Clapsaddle-Garber Assoc	\$ 365.40

5. DD 121 - WO 295 - Discuss W Possible Action

DD 121 - WO 295 - Tom Gilmore reports blow out / plugged tile and water running across field on parcel # 862030400003.

Motion by Hoffman to have CGA investigate and report back findings, if it is something the lottery system can handle, it can be put in the lottery system to be addressed immediately. Second by McClellan. All ayes. Motion carried.

6. DD F-H 4-53 - WO 296 - Discuss W Possible Action

DD F-H 4-53 WO 296 - Jim Ziesman reports blowout with standing water on field on district tile in parcel # 89210400002, located near where tile enters field in grassy waterway. Smith has spoken with Franklin County Clerk, and Franklin County said we could write the work order on our end and send any invoices to them.

Motion by McClellan to have CGA investigate and report back findings, if it is something the lottery system can handle, it can be put in the lottery system to be addressed immediately. Second by Hoffman. All ayes. Motion carried.

7. DD 10 WO 2020-11 Discuss W Possible Action - Midland Power Utility Permit Application

DD 10 WO 2020-11 - Midland Power Cooperative has submitted a Drainage Utility Permit Application for rebuild of 3 miles of overhead electrical distribution, in DD 10, Buckeye Township, Sections 3, 20, 14, and 15.

Motion by Hoffman to approve the Midland Power Cooperative Drainage Utility Permit Application # 2020-11. Second by McClellan. All ayes. Motion carried.

8. Discuss W Possible Action -Wind Turbine Ordinance And Drainage Utility Permit Language & Process

Wind Turbine Ordinance and Drainage Utility Permit Application were discussed. It was discussed that there have been concerns expressed that the Hardin County recommendations outlined in the proposed zoning ordinance were a project breaker. Granzow stated whether this is a project breaker for this we can still move forward with this, and if the Board were to make accommodations to the ordinance this may not help them either. Hoffman noted that the CWECs still have two means of relief- a variance or a waiver.

The Trustees reviewed the bullet points for possible changes discussed in the March 25, 2020 drainage minutes, and the reply from attorney Mike Richards covering these possible changes. Hoffman has concerns about what the Iowa Utilities Board is proposing to do to the entire process involving commercial wind production. Hoffman stated that the Iowa Utilities Board has opened a public comment on the use of eminent domain as a means of development, and Hoffman states that this is an issue for the Iowa Supreme Court, and it will not be good either way. Granzow stated this needs to go to the Iowa Supreme Court, and Granzow does not believe that legislators or lobbyists have any idea what kind of drainage structures exist underground, and if we are looking at drainage districts which are backed by federal and state laws, this could be a challenge. Granzow does not believe a CWEC should be able to tell us they will construct a wind turbine within our drainage district easement using eminent domain. Hoffman stated the big concern he sees is the conflict of interest in that the attorney that RWE has retained as council is the same attorney that successfully lobbied the Iowa Utilities Board to start this process. Granzow stated that is not a good situation for Iowa. Hoffman stated what is next if you are willing to use eminent domain for a wind turbine, what isn't prohibited. Granzow stated eminent domain is put in place for public use, the wind turbines are not generating good for the Hardin County public to the point where the use of eminent domain qualifies. Hoffman stated we saw that in the Rock Island Clean Line in which they want to run utility conduit through these places to transmit energy somewhere else, not to Iowa Falls but to Illinois, because it was cheaper to produce it here and ship it to Illinois than it was to produce it in Illinois. Hoffman stated at some point we will have to make a very bold statement that eminent domain factor is a clear and present danger, and we have a very loyal and educated constituency that is very passionate about this. Hoffman stated the Iowa Utilities Board is a public entity but they are not advertising that they may use eminent domain so you wonder how much public knowledge there is of this. Granzow stated our Senators and Legislators are very aware of this, but others may not be, and that the number of Senators and Legislators seats are based on population not surface area. Granzow stated they are making rules for low populated areas, yet they are making decisions based on population. Hoffman stated there are areas in southern Iowa that may have one seat for four counties, but if you look at an area like West Des Moines they may have 4 legislators for an area the size of a tenth of a county. That vote of those 4 people can negate the votes of Dave Deyoe, Pat Grassley and Annette Sweeney that are representing our geographical area that is larger than a county.

Granzow stated whatever we do we will have to enforce our permitting process. Hoffman stated he has seen videos from Iowa County and near Ogden of the damages caused by CWEC cranes. Hoffman stated that Taylor Roll had verified with Palo Alto County's Engineer, photos of project damages done in the hundreds of thousands of dollars. It was discussed that the developer here is RWE, but while the developer in Palo Alto County's case may be different, all of the developers use the same contractors because it is such a specialized field, that once the contractors have a presence, they are used for their unique equipment, because no other contractors have it. Hoffman stated the CWECs/contractors will push to see how much they can get away with knowing that you will have to spend a whole lot more money to enforce your rules than what you will get in return. McClellan stated that Gallentine had expressed there were few problems in Franklin County's CWEC project, but we don't know if we will be working with the same contractor.

Gallentine clarified that during construction last year there were no problems, this spring we had a half dozen tile issues that have surfaced, they were either collapsed by a crane and were not apparent last fall, or when they bored the contractors depth was off and they went through district tile. Gallentine stated given the number of crossings, a half dozen wasn't bad but it is still damage that is impeding drainage. McClellan asked if the CWEC was paying to repair those. Gallentine stated that yes, the CWEC is paying to repair those the big issue is once that turbine network is up and running you have to schedule that repair when there is an outage on those lines. Granzow stated when we talk about our ordinance, we would not have that problem because we have already put in place that the district facilities would be televised before and after turbine construction. Gallentine stated if Franklin County had done that, it would have revealed these tile damages last fall. Granzow asked if they built any of these turbine in Franklin County within the drainage district easements. Gallentine stated no, whether by plan or by luck, they have not had to relocate any tile for the turbine itself, that we know of, this is the honor system the CWEC comes in and says this is our plans for where we are crossing, CGA did not go out and verify that the CWEC knows where everything is. Granzow stated in our ordinance the CWEC would have to know where everything is.

McClellan asked if we have a time frame of when a repair needs to be done if a drainage problem is discovered. Granzow stated if they were not in our easement we should not have a problem, but it should state in our ordinance the CWEC will shut down for repairs with a 24 hour notice from us. Granzow stated it should state in our ordinance that the turbines shall shut down with 24 hour notice from us for a repair. Gallentine stated in Franklin County, White Construction is doing the repair because they were the initial contractor, and they have another job they are working on and they are trying to bounce back and for the between the repair and new

construction. It was discussed that we do not need issue like the railroads, the CWECs would be coming into our easement, not us going in to theirs. Gallentine stated if you don't protect these tiles no one will. Granzow stated that is what we are doing as Trustees, Granzow would like to have County Attorney Darrell Meyer's comments on this and have Meyer attend the meeting next week for this discussion. Smith will contact Meyer.

Hoffman reviewed the four bullet points on the reply from attorney Mike Richards. Hoffman is not as concerned about bullet point number one, on the second bullet point he was glad that there was a substantial and legitimate reason to make revisions and was glad for the review by legal. Hoffman is most concerned with the third bullet point as when these repair issues occur it is important to repair them, and Hoffman does not want to disagree with Richards legal knowledge, if we don't have that \$50,000 repair fund in escrow and a handful of repairs come up it might stretch our ability to repair them in a timely manner fairly thin. McClellan stated the only time they would have to put up the \$50,000 is if the turbines are in a drainage district. Granzow stated that we spoke about this last week, that it would be \$50,000 per each turbine. Hoffman stated for example if they have 5 turbines in a district, there would be \$250,000 in escrow for repairs until turbines are complete and tiles have been televised, if there is no damage than \$200,000 would be returned and \$50,000 would remain in escrow for that district. Gallentine stated that was what we talked about, and Richards does not say it will be overturned this just that his gut instinct is that it will be challenged in court, that doesn't mean you can't adopt it, if someone wants to fight it, let them. McClellan states once they understand all but \$50,000 would be returned that would help, Granzow stated he is not for against wind turbines, and Hoffman stated he wanted the process done right and they are just used to someone laying down and rolling over to the CWECs demands. McClellan stated we have been urged to pass this.

Gallentine stated the intent is not to tie up the CWEC's money for a long amount of time. Hoffman stated it is to protect our landowners if something goes wrong. Gallentine stated the \$50,000 is enough to get their attention and say this is important to us, you need to pay attention to this. Granzow stated that we this money may be needed to make repairs. Hoffman stated it should not be the landowners waiting to get repairs done, and asked if in Franklin County, for the issues that arose, do they have to use the original install company to do the repairs. Gallentine stated they do not have to use the original company, the contractor has just acknowledged they did this and are making repairs and has not gone any farther than that. Hoffman stated when he spoke with Jacob Handsaker, Handsaker stated they had issues on the Garden City site, when Handsaker said we need these issues repaired, the contractor asked how do you want these fixed, Handsaker ended up doing the repairs himself because he is an expert in field tile repair. Hoffman stated these contractors come in from out of state and don't know anything about Hardin County and drainage tile. Hoffman stated when a landowner asks how long do I have to wait for a repair like this, what will we tell them, we already have an efficient system in place, that we meet every Wednesday, and can send CGA out to investigate, if there is a reasonable solution that meets the lottery criteria, we will take care of it and hopefully Paul Williams, Adam Seward, Jacob Handsaker, Justin Ross, can be out there within 12, 14 or 30 days. Hoffman does not want to put our landowners in a precarious situation where we are waiting on repairs and paying crop losses.

Granzow stated CWECs do have to perform repairs under our rules of repair, there will be an engineer there, they will use concrete collars and they will pay for that. Hoffman stated there will be issues with someone that does not have the turbine on their property that loses crops and then it will be everyone including themselves, paying for their crop losses, Hoffman thinks that is a horrible way to operate. Granzow asked if the CWEC stated they would pay for crop damages, Smith will go back and check the minutes to verify this. Granzow stated that if the CWEC did damage, they are responsible for crop loss no matter if it is 160 acres that flooded out because of it, this would be paid under that \$50,000 repair fund in escrow that we get in and fix it right away. Hoffman stated we could specify the CWEC has so many days to make the repair, or pay the crop loss. Granzow stated televising before and after will help with a lot of that, they will still be responsible for damages that come up.

Granzow is glad to have Richards and Meyer looking at this as it may go to court at some point, so before we pass the ordinance, let's make sure we pass the right ordinance.

9. Discuss W Possible Action - Iowa Drainage District Association Membership

Smith stated we had received an invoice for membership in the Iowa Drainage District Association (IDDA). Membership is not required to participate in the IDDA's events or trainings.

Motion by Hoffman to deny membership in the Iowa Drainage District Association. Second by McClellan. All ayes. Motion carried.

10. Drainage Clerk Performance Review

The Trustees provided performance review recommendations that will go to the Auditor for final review as the clerk position falls under the Auditor's supervision. The Trustees directed Smith to provide performance review objectives, and return to them to Trustees next week, and to add this item to next week's agenda.

11. Other Business

Other business was discussed prior to the Wind Turbine Ordinance and Drainage Utility Permit.

DD 86 - Smith received a report from DD 86 landowner Mary Hindraker, who reports a large washout to her driveway which is intersected by district tile. Smith stated she was unsure if this would be a district tile issue or a surface water issue. Smith shared photos of the washout. Hindraker reports that last year a drainage repair was done several years ago and about a year ago Hindraker reports work was done again in which her driveway was torn up. Hindraker reports that over the years some driveway rock would wash out, and that water comes from the back of the property to the front of the property at the driveway. Smith stated that the

district tile does go under the driveway and Hindraker states this is the first time that the driveway has ever washed out to this extent.

Gallentine stated he stopped and looked at this this morning, and reports right where this is at, we replaced a section of DD 86 tile that had collapsed or was ready to collapse, in January of 2019. Gallentine stated the tile is 5' to 6' deep right there, and does not think the tile has caused the issue, but that in January they filled trench with rock, as all the material was frozen. Gallentine stated it appears that material washed away, if frozen material is not filled back in, the rock may wash away. Granzow stated it looks like the repair was not done correctly which may have caused this large washout. Smith stated the City of Iowa Falls had sent this to the Engineer's office, and the Engineer sent it on to the Drainage Clerk. Granzow stated it looks to be an issue related to the 2019 repair issue and needs to be repaired again. Granzow stated he is ok approving a repair as an emergency repair since the driveway is gone. Hoffman stated this is a safety issue, if emergency services were needed at the home, they could not gain access since the driveway is out.

Motion by Hoffman to have CGA continue the investigation, document it and place in the lottery system for emergency repair sooner than later. All ayes. Motion carried.

DD 56 - Smith stated we have a DD 56 Landowner Meeting scheduled for July 8, 2020, Smith was checking in with the Trustees to see if they want to hold meeting date as originally set and if they would like project options listed on the postcards. It was discussed that the State may be making some decisions on larger gatherings later this week, and that it can be on next week's agenda to make decisions moving ahead with that information.

IRUA - Hoffman stated he had inquiries about an IRUA issue with connection to a house on HWY D41, and that if Smith is contacted that this can be on the agenda for review, much like we did with the recent request from the Rolph's for service.

DD 102 - Gallentine updated that Rognes Brothers has started laying tile on the wetland project, and have laid about 700' of tile so far and the bottom of the trench has been a clay material that has spooned very well, and so far no rock bedding has been used. The contractor has run into a couple of sand pockets but they are all above the clay layer.

DD 25 Lateral 3 - McDowell has started on the project south of Garden City but has been delayed by heavy rains this week. Gallentine stated that McDowell reported that the first heavy rain, they said the water was backing up from the main tile, through the tile they had laid and filled the entire trench in and was flowing overground away from the trench and it had 7' to 10' of head pressure on it.

## 12. Adjourn Meeting