

REGULAR DRAINAGE MEETING
Wednesday, June 17, 2020 9:30 AM
This meeting was held electronically due to Covid-19 concerns.

6/17/2020 - Minutes

1. Open Meeting

Hardin County Drainage Chairperson Lance Granzow opened the meeting. Also in attendance were Trustee BJ Hoffman; Trustee Renee McClellan; Lee Gallentine of Clapsaddle-Garber Associates; Darrell Meyer, County Attorney; Kevin Vierkandt, landowner; Jessica Sheridan, Environmental Health; 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 06-10-2020. Second by Hoffman. All ayes. Motion carried.

4. DD 25 Lat 3 WO 209 - Discuss W Possible Action - Update

DD 25 Lat 3 - WO 209 Gallentine wanted to review with the Trustees the proposed changes to make sure we are all on the same page, Gallentine reviewed the map locations and stated up by the railroad tracks on the downstream side, the blue line is the district tile, the red tile is the private tile, we are putting in a single larger 18" crossing on the east side we will hook all those together in one structure so that if the bottom tile gets full, it can rise up and go out the yellow line. Gallentine stated he has spoken with landowner Alvin Clark who also agrees we should use both tiles. Gallentine stated on the upstream side, are we only hooking the district tile into this 18" crossing and then at sometime if this goes bad, this landowner will hook in on his own. Granzow stated that is what he recalled that we would be hooking up both tiles as they are still flowing.

Gallentine stated we will have about 200'+ of tile if we hook it up for the landowner, this would all be 12" tile and we would be putting two 12" tile into single 18" tile, and that would only be under the tracks. Granzow stated that is up to the landowner to hook into it, they could connect there or move their tile 200' to connect. Gallentine stated that downstream of the tracks we are hooking them all together and upstream we are only getting the district tile across the tracks, the rest is up to the landowner. Granzow stated everyone on the upstream is paying for it anyway, if they want it done, the landowners will have to tell us as the downstream side is not paying for it, that would be a separate bill. Granzow stated in his recollection, we never talked about connecting that until after it crossed the tracks. Gallentine stated whenever the red line crossing goes bad, that gives the landowner the option to connect, we will connect the east side, the west side, we will just connect the district. Granzow stated if the landowners want to talk to McDowell themselves, and do it on their own they can. Gallentine stated they are working and are laying the black line on the map, they did try to televise yesterday because the pond west of the tracks is gone, and the contractor thought the tile may be empty, but it was still surcharged, there is no outlet for that blue line.

5. DD 42 WO 297 - Discuss W Possible Action

David Sweeney reports a 3' diameter blowout/sinkhole over the main till, approximately 50 yards upstream from where the main tile crosses the south property line. James Sweeney sent a photo of the sinkhole.

Motion by Hoffman to send to the lottery system. Second by McClellan. All ayes. Motion carried.

6. DD 120 Ext 5 - Discuss W Possible Action - Vierkandt Drainage Issue

Vierkandt DD 120 - Kevin Vierkandt was in attendance to discuss the issue of neighbor Kent Picht's tile discharging onto his property when the private pattern tile becomes surcharged. Vierkandt states when the tile is surcharged, the intake, which is located in the fence row on Picht's property, discharges water 6" to 8" above ground, causing ponding on Vierkandt's side of the fencerow, which creates about 25 acres of flooded ground in Vierkandt's field that he farms (Vierkandt is tenant on Hansen Farms' parcels). Granzow stated we don't have a problem with people tiling within their own property, issues arise when the standpipe discharges onto someone else's property. Vierkandt provided photos to the Trustees, of where the water blows out of the intake, Vierkandt states this was never a problem until Picht pattern tiled his field and installed the intake, as Picht's land is a higher elevation and pushed the water out the intake.

Gallentine stated he did not know how many landowners were in this district, but noted that some of the smaller districts have voted to go onto abandoning the district, so that they can fix the issues themselves. If you are down to only 2 or 3 owners, then they would not need the cost of an engineer if they could settle issues amongst themselves. Smith stated she had reviewed the minutes file for this district and it had been at least 10 years since a work order had been filed in this district, the only mention of the district in recent years minutes was when this same area was discussed by Picht prior to his private tile installation. Vierkandt stated the contractor that installed the private tile, McDowell told Picht that the intake would take the pressure off the private tile. Vierkandt stated the intake was initially discussed as being an intake for Picht's pond, but was not installed as such. Vierkandt stated the intake needs to be closed off if the main is not capable of taking the water, and we have blowouts then it is the landowners that have to pay to increase the size of the main, the outlet main down at the gravel road between the two hog buildings is 18" main, if the main at the 3/4 mile divide line between Picht's and Vierkandt's field is only a 7" tile, then the landowners need to pay to upsize that 7" to a 12" to take the pressure off. Vierkandt stated he does not think it is a problem from the two involved landowners if we can get enough participation from the rest of the landowners in the district.

Granzow asked if Vierkandt was requesting to upsize the tile, or to upsize the tile and have the intake removed, or if there is another option that would be a hickenbottom, where that standpipe could still be there but would not allow for backflow out of the standpipe. Gallentine stated that would be an offset gooseneck that would still allow water to backflow out of it just not as much water would flow out of it. Hoffman stated that we should have a frank discussion in a landowners meeting as this is an honest concern and this is the hydraulics of the situation. Gallentine stated that until the tile fills with water it acts under gravity and for that much water that goes down it, you have to have air to go up, it has to be an exchange, so once it fills up with water then it is a pressure situation, wherever there is an outlet for that pressure, that is where the water will go. Gallentine stated it behaves differently depending on how much pressure is in the system, Vierkandt stated that when we have a 2" or more rain it will flow out the intake. Vierkandt stated that the intake is not in Picht's pond it is in the fenceline. Gallentine stated the intake is right on top of the district main, and that was why Picht had asked permission to install the intake. Vierkandt stated he requests that Picht close off the intake, if we incur blowouts because of it, then we need to go to the process of upsizing the main, but if we seal it off and don't have any blowouts on the main, then if at that point we proceed with getting all the landowners to upsize the main, Vierkandt is fine with that. McClellan stated if Picht would allow his farm to pond, we would not have the issues we have now.

Vierkandt stated Picht and himself have invested money to pattern tile their fields, if we close it off and we have to upsize it, all the other farmers in the district would pay an assessment to do that and they would benefit also. Hoffman stated that a landowners meeting would be the best way to convey that to other landowners so that they see it coming. Vierkandt stated that first the intake should be closed out because this is the second time he has flooded out more than 25 acres due to the blowout of water from the intake, hopefully we don't have 5" to 7" rains or this will happen every year. Vierkandt's request is to notify Picht to close off the intake and proceed on with a landowners meeting from there. Granzow asked for recommendations. Gallentine recommended having a landowner meeting first, and knows how he would feel if he were a landowner that felt he had asked permission, and paid to have the tile installed, and be told to close it up. Granzow stated we may or may not have blowouts if we close off the intake, but Picht's drainage will go slower. Gallentine stated that would cause Picht's drainage to go slower. Granzow stated he believes every landowner is entitled to have access to hook to district tile however if the intake has been placed to be a blowout, he does not recall giving permission for that. Vierkandt states this intake is a solid pipe 6" to 8" above the surface of the ground with a rodent guard on it and this is not there to drain the

pond, it is in the upper edge of the pond, not on the lower edge of the pond and is right in the fenceline. Vierkandt stated it can be accessed through his field.

Motion by Hoffman to instruct CGA to investigate and report back to the Trustees. Second by McClellan. All ayes. Motion carried.

Motion by Hoffman to schedule a DD 120 Landowner Meeting at 11:00 am on Wednesday, June 22, 2020. Second by McClellan. All ayes. Motion carried.

7. WO 2020-12 - Discuss W Possible Action - Heart Of Iowa Drainage Utility Permit Application

Heart of Iowa Drainage Utility Permit Application was received for work in DD's 44, 62, 1, 128, 78, 63, 8, 93 & 94 to install fiber optic in rural areas of Eldora and Steamboat Rock.

Motion by Hoffman to approve Heart of Iowa Drainage Utility Permit 2020-12. Second by McClellan. All ayes. Motion carried.

8. DD 56 - W03- Discuss W Possible Action - Landowner Meeting

DD 56 Landowner Meeting is scheduled for July 8, 2020. Smith asked for clarification if the this would be an in person meeting or zoom only. Granzow stated we could hold the meeting in person if we have room for social distancing, Smith stated the Emergency Operations Center (EOC) is available. Smith asked for clarification if the Trustees would like repair options listed and reclassification noted on the mailings. The Trustees agreed the mailing should include the repair options and costs, and that if a repair option is selected, reclassification will moved forward.

Motion by Hoffman to send mailings to include estimated project costs, options and reclassification information to landowners and to hold the meeting at the EOC building, with attendance options to include in person and via zoom. Second by McClellan. All ayes. Motion carried.

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

County Attorney Darrell Meyer provided a review of the possible changes to the Drainage Utility Permit and also of the opinion provided by attorney Mike Richards. Meyer stated there may be some misunderstanding as to the \$50,000 requirement in the proposed ordinance, the \$50,000 deposit is only required for what is called a public drainage system, which is not what the Drainage Trustees are dealing with. Meyer stated if the Trustees of the drainage district establish some sort of deposit that is outside the scope of the ordinance and is totally permissible under Chapter 468 Subsection 186 gives the Drainage District the power to set its own requirements to give someone go go over, cross through the district, so the Trustees have the legislative power to set that amount. Meyer stated right now there is no \$50,000 requirement for drainage districts. Granzow stated we had discussed \$50,000 per turbine until construction is complete and we are ok with it, and then retain \$50,000 per district, if they have 3 turbines in one district we would not hold \$50,000 when they are done, it would only be \$50,000, we have discussed including this in our Drainage Utility Permit. Meyer stated that he felt that what they established would hold up.

Granzow stated we had also previously discussed the requirement of having the CWEC's televise district tile before and after construction, so that we can set a baseline and determine any damage they had done to the tile. Hoffman would like language to include CWECs shall use in county contractors for televising, our local contractors have made significant investments into the equipment used to televise and is familiar with Hardin County agricultural tile systems. Gallentine stated there is a big difference between ag tile and rolling up to a manhole and televising city sewer tile. Hoffman stated that Paul Williams has stated he is committed to working with other local contractors, he can expedite the process for repairs by working in tandem with another contractors repair crew. Gallentine stated Williams is working well with other local contractors. Granzow is also in favor of the use of local in county contractors.

Hoffman reviewed other previously discussed options:

- Cranes walks will be GPS'ed, setback of 200' from the base of a wind turbine to district facilities to include open ditches and to allow room for tile repair.
- Utilize the same utility process that other utilities use but construction, observation or engineer's technician on site and chosen by the Drainage Trustees is paid for by the CWEC's and costs should not be passed on to landowners or the District.
- CWECs are required to bore their cables under District facilities so that when we repair district facilities so we don't have to dig under their cables to make drainage repairs. Discussion consensus was that 3' would be an adequate depth for the CWEC's to bore under district facilities.
- Require CWEC's to use our local County District Engineer and local contractors for tile repair and televising and the costs should be paid for by the CWEC's, this would include an observer to view televising results and would be appointed at Trustees discretion.
- A price list for local services should be provided upfront to prevent price fixing. Discussion was that CWEC wind companies work from sunup to sundown and later into the evening and that any overtime rates or additional laborers needed for observation or televising would be paid for by the CWEC as well and local contractors should set their rates with all those details.

It was discussed whether these requirements would be through a development agreement or through a similar application process like we currently utilize for the Drainage Utility Permit, that all the other utilities use. The Drainage Utility Application may need to be split into two separate applications, one for utilities like electric, gas, fiber optic, telephone and water, and a separate permit application for CWECs. Meyer stated that the proposed ordinance states regarding an application that is within a drainage district, the applicant must apply for a Wind Turbine Drainage District Utility Permit Application. Hoffman stated that the reason for that is that not all districts are Trustee controlled, the private Trustee districts could see this permit application as well.

Hoffman asked how much of a drainage tile near an installation of a wind turbine will we require the CWEC to televise, before and after installation of the turbine. Hoffman stated that from what we saw on DD 11 this morning he has concerns about the ground vibrations created by the turbine. It was discussed that the vibrations may not be from construction but from operation. Hoffman asked what baseline will be used on this 100+ year old tile that a brittle fragile clay tile to determine its condition prior to construction versus what it may look like after a month or a year of operations. Gallentine stated that wherever the CWEC crosses with a driveway or equipment or their cabling crosses a district facility they will need to televise at least, they should have to televise at least 200' in each direction. Gallentine noted that if the CWEC meets the 200' setback but are still in proximity of tile without crossing it, do they still need to televise that tile.

Smith asked what was the range of Paul Williams televising equipment, Smith stated that we had discussed that Williams camera system had the capabilities to travel 500' upstream or downstream from an opening in the tile. Gallentine stated typically we can't quite get as far upstream as you are fighting the current. It was discussed that the televising prior to construction may reveal existing damage that needs addressed, and may leave an area of negotiation as to how will pay how much for damages. It was discussed that perhaps the CWECs should become part of the district classification, and be assessed for repairs like the other landowners, but that would not be feasible as they only lease the turbine sites and do not own them outright. Hoffman stated that someone who had a large part of of the assessment by having the largest percent of benefit, would pay the most for the damages will pay the largest share of the repairs if that tile crumbles from being disturbed by wind turbine vibrations five or ten years down the line.

Meyer stated that if the CWEC applies for a Drainage Utility Permit and the application is approved and before anything is damaged they televise, and there is a lot of existing damage and it would not take much to collapse a tile, they go ahead and build the turbine, then will we be litigating how much responsibility does the developer have and how much is the landowners responsibility if it is already damaged tile. Meyers wonders if it would pay to have a conditional permit they have to televise it before the Trustees decide if they want to take on that litigation, and state it may be cracked tile and it is still working, it may have been cracked for 50 years but it is still draining. As soon as the developer has been invited on and you determine you have a bunch of breaks, whose responsibility is that. Hoffman states that is why we are stating the CWEC must televise before construction to set a baseline. Meyer asked if that is before or after the application is approved, or a conditional approval is granted. Hoffman stating if televising happens before construction and we see tile deflection or offsets, we would advise not building anywhere near this area

because the vibration or construction may damage the tile further, if the CWEC want to build here anyway they can sign a waiver that says they will pay for damages. Gallentine stated that \$50,000 fund could be depleted very quickly and the CWEC would still need to replenish the fund.

Meyer stated this application could be made conditional based on pre-approval review of the televising. Granzow stated we could ask the CWEC to sign a waiver. Hoffman wants someone at the CWEC to sign saying they acknowledge that the risks and benefits have been explained to them and they still want to move forward. Meyer stated before any damage is done after construction begins the CWEC has already televised it and you have already given them the easement and now you see there tile will fall apart once they begin construction and then it becomes an issue of how much are they at fault and how much fault is the district going to bear because you allowed them to come in and construct near tile that couldn't take the construction. McClellan stated in 5 to 10 years when the farming slump may have turned around, we could afford to fix those tiles, but if the CWECs break them right now they would need to fix them, it may have been in bad shape but may have lasted another 5 to 15 years. Meyer stated you can expect them to litigate it and you will have a lawsuit for allowing them to build on damaged tile. If you issue a conditional permit you have the right to say, we will not allow this here because it is guaranteed you will damage tile, and unless the CWEC is willing to say it is your fault for damaging it, we will not give final approval on the application. Meyer states this gives all parties a choice as to whether or not we will go forward, the CWEC is not locked in and the Trustees are not locked in. Gallentine stated they are all 100 year old tile in the area, and when we find one that isn't cracked, we are surprised. Granzow stated as we televise maybe that will make it clear why this isn't a good area to put wind turbines in. Meyer stated once you grant the easement, you are living with those consequences, and one of those consequences is litigating how much responsibility does the developer have and they may say they are only responsible for 10% of the cost. Granzow stated by doing a conditional approval that would allow us to say the CWEC is responsible for all the costs.

McClellan states that we don;t want to have to go district by district and figure out who is the responsible party for tile condition and at what percentage. Granzow stated this is a landowner to landowner issue, and the economy will do what it will, and the the Trustees job is to protect district facilities, this protects all the landowners in the facility. Gallentine stated we saw today that what one landowner does can affect another landowner greatly. Gallentine stated he felt two different permits were the way to go, one for all other utilities and one for CWECs as this is building large structures within a drainage district, not just passing through a district. Meyer stated that issuing a conditional permit based on the results of televising, then you may have to enter an agreement going in that is either 100% or negotiate a split of the costs, so both sides know, as opposed to litigating it for years, you will know upfront before granting the final permit. Meyer stated that this would allow the CWEC to back out or the Trustees could back out or you can come to some agreement now. Gallentine stated we scope it and decide the whole system needs replaced and do it as a district project and negotiate with the CWEC to pay a percentage of that amount. Hoffman states that would be a way to engage the landowners as well.

McClellan stated perhaps it would be worthwhile for Smith to contact other counties and see what their CWEC policies and agreements look like as far as repairs. Hoffman asked if Franklin County had issues with repairs in their wind turbine project. Gallentine stated the CWEC paid all of the CGA services and tile repair costs, but that was not the same utility or developer, that was Alliant Energy and not RWE. Gallentine stated they did not have issue on their second turbine field, but on the first turbine field in Franklin County down by Bradford they are still repairing tile, but they did not have observers out there at the time. Hoffman stated we could call Iowa County and see what issues they have had because in their primary they had 5 candidates running for seats, and the anti-wind candidates did very well. Gallentine stated like anything, you will have success stories and failure stories. Granzow asked if Gallentine could reach out through their association with the IDDA if they have any knowledge of other counties that have experience. It was discussed that County Attorney Meyer would create a draft and this would be on the agenda again when that is ready for the Trustees.

10. Drainage Clerk Performance Review

Smith provided the Trustees with her goals and objectives for the Drainage Clerk performance review.

Motion by Hoffman to send Smith's Drainage Clerk Review on to Auditor Jessica Lara for review and to be

placed in her personnel file. Second by McClellan. All ayes. Motion carried.

11. Other Business

DD 102 - Hoffman provided an update on the DD 102 Wetland Project, Hoffman spoke with landowner Steve Perry, who said tile installation is going very well. Gallentine stated they have not used any rock bedding yet. Hoffman noted that contractor Rogness has been excellent to work with. Gallentine stated they had run into clay at first and later black dirt in the bottom, but it was holding together well.

DD 11 WO 294 - Contractor Seward went out to repair a 5' sinkhole in Smuck's property, the tile was not visible in the sinkhole. Contractor Seward has found the tile and pulled out 50' of cracked tile, every time the contractor is pulling out a section of cracked tile, there is a void on the outside of the tile next to the crack, and when they dig by the tile it hinges and the broken piece slips into the void. The contractor can't find a stable enough piece of tile to hook the repair into. CGA told contractor to stop work, to see if the Trustees want to do televising and see how far the tile is damaged. Gallentine states he does not know the dollar amount the contractor has reached yet in repair costs. It was discussed that repair costs below \$50,000 require a hearing, and we are not sure yet where the contractor is at in repair costs. Gallentine stated the upstream side of the tile is decent enough to connect to but the downstream side of the tile we are chasing trying to find a decent enough piece to connect to. Gallentine stated we could televise to see how far the damaged sections of tile extend. Contractor Seward has contacted Paul Williams to stand by for televising if needed.

Motion by Hoffman to instruct contractor Paul Williams to televise site immediately and have CGA report back to the Trustees. Second by McClellan. All ayes. Motion carried.

Motion by Hoffman to instruct Adam Seward depending on the outcome of televising to commence work if it is feasible, if not, at the discretion of CGA to start work and report back to us.

In further discussion on the motion, Gallentine asked what is feasible, is there a length of tile they would like to have replaced, for instance, up to 200', it is 3' to 4' sections of damaged clay tile. It was discussed that up to 200' may be too expensive and could approach the threshold for a hearing, and Buckeye has been hit hard with assessments in recent years. It was decided we can recess and come back to the discussion, and wait on the motion.

Motion by Hoffman to recess shortly to see if Paul Williams is able to televise and report back today. Second by McClellan. All ayes. Motion carried.

Motion to reconvene by Hoffman. Second by McClellan. All ayes. Motion carried.

Gallentine reports that Paul Williams has televised downstream and counting the 50' we already have out we will have to replace another 450' of damaged tile, so we are looking at replacing about 500' of tile in total. Gallentine stated they only made it about 650' and could not get any farther because there was piece of broken tile and they could not get any farther. They are televising upstream now and it does not look nearly as bad, it is still cracked, but not caving in. Granzow asked what an estimated cost would be on the next 450'. Gallentine stated if bidding it out, you could easily expect \$50 to \$60 a foot, but doing it hourly he does not know what that cost would be, but bidding out it could easily be \$25,000 to \$30,000. Granzow asked if we should hold a landowner meeting or just fix it. Hoffman stated I think while the contractor is out there, I think we almost have to fix it. Granzow asked Gallentine to see if he could get a quote from contractor Seward for the cost of replacing 500' of tile, we are there, we have televised and we know what needs fixed. Gallentine stated there will be crop damage on top of those costs. McClellan stated she felt we should fix it, if the contractor leaves and we hold a landowner meeting, the contractor would have to mobilize again which may have additional costs. Granzow asked if this was a project Seward wanted to tackle. Gallentine stated he could call Seward and return with that information.

Hoffman stated we could make a motion for a cost not to exceed a specified dollar amount, and is concerned we will get dinged with transportation costs if we have the contractor return later. Granzow stated if Seward is willing to the job that would be great if we stay under that \$50,000 cost window.

Gallentine spoke with Seward and Seward is willing to do the work and is working on a quote right now. Gallentine noted to Seward that a quoted price would be \$50 to \$60 a foot, and Seward commented he felt that was light. Hoffman asked if we could recess and reconvene when we receive a quote from Seward. Gallentine stated he would get something in writing from Seward and get back to the Trustees. Hoffman stated don't let Seward pull equipment off site yet as we don't want to pay a transportation fee. Gallentine stated Seward thought he would have a quote within a half an hour. Hoffman stated we can wait for a quote.

Motion by Hoffman to recess until we hear back from Gallentine with a quote. Second by McClellan. All ayes. Motion carried.

Motion by Hoffman to reconvene. Second by Granzow. All ayes. Motion carried.

Hoffman stated he has spoken with contractor and costs may possible exceed the \$50,000 threshold for repair costs that would require a landowners meeting. Hoffman stated we will have to have CGA do an engineering report, and adjourn today's meeting and talk about it next week.

Motion by Hoffman to have contractor secure the location, cover the site back up and take no further action, and bring it back on next week's agenda for discussion. Second by Granzow. All ayes. Motion carried.

12. Adjourn Meeting

Motion by Hoffman adjourn. Second by Granzow. All ayes. Motion carried.