

REGULAR DRAINAGE MEETING

Wednesday July 8, 2020 11:50 AM

This meeting was held in-person and electronically due to Covid-19 concerns.

7/8/2020 - Minutes

1. Open Meeting

Hardin County Drainage Chairperson opened the meeting. Also present were Trustee BJ Hoffman; Trustee Renee McClellan; Darrell Meyer, County Attorney, Michael Pearce, Network Specialist; Lee Gallentine of Clapsaddle-Garber Associates; 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 Meetings dated 06-24-20 and 06-30-2020. All ayes. Motion carried.

4. Approve Claims For Payment

Motion by McClellan to approve claims for payment with pay date of Friday, July 10, 2020. Second by Hoffman. All ayes. Motion carried.

DD 56 - Postage - Landowner Mailings for Mtg & Hrg	Hardin County Auditor	\$	70.20
DD 22 WO 276 - Prof Svc to 6/20/20 Sinkhole rpr	Clapsaddle-Garber Assoc	\$	1,476.45
DD 9 WO 229 - Prof Svcs After 5/30/20 to 6/26/20	Clapsaddle-Garber Assoc	\$	1,379.80
DD 11 WO 294 - Prof Svcs After 5/30/20 to 6/26/20	Clapsaddle-Garber Assoc	\$	4,244.30
DD 14 WO 290 - Prof Svcs After 5/30/20 to 6/26/20	Clapsaddle-Garber Assoc	\$	1,697.80
DD 25 WO 1 - Prof Svcs After 5/30/20 to 6/26/20	Clapsaddle-Garber Assoc	\$	10,919.55
DD 26 WO 266 - Prof Svcs After 1/31/20 to 6/20/20	Clapsaddle-Garber Assoc	\$	2,245.70
DD 48 WO 274 - Prof Svcs After 5/30/20 to 6/26/20	Clapsaddle-Garber Assoc	\$	1,787.45
DD 102 WO 265 - Prof Svcs to 6/26/20	Clapsaddle-Garber Assoc	\$	4,988.30
DD 102 WO 265 - Prof Svcs After 5/30/20 to 6/26/20	Clapsaddle-Garber Assoc	\$	5,075.40
DD 158 WO 285 - Prof Svcs After 5/30/20 to 6/26/20	Clapsaddle-Garber Assoc	\$	5,188.75

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

Granzow stated we had reviewed the changes to the Drainage Utility Permit, and asked if we had anyone call in with comments. Smith stated she had received no public comments on the Drainage Utility Permit discussions we have had. Granzow asked if any of the other Trustees had any other concerns or additions. Hoffman stated he had no other concerns and was very comfortable with the due diligence we have put into this, by having Meyer and Mike Richards look at it. Granzow stated he had no other concerns as well. Gallentine stated he wanted to interject a comment about the need for the permit, Gallentine had received an email from contractor McDowell who was working on DD 25, where there are wind turbines already. Gallentine stated the email from McDowell was as follows: "We were scheduled to cross the three power cables tomorrow morning but they won't let him shut down the power because of the energy usage right now in the hot weather so hopefully we can do it next week." Gallentine stated this is the perfect example for the need for this permit as we can't replace a district facility because they are not willing to de-energize their lines, so the contractor is delayed at least a week. McClellan stated it will be the same when they request to get in the field to spray the beans. Hoffman stated that Meyer Ag service had bought helicopters so they can do precision application. Gallentine stated there is a need for some kind of guidelines as this contractor is now delayed a week, and it is dry now hopefully it does not get too wet in the next week.

Motion by Hoffman to adopt the Wind Turbine Drainage Utility Permit in language and in process as presented. Second by McClellan.

In further discussion on the motion, Hoffman stated the Des Moines Register had an article out today where there is a class action lawsuit that was filed yesterday against Mid-American Energy, in their wind unit, due to soil compaction issues and infrastructure damage in Ida County. Hoffman stated while this is RWE applying for this specific project, RWE, Mid-American and Alliant Energy, use the same contractors, just because it is a different company, this utility permit language and process can help avoid what these farmers and landowners in Ida County are facing, Hoffman stated when people find out this is how we have done it, this will be the poster child for how protecting property, property rights, and infrastructure should be done.

Granzow thanked Meyer for his all of his work on this Permit language and process. Meyer stated he just had to connect their thoughts, the Trustees had all the nuts and bolts in there. Granzow thanked Meyer for writing it up for us and the districts.

Hoffman asked for a roll call vote. Roll call vote: "Ayes" Hoffman, McClellan, Granzow. "Nays" None. Motion carried.

6. Discuss W Possible Action - Drainage Ditch - City Of Union

Smith received a written petition from Floyd Hammer with signatures, to establish a drainage district. Smith stated Gallentine will go and visit with the Union City Council next Tuesday evening. Smith asked if the Trustees would like this back on the agenda next week, when Gallentine can possibly report back on how that was received by the City Council. Gallentine stated if you have the petition you would really need to act on it eventually, the only piece missing is the bond, so that if the district does not occur, someone pays the engineering, mailing and publication fees. Gallentine stated there was no bond with it, but the Auditor has to determine the bond amount with the Trustees recommendation. Hoffman stated we can acknowledge it and send it on to the Auditor. McClellan asks if we set the bond amount. Gallentine stated the Auditor sets the bond, but I am sure she would appreciate the Trustees recommendation.

Granzow asks how much would it usually cost to establish a district. Gallentine stated for an Engineer's report we are looking at the \$7,000 to \$10,000 range, but you will have mailings and hearings. Hoffman stated that \$15,000 would not be out of line, because you have some very intuitive people that have signed this, this will be new to them, and this will take Gallentine and CGA more time than we may believe. Gallentine stated you don't want the bond amount set too low, it would be better to set it high if you don't collect it all. Smith stated per code, if the landowners do not submit the bond, the establishment of the district does not move forward. Gallentine stated that is correct, because if it does not move forward after we have drawn up reports, who would pay for the cost of the reports.

Hoffman motioned to acknowledge the petition to establish a drainage district in the community of Union, Iowa. Second by McClellan. All ayes. Motion carried.

Hoffman motioned to file this petition with the Hardin County Auditor to establish a bond in the amount of \$15,000 to cover the expenses of exploring the establishment of a drainage district.

In further discussion on the motion, Gallentine stated that if the district does come to reality, you won't collect the bond, then that bill would go to the district. Granzow stated if the bond is not met at \$15,000 and is established at \$5,000, will we just recommend CGA just work until the \$5,000 is spent. Hoffman stated he would be happy to rescind his motion completely and at an amount of a bond set by the Auditor's office, after speaking with CGA and the Drainage Clerk. McClellan stated it would not hurt for us to make a recommendation. Gallentine stated it just occurred to him that not only would we have to have the report for the establishment of the district, we would also have to have a preliminary classification also, because that will be the first questions for the landowners, how do I pay for it and how much will it be, so really both reports would have to be done, and we may be looking at more in the \$20,000 to \$25,000 range.

Granzow call for a vote. "Ayes" None. "Nays" Hoffman, McClellan, Granzow. Motion defeated.

Motion by Hoffman to communicate the petition to establish a drainage district for the city of Union, Iowa to

the Hardin County Auditor to determine the bonding amount in the amount of \$30,000. Second by McClellan.

In additional discussion on the motion, Granzow does not have an issue with the bonding amount, if they truly want to do this project, if it goes through then it will get done. Hoffman stated he did not how Gallentine would present this information to the people in Union as to what this looks like, Hoffman expressed concerns that without effective communication to the people in Union, they may be blind-sided by this project, they know there is a problem but may be surprised by the costs. Gallentine stated he planned on speaking with the Union City Council next week, to let them know that the petition is already on file and if they as a City choose to do nothing, then it is going to go this route, which is a Trustee controlled district, and if the water is not flowing then it has to be done. Hoffman stated when Gallentine and Smith discuss this with landowners, that Hoffman would encourage this be a landowner controlled or City controlled district. Gallentine stated the area does include some land west of town and northwest of town. Granzow stated if they are willing to put \$30,000 in for a bond, they are serious, this may be a few people putting up a bond to push this through and they will probably get it pushed through. Gallentine stated it is tough in a town with that many people, even though Union is not very big, to get a remonstrance going through. Gallentine stated if all of the petition owners that signed are for it, they own a decent amount of ground in town. Granzow stated the golf course may be probably the largest land owner. Hoffman stated these people may be the most easily accessed as many are business owners with land and businesses in the center of town. Gallentine stated he will explain to the City Council that this has been put in motion, and it may not be too late to stop this, if the City wants to do something about it, even if it is a district the City will still have an assessment for right of way.

Roll call vote: "Ayes" Hoffman, McClellan, Granzow. "Nays" None. Motion Carried.

Smith asked if she was to inform Floyd Hammer of the \$30,000 bond requirement. Granzow replied the Auditor will have to inform Hammer.

7. Other Business

DD 143 - Smith stated we held a hearing in March, and had discussed holding a hearing in a couple of months time, waiting to see if the Covid-19 situation would calm down. Smith stated on April 1, we had discussed adding it to the agenda the following week, to discuss Handsaker's option of the bypass outside of town. Smith was to bring it back on the following week's agenda, and had missed adding it to that agenda. Smith asked if the Trustees would like that added back on to the agenda, as a Discuss w Possible Action to discuss holding a landowner meeting. Gallentine stated CGA has not prepared any additional engineering reports to discuss a bypass or any other options, Handsaker looked at LiDar and says he thinks it is doable, Gallentine has not looked at any of that. Smith stated also at that time there was no direction to Smith to contact legal if the Trustees wanted an opinion on who has the authority to pay for the street crossings on the project. Smith stated it was noted at the time that if any new options were introduced, which would be Handsaker's bypass around town, that it would require another hearing and we had discussed possibly having another meeting with the City of Radcliffe, if they would help out with the tree situation. Gallentine stated this is the area that has stretches with tree roots in it, water is still flowing but it is definitely restricted.

Granzow stated we should meet with the City of Radcliffe, he is not interested in going around, Taylor Roll has expressed as Mayor that would be a terrible option for the city if the route went around the town. Gallentine stated it would make the town a separate lateral or a separate district which you could turn over to the city and then it is their problem to maintain, and Roll does not want that as Mayor. Granzow stated that sitting with the City to meet, and take the landowners out of it, and let the city deal with their own landowners, we have two options, one we could go and take those trees out and clean the tile within the right of way, or two, the City can give a good faith effort of cutting their own trees down and communicate with their people on these streets, that we will come in and manage this if they do not cut their own trees down with the intent that these tree roots instead of continuing to grow they will diminish in size. Granzow stated he liked the second option better of working with the City to do this because water is flowing but if trees are not self managed at this point, we will manage the problem and a timeline would be closer to this year to get those trees managed, they have until next spring. Gallentine asked if Granzow was thinking if the trees being managed within the street right of way or within 50' from the tile as CGA recommended.

Granzow stated the city would have to make that decision, we only have the right for the right of way, they may have their right for their right of way and if they express to these people that this is an attempt to clear up drainage at no cost other than the trees, that is probably the better option, but if they don't want to be a good neighbor than we will do our job.

Hoffman stated that he thinks they may feel if they ignore it, it will go away, that is not practical. Granzow stated when he says good faith effort, he expects the trees down. McClellan asked if it would be worthwhile to have the county attorney or a drainage attorney send a letter to the city of Radcliffe. Granzow stated we should meet with the City of Radcliffe, as it is their right of way. It was discussed that the surveyor's report established that the City of Radcliffe's right of way and the districts right of way were one and the same. Granzow stated we should meet with the city and if they do not want to remedy it, we will. McClellan stated it will cost more if we do it, Granzow stated we will cut trees and replace tile, so it will cost more than just tree removal. Granzow hoped tree removal will not clear things up overnight but it may help. Hoffman asked if we would like the Drainage Clerk to reach out to Taylor and the City Clerk to see if we can work out a time for us to meet. Granzow stated they can zoom in. Hoffman asked if we can do this the following week as he is unavailable to attend the Drainage Meeting next week. Smith will reach out to them and see if they can attend our meeting on July 22, 2020.

Invoices- Smith has received a couple of invoices for issues that cover all drainage districts, and are not tied to one specific drainage district for payment. Smith stated we have an invoice from Davis Brown Law for review on the proposed Wind Turbine Drainage Utility Permit changes, and one from CGA for open ditch mapping. Open ditch mapping has been provided to our contractor who needed that information for spraying, and we now have all of the open ditch maps on file. Smith stated the Davis Brown Law invoice was for \$550.00 and the CGA invoice was for \$460.00, and we paid out of Rural Services for these last invoices. Granzow stated they can be on next week's agenda for approval, and then sent on to McClelland for payment from Rural Services.

In additional discussion on the wind turbine Drainage Utility Permit language Granzow stated he would like to have the wind turbine's response to McDowell in writing that they will not power down their turbines to allow work to proceed on drainage repairs. Hoffman stated he would like to get anything in writing that McDowell received from the wind turbine company. Granzow agreed he would like that in writing.

DD 120 - Gallentine stated he stopped out and looked at part of DD 120, and shared a LiDar image of topography of the area previously discussed last week. The green lighter shade would be lower elevations, the white and red shades would be the higher elevations. Gallentine pointed out Vierkandt's ground and Picht's ground, and noted where the intake was in the fence, the land that Vierkandt is complaining about drowning out is 3/4 of a mile away from the intake. Gallentine stated the problem is that there are also 3 areas of overland water that feeds the ponding area to the south, so it is not quite as clear as Vierkandt portrayed it, but it is a 3/4 of a mile away problem. Granzow stated the way it was discussed previously was that the water was on each side of the fenceline. Gallentine stated the corn planted south in the ponded area is drowned out, but the corn near the fenceline has all come back well. Granzow asked what the fenceline ground was like, if the fence was ripped out, was the natural berm pushed through. Gallentine stated he looked back through aerial photos and this was not the only year this was drowned out. Gallentine stated CGA would get out there next week. Granzow stated Vierkandt is complaining because the water coming out of the pipe only has one place to flow now, instead of discharging out the pipe and ponding behind the fence row on Picht's, and it would have had to jump a berm, now it all just flows onto Vierkandt's ground. Gallentine stated there are a couple of box culverts south of the area of ponding, the water should just flow there, the only reason it may be ponding is it is just a flat spot. There is no intake on the tile, so there is no way this box culvert can keep up with this water other than just percolation, as there is no intake in the pond or in the road ditch. Gallentine stated the road ditch should have an intake. Gallentine stated we will go out and look at that, it is just not as clear cut as we had initially thought. Gallentine stated that looking as far back as the 70's they could see that the water from the fenceline was starting to cut a little trench to drain to the area of ponding, so this has gone on awhile, there is a reason they put the tile there, Gallentine stated you may end up doing a report yet as there is a formal request. Granzow would like more information first.

8. Adjourn Meeting

Motion by McClellan to adjourn. Second by Hoffman. All eyes. Motion carried.

