

REGULAR DRAINAGE MEETING

Wednesday, July 15, 2020 9:30 AM

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

7/15/2020 - Minutes

1. Open Meeting

Hardin County Drainage Chairperson Lance Granzow opened the meeting. Also present were Trustee BJ Hoffman; Trustee Renee McClellan; Lee Gallentine of Clapsaddle-Garber Associates; Michael Pearce, Network Specialist; and Denise Smith, Drainage Clerk.

2. Approve Agenda

Motion by McClellan to 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 07-08-2020. Second by Hoffman. All ayes. Motion carried.

4. Approve Claims For Payment

Motion by McClellan to approve the claims for payment. Second by Hoffman.

In additional discussion on the motion, Smith noted DD 25 Pay Estimate 4 for contractor McDowell was included in today's claims.

All ayes. Motion carried.

DD 11 WO 294 - Tile repair, parts labor, equip Honey Creek Land Improvement, LLC \$11,270.00

DD 14 WO 252 - Televis tile & truck mileage Williams Excavation LLC \$1,106.00

DD 25 Pay Estimate No. 4 - Repair Main Tile/Lat 3 McDowell & Sons Contractors \$56,584.17

DD 68 WO 293 - Tile repair, parts, labor, equip. Honey Creek Land Improvement, LLC \$3,616.25

DD 158 WO 285 - Tile repair, parts, equip., labor Honey Creek Land Improvement, LLC \$33,302.00

5. DD 56 - Discuss W Possible Action - Reclassification Report

Smith stated we received an email comment from landowner Kathy Kolden that there was no mailing sent out notifying landowners that this would be on this week's agenda. Hoffman stated that we said this would be on the Regular Drainage Meeting agenda this week, we only send mailings for landowner meetings. Smith stated the other comment made by Kolden was about the way the vote was handled last week at the landowner meeting, Kolden felt a paper ballot mailed in advance of the meeting would have been more appropriate, Smith explained to Kolden that will all of the options on the table, it would have been difficult to narrow that down for a mailed ballot.

Motion by Hoffman to approve the Reclassification Report for Drainage District 56 East and 56 West as presented. Second by McClellan. All ayes. Motion carried.

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

Gallentine provided an update on the City of Union Council Meeting he attended last evening regarding establishing a Drainage District in the city of Union. Gallentine stated the Union City Council Members were somewhat unfamiliar with drainage districts, Gallentine did explain to the Council that the establishment of a drainage district would not move forward until a bond is presented to the Trustees, and this would give the Council time to discuss their options before establishment moves forward. Gallentine stated there was not much enthusiasm for establishing the district. Hammer stated he had provided the Council with a heads up

on this project by submitting his communications with Gallentine and Smith to the Union City Council on July 9th. Gallentine explained to the Council once the bond has been filed, the Trustees will be obligated to move forward. The Council was interested in doing some kind of special assessment via property taxes as a city, and Gallentine stated he was not there to comment on that as he is not an attorney, he was there to discuss district establishment. Hammers asked what amount the bond had been established in, Hoffman noted the bond was set at \$30,000.

Granzow stated the bond ensures that the company that prepares the reports would be paid if the drainage district is not established, if the drainage district is established, the bond comes back to the original bond holder, and the report costs will be charged to the district after it is created, and paid through assessments. Hammer stated it is incumbent upon us folks who have signed the petition to get the bond, and to get this fixed. Hammer stated we may not give the bond to the Trustees, that Hammer will present the bond to the City Council and say let's do something, if the City Council does nothing then Hammer will present it to the Trustees. Gallentine stated one of the Council Members stated if you put in a drainage district that will be great because it will stop all the silt coming down the ditch from the farmers upstream, and you would put in terraces. Gallentine stated that was not the case, drainage law is 100 years old and is written to drain as much water as fast as you can, and that is how 95% of the drainage districts in Iowa operate. McClellan stated like any open ditch it will need cleaned out. Gallentine stated if it has to be cleaned out, it has to be done, Gallentine pointed out to the Council Members that even the parcels owned by the city will pay for this in an assessment. Granzow stated they would be farther ahead to do it themselves. Gallentine stated he pointed that out to the Council, as a Council Member asked what would happen if we told Gehrke to clean it out and spend only up to \$50,000, and to stop when they reached \$50,000 worth of work, as establishment may cost up to \$30,000 before construction even begins. Gallentine stated like most small towns, budgets are tight. Hammer stated he told the Council that he would be there for the next Council Meeting, if Hammer receives the letter on the bond, they will get the bond and have it in hand and explain to the Council and say here is where we are, we have met with the Board of Supervisors, we have met with the Drainage Board, we are ready to do something and ask what the Council would like to do. Gallentine stated the Council asked where there were drainage districts in other towns, Gallentine pointed those towns out, and explained everything is in a holding pattern until the Trustees receive the bond. Hoffman asked if a City Attorney was present last night. Gallentine stated there was not, and unfortunately most of the City Council meetings he attends do not have an attorney present. The Trustees thanked Hammer for his time.

7. Discuss W Possible Action - Invoices For Open Ditch Mapping & Drainage Utility Permit Review

Smith stated we received invoices from CGA and Davis Brown Law, the invoice from CGA was for \$460 for maps in reference to the open ditches, and the invoice from Davis Brown Law was for \$550 for review on the wind turbine drainage permit and ordinance. Smith stated we had discussed these invoices last week under Other Business, and were added to this week's agenda for review.

Motion by Hoffman to approve the invoice from CGA and Davis Brown Law to be paid from Rural Services.
Second by McClellan.

In additional discussion on the motion, Granzow stated later when we get the potential assessment together, it could be reimbursed back to Rural Services.

All ayes Motion carried.

8. DD 143 - Discuss W Possible Action - Update On Meeting Availability

Smith stated she had spoken with Taylor Roll, and Roll indicated he and the Radcliffe City Council members would be able to attend next week's regular Drainage Meeting to discuss tree removal in DD 143 along Ionia St.

9. Other Business

Site Certification Program - Granzow stated he had received an email from Mark Buschkamp, in which Buschkamp wanted to know if the Trustees were willing to relocate a district tile if necessary for the certified industrial site. McClellan recalled we would move a road for the site. Granzow stated this was the

site across from the ethanol plant. Gallentine stated this was the Intermodal site that Cindy Litwiller was working on several years ago. Granzow stated their time was up it just needs to be renewed. Gallentine stated the way we left it with Litwiller was the tile was really close to the railroad tracks at the edge of the property and he told Litwiller, he probably would not have to relocate that. McClellan stated the cost of moving the road would be on whomever purchases the site, as would the cost of moving the drainage tile. Granzow stated this would just be an acknowledgement that we are willing to do this, beyond that point as far as cost, that can all be established at that point. Gallentine noted there were two tile out there, the old district tile and the ethanol plant has their own district tile, and the Trustees have control of both districts. Granzow stated this could be put on the agenda next week.

DD 25 / drainage Utility Permit - Hoffman stated last week we had mention of CWEC not shutting down for tile repair, and wondered if we had received that documentation from the contractor. Gallentine stated he received contact info and email from contractor McDowell, and it is pretty generic, Smith will forward this one to the Trustees. Hoffman stated we are going in to the third and final reading of the wind turbine Ordinance, and asked if we may need to look at doing something different. Hoffman asked that the info be shared with Attorney Meyer, Hoffman's concern is if this is something we will run into that it gets mitigated before it ever gets to that point. Gallentine stated on Monday the wind farm did shut it down and the contractor crossed the cabling. McClellan asked how long that took after the contractor's request. Gallentine stated about half a week. Granzow was ok with 48 hours. Hoffman stated having talked to an aerial applicator, the cooperation is not what it is spelled out for. Granzow did not want to see this become as difficult as working with the railroads. Granzow stated if we have issues with the wind turbines letter we will have this communication on file. Hoffman stated we will often hear RWE is not those other companies, and the contractors from all over the country, not the locals who know what they are doing and know what Hardin County agriculture producers are up against, these out of town contractors don't know or understand, so they will do the work on their schedule. Hoffman stated RWE tipped a crane over the weekend in Illinois and damaged a road, and people want to know how are they going to fix this. Hoffman stated as these concerns are reported, we need to make sure they are doing things correctly.

Smith had a related question, in looking at how the drainage utility permit process works, Smith updated the Drainage page of the website with the changes we have made to drainage utility permit information, so that is current. Smith stated she had spoken with Gallentine about the 12 Drainage Utility Permits that we have approved this year, and Smith stated she is unaware if any of the permit holders have contacted CGA for observation when doing the utility work, and asked is that something we need to look at addressing. Gallentine stated CGA has not been contacted on these 12 permits and even those we tried to follow up with a couple year ago, that said we will come back out and do this, Gallentine would have to go back through his files, but he does not think they have done this. Granzow stated we need to follow up on these permits. Hoffman stated we need to follow up and that could mean they did the work, and nobody was there. Gallentine stated he recalled a Quest project where they did the work and said we will go back out and find that for you. Hoffman stated what is the penalty other than cease and desist, why have rules if there is no penalty or consequence is associated with them.

McClellan asked if we can come up with a list of drainage utility permits and follow up with a letter stating we have not received any follow up on these permits, and they are required to do that at their expense. Granzow stated if do it at our expense, we will charge the utilities. Gallentine stated it seems to him that on every one of those permits that came in, the Trustees have said if the utility needs this permit modified, let us know, Gallentine stated if they have not received any feedback and if they are unresponsive, you charge them a fee up front and we hire a contractor and they go out and find the tile and then you just don't hit it. Hoffman stated Brian Ahmundson and Jay Duncan of Heart of Iowa have been excellent to work with and are using their own staff to do the work, and have built trust within the County, and Hoffman hates to paint everyone in the same light. Gallentine stated he would not lump them in with non-responsive ones, they may not have started their construction yet. Smith stated we have done quite a few permits for Mid-American this year. Gallentine stated they may not have started on their construction yet, but James Sweeney who comes in from another part of the County stated he thought new poles had gone in on D41, and CGA has not had anything come in for that yet, despite having there having been a permit issued. Gallentine stated we are half way through the construction season and it has been slim as far as actual response from the utilities. Smith will compile a list and provide it to CGA. Hoffman stated in the letter drafted, we mention cease and desist as we have done that when needed, and it is harder to get back in than it was to follow the policy in the first place. Gallentine stated that DD 14 in Ron Vierkandt's parcel, the

water main was not through the tile, but it only cleared the tile by 4" and was not meeting the clearance requirements of the permit either, Gallentine stated it will be out in an observation report, and that was part of what Rural Iowa stated, that they have engineer's and have met these requirements. Granzow stated this is an observation on the fact that they are not complying. Gallentine stated the cease and desist, means they have essentially quit putting anything new in but they haven't done anything with what they have already installed, including CGA's bills. Gallentine stated they gave the county a check,, which basically said if you cash this, you agree to our terms. Gallentine stated we can discuss this on next week's agenda.

DD 120 - CGA will look at the issues today with Vierkandt, who has offered to give CGA a ride out to the location in the field.

DD 25 - McDowell is going to do the bore next Tuesday, Union Pacific requirements have changed since they originally applied for the RR permit, and so now someone has to monitor the height of the rail with survey equipment during the bore, CGA will provide that rail observation.

10. Adjourn Meeting

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