

REGULAR DRAINAGE MEETING
Wednesday, August 26, 2020 9:30 AM

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

8/26/2020 - Minutes

1. Open Meeting

Hardin County Drainage Chairperson Lance Granzow opened the meeting. Also present were Trustee BJ Hoffman; Trustee Renee McClellan; 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 Hoffman to approve the minutes to Drainage Meeting dated 8-19-2020. Second by McClellan. All ayes. Motion carried.

4. DD 26 WO 266 - Discuss W Possible Action - Repair Summary

Smith stated this was one she was directed to verify if seeding and grading was done and to verify if there was a crop damage claim on the 0.14 acres. Smith stated she received a reply from landowner Dave Sweeney that it looked like several more loads of dirt and grading were needed to prevent future breaches and water spill over of the spoil bank. In addition little or no grass took hold so it would need reseeded, Sweeney stated he would forward on the crop damage claim form to his tenant Terry Swenson to see if he would like to pursue a claim for crop damages. Gallentine stated that they looked at it when the work was done and grading was pretty rough, and could understand why Sweeney would want more dirt added, it is far cheaper to bring in a few loads of dirt than to repair a washed out surface drain. Gallentine stated CGA may not necessarily be out there while they spread dirt. Granzow stated we should have CGA look at this when they are done and verify that work is complete.

Motion by Hoffman to have contractor complete dirt work and grading and once CGA signs off on it, bring it back to the Trustees to finalize and approve.

In additional discussion on the motion, Granzow asked which contractor this was, Gallentine stated it was Honey Creek Land Improvement.

All ayes. Motion carried.

5. DD 68 WO 293 - Discuss W Possible Action - Repair Summary

Gallentine stated this was a work order request turned in on DD 68 Lateral 5, it is in the road ditch on the north side of 110th Street, there were problems with the intake not flowing well. Gallentine stated when it was dug up, where the intake was connected to the actual tile was not in good shape and they had essentially inserted an intake into the original concrete instead of pulling it out where it was and connecting up. Gallentine stated we pulled that out and fixed all that, and don't see any issues moving forward, other than the road ditch has lots of sediment in it and CGA recommends it gets cleaned out to the original grade, and there is a box culvert that had about about a foot of dirt in it that needs cleaned out to get it back to the original grade. Gallentine stated we were not out there when they applied any seeding and CGA recommends contacting the contractor regarding reseeding the area just to make sure, and we had a very small area of crop damage of about .02 acres so if someone presents that, Gallentine would recommend paying that, Gallentine stated they may be planted close to the right of way or past it. Gallentine stated this is totally within the road right of way, it is Gallentine's understanding that this would be a secondary roads expense and not a district expense. Granzow stated we will let the landowner deal with that and we will let Secondary Roads know about the issue. Smith asked if any invoices on this work order should be directed

to Secondary Roads as the intake repaired was in the ditch, Granzow stated yes, those will go to Secondary Roads.

Motion by Hoffman to acknowledge DD 68 WO 293 Repair Summary, wait for any crop damages to come in, and contact the County Engineer on cleaning out and seeding of the ditch that needs to happen per recommendation and bills goes to Secondary Roads. Second by McClellan. All ayes. Motion carried.

6. DD 109 WO 269 - Discuss W Possible Action - Repair Summary

Gallentine stated this is the work order that Denny Prochaska was in the old railroad right of way south of the old Farmland plant, Prochaska initially thought it was private tile but it turned out to be district tile, and Prochaska turned in the bill, but there were trees that needed to be removed. Initially we went out and removed the trees, Gallentine referenced the map included in the summary in which the green line was the district tile, there is a chunk of district tile that has been missing, the reason why they pulled it out is there is still a big chunk of the private tile that is missing, so one is flowing into the other. Gallentine stated the trees have been removed, there is some sediment in the main and some backfall in the main, it is old and we can investigate that if the Trustees would like, but the big issue is the piece of tile that has been removed. Gallentine stated CGA recommends that the landowner be contacted to get the private tile fixed, and then we can get the main fixed also, there is also some issue with Prochaska whether it is his tile or the guy who owns the Farmland plant, Gallentine stated it may just have been the tile for the Farmland plant, and Prochaska may be reluctant to fix it, Gallentine stated we just have a piece of the main that is open. McClellan stated we may just have to fix our own district tile. Granzow stated we need to let Prochaska know that. Gallentine stated there is some crop damage on that, .01 of an acre, and wanted the Trustees to be aware of the small amount of crop damage. McClellan stated if we repair our tile and Prochaska does not repair his it may cause a backup on Prochaska's ground Granzow stated as far as district tile goes we can't leave it open so however Prochaska resolves it is up to them. Granzow stated a letter from the Drainage Clerk would work to notify the landowner to get the private tile repaired. Smith asked if she would need to notify the adjoining landowner who owns Farmland plant. Gallentine stated he thought Prochaska owned land on both sides of the track, and Prochaska's land is where the private tile comes from. McClellan asked where the Farmland plant is located, Gallentine stated it would be off to the right of the location referenced on the map.

Motion by McClellan to direct the Drainage Clerk to notify Denny Prochaska to get the private tile completed so that we can get the district tile repaired, and give Prochaska the opportunity to hook that private tile up now or not, and that hookup would not be at the district's expense. Second by Hoffman.

In additional discussion on the motion, Hoffman asked if we would put a timeline or deadline on that private tile repair. Granzow stated that he believed we need to, and November 30th would work to allow time for the landowner to get crops out. McClellan stated harvest this year may be earlier than usual, and that should be enough time to get the private tile repaired. Smith asked if the Trustees would like to request a reply from Prochaska to let us know that the repair is completed. Granzow stated yes, he would like a reply as he would like to give us enough time to get it closed up before it freezes.

All ayes. Motion carried.

7. Discuss W Possible Action - Drainage Utility Permit Process

Gallentine stated we received a response from Alliant on the Permit in DD H-F 1, Alliant put us in contact with the contractor White Construction, who put us in contact with subcontractor JB Edwards who notified us last Thursday that they would be working on it Monday, Gallentine told Edwards to let us know when they would be working near the tile crossing. Gallentine reached out to JB Edwards on Monday and asked if we will still be working on this permit this week, they replied JB Edwards will be working all week, to which Gallentine replied would you like to pay CGA to be on-site and standing around all week, to which Gallentine has not received a reply. Gallentine stated this was a good utility in the sense that they replied,

but we are not making progress with the other utilities in getting them to comply. Gallentine has copied Smith in on all the emails. Smith stated Gallentine has done a wonderful job communicating that with the Clerk. Smith has questions for the Trustees, as she prepares the letters to go out to the Drainage Utility Permit holders to invite them to come in for a meeting, to discuss their options on how we will get them to comply with the existing open permits, would the Trustees like legal in on this meeting. Smith is nearly ready to send letters but wanted direction if the Trustees would like attorney Mike Richards present because Smith has spoken with most of the utilities who have said their work is done, and Smith let the permit holders know she would provide them with feedback from the Trustees on the next step, which would be this meeting. Smith stated she did get a reply from the IRUA, we had given all the permit holders 14 days to reply to the certified letter sent out, and Matt Mahler of the IRUA requested an additional week to reply due to the storm damage they received in the Newton area from the derecho, Smith let Mahler know that should not be a problem and expects their reply by the end of this week. Smith stated before she sent the letter out inviting permit holders to the meeting, she would need to check attorney Richards availability for meeting dates if the Trustees would like him in attendance.

McClellan asked how many letters we sent out, Smith stated we sent out 10 letters and received replies back from 7 permit holders, most stating that work is complete, with response pending from IRUA. Granzow asked if the other Trustees would like legal there. Hoffman stated yes, he did not think we could afford to not have legal present. Smith stated if the Trustees were in agreement, and would like to direct Smith to create that letter and send it out, Smith will let Richards dictate to us what Wednesday he is available, and Smith provided Richards with some options in September, September 16th, September 23rd or September 30th to see which Wednesday he is available, Smith would like to get it on the agenda for the Trustees in September if possible. McClellan asked if Smith has spoken with any of the utilities by phone. Smith has emailed back and forth with those that have replied to the original letter, McClellan asked if Smith had any contact with the three utilities that have not replied, Smith stated that she had not and would like further direction, Smith does have contact information for the utilities as that information was on their original application. Granzow asked who the three utilities were that had not responded, Smith stated it was IRUA whose response was expected later this week, Century Link and did not recall the third at the moment, Granzow stated he would send the letter inviting those three to the meeting as well, the choice to not attend is not speaking on their company's behalf. Hoffman agreed. Smith stated in guiding this letter, the direction the Trustees want to go is they would like to discuss compliance with the existing language on the existing permits, we want to talk about their failure to notify us 24 hours in advance of construction, and what are the goals to get from them now, do we want them to locate the tile after the work is complete. Granzow stated that is what they said they would have done, he wants out of them what they agreed to and if they choose not to do it, it is at their expense, and Granzow believes when we come to this meeting with legal, we will send someone out to verify tile locations at their expense. Gallentine stated his end goal is just to know that the tile isn't damaged. Granzow stated he would also like to know that their crossing is located under our tile, and the problem with IRUA is that they sent us a bunch of wrong information, that is great to go from memory but when they did, they did not know the difference between plastic and concrete and they put it down on a piece of paper. Smith stated having the utilities in attendance will give the Trustees the opportunity to ask of the utilities, tell me why you didn't do it this way and what did you actually do, and that we need documentation of that. McClellan asked if we would make the utilities go back and open up all the places that they did work, that didn't get looked at. Granzow stated I think they have that option and they can choose not to do it and then we will send them the bill. Granzow stated he would like to have Mike Richards tell us if they can sue us for it or not. McClellan asked if we will wait to hear from the IRUA before we do this. Smith stated the IRUA said they would have a reply to us this Friday, so Smith will get letters ready to go out but wanted to check if you wanted Mike Richards in attendance. Granzow stated yes, he would like Richards in attendance.

McClellan asked if we had a received proposed changes to the utility permit language yet, Smith stated Mike Richards is working on that this week, Smith had added to her correspondence with Richards our discussion of last week of the \$1,000 permit application fee as used by Scott & Louisa County to add that language, and Richards has all of that information and his reply to Smith was that he is working on that this week. McClellan stated if this is going to continue happening, we have to have a fee that we can use to cover the cost of opening these things back up, although a \$1,000 fee would not cover the whole cost, Granzow stated if it does not we can up the rate. Gallentine stated it needs to be proactive and not reactive, what happens is if the install over the pipe, are we going to make them relay a half mile of fiber optic, probably not, whereas if we locate the tile ahead of time we eliminate that problem, it would be so much better if we did this on the front side of the permit but the utilities are on the backside of this. Granzow

stated we have had them rerun a tile line before because they put it on the wrong side of a hog house. Smith stated the opportunity to have that dialogue with the utilities is a good opportunity to explain those expectations to the utilities, whether they attend in person or by zoom. Hoffman stated he would like some closure and we are starting to see people jump when we say jump, but wants them to ask how high because we are just getting the run around here, McClellan agrees. Gallentine stated he wanted to emphasize some utilities have done very well with the permits, again Heart of Iowa has been excellent to work with, so he does not want to paint all utilities with the same brush. Smith stated in the sample language she sent to Richards from the Scott and Louisa County application, the \$1,000 fee is used for those locating costs, what is not used of the \$1,000 fee is reimbursed to the utility and any expenses incurred beyond that \$1,000 application fee is also charged to the utility as well, Richards has all that language in front of him to look at drafting some similar language, it may be good to have something like that in place in the future permits. Granzow stated when it comes to us doing it, let's use Heart of Iowa as an example, maybe they are the contractor the utilities would choose, so they can charge themselves outside of CGA's fees, which puts us right back to where they were to start with, this would just allow them to be the contractor for me. Smith stated you could include in that language that you can waive that application fee based on your prior experiences with that utility. Granzow stated they could just go out and locate it themselves, Gallentine stated Heart of Iowa has no issues locating the tile, they can talk to us and ask how deep is the district tile, and we might say based of the old profile it is 3' to 6' deep, and Heart of Iowa might say we will go 20' deep then, and we have no issues with that, it is good communication on the front end of the process.

Motion by McClellan to direct the Drainage Clerk to contact attorney Mike Richards for availability to attend a meeting with the utilities and to send a letter inviting utilities to participate in an upcoming meeting for discussion of their outstanding Drainage Utility Permits. Second by Hoffman. All ayes. Motion carried.

8. Other Business

DD 22 - Smith stated on her hearing checklist of things to do, was invite legal if needed, Smith asked if the Trustees wanted legal to attend this completion hearing if he is available. The Trustees did not feel legal attendance was needed at this hearing.

DD 121 Landowner Meeting - Smith stated she had the same question on this one, if the Trustees wanted legal to attend the landowner meeting. Granzow asked if Gallentine felt it would be beneficial for legal to attend. Gallentine stated he did not think it was necessary as this is just an informational meeting to make landowners aware of the investigation summary, making them aware of the drainage repair process and see if they wanted to pursue a larger repair.

DD 48 - WO 237 - Smith stated the Trustees had directed her to reach out and see if seeding and grading had been completed, Smith spoke with contractor Seward. Seward stated grading and seeding was completed, seeding was done in a 20' radius out from the repaired area and NRCS was going to put in a new waterway, they may have changed the grade but should have matched what Seward had done. Seward also stated seeding was done and followed by three days of heavy rain and may need retouched in the fall. Gallentine stated this was by the private crossing that belongs to Lowell Skinner, it is the surface drain that washed out where it meets Hwy 65.

DD 11-232 WO 281 - Smith stated the Trustees had directed her to reach out to Secondary Roads, Smith stated Taylor Roll replied he will complete the seeding and look into the culvert that needs repaired in the road ditch.

DD 55-3 Lat 9 - Granzow asked what has been done with the work order in which landowner Scott Thompson had dug out a pond that encroached the road ditch. Smith stated that was in the system before she started and would have to look into that last action on the work order. Granzow stated Thompson built a pond with the Trustees approval, was told what he needed to do to and did it anyway and he also dug into the ditch. Gallentine stated this was right at the outlet that Handsaker's replaced a few years ago near Hubbard. Granzow stated he thought he recalled it was going to go to legal, and wasn't sure if that has been resolved. Smith asked if they would like this on next week's agenda. Granzow stated he would like Smith to contact legal and if we have a reply, bring it back on next week's agenda, he does not want the

work order left behind. Gallentine stated he recalled Thompson stated the waterway threatened his septic leach field, so he constructed the pond. Granzow stated there was still a process he needed to go through and Thompson ignored that, he just wants to be sure this is addressed and the discussion of legal made him recall this particular work order. Smith will do some checking and see what is in the work order notes. Granzow stated he would like to review anything else we have left open waiting on legal, Gallentine stated he would have to review the files, and see what else is there. Granzow stated we should review this next week or the following week as we have issued a lot of things and have not gotten answers and those should not be forgotten. Gallentine will look at his list and get back to Smith with what he has, Smith will do the same. Granzow asked if Hoffman had anything to add. Hoffman did not at this time.

9. Adjourn Meeting

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