

REGULAR DRAINAGE MEETING
October 30, 2019 8:30 AM

10/30/2019 - Minutes

1. Open Meeting

Hardin County Drainage District Board of Trustee Chairperson, Renee McClellan, opened the meeting. Also present were trustees, Lance Granzow and BJ Hoffman; Lee Gallentine with Clapsaddle Garber Associates (CGA); Jessica Sheridan, Hardin Co. Environmental Health; Drainage Clerk, Denise Smith.

2. Approve Agenda

Hoffman moved, Granzow seconded to approve the agenda as provided. All ayes. Motion carried.

3. Approve Minutes

Granzow moved, Hoffman seconded to approve the minutes for Regular Drainage Meeting 10/23/19 as presented. All ayes. Motion carried.

4. Approve Claims For Payment

Hoffman moved. Granzow seconded to approve the claims for payment with pay date of Friday, November 1, 2019. All ayes. Motion Carried.

DD 102 - Wetlands consultation and attend meeting, The Davis Brown Law Firm \$880.00

DD 9 - Email with Lee Gallentine, possible easement vs. annexation, The Davis Brown Law Firm \$25.00

5. Discuss W/ Possible Actions, Wind Turbine Ordinance/Drainage Utility Permit Language

Jessica Sheridan, Hardin Co. Environmental Health, brought proposed language for wind turbine ordinance as it affects drainage. The proposed language states:

"1. The applicant shall be responsible for immediate repairs of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

2. Complete such repairs, the applicant shall hire appropriate drain tile contractor(s) that are familiar with the organized drainage tile districts and private tile systems within Hardin County. The applicant shall receive written approval from the Hardin County Board of Supervisors of the contractor(s) prior to commencing the repair of the tile system(s).

3. Applicant must apply for a Drainage District Utility Permit and include the approved permit with their application for WECS. "

Granzow requested contractor have CGA on site for supervision of repairs and their time be charged back to the wind companies, Gallentine stated other counties have CGA on site while wind turbines work near DD tile and that other counties have a \$1,000 fee to the wind companies to cover that cost. Gallentine stated we may not have enough local contractors to keep up with the current drainage projects and wind turbine work as well, and outside contractors may need to be brought in. Sheridan asked how the Drainage Utility Permit process works. Gallentine says they apply for it, once it is approved, they locate the tile lines then call CGA and they go out and watch them do the work and CGA bills the drainage district and the DD recollects that cost from the utility. Hoffman noted that we should create a timeline check off sheet as to how the process should flow. It was requested that the proposed language should read Hardin County Drainage Trustees rather than Board of Supervisors, as some drainage districts are governed by private trustees.

6. DD 9 - Discuss W/ Possible Action

DD 9 - We had sent a certified letter out to Ron Sailer and received a response by email that states " I am willing to sign the easement as long as I can connect on to it. I am unsure when I would be able to make it over to Eldora, my current responsibilities at work along with upcoming holiday seasons make it unlikely during regular business hours. Can we do this via email? - Ron Sailer".

McClellan asked if this would require an annexation. Granzow stated no, that it would just be part of the easement that allows him to hook his tile to it. Granzow questioned whether Sailer would want to be compensated for crop damages. Hoffman said we have 2 options, that we can annex Sailer's property in now and he can hook up with the easement or we can give him the easement and if he ever hooks up that is when we would annex him. Granzow said he spoke with Ron, and Ron told Granzow. "Why would I want you to come through my ground if I can't hook to it?". McClellan stated he would not have to pay to any repairs due to his added water. Granzow stated that as part of his easement that he can just hook his private tile to it. Hoffman stated you would have to decide who you want to draw up an easement, and tile could be up-sized from a 12" to a 15" for little cost. McClellan asked if we know how much land he is draining into it, and if other landowners later would think the tile runs too slow, it would be said that it is due to Sailer's added hook up. Gallentine asked if he needed to move forward with this or if it needs to go to legal, and asked for a response of clarity as to what Sailer is actually asking for; to include any crop damages, entitlement to hook on to anything, to hook on at no charge or be annexed?

Granzow calls Sailer: Asked Ron questions on the email- do you want us to pay crop damages going through your field? Ron replies, yes. Granzow asks if we can hook on with easement, does this mean you want to be annexed in to the DD or just hook on to the tile running through your field. Ron states he would just like to hook on to the tile. Granzow asked if Lee or other Trustees have questions. Gallentine asks how much land he might tile out and hook on, would it be his whole farm? Ron replies he would have to talk to his foreman to find out, but he thinks it would just be the wet spot on the corner of his farm, they just need somewhere to drain it because they think they are using the section underneath the tracks. Gallentine stated that portion that is inside the district that drains into this tile, it will give it a second outlet and won't go under the tracks anymore, and Ron is part of that district, but a good portion of his field to the west is outside the district, is he thinking of hooking that on too? Ron- I need to speak with my farmer to find out exactly what his plans are. McClellan asked if there is a time he can do that and get back to us in the very near future? Ron replied he would get it done this week and get back to the Trustees. McClellan asked him to give Lance a call back. Gallentine stated we need to know so we can size this tile appropriately to accommodate the flow he wants to hook on plus whatever the District is running through it. Lance- at one point the district looked into annexing more ground to the north of Ron that would have had potential to hook on to this but I don't think Ron had a lot of land that would have benefited. Gallentine stated with a waterway nearby he did not expect Ron would run a 1/2 mile to a waterway when he could run 1/4 mile and hook to the tile. Ron said yes. Ron did not have any other questions.

It was discussed that the Trustees would decide who is handling drawing up the easement after they get more information from Ron.

7. Update - IRUA Correspondance

Update - On 10/28/19 we received a letter from Davis Brown Law to Frank Smith Law Office, (see Agenda documents for copy of letter). The letter instructs IRUA to cease and desist all conduct which is in violation of the permitting process and conditions established by Iowa Code section 468.186. The letter also requests a meeting with the IRUA and the Drainage Trustees.

On 10/28/19, Smith sent an email to Matt Mahler with the IRUA requesting a new check to replace the expired one, which would be sent back upon receipt of the new check or until such time as the Trustees direct Smith to do so.

8. Discuss W/ Possible Action - IRUA Invoices

The Trustees had directed Smith to determine how many parcels could be potentially assessed for a

minimum \$5.00 assessment and what amount of money would this could generate. Smith worked with Micah Cutler for assistance on GIS, and determined there were 5,420 parcels that intersect in some capacity with drainage districts in Hardin County that are not private trustee districts or inactive. That led to the question which is, if a parcel intersects with 2 or more districts in the parcel, would that mean we could assess each of those that lie within the parcel separately. When counting parcels within each district within the GIS, that there are 7.877 parcels in all drainage districts in total, which would generate an amount of \$39,385.00 in total at the \$5.00 minimum.

Gallentine stated that it would be assessed at a percentage, not a flat fee. If there are 20 parcels in a district, they would be assessed based on their classification, for example, on a \$2,000 assessment, if a small owner's assessment is \$1.78, he would pay the \$5.00 minimum, if a larger landowner's assessment was \$7.78, he would pay the \$7.78 amount of the original \$2,000.

Smith stated that the original request was to determine if there was a way to find a minimum assessment for all landowners to create a fund that could be used to cover the cost of the IRUA invoices, legal fees or a portion of the Drainage Clerks salary. Granzow thought a \$2,000 assessment would generate about \$45,000 coming in. Gallentine stated if the bill for the district is small then it may be a \$5.00 minimum.

Hoffman stated this fund would provide some stability for future legal fees that shouldn't come out of the Supervisor's line item. Granzow stated it would be a separate account, and we could look at how often we would need to do the assessment, whether it is every year, every other year or every 3 years. Hoffman stated Palo Alto and Pocahontas Counties would have appreciated having a fund balance, going into their fight with the Des Moines Water Works. Granzow said IDDA membership would be possibility with a fund balance. McClellan said if we use this fund for part of the salary of the drainage clerk, we would need more than the \$5.00 minimum. Hoffman said he appreciated the numbers and work from Cutler and Smith. McClellan said she spoke with Jessica Lara, Auditor, who said it would be an option to pay the invoices out of Rural Services, McClellan noted that the districts also run through some of the towns, so that would not be Rural Services. Granzow asked if all districts are included in this list. Smith stated the list only shows the tally for districts in which the Board of Supervisors act as Trustees, and does not include the private districts or inactive districts. Granzow states it should be all districts, Smith stated the list includes 25 inactive districts. Granzow asked if this list includes joint county districts, whether we are controlling or not. Gallentine stated this does include those districts as well. Granzow stated if we are not the controlling county, we should not be offering them legal.

Hoffman would like to see a total number with all the districts including the private trustee districts, and minus the inactive districts, to see how much that changes, and moves us to that \$45,000 goal. McClellan said it should include the private districts as well, because if they receive legal opinions that covers the private districts as well and that the Clerk handles the private trustee elections and invoices. Granzow stated that the private Trustees can come to us for any of those legal opinions, and Hoffman said there is a cost incurred with the Clerk's time involved for this. Hoffman stated it won't take long to go through this fund with legal and cited the lawsuit that has been allowed to go forward to sue the state of Iowa for clean rivers, and how will they drag the drainage districts into that, because one of the rivers noted is the Iowa River, and we have districts that dump into the Iowa River, and it is only a matter of time before this or another suit comes forward. Hoffman noted that this may be a wake up call to the inactive districts that they may want to dissolve.

McClellan was concerned that some of the inactive districts may not have been assessed in years, and may not have information readily available for all the acres and owner's. Granzow stated the private trustees should get a letter when they make a decision, that they will be assessed because they receive unlimited access to the Drainage Clerk. Hoffman stated that publication costs for Drainage issues, are very expensive and come right out of the Supervisor's budget as well, and should be shared by the districts.

Hoffman directed Smith to come back with a total that includes private districts, and remove the non controlling joint districts and inactive districts..

9. Discuss W Possible Action - Set Bid Date For Open Ditch Brush Control

The list for open ditches has been updated to reflect all open ditches that will require spraying. Last time the bid was let, the bid due date was December 21st, and Smith requested an earlier date not so close to holidays to ensure bidders have time to get their bids in. Granzow stated he wanted bids due the first week in December. Hoffman suggested language that gives preference to local contractors. Smith noted Adam Seward had called in asking if there would be any language giving local preference on the bid to in county contractors over out of county contractors. It was noted that B & W Control Spraying and Harrah Spraying were both out of county contractors. It was discussed that should a percentage be given, like 5% or 10% and be used. Hoffman stated we need to make sure we have the correct language so we do not need to decide what that threshold is when we open the bids. Granzow noted we did not award to the lowest bidder last time. McClellan also does not want to see only Hardin county bidders and get priced out of the market. Granzow stated you don't want to get a high number and cut back on quality. McClellan stated maybe Darrel Meyer can give us some clear language on how to word local preference language, as we don't want to discourage people from bidding but want to keep them honest.

Hoffman asked if we would bring it back next week for review or will we allow Darrell's verbiage to final say and get the notice out. McClellan said she would not pick apart the attorneys verbiage. Smith stated it is ready to go now, would just need to add new local preference language, and it needs to be published 2 consecutive weeks prior to bid due date. McClellan stated we need to put it on next week's agenda, Hoffman says we can schedule a Drainage Meeting after their regular Board of Supervisors meeting on Thursday October 31st, that way we have time to make any changes and meet publication deadlines. Gallentine stated we have a December 4th Landowners Meeting for DD 72, so we would have to schedule an afternoon meeting to do bid awards. Smith stated we have not received a lot of invoices from B&W since the 2016 bids, and asked if we need to reach out and find out if and why invoices have not been sent in. Granzow stated yes, he wants to know if the work had been done and when, as it is cheaper to spray small trees than deal with them after they grow.

Hoffman made a motion to instruct Smith to contact Darrel Meyer to add local preference statement to the Open Ditch Spraying Notice document, Granzow seconded. All ayes. Motion Carried.

10. DD 25 - Update WO #1 On RR Crossing

DD 25-WO # 1. Attorney Mike Richards has requested confirmation from the Union Pacific Railroad that allows an upgrade from the permitted 12" tile to the proposed 18" tile and to horizontally shift the crossing 80" to the south with a deadline of response by 10/22/19 and we will assume the railroad consents. Norma Reynolds replied that until engineering has provided me with confirmed approval, the proposed increase and the horizontal shift are NOT authorized activities on the railroad right of way. Reynolds will continue working with engineering on this request and will follow up immediately upon further developments.

Gallentine stated Steve McDowell requested an extension on DD 25 & 1 until Sept. 1st, 2020 and Lee knows that he is not excited to ask for a large extension but McDowell's contractor wants to bore 25 and 1 at the same time. DD 1 tile is flowing but not well. Gallentine asked what time frame would be appropriate. Granzow thinks spring extension would be more appropriate rather than leaving that window open so long. McClellan would like to extend to April as we do not have permission yet from the railroad. Gallentine needs direction and will draft it and send on to contractor. Granzow stated we are only willing to give a seasonal extension. Gallentine will draft and send on to the contractor.

11. Other Business

DD 119 - James Willem stopped in and requested an update on WO #249, he reports that the blowout on Lateral 1 is no 15-20' across and 4' to 5' deep. Investigation report in May stated it could be repaired anytime and had good access to area needing repaired. Smith stated she spoke with Bruce at the County Engineer's office and that Gehrke would be in the Cleves area on Thursday and Friday if they could have Gallentine touch base with the contractor maybe he could get in touch with them. Gallentine will reach out to Gehrke, and Gallentine can speak with James Willem if needed.

DD 26 - Randy Madden called in to report an active beaver dam on the open ditch in parcel 882232200002, with 2 active beavers on site, and the 36" tile outlets into the open ditch have a beaver dam above and below

the tile outlet. Smith stated she had not done anything with beaver trapping yet but had a list of trappers that can be contacted. Hoffman said to call people on the list and see if any are still active, Hoffman mentioned to contact Jeremiah Andrews from the Union area and see if he was available. Hoffman provided Jeremiah's contact info to Smith. Smith will update the list and contact someone to trap the beavers on Madden's land, then write a work order to remove the dam after beavers have been removed.

DD 128 - WO #127 - Smith had a question on WO #127, Smith noted that the last update said it was on hold with completion expected by the end of 2019. Smith wanted to know the status of the WO and if she needed to do anything with the deadline approaching. Gallentine stated that the contractor would need to provide an update and should an extension/change order be needed, that is the contractors responsibility to request one. Gallentine can reach out to the contractor and see where he is at with work.

12. Adjourn Meeting

Granzow motioned to adjourn, Hoffman seconded. All ayes. Motion carried.