

## REGULAR DRAINAGE MEETING

Wednesday December 15, 2021, 9:30 A.M.

This meeting was held electronically and in-person.

12/15/2021 - Minutes

1. Open Meeting

Hardin County Chairperson BJ Hoffman opened the meeting. Also present were Trustee Renee McClellan; Trustee Lance Granzow; Lee Gallentine of Clapsaddle-Garber Associates (CGA); Mike Pearce, Network Specialist; and Michelle Kuechenberg, Drainage Clerk.

2. Approve Agenda

Motion by Granzow to approve the agenda. Second by McClellan. All ayes. Motion carried

3. Approve Minutes

Motion by McClellan to approve the minutes of Regular Drainage Meeting dated 11/17/21, 11/24/21, and 12/08/21. Second by Granzow. All ayes. Motion carried.

4. Approve Claims For Payment

DD 121 W0 295- Communication W/ Contractor      Clapsaddle-Garber Assoc      \$ 602.50

Motion by Granzow to approve the claims for payment of \$602.50 with a pay date of Friday, December 17, 2021. Second by McClellan. All ayes. Motion carried.

5. DD 56 WO 3 - Discuss W Possible Action - Change Order #1

Kuechenberg stated that she added a copy of the Change Order to the agenda, and another one for the Board of Trustees to review and sign after the meeting. Granzow asked what we were changing. Gallentine stated that this what we talked about last week at the DD 56 Landowner Meeting. Gallentine stated they removed the televising and compaction on the tile from the contract and added the price increase that Gehrke requested. Gallentine stated, in addition, they also changed the intake in the road ditch from 12 inch to 36 inch. Gallentine stated that he requested 24, Gehrke thought 36 would be better. Gallentine stated, after all of that, there was an increase to the contract of \$49,626.40. Granzow stated, "an increase?" Gallentine stated that was correct. McClellan stated the increase was \$49,000 and what? Gallentine stated the increase was \$49,626.40. Granzow stated that we took out \$50,000, and we increased the contract by \$49,000? Hoffman stated that the contract was increased by almost \$100,000. Granzow stated and out of that \$100,000 increase, we took out \$50,000. Gallentine stated that was correct. Granzow asked if it was \$100,000 to change the intake? Gallentine stated, no, this also reflects the change in material, fuel, and labor cost that we talked about at the DD 56 meeting last week. Hoffman stated comprehensive changes. Hoffman asked how long they have to act on the Change Order. Gallentine stated, the sooner the better so Jeremy can get the material ordered. Hoffman stated the reason why he was asking is because he would like to send this Change Order out to the landowners in DD 56 and get their input. Hoffman added, if we need to, we can have a quick Drainage Meeting to address their concerns. McClellan stated that she thought they voted on everything at the last meeting. Granzow stated he thought it was already voted on too. Hoffman stated that was fine as long as the landowners were all good with the changes. Granzow stated that this was just the finalizing of the paperwork. Hoffman stated that sounds good.

Motion by McClellan to accept Change Order #1. Second by Granzow. All ayes. Motion carried.

## 6. Discuss W Possible Action - IDDA Recap

Kuechenberg stated that she and the other Drainage Clerks that attended the IDDA conference went over new sections in Iowa Drainage Code with IDDA's Lawyer Doug Struyk. Kuechenberg stated the first one she would like to discuss is Iowa Code 468.45 - Notice of hearing. Kuechenberg stated that this section in the code is referring to reclassification. Kuechenberg stated that according to code 468.45 you can publish notice in the hearing that individuals can save money for districts and post a statement of the amount of the assessment of costs online on the county's internet site and in the Auditor's office. Kuechenberg stated that she believes the notice of hearing, according to code, has to be delivered to landowners 40 days prior to the hearing date. McClellan asked if we should send out a post card to every landowner informing them of the updates. Hoffman stated that a post card may be cheaper than a publication notice. Hoffman stated that not everyone reads the paper. Gallentine stated that he thinks what really brought this on, there was some counties, when they would publish, they would publish the entire reclassification report or schedule. Gallentine stated that what this clarifies is that you do not have to do that. Gallentine stated that he does not think Hardin County ever did that to start with, but other counties would publish the entire schedule. Kuechenberg stated that must have been really expensive. Gallentine stated that the publication cost was thousands of dollars. Granzow stated that he would still rather have a postcard sent to every landowner. Hoffman stated that we would just let them know where they could find it, and in what section of code they can read the new language. Hoffman asked Kuechenberg if she is proposing they take action and update our policy today. Kuechenberg stated that she just wanted to inform the Trustees of these updates so they can make an informed decision going forward. Hoffman stated that he thinks we should have a policy that states we're going to post all reclassifications per this code section, and we will do a post card mailing in lieu of any newspaper publication. Granzow stated that if you put it in a policy, we will attempt to send a post card every time. Granzow added that if you have a small district that only has 7 people in the district, we probably will not send a post card every time. Granzow stated that can be discussed at each meeting. Hoffman stated that he is going to be the eternal optimist here, Kuechenberg is going to be here for the next 30 years doing this job and so he doesn't think she will forget to do that. Hoffman stated that the policy is a good reminder. McClellan stated that we don't always have a very good turnout for some of these things, how will they know to look online? Granzow stated that he likes the postcard idea. Granzow stated that we can always change that per meeting. McClellan stated that we should just state that we may send post card notifications. McClellan stated that is better than requiring it. Hoffman stated we could note in the policy that it can be at the Trustees discretion. Kuechenberg stated that this is just to publish in the notice of the hearing. Kuechenberg stated she thought everyone would get a post card regardless. Kuechenberg stated in that notice, we could inform the landowners that it will be published online or in the Auditor's office. Kuechenberg stated that if the landowners request an additional copy, we could certainly provide that to them as the code states. Hoffman stated that sounds good. Hoffman stated there would be no need for action today.

Kuechenberg stated the second one they were talking about in detail was Iowa Code 468.17A - Unofficial notice by electronic mail. Kuechenberg stated this section of code is completely new this year. Kuechenberg stated that this section of code states that the county can save money by sending email. Kuechenberg stated that all electronic email addresses retained by the board are confidential records under section 22.7. Kuechenberg stated that when she would send those emails out, she would be sure to blind copy everyone using the BCC function. Kuechenberg stated she's not sure if everyone with joint ownership of the property would have to sign an Affidavit or just the person requesting correspondence through email. Hoffman stated that he's not sure this is even practical. Hoffman stated that if they request it we could send it to them in the email, otherwise, our people are not really email friendly. McClellan stated that a majority of the drainage people will not want their assessments in the email. Hoffman stated that he would like to believe that more people would like this option. Hoffman stated but I think even Kuechenberg has probably learned in her short time here that people will want a hard copy. McClellan stated that she is one of those. Hoffman stated that a lot of people like a hard copy of things so they can add it to their files and pass it down with their land if it's staying in the family. Hoffman stated that the electronic is fine for those who would want it but they can request it. McClellan agreed. McClellan stated it would also be more work for Kuechenberg keeping track of who wants the hard copies and who wants the email copies. Kuechenberg stated that would probably be something that we could bring up at the hearing, however, not everyone shows up to those hearings. Granzow stated, or they could call and request to, but otherwise how do you find an email address that's not yours to find. McClellan stated that she checks her work email all of the time but her personal email she doesn't look at every day, people could be missing important information.

Gallentine stated that looking at the way 468.17A is worded, it says that the person entitled to receive the notice may request the board responsible providing notice through email so it's really the landowner initiates and not the board. McClellan stated ok, so it's not that you would do that for everyone. McClellan stated which once again is more for Kuechenberg to keep track of. Gallentine stated once they say that all of the sudden those emails are considered confidential, and she can't disclose them and has to worry about security and all of that other stuff. Hoffman stated that's why we have a Network Engineer.

7. Discuss W Possible Action - New Work Order Requests

8. Other Business

DD 121 - Gallentine stated that he just wanted to give the Trustees an update on Adam Seward in DD 121. Gallentine stated Adam is still plugging away, he's got 100-150 feet left roughly. Gallentine stated that he's hoping to get that wrapped up this week depending on what this afternoon looks like. Hoffman stated he told one of his workers to watch the pendulum on laying pipe this afternoon. Gallentine stated that it sounds like there will be a time where it will not be fun or productive.

Kuechenberg stated that she did reach out to Calhoun County Drainage Clerk. Kuechenberg stated Leah, the Drainage Clerk, told her Calhoun County does not charge anything to their utility companies for crossing over the tiles. Kuechenberg stated they have a Drainage Engineer that reviews and approves their permit applications. Kuechenberg stated their Drainage Engineer charges a flat rate of \$120 an hour to the utility companies for reviewing the applications. Kuechenberg stated, according to Leah, the last billing they had for a utility company was \$360. Kuechenberg stated they updated their policies a couple of years ago. Granzow stated that sounds easy. Gallentine stated it does, until the utility company does not want to pay. Hoffman stated he does not think Gallentine wanted to be in the collections business.

Kuechenberg stated that she had one more thing to discuss in other business. Kuechenberg stated this was another area of the code that was discussed at the IDDA conference. Kuechenberg stated this section of the code, 468.521-468.539 Elections, has not changed, it was brought up because private district elections are coming up shortly. Kuechenberg stated that one of the Drainage Clerk's mentioned that she travels to each polling location the day of the private Trustee drainage elections to help them get going. Kuechenberg stated that lead to a discussion about what the County employed Drainage Clerk's responsibilities are when it comes to private districts. Kuechenberg stated the other Clerks said they do not have much to do with their private districts. Kuechenberg stated she asked what they meant by that. Kuechenberg stated they do not set agenda's, write minutes, or do much of anything outside of processing payments and creating election packets for them. Kuechenberg stated that Doug Struyk, IDDA's Lawyer, pointed out section 468.521 in Iowa code - Elections, it states that: "the clerk of the board shall act as one of the clerks and an owner of the land in the district shall be appointed by the board to act as another clerk." Hoffman stated that he thinks Kuechenberg needs to have her hand in there because at the end of the day she is responsible for the districts. Hoffman stated that Kuechenberg should act in her own best interest to protect herself and her position. Granzow stated that he thought the Drainage Clerk's time gets charged to them. Kuechenberg stated Struyk told them the same thing, if the Drainage Clerks are doing more and acting as the Clerk for private districts then the Clerk's time should be compensated by the district. McClellan asked if they were paying for the time or benefits too? Granzow stated let's say her salary is \$20 an hour after benefits it is \$30 an hour plus mileage. Hoffman stated that would be from the time you leave here to the time you go home. Granzow stated he is probably really low on this number, it is probably closer to \$70,000 with IPERS, FICA, Health Insurance, Life Insurance. Granzow stated when you put the whole package together it is probably closer to \$70,000. Hoffman stated probably \$50,000. Granzow stated it is well over a \$50,000 dollar position. Hoffman stated that Kuechenberg can act accordingly and maybe draw something up that this is how it will run, not how it could run. Hoffman stated he would put it right out there how Kuechenberg wants it to run. Kuechenberg stated that our process for elections is similar to that of other counties. Kuechenberg stated that we send out packets. Kuechenberg stated that is typical of every Drainage Clerk, she was referring to how she attends meetings and writes the minutes for some of her private districts. McClellan asked if she attends the meetings. Kuechenberg stated she has attended a few of the private district meetings in her short time working as the Clerk. Granzow stated that she has to attend ours too. Kuechenberg stated according to the Struyk, Drainage Clerks employed by the counties only have to be the Clerk for the County Board of Trustees. Gallentine stated that he does not

think that is how it has been historically, that is for sure. Kuechenberg stated that there was about 20 Drainage Clerks in the conference room with her and they had all said they did not perform Clerk responsibilities for private districts. Granzow asked who the keeper of the minutes and their records. Kuechenberg stated the other Clerks told her the private Trustees take their own minutes and hand them in so the Clerk can add them to the file. Kuechenberg stated that Smith, told her that some of our districts have done that in the past. Granzow stated that he would be weary for them and us. Granzow stated the reason why he says that, what if they're trying to do things without giving notice according to code. Granzow stated that you also keep them out of trouble as well. Gallentine stated that a lot of counties don't have near as many private Trustee districts as we do. Gallentine stated that may be part of the lack of participation of the Clerk too. McClellan stated that she has a question about 468.521. McClellan read: "the clerk of the board shall act as one of the clerks and an owner of land in the district shall be appointed by the board to act as another clerk". McClellan stated, however, in number one: "after the first election of Trustees, the Board of Trustees shall act as judge of election; however, a Trustee standing for election shall not serve as a judge." McClellan stated that she is talking about the board (them), and the clerk of their Board of Trustees. McClellan stated that it could be anyone, why would it have to be Kuechenberg. McClellan stated that she is not taking this as she needs to participate in this stuff for private districts. Hoffman stated not as their secretary but a clerk during the election. Hoffman stated that this is only pertaining to the election. Kuechenberg stated if you flip the page to the next page in the handout, at the top in section 468.525 - Organization states that: "as soon as the Trustees have qualified, they shall organize by electing one of their own numbers as chairperson and may select some other competent person as clerk of the board who shall serve during the pleasure of the Board of Trustees. McClellan stated correct. McClellan stated that she thinks the code is talking how they elect their own clerk. McClellan stated that she doesn't think number two is referring Kuechenberg and our Board of Trustees. McClellan stated that she thinks private districts are supposed to appoint their own. McClellan stated she does not think it is saying that Kuechenberg has to do any of that, she thinks it refers to their new Board of Trustees. McClellan stated that after they elect their new Board of Trustees, then their board shall act as judges. Granzow stated that he would be willing to bet they're willing to pay the bill to have her do it though. McClellan stated that she knows but right now it is not clear that is something Kuechenberg needs to do. Hoffman stated that District 3 is pretty good at maintaining quality records. McClellan asked how many of them do we have though. Kuechenberg stated there is about 16 private districts. Granzow stated that right here it says that: "the Trustees shall from time to time, and with reasonable promptness, furnish the Auditor of each county in which any part of said district is situated, with a correct report of their acts and proceedings, which reports shall be signed by the chairperson and the clerk of the board and shall be recorded by the Auditor in the drainage record, and shall be published in one official paper in the county having a general circulation in the district". Granzow stated that everything McClellan is saying is correct. McClellan stated the code is not talking about us board, code is talking about their own individual Board of Trustees. Granzow stated that they can appoint whatever clerk they want, it is their responsibility to get the records to us so they can be published in the paper. McClellan asked Kuechenberg if she said some of the County Drainage Clerks attend the elections for private districts. Kuechenberg stated that is correct. Kuechenberg stated that is what started this whole conversation at the conference. Kuechenberg stated that according to the IDDA lawyer, Doug Struyk, County Drainage Clerks do not have to do much for private districts unless their hours are being compensated by the district because it was their choice to go private. Kuechenberg stated that Struyk pointed out Iowa Code 468.521 and then went on from there. McClellan stated it took her a while to see that but as she was reading through that section in the code she agreed. Granzow stated he was always told the opposite. Granzow stated that he was fine with this, but he doesn't have a problem putting a policy together of what her dollar amount is to appoint her as Clerk of their Board. McClellan asked if we would even need to have a policy. McClellan stated it's all right there in Iowa Code. Granzow stated that there is some of the districts that would be more than happy to have Kuechenberg as their Clerk. Granzow asked what the big district was with the open ditch. Gallentine and Kuechenberg asked if he meant DD 3. Kuechenberg stated she thinks we do a lot with DD 3 and DD 67. Granzow stated that they have their meetings in the Courthouse for that reason. Gallentine stated he thinks DD 3 would be too. McClellan stated then we would need to come up with an hourly rate. McClellan asked how many private districts we had. Kuechenberg stated we had about 16 but most of them we do not do much for anyways. Kuechenberg stated they do their own minutes and send them in. Kuechenberg stated last week she took a call from a landowner about a repair that needs to be done in one of the private districts, she reached out to the Trustee and informed him of that repair. Kuechenberg stated that he hired a company to fix it and will send in a signed voucher with the invoice when the repair is complete so she can bill the district. McClellan stated that she does not remember Jane doing any of that for private districts, but she could be wrong. Granzow asked what the last district was that pulled away from them because they were

upset with the board. Gallentine stated it was DD 148. Granzow stated he doubts they would want Kuechenberg as their Clerk, but he is speculating. Granzow stated that they would probably rather do the clerical work themselves than pay to have Kuechenberg be their Clerk. Granzow stated that he could see it go both ways. McClellan stated that maybe she was the only one that was reading this wrong, but as she reads it, she realized they were not talking about them as the Board. Hoffman and Granzow stated they thought McClellan was right. McClellan stated that as long as Kuechenberg's salary and benefits are being compensated while she is acting as their clerk she doesn't mind. Granzow asked Kuechenberg if she gets paid. Kuechenberg stated that as far as she knows, her salary and benefits are only being paid out of the Auditor budget. Kuechenberg stated that she does not clock her hours when she is with private districts because she has never been told to. Kuechenberg stated she asked Smith, the previous Drainage Clerk, and she was not aware of this section in the code. Hoffman instructed Kuechenberg to draft a letter from him to all of the Drainage Districts with Iowa Code in it, along with a fee schedule and give them a couple of weeks to decide if they're going to use us or our services. McClellan stated that she would just send it to the ones that are using her as the Clerk. Granzow stated he would send it to all of them. Hoffman stated if Kuechenberg wants to bring that to him when she is finished with it to have the Board authorize him to send it to all of the private districts, he thinks that would be a good idea. Granzow asked how much time we had before the next election. Kuechenberg stated the next election was January 15th. Hoffman stated we should also add in the letter what we still would provide and what it would cost. McClellan stated she thinks with the packets, she doesn't know exactly what is in them, but it takes Kuechenberg's time to get them ready and make copies. Kuechenberg stated that the packets have ballots, publication listing, classification reports, poll books, and a few other reports in them. Kuechenberg stated that they're charged for the postage of the packets and the publication that goes out in the newspaper. Hoffman stated that he would offer a drainage election education thing detailing how they have to run. Granzow stated that we should point out the duties of the Clerk and what their responsibilities are as Trustees. Granzow stated and if they would like to utilize the Drainage Clerk these are the costs of doing so. Kuechenberg asked the Trustees if they wanted her to send this along to Darrell to look over as well. Hoffman stated that she could. McClellan stated we shouldn't need to if an Attorney there informed the Clerks of these sections of the code. Kuechenberg stated that is correct, Doug was with us explaining all of this. Hoffman stated that if Kuechenberg wants to send this over to Darrell for him to review to verify what their beliefs are that is fine. Granzow stated that it is the opposite of what the Board of Trustees thought they were. Granzow asked if Kuechenberg would need this in a motion. Hoffman stated that he does not think it is necessary because the board is just directing her to draft a letter to the private districts. Hoffman asked Gallentine if one of the Drainage Districts calls him in for consultation then he would bill them, right? Gallentine stated he does.

Granzow stated he had other business. Granzow stated that he just wanted to thank Kuechenberg for what she does and how she brings the information to them. Hoffman stated she takes the bull by the horns. Kuechenberg thanked the Trustees.

## 9. Adjourn Meeting

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