

REGULAR DRAINAGE MEETING
Wednesday June 23, 2021 9:30 AM

This meeting was held electronically and in-person.

6/23/2021 - Minutes

1. Open Meeting

Hardin County Drainage Chairperson BJ Hoffman opened the meeting. Also present were Trustee Renee McClellan; Trustee Lance Granzow; Story County Drainage Trustees - Latifah Faisal, Lisa Heddens, Linda Murken; Darren Moon, Story County Engineer; Scott Wall, Story County Drainage Clerk; Lee Gallentine, Clapsaddle-Garber Associates (CGA); Michael Pearce, Network Specialist; and Denise Smith, Drainage Clerk.

2. Approve Agenda

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

3. Approve Minutes

Motion by McClellan to approve the minutes of Drainage Meetings dated 05-05-2021 and 05-12-2021. Second by Granzow. All ayes. Motion carried.

4. Approve Claims For Payment

Motion by Granzow to approve the Claims for Payment with pay date of Friday, June 25, 2021. Second by McClellan. All ayes. Motion carried.

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| DD 42 WO 297 Tile Inv, repair, labor, equipment | Honey Creek Land Improvement, LLC | \$965.00 |
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| DD 131 WO 310 - Tile repair, parts, labor, equip | Honey Creek Land Improvement, LLC | \$2,979.48 |
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| DD Big 4 Main - Repair of slough on ditch | Jensen Excavating Inc. | \$4,675.50 |
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5. DD H-S 35-1 - Discuss W Possible Action - Joint County Investigation/Repair Request

Introductions were made and attendance verified. Smith stated we received a request for repair from Story County, who provided us with a map, Smith asked Moon to tell us a little bit about what needs to be done here, that would be great info for us. Moon stated he received a request back in April from Randy Reifschneider saying there was a blowout in the tile near the outlet, the Story County tile foreman went out to look at it to see if it would be an easy repair, and he found a couple of holes near the outlet, and the tile was almost completely underwater, as dry as it has been the tile was still completely full of water, and he did not think it was ever going to come down, and so he felt some ditch cleaning was necessary, and thinks there is about 2,000 feet of open ditch downstream from the outlet that could be cleaned, and estimating he thought it was about 100' of 36" tile to the outlet needed replaced, probably based on the holes and what he could see, and again it was underwater so it was hard to tell. Moon stated at some point it was above and beyond our small repairs that we do so we thought that we needed to go to the district, one - we were hoping that there was an Engineer's Report done in 2016 so maybe the Engineer's Report portion would take care of this so we could just go back to whatever Hardin County uses as their Engineering service and maybe just get an estimate portion to see if it is over \$50,000 or not and if so we would have to do a bid

letting, and another Engineer's Report may not be necessary but that can be open for discussion.

Granzow asked as of July 1st that number changes to what, \$130,000. Smith stated \$139,000. Granzow stated for the repair, Hoffman stated up to that without it going to bid letting, Gallentine stated the 2016 Engineer's Report was for improvements to the tile only, Gallentine stated he did not think we discussed the open ditch at all. Moon stated correct and since this is just technically a repair, another reason why the Engineer's report technically isn't necessary, probably just move forward, Moon is not sure if you use an engineering firm to do some of your larger engineering projects and get bids for you, which is what we hoped to do. Granzow stated he believed we have to. Hoffman stated what we do here is we utilize Clapsaddle-Garber Associates (CGA) so Lee Gallentine, the gentleman speaking, he is our Drainage Engineer, we don't have a drainage tile crew so what we typically do is let's say we direct as Trustees, CGA, to go out and look at the project and come back with a report, it is something that is very simple. Hoffman stated we have a lottery of in-county, bonded, licensed, qualified contractors that now we have even started saying the Drainage Engineer, CGA goes out takes one of our fully licensed, bonded, insured contractors with them and if it is something as simple as a new inlet or something like that, we allow that to be done, if it is something more complex, sometimes it is just easier to have CGA go out take a look, and come back to the Trustees, report back and give us a few options, as long as it is staying under that \$50,000 threshold, which as Granzow said, July 1st turns into a \$139,000 threshold. Hoffman is open to all and every suggestion as to how we can work together to get this resolved sooner rather than later. Gallentine stated he would interject, based on what Moon has already shown you and talked about, Gallentine did not think it was going to be a simple repair, and did not know if it was going to exceed that \$139,000 threshold but it is not just hire your local guy to do it on your regular tile blowout. Hoffman stated right. Granzow stated you would suggest that even though we don't need a report made, we could do a bid. Gallentine stated he would suggest getting a handle on the extent and figure out if that whole entire 2,000' length needs cleaned or not. Hoffman stated get a scope of work. Gallentine stated let's do some survey, have somebody do some survey and let's figure out on the main tile itself, is it 100' or is it a little bit farther upstream, maybe just visually observing, would be Gallentine's approach if it were a total Hardin County project, it is up to the Trustees how they want to do it. Granzow asked if he heard this right, do we go from a tile to an open ditch back to a tile. Gallentine stated no, it is tile open ditch and let her go from there. Hoffman asked Moon, assuming the pictures are quite recent but can you tell us what there are for crops on it right now, are we going to be trying to get on cropped ground and possibly be looking at crop damages, is this something that we can have someone go and take a look at and wait until crops are out, Hoffman asked Moon where we stand on those parts of the project.

Moon stated he can't really tell you that for sure, without seeing photos from 2020, you can kind of see a brush pile on the corner up there and we have been working with the landowner on this for the last few years, on clearing the brush through there and that is still the Randy Reifschneider, so he would think he would be open to working with us, it looks like it would be a great big buffer through there, to at least get cleaned around the corner. Gallentine stated that is another issue if you have got brush and trees that lie over the existing tile, Gallentine does not know what impact that may have. Hoffman stated at this point and does not know how busy Moon's office is, Hoffman would say that Clapsaddle-Garber could probably get out there in the next few weeks or sooner, they are really good at under-promising and over-delivering, so if anyone has any objections, we could send them out and have them put together maybe not an engineer's report but some type of scope of work summary, and we could get that back to everyone and we can reconvene as soon as we have some formal documentation from Clapsaddle-Garber. Moon stated that would be his recommendation. Heddens asked when would we decide when they are out there looking at doing, if you do not need a full engineer's report or an updated engineer's report. Hoffman asked what is the catalyst for us to know this is going to far exceed the \$139,000. Gallentine stated at the time we release that summary, we would have an Opinion of Costs, and know that we would be over that \$139,000 threshold, if it is over that threshold that an Engineer's Report is required then you are required to do it, if it is under that threshold, then you guys can decide how you are going to select a contractor, if you are going to get some quotes or bids. Hoffman asked if that answered Heddens' question. Heddens stated it does, thank you. Hoffman asked for any other questions, comments or concerns. Granzow asked if we are the lead County on this, but it is a joint district. Hoffman stated yes. Granzow stated along with that they can make the motion as well. Hoffman stated that is right. Granzow stated he would prefer that they make the motion as it is in their County. McClellan stated she would agree. Hoffman stated if his colleagues from Story County would like to make a motion directing either your engineer or CGA out to investigate and provide a summary, Hoffman would entertain that motion at this time.

Heddens asked if Moon felt like we could do that or should we ask CGA. Moon stated he would rather ask CGA because we would have to go to our consulting engineer, and CGA sounds like they have the same Engineer as the last Engineer's report and they have some familiarity with it.

Motion by Hedden to have CGA provide the information. Second by Granzow. All ayes.

Hoffman asked if it was unanimous on the Story City side. Heddens stated she couldn't tell, and suggested we call for anyone opposed. Hoffman asked if anyone opposed. Hoffman stated he did not know if he heard Linda Murken's reply. Heddens stated she does not think Murken's had responded and would go and check. Hoffman thanked Heddens.

Heddens asked Hoffman to restate the motion for Murken, Murken could not hear with her computer. Hoffman stated no problem, the motion was to have Clapsaddle-Garber Associates go out and examine and bring back a summary report, not a full engineer's report back to us and then we will reconvene to see what kind of scope of work does or doesn't need to be done. Heddens stated she made the motion and Lance Granzow seconded, we don't know Legislature has changed the Engineer's Report requirements beginning July 1 to \$139,000. Murken asked if this was to have them go out and see if we need a full engineer's report. Murken asked who is it that is preparing that report. Heddens stated their engineer. Hoffman stated it is not our County Engineer it is our Drainage Engineer, our County Engineer doesn't handle any of our drainage so we have Clapsaddle-Garber Associates, Murken asked who is the Drainage Engineer. Hoffman stated it is Clapsaddle-Garber Associates, Lee Gallentine. Heddens stated we all voted and thought it was unanimous and then we realized you weren't hearing us. Murken asked if she could vote now. Hoffman stated absolutely, he knows technology can always be a problem. Granzow stated let's do a recall of the vote. Hoffman stated let's re-vote, just so that we have a good written record on our end we will have the Drainage Clerk do a role call vote.

Smith conducted a role call vote: Lance Granzow - Aye; Renee McClellan - Aye; BJ Hoffman - Aye; Lisa Heddens - Aye; Linda Murken - Aye; Latifah Faisal - Aye. Smith asked if she got everybody. Hoffman stated perfect. Smith thanked the Trustees.

Hoffman apologized for the technological challenges and stated we will get CGA out here as soon as possible and Smith will coordinate with the Story County Drainage Clerk for scheduling. Gallentine stated just for clarity we will get a Summary back not a full report. Hoffman stated you will get a Summary statement, not a full report. Hoffman asked for any additional comments. Hearing none, Hoffman thanked all the participants.

6. DD 52 WO 215 - Discuss W Possible Action - Landowner Concerns

Smith stated this was regarding the Piel parcel purchased by Al Meister, we had brought this back from last week's agenda, we had shown photos last week that Mr. Meister had provided the Trustees of the tree debris left behind. Smith stated she did a little further digging into the minutes, and did a little research. Smith referenced a map image of an overhead view that Gallentine had provided at that time that references what was done, and if we let Gallentine go over that briefly, that might help the Trustees decide what they would like to do.

Gallentine stated this one was tough, because we weren't out there when the trees were removed, we were out there before the trees were removed and after the trees were removed, Gallentine stated if he is really understanding Meister's concerns, there was some debris that appeared to be pushed up against some trees that were left in place, and from what Gallentine can decipher from the emails, Honey Creek said they were getting this stuff out of your way, that way you don't have to deal with it, it was debris left from the former tree service. Gallentine stated Meister is looking at this as hey you should have cleaned this up too, Gallentine stated he is not sure where the Trustees want to go with that, and asked if he summarized it well. Smith stated he summarized it well. Gallentine stated he thinks the photos show that they definitely pushed up the tree debris, but it is just a question of where the stop or start is on it, and we have the different owner in there, that doesn't help things, Gallentine stated he does not think Seward will dispute that he pushed it up, Gallentine thinks Seward did it thinking he was making the site better and Meister

looks at as the exact opposite. Gallentine stated it is one of those things if we just stayed within our scope and done exactly what we were old. McClellan asked if those were old tree cuttings, Smith stated that is what Seward references in his first email, where he shared photos of the site. McClellan stated we know they were out there more than once, it was years ago, so that is not our problem right now. Granzow stated that was in 2011 and these are fresh trees. McClellan stated that was in years previous wasn't it that we were out there. Gallentine stated that was in 2011. Smith referenced the photos shared by Seward, these were taken in 2020 at the time of tree removal and that is all Smith got from Seward at the time, and it does not show a good view of what was left behind. Gallentine stated Granzow has some new pictures since last week, Gallentine did not pass those along as he thought Smith already had them. Smith said she would get them added to the file. Granzow shared the images.

Smith stated the work order remains open in Tyler if you need to reference that for any further work. Gallentine stated it is really the debris pile that is up against the existing trees that Meister is really concerned about. Granzow stated someone needs to take care of them, and Meister wonders if it is the District or Meister. McClellan read from Meister's email which stated he does not have any pictures of before trees were cut but this picture is right after they left the site, McClellan asked who they were. Granzow stated Adam Seward. McClellan stated okay. Granzow stated you can see the fresh cut trees. Gallentine stated this could be from when Piel's ran a tree service, and Gallentine does not even know when Piel's tree service was active, were they dumping things out there the same time as Seward was working there or was that years ago. Granzow stated it had to have been years ago, they have been gone for awhile. Gallentine stated then that makes a lot more sense. Granzow stated he did not think Piel was still in the area, and had not done tree work in years. Gallentine stated it is your call on how you would like to proceed.

Granzow stated he has a lot of questions, first of all this is Piel's property at the time, were any arrangements made at that time with Piel, between Honey Creek and Piel, Granzow does not know, he knew Piel had asked about it and we let Piel know he had to fill out the paperwork, he never did anything, Meister purchased all of this not knowing there was even drainage costs on anything, the assessments were coming. Hoffman stated maybe we ask Seward to come into a meeting. Gallentine stated he does not think that would hurt, he was really giving you everything second hand. Hoffman stated he completely understands. Granzow stated Meister's question is should he have to pay for this or should the district still be paying this. Hoffman stated either way, Granzow stated that is his question and he would like it resolved either way, Granzow knows that Piel asked about it at one time, but was not sure what Piel was asking, he wanted monetary for any of this, is what Piel was asking for at the time. McClellan stated about leaving those trees there as damages. Granzow stated Piel wanted money, money for the hay ground. Smith stated Piel wanted crop damages, he disputed the amount of the seed value, he felt that it was not a fair approach and he felt we spent ten times as much on legal opinions, he was upset about with the legal costs and felt the value of the seed should have been more however we would not have incurred those legal costs had the owner been cooperative at the time. Gallentine stated Piel took the first letter that Gallentine sent him, Piel did not respond and took that as it was ok to do it, Gallentine stated no the letter meant he should have signed it and sent it back. Granzow stated and Piel wasn't for it, and since then he has sold it and now Meister is asking do I have Piel's mess or a drainage mess, Meister wants to know who is responsible. Hoffman stated in the matter of time, Hoffman would rather ask Seward to come in next week and explain, because at 10:30 we have a closed session meeting and the next item we know is going to require a fair amount of discussion if we are, so do we want to direct Smith to invite Seward to come in next week.

McClellan motioned to direct the Drainage Clerk to invite Seward to attend the meeting next week. Second by Granzow.

In additional discussion on the motion, McClellan stated Seward does not have to be here in person, he can call into the meeting.

All ayes. Motion carried.

7. DD 167 - Discuss W Possible Action - Petition For Private Trustee Management

Smith stated we have received a petition for Private Trustee management from Drainage District 167,

Hoffman stated we think 167, Smith stated we think 167, Smith received this in the mail with a letter addressed from Sharon Hanson and there are some signatures on here, that Smith worked hard to try and decipher some of these in comparison to the list of landowners. Smith stated some of these are a little illegible and are difficult for Smith to decipher. Granzow asked if they meet the required amount of signatures. Smith stated this would be 21 of 40 landowners, if they are all valid landowners within the district, we have 65 parcels and 41 owners, this is 21 signatures, Smith has done the best she could on some of those, the fourth signature down could be David Harell, Smith is not sure, Hoffman stated or October 7th, Smith stated or October 2nd of 7, Smith does not know, if we go a little bit further down here there is one that is pretty squiggly, Smith stated she thinks that is Eric Ketchum, Gallentine stated that looks like my signature. Smith stated you could have, there is one further down, could possibly be Robert Thompson, Smith is not sure, so Smith is looking for some direction as to how the Trustees would like her to proceed with this, since there is not a district named in the blank, Smith was hoping that they would have filled that in. Granzow asked if they are meeting tomorrow. Smith stated they are meeting tomorrow at 6:00 pm in the Roundhouse, they have called a Special City Council meeting and notices went out to town members in their water bills that went out this Monday.

Granzow stated he would first of all convey the fact that this petition is not legal, Hoffman stated it is incomplete, Granzow stated it is incomplete, because it does not say what district, Granzow stated he would still go there to the meeting with Smith and Gallentine as planned, Granzow can not accept this because it does not say what district it is because it needs to. Smith stated she did not feel comfortable writing that in so she did not. Granzow stated you can't. Hoffman stated, trust me you do not want to. Granzow stated along with that take this petition there and if we can verify people's signatures, great. Hoffman asked how can we do that, McClellan stated put it on a note pad just like we have it here. Granzow stated it needs to have a new petition because this one is invalid. Hoffman stated if he was doing the petition he would, McClellan stated sign and print, Granzow stated write your name. Pearce pointed out the signature in both print and cursive. Gallentine stated you also have to remember that this is a form that the district provided. Hoffman stated but the person petitioning could say here, it is not legible write your name by it. Granzow stated this is a form where it is left blank right there, it needed to be filled in, that is no different than when we run for office, we can't leave something out. Smith stated she did not fill it in because this is a stock form that we have in a file folder that Smith can pass out to any district. Hoffman stated neither one is filled in, there are two spots for the DD. Smith stated that was correct, neither one is filled in. Gallentine was wondering if it could be returned to whoever sent it in but really once it is turned in it has to start over, she can't just fill in the district because those people, you don't know what was represented when they signed. Hoffman stated right, what was the explanation when they signed it. Smith stated there are two drainage districts in New Providence, 167 and 146, that also muddies the water a little bit. Hoffman stated here is one other thing, we have had this in other meetings are these two separate landowners or are they the same. Smith stated she does not know if she has Rodney on the Classification list. Hoffman stated you have Sharon and you have Rodney. Smith stated she does not know that she has Rodney listed as a separate owner, Smith has Sharon listed as Sharon Kriz, individually as a landowner. Granzow stated it is only one unless he has a listing of his own. Hoffman stated unless he has a parcel of his own. Smith stated she did not have him as anything else. Granzow stated that is one that doesn't even qualify as one. Hoffman stated those are the things that, and those are the same people signing, that H and that H are the same. Granzow stated regardless it doesn't matter, you can only have one owner. Gallentine stated when Smith brought some of these issues to him, he is not trying to be difficult, Gallentine just wants to make sure it is being done the correct way because you also have at best 19 people in this district that didn't sign it, we need to make sure we are doing it correctly for them. Granzow stated you could actually have 20 people that didn't sign it. Pearce said or thirty. McClellan stated if there is enough signatures is there an election that would need to be held. Smith stated a special election would need to be held if the petition meets the requirements of having a majority of landowners sign, a special election would have to be held, at that time we would elect three Trustees that would hold office until January elections next year, then we would re-elect them for one, two and three year terms. McClellan asked is it an election of officers or is it an election if all of the people in the district want to go to private Trustees. Gallentine stated no, this is it. Smith stated this is it, this is their vote to go private, then then it was a special election to nominate and elect Trustees. McClellan stated then we need to make sure this is 100% kosher then. Granzow stated yes, and it is not. Hoffman stated and then you know who you need to call to make sure and verify it. McClellan asked if this petition was left somewhere for people to collect signatures or did someone take it around. Smith stated she did not know. Hoffman stated he thinks she took it around, as Hoffman was informed by two people that she had been to their house, and they didn't want to sign anything until they talked to us or to me about what the options were or what they implicated.

Granzow stated let me put it out there that he does not care if they want to be their own Trustees or not, he sees advantages both ways, and they can meet tomorrow and they can choose their own advantages, but when it comes to this, this we can not accept, it is not complete. Smith asked if it would be alright with the Trustees if tomorrow when Gallentine and Smith go, can Smith provide them with a printed copy of Drainage Code, Smith can take one copy of that Chapter of Iowa Code so that someone there has it, and Smith can highlight the pertinent sections regarding election of Trustees and petitions, Smith thinks that might be helpful. Hoffman stated he thinks this needs to stay at City Hall for public reference. Granzow stated this one needs to stay here on file, take a copy with you, Hoffman stated it is an official record, Granzow stated yes this is part of an official record that we have to deny because of it. Smith stated she had stamped it with the date it was received. Granzow stated also there convey to them that Granzow can not verify these people that if you want to these people on here Granzow has to know who they are. McClellan stated and that person has to verify their signature, don't just let someone, to McClellan she would not want whoever October7# is, I don't want someone to say oh that is so and so, is it or isn't it. Smith asked how is she to interpret that. Hoffman stated they are going to start over anyway and just make the suggestion, that someone print their name by it, and on this one, while Hoffman is no handwriting expert, it can only be one per parcel, even if both husband and wife are listed on both deed and title, it is one. Granzow stated so this one failed on numerous levels, Granzow asked you need 21 signatures, Smith stated that was correct. Granzow stated it has already failed on that one, it doesn't say what district it is, can't read a few of them, there is that, Granzow does not care whether or not they are their own Trustees, he just wants them to know what they are doing. Smith stated absolutely and we can cover Code with them, and Smith thinks that is a big part of it, and does not think they may understand the responsibilities of a Trustee, you can't just decide not to repair. Gallentine stated yes, this is not just dissolving the district. Smith stated correct, it is not. Gallentine asked if any of the Trustees would be there, Hoffman stated he would be out of town for Leadership Iowa, Granzow stated he did not believe they should be, this is theirs not ours, by sending you guys that is doing more than we need to. Gallentine stated and that is fine. Hoffman stated he thinks Ron Reece thinks we are trying to intimidate or go one way or another, and does not think their attendance is going to be any benefit. Gallentine stated if questions come up about the existing classification or the existing assessment, Gallentine is going to tell them that does not change.

Motion to deny the petition for Private Trustee Management as submitted. Second by McClellan.

In additional discussion, based on the signatures, and no drainage district listed in the form, McClellan stated especially due to there there being two districts in that town.

All ayes. Motion carried.

Granzow asked if Smith and Gallentine would be there tomorrow. Smith stated yes.

8. DD 55-3 WO 251 - Discuss W Possible Action - Update

Smith stated this was a calendar reminder set to verify riprap and seeding was done on the Thompson pond, we had talked with Thompson back on February 3rd, and in our minutes of that meeting you directed Smith to set a calendar reminder review for June of 2021 that Thompson had completed the seeding and concrete riprap or revetment added to pond banks and that work needed to be completed by June of 2021. Smith does not know if you would like CGA to go out and verify that. Hoffman stated yes. Granzow stated we are going to have to, with a phone call to him as well. Smith stated she can call Thompson and let him know that CGA will be coming out to verify that. Granzow stated he might just tell you he hasn't gotten to that yet. Hoffman stated if he tells you that, so once Smith contacts Thompson, she will need to communicate that. Gallentine stated we won't go out there until we hear from Smith. Hoffman stated he would accept that in a motion.

Motion by Granzow to have Smith contact Thompson to see if seeding and riprap revetment have been completed and to let him know CGA will be out to verify. Second by McClellan. All ayes. Motion carried.

9. Other Business

DD 86 - Smith has had some communication with Scott Halbur, he is an attorney with Fagre-Drinker out of Des Moines and he represents POET, the new ethanol plant owners, and he has submitted a letter stating they have some concerns with the reclassification, and his letter is addressed to the Reclassification Commission, so Smith has shared that with Gallentine and the Trustees, and Smith will let Gallentine review that with the Trustees, Smith is unsure if the Trustees have had time to look at this yet, we just got it after 5:00 pm last night. Gallentine stated he had and for the integrity of the reclassification process, Gallentine does not even know if the Trustees need to worry about it at this point, just acknowledge the receipt of it because the Reclassification Committee does their thing and prepares the report, and they give it to you and then you do your thing. Granzow asked and he presents at that time, Hoffman stated he does not want to put any undue input into your reclassification process. Gallentine stated it is really meant to be a separate process, and Gallentine will acknowledge that he will definitely give it to the other members of the Reclassification Commission, and he has had numerous conversations with Halbur, Gallentine understand his point of view and is not saying he agrees with him 100% but he does have some valid points.

Motion by Granzow to acknowledge the DD 86 letter from attorney Scott Halbur addressed to the DD 86 Reclassification Commission. Second by McClellan. All ayes. Motion carried.

Smith asked if the Trustees would schedule a review for her because it has been over a year. Hoffman stated sure, and asked if next week's meeting sounded okay, Smith stated that sounded great. Hoffman stated remember according Iowa Code Chapter 21, you can request that can be held in Closed Session if you like, let us know. Hoffman stated that needs to be reflected in writing. Granzow stated that Closed Session needs to be reflected in the agenda. Smith stated she would submit the request in writing. Granzow stated on the agenda you print it will have to cite the Code Section for Closed Session. Smith stated she had done that last year and was familiar with that. Hoffman stated just send me an email that says you want it in closed session. Smith stated she certainly will.

10. Adjourn Meeting

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