

# REGULAR DRAINAGE MEETING

12/14/2022 - Minutes

1. Open Meeting

Open Meeting Hardin County Chairperson BJ Hoffman. Also present were Trustee Lance Granzow, Trustee Renee McClellan; Jolene Pieters, Auditor; Lee Gallentine of Clapsaddle Garber Associates; Michael Pearce, Network Specialist; and Michelle Witt, Drainage Clerk.

2. Approve Agenda

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

3. Approve Claims For Payment

DD14 Preparation & attendance landowner meeting	Clapsaddle-Garber Assoc	\$ 680.00
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Motion by Granzow to approve the claims for payment. Second by McClellan. All ayes. Motion carried.

4. Discuss W Possible Action - IDDA Recap

Witt stated Drainage Clerks always have their separate meeting with IDDA's Lawyer Douglas Struck. Witt stated the hot topic this year was the pipelines, so Doug shared a few things with the Clerk's he thought was important. Witt stated she's attached Chapter 9, Restoration of Agricultural Lands During and After Pipeline Construction, to the Trustees packet to discuss. Witt asked the Trustees to flip to page 7. Witt stated on page 7 they discuss construction in wet conditions. According to Doug, the pipeline companies should not be working in the winter months due to the wet conditions. Doug wanted to make sure everyone was aware that the pipeline's are not to be constructed during the winter months, when it is raining, or when the ground is wet. Witt stated there are a few things we can do about it if the companies are not following these rules: (1) The county inspector, which for Hardin County is CGA, can ask the company to stop or temporarily halt construction (According to this section they have the sole authority to determine if construction should be halted due to wet conditions) and, (2) If they do not comply with CGA's request the second step is to report to the Board of Supervisors and the Iowa Utilities Board to reach an agreement. McClellan stated from what she remembers from a meeting she attended is that Iowa State might be doing a study to determine how wet, or how dry it has to be. Gallentine stated CGA has tried to float thorough Iowa Utilities Board a running depth, so it defines what is what is considered a wet condition. Gallentine explained if a rut is deeper than X it is considered a wet condition and they are supposed to stop work. Gallentine stated he does not know if the Utility Board adopted that or not. Gallentine stated he is not opposed to a standard that they can measure; it is just depending on what soil they are in. Gallentine stated if you are working in northwest Iowa vs. central or southeast Iowa different soils will rut differently. McClellan asked if that was one of the things that Shelby and other counties have gone in together to determine. Gallentine stated he has not heard. Gallentine stated it is his understanding that the county inspector and the board of supervisors, definitely the county inspector has the authority to temporarily halt construction. Gallentine stated they do not have the authority to permanently halt construction. Gallentine stated it is his understanding that the board of supervisor's repercussion, if the Ag Land Restoration is not adhered to and complained to the Utilities Board there would be penalties imposed. Gallentine stated he does not want any of the public to think that either of them has the authority to permanently stop construction, that is not accurate. Witt stated that was correct. Gallentine stated as usual it is not a stop construction and don't do anything more. Gallentine stated the pipelines will get fined, which he believes the IUB will collect and keep those fees, it will not be reimbursed to the landowner that he is aware. Witt stated she did not hear anything about that. Granzow asked if they have to sue for damages to get that. Gallentine stated that is possible. Hoffman stated that is good information because one of his concerns was what relief did that provide the district and the landowner. Gallentine stated the other thing is, what conditions do they consider wet? Gallentine stated it will be interesting. McClellan stated it probably depends on soil type too. Hoffman stated there is a lot of variables. Gallentine stated there are some spots that might not see rain for a month, but if that is where they are routing through, it will still be wet. Gallentine stated we have all seen those spots in the county. Granzow stated the mudball is a great test. Gallentine stated that is a great test, he had a DNR guy that used to do the mudball and he would roll it.

Witt stated the next thing Doug spoke about, and this is also included in your packet, is Iowa Code 468.27 (Drainage District Easements). Witt stated, according to Doug, we have that easement when the original plat was filed with the Auditor's Office. Witt stated as long as we still have that plat, we can prove our easement and right of way for the district. McClellan stated so we have the permanent easement as long as we have that plat map. Witt stated that is correct. Granzow asked if they could get an easement on our easement. Gallentine stated they have to, that is where your permit comes into play. Granzow asked if they could get one without our permission. Witt stated in order to begin construction they have to fill the utility permit application out. Gallentine stated it is no different than the farmer who owns the ground that the county gravel road is on, they can't cut across that gravel road without talking to the County Engineer. Gallentine stated you have to cover both bases. McClellan stated so we have permanent easement, but they do not have permanent easement over ours. Gallentine stated yours is older. McClellan stated that makes sense.

Witt stated she has a few other things to discuss today. Witt stated the Drainage Clerks from Hancock, Webster, and Calhoun County were saying that, Summit, in particular was asking them to do all of the tile locates and gather research involving tile size, depth, and material for them. McClellan stated the county is being asked to do this. Witt stated that is correct. Witt stated she just wanted to inform the Trustees. Witt stated the Clerks in these counties just wanted everyone to be aware of that and asked what other counties that have had these meetings with Summit have done to prevent this. Granzow stated our permitting process lays that out for Summit. Witt stated she sent our permit to Anne from Hancock County so she could look it over and maybe take add to theirs. Granzow stated he doesn't understand why the district, or the county would foot the bill for the time or televising for the pipeline to come through. Gallentine stated he thinks the answer is that obviously the county is the one with the information so they are the ones that can easily get that research. Gallentine stated that does not mean you have to get that to them for free. Gallentine stated whatever those hours take, by whoever is doing it, that should be billed to the pipeline. Gallentine stated or you could take it out of the permit fees. Granzow stated we would have to hire another person to collect that data. Hoffman stated the other thing is, with the Auditor being here, he wanted to make sure that she knows that we support the ultimate mission of the Auditor's Office. Hoffman stated we are not going to drop everything and let things slide for Summit Carbon Solutions or Heartland Navigator. Hoffman stated if we say we will get to the Utility Permit in 3 weeks, that is what it will be. Hoffman stated if you want this, it could be 3 weeks or 3 months. Hoffman stated we are not going to neglect or let other things fall in the cracks for this. Hoffman stated he knows Jessica Sheridan will be in the same situation. Gallentine stated it might be an option to hire another person in the Auditor's Office for the time being. Gallentine stated it might take a while to get them up to speed, but it would be worth it to take the stress off of the Witt. Hoffman asked Gallentine if they could farm some of that out to CGA. Gallentine stated they would. Gallentine stated it is hard to say without sounding self-serving. Hoffman stated he doesn't want to put his County Auditor behind to serve the pipelines. Gallentine stated that does not serve the citizens of Hardin County. Hoffman stated how would you like that to go if we add that? Hoffman stated all work orders would go through the Drainage Clerks office, but we would use the Drainage Engineer for research. Gallentine stated it is an option. Hoffman stated he doesn't even think it is an option, he thinks it might be the only option. Gallentine stated in Franklin County they have had discussions about locating tile and he's told them they need to locate before the project even starts. The pipelines asked how they would even do that. Gallentine stated he told them to get local tilers and they replied they did not have the contacts. Gallentine stated he told them he was fine with lining that up and doing that for them, but they will pay CGA to be the middleman. Gallentine stated he told them they could easily do all of that themselves though. Gallentine stated the pipeline companies asked if CGA would then go out and stake it to which he replied they will already be out there because they are the county inspector. Gallentine stated it is seamless on the construction. Gallentine stated that is just an option, he has no problem if there is other staff within the county that have availability doing it that way, but he does not think it should be on the taxpayer dollar. Hoffman asked Witt what Summit was asking the counties to get for them. Witt stated Summit was asking them to do all of the tile locates and gather research involving tile size, depth, and material for them. Witt stated she had a longer conversation with Anne from Hancock County, they are unsure how they are going to get that research to them. Witt stated she asked Anne if they had an open records policy of some sort that would allow them to charge for whatever hours Anne spent gathering that information. They did not. Witt stated another question she asked was if they had any of their plat maps scanned through like we do here. They do not have that either. Hoffman stated if he was to request a policy for any research done for drainage facilities that states it shall be done by CGA, and billed by CGA to the developer, would something as simple as that work? Granzow stated CGA might have trouble with billing them directly. Witt stated she thinks Webster County is having their Engineer do all of that work, she could ask Crystal how they're billing it. Hoffman stated we could have Mike draft a policy, Gallentine could weigh in on how he wants it done and maybe how he wants it billed. Gallentine stated he doesn't know if we even need a policy to designate CGA. Hoffman stated this is one of the more difficult discussions, we are not deflecting, but we have a greater mission in the Hardin County Auditor's Office and Supervisor's Office than to serve two pipelines that can make life really miserable for 12 months. McClellan stated in the meantime there will probably be an election or two.

Witt stated Granzow had asked when John Torbert with IDDA was here during his annual visit if the Drainage Clerks could meet more than once a year. Witt stated we are going to be doing that! Witt stated the other clerks agreed that these meetings are very beneficial. John will work out the details with Chrystal from Webster County and they will let everyone know what they come up with. Granzow stated he was glad to hear that.

5. Discuss W Possible Action - Drainage Utility Permit Application Fees

Witt stated the last item she wanted to discuss was the fees. Witt stated the clerks were sharing their crossing fees at the meeting and she was shocked what she learned. Witt stated there were 4 counties that had pipeline crossing fees at \$7,500. Gallentine asked if that was per crossing or district. Witt stated per crossing. Witt stated so there is room if the Trustees wanted to increase the fees. Witt stated she added that as an action item to the agenda if the Trustees decided to increase them. McClellan asked if any of those counties were joining with Hardin. Witt stated they were not. Witt stated the counties that have \$7,500 were Calhoun, Hancock, and Webster. Witt stated she could not remember the last one off of the top of her head. Witt stated and that is per crossing. Witt stated the \$7,500 crossing fee only applies to the pipeline; they have a separate fee for utilities. They thought we were crazy for having the same fee across the board for pipelines and utilities due to the nature of both. Hoffman stated you made that discussion a whole lot less difficult. Hoffman stated he was worried about our utilities having to pay that. Hoffman stated if it is a matter of other counties are doing it this way, he does not see why we can't today adopt a separate crossing fee for the pipeline. Granzow stated they have not met with us yet. Hoffman stated he is afraid if we don't they are going to think they are grandfathered into what we have. Hoffman stated that is why he would rather have something today. Witt stated she asked Doug what our options were if we decided to change our permit fees. Witt stated according to Doug, since the pipelines have not filed a permit with us yet, we are ok to make changes. Hoffman asked Gallentine how many crossings he anticipates. Gallentine stated he has no idea. Gallentine stated he thinks it might be in the 100's if he had to guess, but until they actually file the permits with us he will not know for sure. Gallentine stated he does not think a single company has applied for the pipeline portion of our permit yet so it is not like we are treating someone differently like we have in the past. Gallentine stated we have had utility permits, but we have not had any pipeline applications. Granzow asked what rural Iowa would be. Hoffman stated that wouldn't be a pipeline. Granzow stated it is a pipe that is why he is asking for clarification in the minutes. Gallentine stated it is not, yours is considered hazardous liquid pressurized pipeline. Granzow stated that is what he thought. Granzow asked Witt if she had anything else for the Trustees. Witt stated she heard feedback from a few of the clerks of what they can do and have done with the fees from the pipelines in the past. Witt stated the Dakota Access Pipeline went through Calhoun and Webster County's from the way it sounded. Witt stated Webster County shared a few different things: (1) the fees can go in the drainage district for future repairs, (2) update GIS, (3) scan in drainage maps or minutes book. Witt stated according to Doug, it would legally need to go into the drainage district and then it could go towards those three things I just named. Witt stated anything to benefit drainage really. Gallentine stated so they did not return the extra money, they are just taking the fee and keeping it. Witt stated they did return some of the extra money from the way it sounded, but they used the rest of it to update their drainage. Granzow stated he thinks it should just stay in the drainage district. Hoffman stated he would disagree. Hoffman stated let's just say there is 200 crossings at \$7,500 a crossing that would be \$5million dollars. Hoffman stated why wouldn't be pay part of the drainage clerks salary out of that and free up some money for the Auditor's Office to shift around. McClellan stated she thinks they will have to have a discussion on that. McClellan stated to her she is thinking, is there programs or things that can make drainage easier or whatever. McClellan stated she would rather use the money towards those types of things. McClellan stated eventually that money is going to be gone. Hoffman stated 1.5 billion dollars will go a long way. Hoffman stated he bets 200 crossing is on the low side. Gallentine stated it depends on the route. Hoffman stated the drainage clerk serves every drainage district. Granzow stated he likes his idea, but he will have 30 different permits for 30 different districts. Granzow stated what about the districts that the pipeline doesn't come through. Hoffman stated his goal would be to set the fee and then if it is a matter of reconvening and figuring out how to break that out better whether it is 10% goes back to the individual district that is listed on the application for future issues, 10% for upgrading technology, and 25% to salary. Hoffman stated with the way employment is right now, he thinks freeing up some money for the Auditor's Office would be a good thing right now. Hoffman stated today his goal is to get the fee established. Hoffman stated to be honest with everyone when he reads and sees how much money is going to be invested \$7,500 might not be enough. Hoffman stated he does not want to be greedy. Hoffman stated the Q45 carbon credit went from \$51 to \$84. Hoffman stated if they have it their way by this time in the spring, it will go to \$164 a credit. Gallentine stated it is not going to go down. Granzow stated so it is true then. Granzow stated it is tripling. Hoffman stated we were already so low to begin with. Gallentine stated if you raise the fee today, could you just put for the general benefit of drainage districts. Hoffman stated he just doesn't want our landowners to ask what we are using that money for. Hoffman stated they will eventually ask and he would like to have a plan. Hoffman stated we can

worry about that fee later, but getting that fee set today is important. Gallentine stated he can tell you right now with the discussions he's had with pipeline folks and not just with Summit, that the location of drainage tile has about 0% impact on their tile route. Gallentine stated if \$7,500 is too much, then they will change their route. Gallentine stated they are basing their route off of safety and constructability. McClellan asked if the county keeps the interest on the warrants or if the drainage districts keep the interest. Witt stated that would be a question for Eichmeier. Witt stated she thinks the county keeps the interest but is not sure. Hoffman stated on the unfortunate settlements that we had he knows we kept the interest. Witt stated the drainage district does collect the interest on positive funds though. Witt stated on 26 lat 4, the district that went through the lawsuit, they had such a large sum of money in their account the district was accumulating all of that interest. Witt stated she does not think the county kept any of that. Gallentine stated historically the interest has not been much. Granzow stated we should probably discuss the drainage district interest rates really soon as well too. Granzow stated we are at 5%, he would like to discuss changing that. Granzow stated that is other business though. Granzow asked Witt if she had any more for them. Witt stated she did not. Hoffman asked what the highest was for the crossing fees. Witt stated \$7,500 was the highest. Gallentine stated \$10,000 makes math pretty easy.

Motion by Hoffman to set the hazardous liquid pipeline crossing fee at \$10,000 per crossing with allocation to go to the better good of drainage districts.

In additional discussion on the motion, Granzow stated he did not want to second that. Granzow stated he did not want to lock in a motion to what we are going to allocate the money for. Hoffman stated just to general good of drainage districts. Granzow stated he would like to research that a little bit. Hoffman stated we can do that, but it has to go to drainage districts. Hoffman stated that is what his motion is. Hoffman stated his motion was to make the crossing fee \$10,000 and the money going towards generalized drainage district. Granzow stated he can go that answer. Granzow stated the reason he did that was because he said district and not districts. McClellan asked if any other county's said if they were going to change theirs. Witt stated they did not. Witt stated they were pretty quiet.

BJ Hoffman: Aye

Lance Granzow: Aye

Renee McClellan: Aye

Hoffman stated he will let everyone discuss how they would like the funds to be distributed and he would like Pieters to be present for that conversation. Hoffman stated he would like it broken out by percentages. Granzow asked if our Utility Permit is broken out per crossing. Gallentine stated that was correct. Gallentine asked for clarification if they just changed the pipeline portion. Hoffman stated that was correct. Hoffman asked Witt if she could update the website if they see something in our permit, so it all reflects today's business. Witt stated she would. Hoffman stated that was perfect. Hoffman asked if there was anything else on the application fees? Hoffman stated he just didn't want to do something was going to scare our good utilities away from doing work. Gallentine stated at the end of the day he just wanted to protect our drainage facilities. Hoffman stated that was correct. Hoffman stated they might say that is too much but when he was talking to Dave Petty, and they are offering a lot for easements.

Motion carried.

**6. Discuss W Possible Action - New Work Order Requests**

Witt stated we have some beavers. Witt stated Tim Burton originally called this into Hamilton County, this is near a shared drainage district. Hamilton thought it was there's because it is really close. Actually, it is on their side, however, our tile. Witt stated they have already assigned a trapper to it, Phil Jass. Gallentine stated please get them. He can recall a work order in this area within a quarter mile going back 10 years of beavers on and off because there is a railroad track near there. Gallentine stated they build a dam underneath the tracks. Gallentine stated he does not care who traps them, but make sure they get them all.

7. Other Business

8. Adjourn Meeting

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