

REGULAR DRAINAGE MEETING

Wednesday January 26, 2022, 9:30 A.M.

This meeting was held electronically and in-person.

1/26/2022 - Minutes

1. Open Meeting

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

2. Approve Agenda

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

3. Approve Minutes

Motion by McClellan to approve the minutes of Regular Drainage Meeting dated 12/29/21, 1/18/22, Canvass Meeting Minutes dated 1/18/2022, and DD 56 Landowner Meeting Minutes 12/08/202. Second by Hoffman. All ayes. Motion carried.

4. DD 128 WO 279 – Discuss W Possible Action – Change Order #5

Gallentine stated that he talked with Dean after the meeting last week. Gallentine stated Dean informed him that there is still a spot of standing water directly above the new tile they had installed. Gallentine stated, his comment was, "I have no idea how that is possible." Gallentine stated he tends to agree with him. Gallentine stated he suggested that maybe we come in there in the spring dig out the soil and put in some rock so we can make a french drain so it can drain better and get into the tile. Gallentine stated Dean did not care, he commented that the Trustees/Gallentine should do whatever they think would be best. Gallentine stated Dean told him if there is no action taken, that is ok too. Hoffman stated he is ok if they do not take any action. Hoffman stated they already spent a ton of money out there. McClellan asked how big the spot was. Gallentine stated that Dean did not say. Gallentine stated, depending on if the soil is frozen there is a chance that standing water will can sit directly over the tile, if the soil is frozen. McClellan stated she was weary of doing anything right of way. McClellan stated she would rather get into spring, if he is not in any rush, we can assess it then. Gallentine stated Dean did not seem like he was in any rush. Gallentine stated that he had also asked him about the ownership of the tile. Gallentine stated Dean replied obviously the tile that is offset from the waterway that goes all of the way through his district. Gallentine stated, with the other tile that was just put in district money was used for, Dean told him he is good with whatever the Supervisors would like to do. Gallentine stated, Dean was ok if it was county tile or private tile. McClellan stated she wished Granzow was here, he might have a better opinion on this. Hoffman stated we did not have to do anything right of way. Gallentine stated it can be tabled until next week if Granzow will be around then. McClellan stated she did not think they should worry about it right now if Dean is not upset we should just give it this season to figure out what is going on. McClellan asked Gallentine about the private tile down in the Ditch. Gallentine stated that was the one we were just talking about, whether it should be district tile or private and Dean said he did not care, whatever the Trustees think. McClellan asked where the standing water was to the private tile. Gallentine stated it was right above it. Gallentine stated the tile is underground, above the tile is dirt, and above that is the standing water. Gallentine stated if the soil is frozen beneath it, that water will not percolate down there through frozen soil. McClellan stated she would like to let it go for now and see how the season goes. Gallentine stated to see if it mellows back in. McClellan stated correct. Hoffman asked if that was a motion. McClellan stated, yes.

Motion by McClellan to let this go through the season and see how everything goes in the summer. Second by Hoffman.

In additional discussion on the motion, Gallentine stated if that is the motion the Trustees want to do, we still need a motion on the Change Order and Pay estimate later. Hoffman stated ok.

All ayes. Motion carried.

5. DD 128 WO 279 – Discuss W Possible Action – Completion Letter

Hoffman stated this item is to consider the Completion Letter, that would include the Pay Estimate for DD 128 WO 279 to Jacob Handsaker, Hands On Excavation. Gallentine stated you would have to approve the Change Order first, or maybe they just did that, maybe he missed the motion.

Motion by Hoffman to approve Change Order # 5. Second by McClellan. All ayes. Motion carried.

Motion by McClellan to pay out the Pay Estimate to Handsaker. Second by Hoffman. All ayes. Motion carried.

6. DD 14 WO 290 - Discuss W Possible Action - Engineer's Report On Repairs Or Improvements

Gallentine stated this was the district it has Ron V. and Cindy Loerger. Gallentine stated they got the report done on that so we would need to schedule a hearing. Gallentine stated he believes it needs to be at least 40 days notice per Iowa Code. Hoffman stated he was ok with that. Gallentine stated that they're probably looking at the first part of March. Hoffman stated yes. Hoffman asked Kuechenberg if she can look at the calendar for the Large Conference Room and see what we have. Kuechenberg stated she believes we are looking at the 29th of March. Kuechenberg stated it has to be published too, right. Hoffman stated that was correct. Hoffman asked if we could aim for a regular Drainage Day. Hoffman stated the 30th of March would work. Kuechenberg stated that would work for her. Kuechenberg stated she will get that on the calendar. Hoffman asked McClellan if she thinks 10:00 would work. Hoffman stated this was not a huge district, they do not need extra room for this meeting. Gallentine stated he did not think so either. Gallentine stated the Large Conference Room was perfect for the last landowner meeting in DD 14.

Motion by McClellan to set March 30th, 2022 at 10:00 for the Public Hearing on DD 14 Engineer's Report. Second by Hoffman. All ayes. Motion carried.

7. Discuss W Possible Action - New Work Order Requests

Hoffman asked if Kuechenberg had any new work orders. Kuechenberg stated she did not have any new work orders. Gallentine stated he did not have any new work orders.

8. Other Business

Hoffman stated that he knows we got an email from Mike Richards earlier this week that he will put our stuff at the top of the pile. Hoffman stated we are good there. Kuechenberg stated she did not have anything new for other business.

Gallentine stated he just wanted to update the Trustees, he did go to the Carbon Pipeline Meeting for Heartland Navigator. Gallentine stated it was pretty well attended, it took about 2 hours and 30 mins. Gallentine stated he can forward the information on to Kuechenberg after the meeting. Gallentine stated the packet of information was identical to the first one, the only thing different would be the map. Gallentine stated they are looking at construction by 2024-2025. Hoffman stated he appreciates that update.

Hoffman stated he believes the concern about eminent domain will be the hot button issue going forward. Hoffman asked what, if any, mention of eminent domain was brought up at the meeting. Gallentine stated it was brought up at the meeting but mainly in the question and answer portion of the meeting by landowner citizens. Gallentine stated there was lots of questions on when eminent domain can be used and if there was a threshold if they would have to have so many voluntary easements to use eminent domain. Gallentine stated the response was that no one has requested eminent domain yet so no one can comment on it. Gallentine stated the pipeline company's response was they have no idea if they're going to use eminent domain or not because they could not talk to any of the landowners up until this meeting. Hoffman stated he keeps on getting inquiries from concerned landowners. Hoffman stated he has talked with someone at

Summit and they have not once heard of eminent domain out of the pipelines company's mouth at this point in any of the meetings. Hoffman stated the utilities board has to mention it in their disclosure part. Hoffman stated it was only brought up in the question and answer part of the meetings he has attended. Hoffman stated he's talked with Summit's PR and they told him it is not a part of their agents spiel. Hoffman stated he does not think the pipeline company is using that tactic to get anyone to do something they do not want to do. McClellan stated she does not think they will now. McClellan stated she thinks it will come in place if they have a couple of hold outs. Hoffman stated that is right. Hoffman stated if they do that, it's not like they just condemn your land and you get nothing. Hoffman stated the request to utilize eminent domain goes to the utilities board and then it gets assigned to a county compensation commission. Hoffman stated he does not know who is comprised on that commission. Gallentine stated he did not know who is comprised on that commission. Gallentine stated that is his understanding as well that it will go from a utilities board to a county compensation commission. Gallentine stated that question did come up at the meeting, "if eminent domain is used, will I get anything?" Gallentine stated the boards response was that they would get reimbursement per Iowa Code. Gallentine stated the pipeline company did not bring up eminent domain, it was all landowner concerns. Hoffman stated he is not sure if the 220% crop loss is something that the county compensation commission has to acknowledge or utilize. Hoffman stated he thinks there is some questions there that need to be answered. Hoffman stated if there is any potential, he would like to identify who that commission is going to be. McClellan stated it might be someone that we have to appoint. Hoffman stated right, but wouldn't you rather appoint someone sooner than later so you do not get outside artificial influence later on as who you appoint or do not appoint. McClellan stated true, but you do not know if anyone you appoint is going to be one that lets them go through. McClellan stated we do not know if they will have some type of conflict of interest. Hoffman stated he thinks we should ask Darrell who that commission or board is comprised of. Hoffman stated he thinks that is something that needs to be looked at. Hoffman stated the public fear of eminent domain of which he thinks would be valid after they filed their permits. Hoffman stated if the landowners held out, then he believes you should be concerned of the possibility of eminent domain. Hoffman stated right now, no one is talking about it on the development side. Hoffman stated it is all the fear from landowners. Gallentine stated he would agree. Gallentine stated there is two aspects that they're getting: (1) they need to get the easement to put the pipeline in, and (2) the crop damage, that is a damage thing and not necessarily an easement. Gallentine stated, really, there is two negotiations that occur. Hoffman stated it is a unique situation but he does not think there is any legal precedents or anything the Drainage Trustees can say or do that will influence anything at this point. Hoffman stated he listened to an interview that represented Bobby Kofman that was talking on this issue. Hoffman stated it is a really interesting interview just as much as there are people out there for this project there are some people out there against it so hard that they're persuading their neighbors not to do business. Hoffman stated there is another pipeline that is supposed to go through I80 and eastern Iowa from Cedar Rapids to ADM and not enough people signed up for that, they scrapped the project already. Hoffman stated, According to Bobby, 100's of people signed up for the Summit one so far. Hoffman stated he thinks what someone tells you at church on Sunday morning if you are a proposed easement holder and what they actually signed or did not sign in their kitchen are probably going to be two different things. Hoffman stated Iowa Land Records will tell the whole deal. Hoffman asked Gallentine if they have looked at Iowa Land Records to see where easements have been obtained? Gallentine stated he has not. Gallentine the interesting thing about this second company, it sounds like they're doing theirs through an options type system. Gallentine stated it sounds like they can get you to sign an option to give them an easement and if the project moves forward they actually get the easement. Hoffman stated he has seen some contracts like that for solar and wind. Gallentine stated the other thing to point out, according to the meeting, there is not any plant in Hardin County that will be connected to this second pipeline. Gallentine stated the one in Clevees is connecting to the first one but no one in Hardin County is connecting to the second one. Hoffman asked what does Gallentine, because the use of eminent domain has to have a public benefit, what do you see as the benefit? Gallentine stated it is interesting, people in the crowd asked the Utility Board member that exact same thing he replied, "when it comes to that, the Utility Board essentially acts as a charge, people for it are acting as one side of lawyers and people against it are acting like the other side of lawyers." "It will be inappropriate for your judge to tell either attorney what they have to prove in order to sway their opinion." "I will not comment on it at this time, they need to present what they present and if you guys are opposed to it, you need to present what you present." Gallentine stated it was interesting because at both the Hardin and Franklin County meetings, right next to the land agents was a table set up with people that held up signs that say, "no carbon pipeline." Hoffman stated he thinks the argument for the public good side will be that this is saving us from Global Warming and climate change. Gallentine stated he thinks that is the argument for the world good side but not for the Iowa public good side. Gallentine stated there are a lot of farmers there that are convinced that they do not want to carbon dioxide out of the

atmosphere because it will hurt their yield.

9. Adjourn Meeting

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