

DD 102 Landowner Meeting
September 4, 2019
1:00 PM

9/4/2019 - Minutes

1. Open Meeting

Hardin County Drainage District Board of Trustees Chairperson, Renee McClellan, opened the meeting. Also present were Trustees, Lance Granzow and BJ Hoffman; Landowners Lisle Cook, Becky Schnormeier Tuper, Joyce Schnormeier, Wanda Lemme Alexander, Dean Schnormeier, Kent Reinert, Steven Perry, Brent Perry, Brian Perry, Dennis Barrick, Laura Bybee, Nicky Williams; Lee Gallentine of Clapsaddle-Garber Associates (CGA); Mike Richards of Davis Brown Law Firm; Mike Bourland, Iowa Dept. of Agriculture & Land Stewardship; and Becca Junker, Drainage Clerk.

2. Approve Agenda

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

3. Explanation Of Project

The meeting was turned over to Bourland who explained that a wetland was going to be built to remove a significant portion of the nitrates. After looking at the sight and it meeting the criteria, an engineer was hired (WHKS) and a site plan was developed, which was given to all the landowners at the meeting. Bourland explained what the requirements were for the wetland. A traditional CREP wetland has a sheetpile in which water flows over, in their process, Iowa State has looked at taking advantage of existing depressions instead of building a sheetpile weir that can be 60-80' wide. They will take advantage of an existing pothole, and asked the drainage engineer to look at that, and are proceeding down this path.

Bourland continued that we have met with landowners and the Drainage Board, and now we are presenting our plan. We need to relay some of the tile, and some of the requirements are that the invert of the tile are maintained 1' above the normal pool elevation. In order to have drainage, the tile needs to be relaid as it does not have the elevation it needs to drain. The site plan references where we plan to intercept the existing tile, and run a new tile to drain into the wetland, the blue line on the plans shows the normal pool elevations, the red shows the 100 years flood balance, which reflects how high the wetland would raise during a 100 year storm. The dashed black line is the easement area, the southwest corner is a little more at an angle, on the south end there is main that needs to be relaid, and the reason it is shifted more to the west to get the elevation to outlet into the pool and the other is to have adequate cover. The existing lateral 13 comes in and there was talk about that becoming private tile, but it is unsure what will be decided at this time.

Bourland went on there is also Lateral 8 and Lateral 7, it will intercept the laterals and direct it out to the north. Lateral 7 has the most drainage into the wetland, part of it will enter the wetland and part of it will go back to the main. This project includes a new 30" concrete main from the end of the wetland all the way down and daylight where it is now. Everything on this project will be funded initially by the Iowa Department of Agriculture and Stewardship, and some will be reimbursed by the FSA, Farm Service Agency, as they are a participant in this program. We have met with the Drainage Board several times, and the plans have been reviewed by Lee Gallentine of CGA, who had some comments, and we have addressed his concerns.

Bourland stated, assuming this is approved, we will finalize plans and go to bidding in late January, and it will be built in spring and summer. The area that is in the easement will always be a wetland, and we are entering into the easement with the agreement that it will no longer be farmed, and we are entering into an agreement with the owners that they will maintain the wetland, making sure there is no impact to the Drainage District.

4. Comments/Discussion

It was asked if this land could never be taken out of wetlands. Bourland stated that is correct. It was asked what the size of the wetland would be, Bourland replied it is a strong 53 acres when you include the CRP acres surrounding the wetland. It was discussed that the wetland itself is 27 acres and the remaining CRP acres will not go back into production. The idea is that the wetland through a natural process, will take the nitrogen out of the water and convert it to a nitrogen gas, which is 78% of our atmosphere. It will provide a benefit to the Drainage District, in that the water flowing through the wetland will have the nitrates removed before it goes back into the drainage tile. Bourland stated we would not normally do anything with the downstream end of this wetland, but the engineer informed them that the downstream tile was in very bad shape. Bourland stated that through internal conversation with his supervisors, they all agree that they will pay for the new main tile replacement, all the other tile is needed to redirect water into the wetland. Normally what would happen is they would reconnect to whatever tile is already there, but since the condition is so poor and it needs replaced that is part of the reason we were approached for this project.

Granzow asked if a person needs to reconnect a private tile, they can connect to the wetland. Bourland stated that yes, the wetland is there to remove nutrients, and if anyone has private tile they could connect. Granzow asked if the CRP would need to be passed through to connect the private tile, is there a process the landowner would need to follow to do that. Bourland stated he has been involved in CRP areas, and you would need to go through FSA for permission, and their requirements are you avoid the nesting season, and in this case the wetland landowner would need to be involved also. As they relay tile, any connection they come across they will reconnect to the main and drainage is maintained, but if something were to be missed, you would notice it the following year. If you notice something isn't drainage right, give Bourland a call and they will make sure they get things corrected, they are not intending to cause damage to anyone's drainage, but to reconnect it into the wetland for nitrate removal.

Granzow stated a lot of the questions the Trustees received were about the bottom side of the main would be replaced at their cost, and rock bedding could be put in, and if it was put in the rock bedding would be at the district's expense as it would increase the longevity of the tile. Granzow asked how shallow the tile was. Bourland stated it would be 3' of cover on a 30" concrete pipe. Granzow stated if you want the rock bedding the landowners need to tell us, and the top side of the main, Granzow would turn into a lateral, but that may be a question for legal, or a private tile. Granzow stated at the end of the day, a reclassification will be done on this, and the laterals will be pulled out separately as part of the reclassification, so if there are laterals, and you are in that lateral, do you want to be part of a district or do you just want to own your own tile, if you own the entire lateral you are paying for it anyway, whether we go through an engineer or not. Granzow stated you are still entitled to the drainage, but do you want us to go through with an Engineer's report and repair, or do you just want to call your own tile guy and fix it. Granzow stated these were some of the things he wanted to discuss as well.

Granzow asked for any question, none were presented at this time.

Granzow went on that this is a large project that would normally cost the District that they are doing for you. It was discussed that the landowners have been fighting this issue for years, and they were all presented with a liability that no one wanted to face, and thinking this through, does it make more sense to try and replace all this at a cost of a million dollars or do this. It was discussed by the landowners, that if they could go through with this process and remove nitrates from the water, that this was their best option. Hoffman stated as Trustees, we have the responsibility of keeping the facility running and we have to do something, this is not a wait and see anymore, and it has to be done, it is a matter of do you want this as a wetland project or do you want a man made facility that does not have the nutrient reduction capabilities as a wetland. Hoffman is a huge outdoorsman, and this makes an asset to the community as well. The offset is we do the project as a drainage facility to move water from point A to point B at a much greater expense. McClellan asked if there was an estimate of what it would cost to just do the drainage tile replacement without a wetland. Gallentine referenced the 2016 Engineer's Report that stated the option ranged from \$500,000 to \$1,200,000, and it would entirely be the District's cost, no other entity would pay for that.

It was asked, what is the District's cost responsibility on the wetland project compared to a replacement/repair project. McClellan stated the only cost to the District, would be if we decided to put the rock bedding on the new main, or any other upgrades. Bourland stated all the other costs would be at the

State's expense, or if you want any other improvements. Granzow stated unless we look at doing an improvement later down the line, you would have to parallel this tile at the bottom of the main and change a few things there, that would be at District expense, this project just puts it back to what we had for drainage. Gallentine stated there will be a structure that outlets the water out of the wetland, if that structure isn't big enough, then there is a spillway, that is a foot higher for overflow, when you are in between stages it is possible that the tile outlets may be submerged, but it isn't like it will just keep backing up like you do with a pipe system. It was asked if what Perry's are doing would be a benefit to the whole district. Gallentine stated it will be of huge benefit to all of us, but there is 55 acres that will never be in production again. Bourland stated there is an environmental benefit in reducing the nutrients as well, and a wildlife habitat, the Perrys will still maintain their ownership of the land and access rights to the land. It was stated by landowners that this would be a huge benefit to the district. Gallentine stated Steve Perry began researching this project after we met three years ago, and discussed the high probable costs of doing just repair/replacement on this district. McClellan commended the Perrys for offering the wetland project.

It was asked that the tile exiting the wetland, will this tile eventually fill in with sediment, and is there a possibility that these tiles will need cleaned out in the future. Bourland stated that a typical CREP wetland with a sheetpile weir, they ask the engineer's to design them with a 150 year sediment life, this wetland, because it is taking advantage of the existing pothole and diverting tile, a lot of the surface water is going to go its natural way and not necessarily through the wetland, he would expect it to have an even greater sediment life that we typically see. The Perrys will enter into an easement which will be held by the Soil and Water Conservation District, and part of the easement states the Perrys will responsible for maintaining the site for 30 years, and after that it does not spell out requirements as no one really knows what the future holds for regulations. Part of what the Drainage District Trustees and the Perrys or whomever owns the land in the future, they have to make sure drainage is not impeded, and if drainage is impeded, then the District can come in and do what is needed to maintain drainage and charge the Perry's for it. The landowners have protection that their drainage will be maintained.

It was asked if this was an all state project or state and federal project. Bourland replied it is State and Federal, Perry's will receive CRP payments for 15 years, and they will receive a one time easement fee. The State is covering all the construction costs up front, and we will get some of those costs back, but the spread is probably 50/50 when you put it all together. It was asked for Granzow to further explain making the laterals private. Granzow stated if you are the only land owner on that lateral, Granzow does not know why you would want to make that a district facility as you will be paying it anyway, for any repairs, once we reclassify everyone on that lateral pays on that lateral. The entire district pays on repairs to the main, laterals are only charged to those landowners using that lateral, if you are the only landowner on that lateral, do you want to go through the Trustees or just make the repair on your own. McClellan stated if you take it over as private tile, you can make repairs when you choose to. Gallentine stated it may only be Lateral 13 and the top side of the main, or main tile diversion.

It was asked what is the process to take it from a District tile to a private tile for a Lateral. Mike Richards stated there is a process set out in Code 468 for abandonment of district tile, especially if you are going to abandon part of the main tile, it does require 40 days notice, it does require 40 days notice of hearing, and notice to everyone involved, but if everyone is on the same page, it can be done fairly quickly. Granzow stated there would still be an easement into this wetland even if we did abandon that, Richards concurred. Richards stated you would not be abandoning the whole district just portions of the main and the lateral. Gallentine asked if the process starts with District Trustees, or does it require a petition from landowners. Richards stated the Board of Supervisors or Trustees have the power upon petition of the majority of landowners, who in the aggregate own 60% of such land in the district, to abandon property within the District. Granzow stated if any of the landowners are interested in that option, that is entirely up to them to choose that option, or if it would be beneficial or not. Richards stated that a problem we may run into is if the main above is not working, you have to do something with it anyways. Gallentine stated if this project moves forward it will address that, the lower portion is where the project is plugged, the upper portion is flowing freely.

Gallentine stated in the reclassification, the Trustees could stipulate that part of the main be made a lateral. Richards stated that is correct, the main would still be existing below the wetland. Richards clarified you can you can reclassify a main or a lateral as long as it does not affect the drainage capability, you could not do that without the appropriate engineering, so you can make sure the system will still work. Gallentine

stated he understood that and just wanted to make sure the Trustees had the authority to specify how that is split up.

Steve Perry stated they began these talks with the State about the same time as the Drainage Districts in Buena Vista County had entered into a lawsuit with the Des Moines Waterworks, maybe Richards can expand, that this does not eliminate the liability of the members within the Drainage District, but it does greatly reduce the liability of all of the landowners by putting in the wetland and reducing those nutrients, any future litigation that may occur, these landowners would be safer from those lawsuits. Bourland stated this wetland demonstrates the landowners are doing something, and Iowa State will monitor and test it to show that it is very effective in removing the nutrients, because of the size of the wetland, as there is not as much surface water being directed to this wetland. Bourland stated normal CREP wetlands, depending on rainfall in a year, can remove 80 to 90% of the nutrients, and this should be on that higher end.

It was stated that there is a sensor network across the state that have nitrate sensors in local streams and waterways, and this landowners local stream runs upwards of 15 to 20 parts per million, and pictures some of the tiles that may have that same level when safe drinking water level is 10 parts per million, more than likely we will be below that 10 parts per million which would be below the level that may receive a lawsuit. Bourland stated the whole driver of this program is to reduce the level of hypoxia in the Gulf of Mexico, and the EPA has mandated that the states reduce their nutrients by 40%, this is part of that big picture, as we need thousands of wetlands to be built along with other edge of field practices and proper management. Bourland stated we need all of the tools available to help landowners farm responsibly and reduce their nutrients, as spotlights are shown on Iowa as we have lots of nutrients that leave our state and go down to the Gulf of Mexico.

It was discussed that the only financial liability that will change for anyone in the district, is in the southeast corner, if we take a portion of the main and turn it into a lateral, if we do that and that portion needed repair, that landowner would lose the assistance of the rest of the district. Granzow asked if we must first fix the main before we convert it into a lateral. Richards stated you have to provide the person who uses that portion of the main adequate drainage capacity if you are going to convert it to a lateral, then yes. Gallentine stated he was unsure of the condition of the main as that far south was out of their scope on this project, Gallentine asked the landowner if they were aware what the condition was at that point, the landowner stated there is good water going to, but there is no where for it to go to now if it is blocked, we would have to do the wetland to know where it is blocked. From that landowners standpoint, that would have to flow before we move it to a lateral from the main. Gallentine stated if there is no district expense, we could see how the project performs and then do the reclassification.

Granzow asked if we want rock bedding on any of the concrete pipe, plastic tile will be used on the laterals, but the main will be concrete. Bourland stated from the manhole to the north, it will be 30" concrete, and the other pipe coming from the south up to it and from the wetland going back to the manhole will be 15" or 18" plastic tile. Granzow stated any changes for adding rock bedding to the contract would be district expense. Gallentine's personal opinion is that plastic pipe is a flexible product and any force you put downwards on it, it wants to push out and squish, concrete pipe is a rigid product so any force you put downwards on it, it takes it around and translates it below, so if you want your plastic pipe to stay totally round, it needs some support on the sides with the rock bedding. Gallentine went on, if you are ok with that plastic pipe being ovalish and smashed a bit then you don't need rock bedding on the sides, it is whatever your expectation level is on the tile. Gallentine stated on cement pipe it speeds up construction because the contractor does not have to get the bottom of the trench perfect, they don't have to spoon the soil, the aggregate will create it's own natural spoon in the trench. Gallentine stated there are thousands of feet of both types of tile with and without rock bedding, and both still perform well, it is really your choice.

Hoffman stated we can always add this as an alternate on the bids, so if it comes in for a small cost we can add it or if it comes in at a significant cost, we can have a landowners meeting with a vote, you have to allow it to be bid to find out what is going to cost. Bourland stated if we put any extras or alternates in our contract, we would pay everything up front and at the end of the project we would send a bill through a 28E agreement with the County, the County would pay us back whatever the extra amount would be, then that amount would be billed to the District landowners based upon the classification schedules. Bourland stated we could bid it both ways and work with the Trustees to decide what you want to do. It was asked how deep the tile was, Bourland stated the 30" pipe has 3' of cover, so it is about 5' to 6' deep for the concrete

main, for the laterals we need to be 1' above, and figuring out how far back we need to be to get the elevation we need, so we are laying those as flat as we can, there will not be much cover on the plastic tile, only enough to cover and protect them, 5' to 6' as well on these.

Bourland stated we hired WHKS to do the design and they will also be on-site during the construction, to observe the contractor putting the tile in. If the District wants their own person out there, they can do that also. It was asked by a landowner, that at the last meeting we decided to go with this project and see what it would do, if we go through with this, does it affect the bottom line we had before, will it cost me the same as before. McClellan stated the only portion the landowners would pay for is the rock bedding. Bourland stated if they did not add anything to the project, we built it the way it is shown here the landowners of the District would pay zero dollars for construction. Gallentine stated the landowners would still be responsible to pay for the reclassification, as that is an internal housekeeping type cost, but that is a fraction of the \$500,000 repair project cost. McClellan stated, after this project is completed, we can see how everyone's drainage performs, and if there is still blockages, the main tile that may possibly be turned into a lateral, anything on that may be assessed to landowners. Hoffman states it was a fair question. Steve Perry stated it is still the responsibility of the district to get the water to the wetland, there are some rerouting of tiles that are being taken up by this project but then everything outleting to where the District ends, that is on the State, Granzow asked if the tile would be non-perforated tile. Bourland stated yes it is all non-perforated.

Granzow stated if the rock bedding helps us get twice the lifespan out of the tile, it is an inexpensive cost as the rest of the project will already be paid for. Hoffman stated the return on investment is that the bedding creates some stability, increases the efficiency of the tile line, and you get the longevity as well for a minimal cost. It was asked if we could bid the rock around the plastic tile only. Bourland stated we could do that too, typically if they don't use rock bedding they have to put plastic tile in with the spooning. Hoffman stated we tried with Handsakers, plowing in dual wall tile, plowing it in, but we are not ready yet to commit to that here.

There was a thank you to the Perrys, from the other landowners, for saving them all quite a bit of money. It was commented that Joyce was willing to be a participant, but the design engineer's did not think they could accomplish that large of a project, and that is the reason the Perry's proceeded on their own as it did not include any of Joyce's properties. Bourland stated we went from the sheetpile to this, otherwise we would have had most of the structure on her place. There will be a 30" intake at a particular elevation, that will essentially put water right back in the main, as it is now taking it in underground. Steve Perry stated the rock bedding intrigues him, as he wants to see to it the 30" tile continues to drain effectively as it will make our liability with the wetland less going forward, so as long as it runs at capacity at all times especially during storms, he would be in favor of rock, but wants to see what the bids look like, and let it be a District decision.

Mike Bourland stated it is hard to put together the 28E agreement without having the bids at hand, we can put things together and schedule the bid letting, and email the bid tab to you, and if we decide to go forward at that time we can develop a 28E agreement at that time. Mike Richards agreed with that statement. It was asked by a landowner, where there is District tile and they are doing the main diversion around it on the southeast, if there is any private laterals hooked up to that main, they aren't going to find anything coming in from the east side. Bourland stated the blue line on that tile will still be in place, it will just be underwater, if you do run into something later we will fix it, it is not uncommon for us to come back and fix something because a tile gets missed. Bourland stated we try not to have that happen, but occasionally it does and we fix it. Granzow asked if Mike Richards had looked at the Wetland Development Drainage Agreement, Richards stated he looked it over and had no problems with it, Perry had copies here and had no issues and was ready to sign it. It was asked, if we reclassify, are these acres in the wetland, will they be taken out of the classification. Bourland stated they will still be in the district and they will be reclassified. Granzow stated they will be reclassified after the project as we determine if they will be laterals or a main. Bourland stated the acres of the wetland itself, but their benefit will be much less than there is now, as there is no benefit to Perrys now. Granzow stated that would be up to the Reclassification Committee and the Trustees, they can send us something and we can reject it, but that comes after this project.

Bourland stated he got a call from Arlene Brandt, as they were beginning to work on this project, Brandt was approached about a potential easement on her property, but as the design developed we no longer needed an easement on her property, other than relocating a tile on her property, and at no cost to here

unless it is for additional rock bedding that would be shared by landowners. Bourland just wanted to clarify that as she had called, Bourland was concerned she may still be confused but her tenant would be here at the meeting, but thought she would be ok after speaking with her tenant. Gallentine clarified that the main tile does continue a decent amount south and east, so there is a good amount of main tile not shown on the map, that is Brandt's property to O Ave., there is a good 1/4 mile of main tile that continues. It was commented it will be interesting to see what they find when they get into the tile, as more of the obstructions looked to be in the wetland area and north, rather than south. Gallentine stated we should do the construction and see how it performs.

Granzow asked if we need to enter the agreement right away, Steve Perry stated it has been updated with all the legal descriptions, and he has a deadline coming up for the CRP filing, if this were signed today he would know he is good to go for the CRP. Junker stated she has a copy of Story County's, and asked if they want to use Perry's as it is updated, or have it sent to Richards for review before the Trustees sign it. Richards stated as long as it says Hardin County and the blanks are all filled in with no scribner's errors, the agreement itself is fine, but he is happy to review it if the Trustees wish. It would take Richards 5 minutes to review, Steve Perry can forward it to Richards. Perry sent it on to Richards. While waiting, Granzow asked for any other questions.

Bourland asked, once we set bid dates, how much notice do you need to determine if the rock bedding alternate is selected, will an additional hearing be needed. Bourland stated we can do a bid opening on Friday, and do the bid tab on Monday, and we can let people know ahead of time when the meeting is going to be, they just won't have any information until the meeting itself. Gallentine stated as long as costs are below \$50,000, a formal hearing is not needed, nor is a 40 day notice needed. Granzow stated on the last page when it says Hardin County Board of Supervisors Trustee for Drainage District, shouldn't it just say Trustees. Richards stated he reviewed the documents, other than noting of all the real property description is correct, which he has no way to tell, the rest looks fine. Richards stated you could change the signature block but if you want to keep it in its current form that is fine. McClellan asked if all of the Trustees needed to sign or just the Chairperson. Richards stated you can enter the agreement, Hoffman stated it has been reviewed by attorney Mike Richards.

5. Possible Action

Motion by Hoffman to enter the Wetland Development Drainage Agreement as presented. Second by Granzow. All ayes. Motion carried.

6. Other Business

The Trustees thanked all of the landowners, participants, Mike Bourland and Mike Richards.

7. Adjourn Meeting