

REGULAR DRAINAGE MEETING
Wednesday November 03, 2021 9:30 A.M.
This meeting was held electronically and in-person.

11/3/2021 - Minutes

1. Open Meeting

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

2. Approve Agenda

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

3. Approve Minutes

Motion by Granzow to approve the minutes of Regular Drainage Meeting dated 09/22/2021. Second by McClellan. All ayes. Motion carried.

4. DD 148 - Discuss W Possible Action - Open Ditch Brush Spraying Update

Hoffman asked everyone to introduce themselves for the record. Hoffman asked Darrell Meyer to render his opinion and give some guidance. Meyer stated that he spoke with Ken Smith about it and looked over the file from two different angles, legal and equitable angle. Meyer stated that there is no legal duty on drainage district 148 to pay for the spraying because they were not a part of that arrangement with the vendor, they were their own district and Trustees at the time. Meyer stated that Smith and Ibeling were not privy to that relationship so they're at most a third-party beneficiary. Meyer added they do not have a duty; they just have a benefit. Meyer stated that is a beauty of being a third-party beneficiary. Meyer stated he is looking at it from an equitable standpoint, if they were aware that this contract was entered, and the spraying was taking place and they had the opportunity to object but allowed it to take place they would have some equitable responsibility in some compensation. Meyer stated take the profit factor out but factor in the material cost and labor expense without the profit factor. Meyer stated that from his understanding of the situation, they were not aware so they have totally clean hands and so there would be no equitable relief that you could seek against the district for that reason. Meyer stated that it is not their problem. Hoffman stated that he doesn't think there is any reason to beat a dead horse or kick the can down the road. Hoffman stated that it's just a matter of we need to pay the bill and determine what line it needs to come from. Smith asked if the contract can be canceled. Hoffman stated he would accept a motion to make sure that cancel the contract.

Motion by Granzow to remove the spraying contract off of 148 and put a note in the file. Second by McClellan.

In additional discussion on the motion, Hoffman stated now it's just a means of paying the bill. Hoffman asked Kuechenberg to add that to next weeks claims for payment. Kuechenberg stated she could do that.

All ayes. Motion Carried.

5. DD 3 - Update - Engineer's Report On Repairs & Improvements To Main Tile Of DD 3 & Supplement To Engineer's Report

Gallentine stated that he is not sure why it is on the agenda because they're not the Trustees, but we can talk about it. Hoffman stated that he was going to say the same thing. Gallentine stated that they're continuing on working on that project trying to divert that box triangle, so it doesn't go through the intersection and cost Secondary Roads a significant amount of money. Gallentine stated that's where we are at right now. Gallentine stated that the Trustees have authorized us to go forward with a report on what existing right of way is out there because that was originally an open ditch that got converted to a tile and now, we're going back to an open ditch. Gallentine stated that kind of the same thing we did for DD 56, everyone was ok with the project and wanted to know what the right of way would be. Gallentine stated that we are moving forward with that, and another meeting is scheduled for November 29th. Granzow stated that was good to know. Hoffman and McClellan agreed.

6. Discuss W Possible Action - New Work Order Requests

7. Other Business

Gallentine stated that he has called Craig Duncan and has not heard anything back. Gallentine stated that is for DD 36 if he remembers right. McClellan stated that was interesting because he seemed like he was in a hurry to get it done.

Kuechenberg stated that we have some old warrants that were issued to Ryken in 2016. Kuechenberg stated that Ryken scanned in our maps because we do not have the equipment to do that. Kuechenberg stated that two of the warrants were issued to districts that we no longer have control of. Kuechenberg stated that we gave these districts, DD 114 and 134, to Iowa Falls in 1978. Kuechenberg stated that they have not been redeemed but they are issued. Machel Eichmeir stated the situation is that back when they were issued is that they shouldn't have been because we were not the controlling people. Eichmeir stated that the warrants were issued, and she purchased them not knowing we did not have control of these ditches, so the county is holding the stamped warrants. Eichmeir stated that one is for \$218 and the other is for \$300 with interest accruing for both. Eichmeir stated that these warrants are never going to get redeemed because the ditches are never going to be assessed to have the money collected. Eichmeir would like to get this cleaned up. Granzow asked if we should just add that to the claims for next week like the invoice for DD 148. Eichmeir stated that she just wanted to bring that to the Trustees attention. The Trustees agreed that it was a good thing, especially if the warrants are just sitting there. McClellan asked what the interest was on that last one. Eichmeir stated that through October of 31, the interest is \$83.22. Kuechenberg stated that she printed off the paperwork yesterday so as of November 02, the interest is \$83.30. Eichmeir stated that it's basically the principle of the warrant that we paid to Ryken for that mapping that we're out. Granzow asked who is in control of those districts. Kuechenberg stated that Iowa Falls is in control of those districts. Kuechenberg stated that they were turned over in 1978 because the district drains were partially constructed of sewer tile, and they were needed and used by the city for sewer and storm purposes. Granzow stated that he would still request that Iowa Falls pay it, if they're not going to pay them, we need to clean the books up. Granzow stated that we should first request that they pay them. Kuechenberg stated that she would reach out to them. Eichmeir stated that we're not going to pay them because it's like it's a matter of canceling. Eichmeir stated that we already paid the bill ourselves. Granzow asked how Eichmeir preferred it. Eichmeir stated she would prefer if the city of Iowa Falls would pay the warrant even if it was just the face value and not the interest. Eichmeir stated that they didn't have any idea that this was happening so it's kind of hard to ask them to pay a bill that they did not request. Eichmeir stated that I guess when they were doing the mapping, she doesn't know how this all happened. Granzow stated that we started converting the paper maps to digital. Granzow stated that he believes the cities were notified when we started this process to see if they wanted to and they probably never responded. McClellan stated that maybe they didn't get notified. Granzow stated he could not guarantee that we did. McClellan stated that these were done years after the ditches were turned over to them. Eichmeir stated that they were turned over in the 1970s and this was in 2016. Granzow stated that as our conversation went, we'll do them all because Ryken was doing them. Granzow stated that he can't guarantee Iowa Falls was contacted but he knows we did other districts and they paid. Eichmeir stated that if you're use to dealing with other Trustees. Eichmeir stated that she doesn't know this for a fact, but these two districts might not have been in anyone's head. Granzow stated that there are two or three districts in Iowa Falls that are inactive, but they're still districts, and we just carry the paperwork for them. Granzow stated that they could've slipped through the cracks. Granzow stated that at any given point we do not know what's active and what is not, there is 200 of them. McClellan asked if we wanted someone to pursue and make a call to Iowa Falls. Gallentine stated that there was one in Alden, that did get paid. Gallentine stated that maybe just from that standpoint you would treat them all the same. Granzow stated that we could send a bill to them again. Hoffman stated that we should send them the bill and see if they would pay. Eichmeir stated that they might not know that we did it unless they were notified when the project was getting done. Gallentine stated that he thinks Tina did. Gallentine stated that some towns, like Alden paid it, and others did not. McClellan stated that maybe if we send the bill with the interest, they will see that the interest is larger than before. McClellan stated that she would attempt to bill them once more. Hoffman stated or for the first time. McClellan asked who their Trustees would be. Kuechenberg stated that the document said the districts were turned over to the city, it did not say anything about Trustees. Gallentine stated that once they're turned over to a city, he believes the city council becomes the Trustees. Gallentine asked Kuechenberg who the current holder of the warrants was. Eichmeir stated that the county purchased them. Eichmeir stated that the county purchased all of the stamped warrants. Eichmeir stated that we paid Ryken right away and then purchased the warrants. McClellan asked Kuechenberg to send Iowa Falls the bill. Hoffman asked Kuechenberg just to keep the Trustees updated. Kuechenberg stated she would send them a letter and then in 30 days have an update.

Eichmeir stated we do have a couple of other problems. Eichmeir stated that since conversion and the turnover and everything she is just now trying to get to the nitty gritty of this stuff. Eichmeir stated that we have some warrants that were in the Trustees control that are now in private Trustees control. Eichmeir stated that the actual warrants did not get moved from the district to the proper district, we're trying to get this corrected and we'll see where we're at with that. Eichmeir stated that she is not sure what is going to happen if we're in a situation where a district will be not knowing they're that far in the negative. Granzow asked if this was done when they were the Trustees. Kuechenberg stated that this was done prior. Granzow stated that he is not worried then. Hoffman stated that they assumed all of the liability, but we need to let them know. Eichmeir stated that she does not think we want to say anything until we have it all corrected in the software. Hoffman asked how many ditches are there. Eichmeir stated that there are just two ditches. Eichmeir stated that one is only like \$4,000. Granzow asked if one of the districts was 148. Eichmeir stated yes. Granzow stated that we should've said something to them when they were still here. Eichmeir stated that she did not want to say anything until it is corrected in our software. Gallentine stated that he will say something about 148 they were fully aware that you guys were incurring engineering expenses and all that because that's what drove them to become their own Trustees. Hoffman stated that was the motivating factor. Eichmeir stated that one's almost at \$43,000. Gallentine stated that this should not be something that they know nothing about. Gallentine stated that they were attending those meetings, they knew. Eichmeir stated that was good. Gallentine stated they still might complain. Granzow stated that they didn't go ahead with the project either. Gallentine stated, yes that's true. Kuechenberg stated that at one point someone tried to move these whether it was the Drainage Clerk or whomever, but it didn't work out. Eichmeir stated that whoever it was attempted to move the warrants but moved the funds and that's where she was concerned. Kuechenberg asked if we would charge the interest that has accrued in the meantime as these warrants were sitting in the old accounts. Eichmeir stated that we still would. Eichmeir stated that these districts know that these bills existed and what work was done in the district, and they have not assessed to take care of these bills. Gallentine stated that they usually don't even probably know that they have to assess unless a drainage clerk or someone suggests it to them. Eichmeir asked if the private Trustees know the whole process. Granzow stated that Kuechenberg is still their clerk. Gallentine stated that for DD 148 all of those guys are fresh, so he doesn't think they're aware that they need to assess, they probably just assume it is automatic.

Kuechenberg stated that she reached out to John Torbert with Iowa Drainage District Association and asked if he could add that for his discussion to be voted on that Drainage Districts are recorded on abstracts, property taxes, and deeds. Kuechenberg stated that John got back to her and told her that he would look into it and get back to her. Kuechenberg stated that she did invite him to a meeting, he did not say whether he would be able to attend the meeting. McClellan stated that if nothing else just Zoom in. Kuechenberg stated that she did inform him that if he couldn't attend in person, she would send him the zoom link or phone number he could call in. Granzow stated that he is under the impression that if the IDDA can't do this, then why are we members. Hoffman stated that all we have to do is make it a legislative priority kind of like ISAC does. McClellan stated it would be nice to have the Drainage District Association spearhead that. McClellan stated that she hopes that they could back it. Granzow stated that this is for everyone. Kuechenberg stated that she let him know that it comes up quite often in the meetings, a lot of landowners have requested that. Kuechenberg stated that John is aware that it happens a lot. Granzow stated that he's sure we're not the only ones.

Hoffman stated that he was reading the editorial in the newspaper today regarding the carbon pipelines and he is disappointed that the newspaper wants to get involved in this like they did the wind turbines. Hoffman stated that it is one of those things that they start comparing those things to wind turbines and while there are some apples-to-apples comparisons there's a lot of apples to oranges there too. Hoffman asked Gallentine, with this second pipeline, if he would attend a couple of meetings that they could go together. Gallentine stated that Franklin County has already asked them for a letter of intent just like they did on the first one, so he will be there. Gallentine stated he will get Hoffman a letter. Hoffman stated he was just curious with the scope. Gallentine asked if they've seen a map for the second one. Hoffman stated nothing detailed just that 50,000-foot view. Gallentine stated that he's just seen the state map but the first one is going in a V shape this one is going straight across the county the other direction. Gallentine stated it's like a big X right across Hardin County. Hoffman asked if he missed when Heather was going to be able to give us some insight or if her written stuff was all she was concerned with. Gallentine stated that Heather Thomas has resigned, she is the new Engineer for the City of Marshalltown. Gallentine stated that Matt Garber has experience with pipelines so he will be filling in that role. Gallentine stated that he thought that we were waiting to get like Mike Richards and Matt Garber and Mike Richards and Heather together to talk about that. Hoffman stated ok, just keep us surprised on when that pow wow goes on because updating any utility permits regarding underground pipelines probably needs to be looked at relatively soon. Gallentine stated he has not heard anything from Mike. Gallentine stated he thought the Drainage Clerk, he can't remember if it was Denise at the time or who, was going to forward Heather's comments onto Mike Richards and he was going to reach out to us. Kuechenberg stated that she did reach out to Mike, and she has not heard anything back from him. Kuechenberg stated she would email him again though. Hoffman asked Kuechenberg to email Mike again.

8. **Adjourn Meeting**

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