

REGULAR DRAINAGE MEETING

Wednesday March 02, 2022, 9:30 A.M.

This meeting was held electronically and in-person.

3/2/2022 - Minutes

1. Open Meeting

Hardin County Drainage Chairperson BJ Hoffman opened the meeting. Also present were Trustee Renee McClellan; Trustee Lance Granzow; 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 Granzow. All ayes. Motion carried.

3. Approve Minutes

Motion by Granzow to approve the minutes of Regular Drainage Meeting dated 2/16/22. Second by McClellan. All ayes. Motion carried.

4. Discuss W Possible Action - Drainage Utility Permit Application

Kuechenberg stated the Trustees decided to table this last week until they had some more time to look at the draft of the Utility Permit Application. Granzow asked if any of the Trustees had any concerns. Hoffman stated he did not. Hoffman stated he thought it was written very well. Granzow asked Gallentine if anything poked out at him. Gallentine stated there was nothing. Gallentine stated he spoke with Richards before he sent the Utility Permit Application and they went over everything together. Gallentine stated he thought it covered everything. Gallentine stated there is always that one thing you might be missing but he thinks it is good as presented.

Motion by McClellan to approve the Drainage Utility Permit Application as presented. Motion as seconded by Board Member Granzow and after due consideration thereof, the roll was called and the following Board Members voted:

AYES: Granzow, McClellan, and Hoffman

NAYS: None

OBSTAIN: None ABSENT/NOT VOTING: None

Whereupon, the Chairperson of the Board of Supervisors declared said Drainage Utility Permit Application duly passed and adopted this 2nd day of March, 2022.

In additional discussion on the motion, Granzow stated there are quite a few people that would want a copy of this as soon as it is approved. Kuechenberg stated Kathy Stockdale and some of the private district Trustees reached out to her asking about it. Kuechenberg stated she will get the new policy sent out to everyone. Kuechenberg stated she would also post it online as well.

All ayes. Motion carried.

5. Discuss W Possible Action - IRUA Invoices

Kuechenberg stated she printed out a copy of every invoice and set it in front of McClellan so the Trustees could review them. Kuechenberg stated she received these copies in an email from Gallentine. Kuechenberg stated there are 16 unpaid invoices from CGA to IRUA. Gallentine stated he sent these to Kuechenberg because he could not remember where we were at for sure on them. Gallentine stated IRUA sent a check to the Drainage Clerk at one time hoping the County would accept their terms and conditions. Gallentine stated he did not know if the Trustees were still negotiating with them on that issue or what we were planning on doing with them. Granzow stated the last he remembers, IRUA was supposed to finish these projects and pay CGA. Hoffman stated that is what he thought too. Granzow asked if IRUA has finished any of these projects. Gallentine stated he has not heard anything from them since Denise was around. Gallentine stated he thinks last project they were going to come in and finish them and Denise told them to contact CGA to work out a deal. Gallentine stated IRUA told Denise that they were not going to pay because they have their own Engineers. Granzow stated that was not part of their permitting process. Gallentine stated he agrees, he is just asking for direction on what the Trustees would like to do with the invoices. Hoffman stated we should send them again and put final notice on it. Gallentine stated he was ok with that. Granzow stated he is done waiting on him. Hoffman stated maybe it is time to send them to collections. Gallentine stated just so everyone knows, he is not suggesting that. Gallentine stated it is the Trustees decision to make. Hoffman stated we should send the invoices with a final notice letter and give them 30 days to pay it. Granzow stated they have had time to correct theirs/do numerous things and they did nothing. Granzow stated it is just sitting there in limbo. Granzow stated we should send them a bill and get our lawyers involved. Granzow stated he is tired of waiting on them. Granzow stated that is just him. Granzow stated send a final notice. Hoffman asked if that was a motion. Granzow stated it was. Granzow asked what McClellan thought. Granzow stated he would like to withdraw that motion. Granzow stated we should send the information to Mike Richards. Granzow stated he is done waiting on them, they bring their attorney in here and we are sitting with our representation every time. Granzow stated he does not want to play a stalling game with them any longer. Granzow stated they had an opportunity to correct it and to get a hold of Gallentine. Granzow stated he would rather send the invoices off to Mike Richards and have him send them to IRUA. McClellan stated she agrees with that. Granzow stated he would like to have them send their signed permits as well.

Motion by Granzow to have Mike Richards send IRUA the invoices from CGA. Second by McClellan. All ayes. Motion carried.

6. Discuss W Possible Action - Drainage Assessments

Kuechenberg stated they discussed this a little bit last week and established that assessments need to be done within 2 years per Iowa Code section 468.127 Payment. Kuechenberg stated, according to code, The costs of the repair or improvements provided for in section 468.126 shall be paid for out of the funds of the levee or drainage district. If the funds on hand are not sufficient to pay such expenses, the board within two years shall levy an assessment sufficient to pay the outstanding indebtedness and leave the balance which the board determines is desirable as a sinking fund to pay maintenance and repair expenses. Kuechenberg stated she guesses what she is asking is what would we like to do with assessments, assess districts 2 years out after completion or assess them the following year after completion. The Trustees stated they would like to assess as soon as possible. Kuechenberg stated she is fine with that. Hoffman stated the sooner we can get an assessment to landowners the better off we are. Hoffman stated they can make plans to pay for that work done. Granzow stated they can also set up payment plans at the Completion Hearing. Granzow asked if we had something from 2018. Kuechenberg stated we have out there from 2015-2016-and 2018. Kuechenberg stated those are the oldest outstanding stamped warrants in those districts. McClellan asked you mean it has not been assessed. Kuechenberg stated no, the work orders are still open or there were more that came up in those districts back to back. Gallentine stated he thinks DD 25 might be on that list. Gallentine stated that project drag on forever. Kuechenberg stated DD 25 is one of them. Granzow stated but that was not completed. Gallentine stated that it was not completed. Gallentine stated that may be where there are some older invoices. Kuechenberg stated she has a sheet printed out showing all of the districts with older invoices on there. Kuechenberg handed the Trustees the sheet so they could see what she was looking at. Granzow asked if the dates on these projects are from the very beginning. Kuechenberg stated that is correct. Kuechenberg stated they do not track it by completion date on the excel spreadsheet but the oldest outstanding warrant. Granzow stated it might not be as scary as he thinks it is. Kuechenberg stated if you look at the excel printout you can see there are multiple work orders in these districts. Kuechenberg stated, according to Smith, we would assess after all work orders are

completed. Granzow stated he did not want to make Kuechenberg do a lot of work but he would like her to go back and look at the completion hearings on these districts. Granzow stated some of them, he is assuming, that there was just repairs and maintenance. Granzow stated he thinks those ones just need to be assessed. Hoffman stated if Kuechenberg looks under projects she will be able to differentiate big projects vs. a tile blowout. Granzow stated we need to figure out the ones in there that we have done reclassification hearings and completion hearings on. Granzow stated two years after the completion we would have to assess. Granzow stated the bill might have started in 2015 but it may not have been complete until last spring. Granzow stated he just wants to know and make sure. Granzow stated he knows we assess for extra work so they have a little bit of money in their pot. Kuechenberg stated for smaller districts we usually have a sinking fund of \$3,000 and for larger districts we keep the sinking fund at \$5,000 for extra cushion. McClellan stated a couple of them say assess 2023. Kuechenberg stated the ones that say 2023 or 2024 still have open work orders in the district. Granzow stated in one of the districts we went through a lawsuit. Kuechenberg stated she thinks that was 25. Kuechenberg stated Gallentine was talking about that at our meeting last week. Granzow stated he thought it was 26 lat 4. Granzow stated they should have had a positive account until we burned it up. McClellan stated that one is not on the spreadsheet. McClellan stated 26 is on there but 26 lat 4 was not. Gallentine stated he would agree that 26 lat 4 should have a positive balance. Gallentine stated he does not think 22 after they did that reconstruction. Kuechenberg stated 22 does not have a positive balance that is on her list to assess this year. Kuechenberg stated she has copies of the Drainage Balance Report but she did not bring it to the meeting with her. Kuechenberg stated it will tell you where the district is sitting either positive or negative. Kuechenberg stated they will usually be negative if there are open work orders or anything like that. Granzow stated ok. Granzow stated he would say lets try to get them assessed as soon as possible. Granzow stated he would like the districts to be assessed immediately after a completion hearing. Kuechenberg stated she was fine with that. Hoffman stated that it is not a 'her' problem referring to Kuechenberg. McClellan stated she would like to assess randomly throughout the year but she does not know if we can do that. McClellan stated she does not remember when it was they were supposed to assess. Kuechenberg stated she has heard of that. Kuechenberg stated she thinks the Drainage Clerk from Winnebago County does something similar. Kuechenberg stated the Drainage Clerk in that county would assess when the project closes or shortly after. McClellan stated she was thinking there might be something written in code stating we cannot do assessments that way. McClellan stated the longer we wait the more interest that racks up for the landowners. Granzow stated the landowners want to pay. Granzow stated the landowners do not like to pay interest on stuff like that, that is their livelihood. Gallentine stated the other thing about doing it throughout the year is maybe there will not be such a crunch on your Drainage Clerk at this time of the year. McClellan stated that was true. McClellan stated that is what they use to do years ago but she cannot remember why it changed. Hoffman stated on the assessments do we want a formal motion to instruct her to assess as bills and completion hearings are completed. Granzow stated he does agree with that motion, but he would like to get a legal opinion on it if we could. Hoffman stated so that would be a Mike Richards question. McClellan stated she would rather have Kuechenberg email him first.

Motion by McClellan to instruct Kuechenberg to reach out to Mike Richards and ask about the ability to assess drainage as we go. Second by Granzow.

In additional discussion on the motion, Granzow stated we just want to get the bills out. Hoffman stated he thinks we'll find that most people want to pay sooner than later. Hoffman stated most people do not like anything outstanding when it comes to taxes and stuff like that. Granzow stated, in December they definitely want to be in the positive. McClellan stated Kuechenberg might want to run this by Machel too. McClellan asked if the statements have to go out with taxes. Gallentine stated he does not know if statements need to go out with taxes but they have to be payable the same time as taxes. McClellan stated that could be then. Granzow stated maybe that is why we did it that way, landowners would have to pay the interest on it until then anyways. Gallentine stated he does not think code says you cannot pay them early. McClellan stated it also spreads the work out for the Drainage Clerk. Kuechenberg stated when she was talking to Winnebago County's Drainage Clerk Kris about it she said it's easier for her to do assessments the way they currently do, spreading them out, rather than entering them in all at once. Kuechenberg stated she could reach out to her and ask her for more details regarding her assessment process. Kuechenberg stated it has been a while since they talked about this. Hoffman stated he was ok with that. Hoffman stated you should talk to Machel E., Mike Richards, then your colleague Kris and figure out the best system. Kuechenberg stated she was ok with that. Granzow stated he believes we are waiting on reclassifications on some of them before we can assess. Kuechenberg stated she thinks we are waiting

on DD 9, 20, and 102. Kuechenberg asked Gallentine for clarity. Gallentine stated he does not recall whether the Trustees wanted to assess on the old classification or the new classification when we split that up for Tom Roberts in DD 9. Gallentine stated Kuechenberg may have to check the minutes on that one. Kuechenberg stated she could do that. Gallentine stated they are getting towards the end of that reclassification.

All ayes. Motion carried.

7. Discuss W Possible Action - New Work Order Requests

Hoffman asked Kuechenberg if she had any new work order requests. Kuechenberg stated she does not have anything for new work orders, but she has stuff for other business. Hoffman asked Gallentine and Granzow if they had anything. Gallentine stated he did not. Granzow stated he has something that would fall under other business and new work orders.

DD 52 - Granzow stated Al Meister would like us to get his property finished and cleaned up this spring yet. Granzow stated he is willing 20% of the tree removal if the district is willing to pay 80%. Granzow stated he would have to go back to the minutes to see what we decided on last. Granzow stated he thought him and Adam Seward to decide. Hoffman asked Kuechenberg to do some research and bring that back to the Trustees. Kuechenberg stated she can do that. Granzow stated he spoke with Seward who stated he has not heard anything from Meister.

8. Other Business

Kuechenberg stated Kylie, the project manager with Summit Carbon Solutions, reached out to her and asked if she would be available to schedule a meeting with her and their team. Kuechenberg stated she is wondering if the Board of Trustees are interested in meeting with Summit as well. Granzow asked what Summit wanted to discuss in the meeting. Kuechenberg stated this would be for the pipeline. Kuechenberg asked if that would be during a regular drainage meeting or if they would like it separate. Hoffman and Granzow stated they would like to have the meeting in the Large Conference Room. Hoffman asked Gallentine if he could come down in person for that meeting. Gallentine stated he could. Gallentine stated if the Trustees ever wanted him at an in person meeting just to let him know. Kuechenberg stated she could get that scheduled with Kylie, it seems like they have an open schedule but they requested something within the next couple of weeks. Hoffman stated next week would be good. Hoffman and Gallentine stated they would be gone on the 16th. Hoffman stated the 9th would be good. Hoffman stated he thinks we need to make sure that when we schedule a meeting like this, this is a meeting between the pipeline and the Drainage Trustees and not the public. Hoffman stated he is sure Kathy and other people want to join and that is fine but this is a discussion between the Trustees and pipeline officials. Hoffman stated this is not a back and fourth discussion. Granzow asked what about other private Trustees if they wanted to attend. Hoffman stated Kuechenberg may want to reach out and invite the other private Trustees. Granzow stated he is not sure what districts they run through just yet. Granzow asked if we had a map with overlay of their proposed route. Granzow stated he does know the pipeline goes through a few private districts. Hoffman stated another thing that we may ask, since litigation is likely, if this is something we want to see if Darrell believes could be a closed session. Granzow stated, yes. Hoffman stated the Stockdale's have already sought out legal counsel and he is guessing some others probably have as well. Hoffman stated he is just concerned if there is any back and fourth between us. Granzow stated that would eliminate the other Drainage Districts, possibly. Hoffman stated, right. Hoffman stated we have to represent our Drainage Districts as Trustees. Hoffman stated he would say do not invite the other private districts but just give the private Trustees information and maybe they can schedule their own meetings with Summit. Hoffman stated he would like to be all inclusive but not all private districts will be within their proposed route. Hoffman asked Kuechenberg if that made sense. Kuechenberg stated that it did. Kuechenberg asked if they would like her to schedule it during a regular drainage meeting or after. Granzow stated he preferred after. Kuechenberg stated that works for her. Granzow asked what we had on the calendar for the 9th of March. Kuechenberg stated there is nothing on the calendar after the regular drainage meeting. Hoffman stated he was good with 10:30-11:00 to give us plenty of time to prepare. Hoffman asked Kuechenberg if she could confer with Darrell on this. Hoffman asked Gallentine if he had any thoughts on the potential of litigation in the meeting. Gallentine stated he agrees that it is a concern and would prefer we got an opinion from Darrell.

Hoffman asked Kuechenberg if she had any other business. Kuechenberg stated we have the Contractor meeting for tomorrow at 8:30. Kuechenberg stated mostly everyone is able to make it, the only person that may not make it is Steve Weidemann. Kuechenberg stated his team is working on a project in Humboldt right now. Granzow asked what time that was at. Kuechenberg and Hoffman stated it was for 8:30. Hoffman stated he will not be able to make it in-person but he will call Granzow's cell. Hoffman asked what the phone number for the telephone in the Large Conference Room was. Kuechenberg stated she did not know. McClellan asked if Mike knew the number. Pearce and Kuechenberg grabbed the Courthouse Directory to see if they could find it on there. Pearce stated he did not know which one it would be. Pearce stated he would message Hoffman the phone number.

Gallentine stated he has some other business. Gallentine stated he will be at the contractor meeting in-person tomorrow.

DD 56- Gallentine stated the only other business he has is that the Gehrke's are laying pipe in DD 56 starting this week. Gallentine stated for some of the places that are a little bit shallower the supplier suggested laying class 3 instead of class 4 so it doesn't quite have as much free rod. Gallentine stated that is totally within design standard. Gallentine stated there is probably going to be a Change Order coming through.

Hoffman asked Kuechenberg if she could bring down a handful of rate sheets for the contractors at our meeting tomorrow. Hoffman stated he would like a firm deadline on getting rates back so we can update those maybe by April 1, 2022. Kuechenberg stated she was ok with that. Hoffman stated he was thinking 2 weeks after our meeting should work. Hoffman stated that would be the 17th of March. McClellan stated the 17th is a Thursday. Hoffman stated, right but they can hand them in and be ready for the 23rd. Granzow asked Kuechenberg if she had the 17th written down. Kuechenberg stated she did. Granzow stated he might need a reminder tomorrow.

9. Adjourn Meeting

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