

REGULAR DRAINAGE MEETING

Wednesday, April 21, 2021 9:30 AM

This meeting was held electronically and in-person due to Covid-19 concerns.

4/21/2021 - Minutes

1. Open Meeting

Hardin County Drainage Chairperson BJ Hoffman opened the meeting. Also present were Trustee Lance Granzow; Machel Eichmeier, Treasurer; Lee Gallentine of Clapsaddle-Garber Associates (CGA); John Torbert, Iowa Drainage District Association; Michael Pearce, Network Specialist and Denise Smith, Drainage Clerk.

2. Approve Agenda

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

3. Approve Minutes

Motion by Granzow to approve the meeting minutes of the Drainage Meeting dated 04-07-2021. Second by Hoffman. All ayes. Motion carried.

4. Discuss W Possible Action - IDDA Membership

Hoffman gave the floor to John Torbert of the Iowa Drainage District Association to present to the group. Torbert stated he is the Executive Director of the Iowa Drainage District Association, a position he has held for 20 years. Torbert stated when he was hired he had promised his Board of Directors he would visit with each member County on an annual basis, and that is the purpose of his visit today. Torbert stated he appreciates the Trustees decision to join the Association, Hardin County was a charter member of the IDDA back in 1992, we had a Hardin County Supervisor on our original Board of Directors. Granzow asked which Supervisor that was, Torbert stated it was Millie Lloyd, Torbert stated it was good to have Hardin County as a member again and appreciated their membership. Torbert stated the IDDA's annual meeting will be held in a normal format this year, the IDDA traditionally holds their meeting the first Friday in December in Ft. Dodge. Torbert stated last year was an unusual situation with Covid going on, the situation the IDDA had was their by-laws mandate that they hold an annual meeting so canceling the meeting was not an option. Torbert stated we talked about having a virtual meeting and found out under state law, that associations can not meet virtually unless you have a specific provision in your by-laws that permits that and we did not have such a provision. Torbert stated we were faced with a situation where we had to meet, what they eventually ended up doing was having a business meeting as opposed to having a full fledged annual meeting. Torbert stated it was strange because he was encouraging members not to come which is totally not what he is used to doing, it went against Torbert's grain, but we were also faced with the Governor's proclamation at that point with no gatherings of more than 15 people, we had exactly 15 people that showed up for the meeting. Torbert stated that we conducted a business meeting that took about 45 minutes, and we were done. Granzow asked if they changed their by-laws at that time. Torbert stated we did change the by-laws, we added to our by-laws which now permits virtual meetings, so this year we will be back to our normal full annual meeting.

Torbert stated he would talk about the legislature next and what we have been doing this year, Torbert stated last year we had a bill that was a priority of the IDDA's, we got the bill past the House, it went over to the Senate, we got it out of Senate Committee, we were sitting on the Senate calendar ready to go and leadership said this will be a quick bill, it will be an up and down vote, we went up to our office and Covid hits and the Legislature goes home and does not come back into session until mid-June. Torbert stated when they came back into session, they have not approved the budget yet, the budget year was starting in about 15 days, so their main priority when they came back into session was to get the budget done. Torbert stated a lot of those bills that were sitting on the calendar, which are generally referred to as policy bills because there is no money in it, just didn't get taken up and ours was one of those. Torbert stated we made every effort to go to leadership and some of our friends in the Senate went to leadership and questioned if they will be taken up but near the end they decided not to so this year we had to start over. Torbert stated so this year we had to start the process over and we got a bill entered into the system, the

good news is the bill has been passed and been signed by the Governor, what this means for you all acting as Drainage Trustees is two things. Torbert stated the first thing that we had and this is actually coming to us from our Drainage Clerks group is that it relates to publications when you do classification and reclassification. Under current law, right now if you do a classification or a reclassification you have to publish the full schedule and that could be a lot of information and publishing that is not cheap, in some cases multiple thousands of dollars, and that cost is then a legitimate cost of the district's, so then that cost gets passed back to the landowners of the district. What our Drainage Clerks are essentially saying here is that you have a situation where landowners are paying to have this information published which they have already received, this information has been mailed to them and is readily available, and the publication of it is really superfluous and unnecessary. Torbert stated so we ask that the law be amended and change that and do away with the law and change that.

Torbert stated the second part of the law relates to engineering thresholds when you are doing a repair, what the current law says is if you have a repair that exceeds \$50,000 in value you have to involve an engineer in that. Torbert stated he has had many Supervisors tell him with drainage work these days with the costs of materials you get to \$50,000 really fast when you get into repairs, and the cost of repairs when you involve an engineer in the process. Torbert stated we had some legislators that were interested in raising that threshold, our Board looked at it and where we eventually came down was to raise it to what is called a competitive bid threshold, and that competitive bid threshold is set by a committee so it can move up and down and it is currently \$139,000. Torbert stated that was included in the bill and that will also take effect on July 1, 2021, with the change in the law now you can go up to \$139,000 in repair before you have to involve an engineer if you want to, you can do that at any time. Torbert stated if you have a complicated repair and you are comfortable having an engineer involved you can do so. Gallentine asked with that change in the bid threshold that also means there doesn't have to be any public hearings until \$139,000 also, is that correct. Torbert stated that was correct. Gallentine stated so it is not only removing the need for an engineer it is removing the need to notify the people. Torbert stated that was correct, the public hearing process has not changed.

Granzow stated while we are on the subject, we have had a lot of constituents ask why can't we do it in portions, because they don't want to pay the engineer report and they don't want to pay the whole thing at once, they might want to break it up into 5 years, but it is one project and we are not allowed to. Torbert stated that was right. Granzow stated so maybe they only have a \$500,000 project and they only want to spend \$100,000 a year to get to that project, why would we not address something like that. Torbert stated again that is a legislative change and we can certainly look at that, and Torbert understands where you are coming from but we hope that this does provide some extra flexibility. Granzow stated this year looks good for spending money. Hoffman stated this year looks good until you look and materials cost and asked Gallentine if that was correct. Granzow stated yes. Hoffman stated he had an email from one of our contractors that prices are good to go up for the third time since the first of the year, and asked Gallentine if that was correct. Gallentine stated it is his understanding that right now contractors can buy concrete pipe cheaper than they can buy plastic pipe and that is without the rock bedding price, just straight material cost, concrete is cheaper delivered to the site. Granzow stated labor is going to go up, fuel is going to go up, everything is going to chase it, but it still follows the question if this is something you can push for if more people are interested in this, to be able to break projects up into smaller pieces. Hoffman stated at the federal level it is called supplanting, to have a project and you either don't have the funding or don't have the support for any of it or for any other reason and you want to break it down to maybe go under a bid threshold or to meet some local regulation, supplanting isn't allowed and Hoffman is guessing that something similar is part of Iowa Code or administrative code. Torbert stated if you are breaking something up into pieces for the purpose of avoiding law that is not something you can do, on the other hand if the purpose is to make things more affordable when there are definitely ways that you can break that issue up and do it in phases, then that is a different issue and something we need to look at. Hoffman stated he thinks that is definitely something we need to look at, the ebbs and flows of production agriculture are something to look at.

Granzow stated another one he would like to throw in there is when you are talking about drainage the cost of it could be high before you even touch the pipe, tree removal why is that a cost, it is still a cost to them but it shouldn't be a cost of the construction, the \$139,000 threshold. Granzow stated he would use Radcliffe as a prime example, the trees are killing us, Granzow asked Gallentine if he remembered what just the cost of taking the trees out was. Gallentine stated it was a lot there were 50 or 60 mature trees in

town. Granzow stated that would meet our threshold right there and we never even touched the tile. Torbert stated it would easily meet that. Hoffman stated that is why we said to satisfy the landowners can you get us on the schedule to talking 3 to 5 trees out every year, and as painful as that is, something has to be done. Torbert stated a lot of counties are doing scheduled maintenance now so they are not faced with doing that all at once. Granzow stated there are different ways to approach what the construction really is. Hoffman stated and just because it is legal it does mean it is right, Hoffman thinks some of this drainage legislative change was spearheaded by Senator Sweeney, and she ran that bill in the Senate. Torbert stated yes she did.

Torbert stated the other thing that is in this bill that Senator Sweeney wanted to see and we were in agreement when she brought it up and we had in the provision involved informal notice, and it is basically a situation where if a landowner requested it, they could be emailed this information, her concern was if you are totally relying on the mail, and you have snowbirds that may not get their mail for three or four months, if they are getting their email it is a way that they can get this information so it adds another layer to the publications and notifications. Hoffman stated she and I discussed that it was a means of re-engaging people who might say that if I see something from the Drainage Clerk, it goes right in the garbage, this way it is another way of saying hey, you gave us an email, you checked the box and said this is how we would like it. Granzow asked if there is anyway we can get rid of the publication altogether and we can just go publication to our website. Torbert stated not yet. Granzow stated he thinks we should push for that. Torbert stated at some point probably but not yet. Hoffman stated as he looks at the bills, and this is something that he is not going to task the Clerk with anytime soon because Hoffman knows she has her plate full, the amount that we spend on publication in Hardin County is asinine, and it is just one of the things where we found that a print publication has gone from, because the grocery stores and small businesses are doing their own marketing on facebook and other platforms, rather than advertising in the newspaper because of low circulation, then we as a county are making up for their lost revenues by increasing the dollar amount to do a public notification. Granzow stated a mandated publication. Hoffman stated so you are held hostage by whatever their fees may or may not be, one of the other former Boards Hoffman was on, we covered several counties and we found a shopper publication in Jewell that was \$70 to publish our budget compared to \$1,000 to publish it in the Ames Tribune, so by Code, we printed it in one publication that served the area, that Jewell shopper/advertiser was \$70 compared to that Ames Tribune that was over \$1,000, so we are nickel and diming, and we continue to charge that back to the end user, at some point, we should definitely lobby hard to remove those publications because Hoffman can guarantee our clicks on our publications online far outnumber the number of views in a printed publication. Granzow stated when Torbert says not yet, is that because you are not ready to approach that yet, or you still don't think that they are willing to accept that yet. Torbert stated the legislature is just not going to do that yet, at some point it will probably happen but not yet. Granzow asked if the push has started yet. Torbert stated it is being discussed, Hoffman stated he would answer the question, there is a slight demographic group at the Iowa State Capital that still loves getting their newspaper, and that slim number of people at the Capital hold the power and holding that hostage, if you want your social media regulations passed you are going to have to keep my newspaper that I love to get because I could care less about Facebook or Twitter. Granzow stated he has trouble with mandated costs. Torbert stated the other concern you will hear from the legislature is that believe it or not, there are still people out there who do not have access to computers and don't have phone access to the internet, but might get papers though, we have had concerns expressed about that kind of individual. Hoffman stated he can see it both ways but the general public are the same ones that are complaining about the budget and these exorbitant costs of doing business are the same ones that they can see this other ways.

Eichmeier stated she would share her idea that it would be nice if we could still have to advertise a certain situation but not in it's entirety, maybe it could just be notification of public hearing or whatever it is and then have the full data available upon request, you could still publish a small publication and still have it available with the website or other a mailed out form. Hoffman stated it would be a 2 x 2 box rather than a full page publication. Granzow stated he likes the choice and understands and likes what Eichmeier is saying but he likes the choice, and will use Hardin County as an example, we have libraries in every town, funded by us with the internet service and people in there to help, if you can get a paper, you can also get to the library, the services are provided in Hardin County for anyone to do this, and Granzow is strictly talking about Drainage not other county business at this point, so a push on the drainage side makes more sense to Granzow. Torbert stated that is probably a good middle ground. Eichmeier stated they are not going to go from mandated to nothing in the papers, Eichmeier is trying to look at a whittled down way it could maybe come to save dollars. Hoffman agrees, maybe somebody sees something that you can

request a copy of such publication, Smith might have 6 people that request it, and it would cost a stamp and an envelope to send it out compared to a publication, if only 6 or 8 people request it that is a whole lot cheaper. Eichmeier stated that the rest of it could even be sent by email and there will only be a handful that have no email or computer and we would mail it, Granzow stated when you talk drainage districts, we are not talking about the whole county, we are talking about a select group of people. Eichmeier stated she knows that they are working on legislation to not have to do all publications, that we can have electronic means for all things that are mandated to be public. Granzow stated he is with Eichmeier 100% on that one. Eichmeier stated it kind of runs together. Hoffman stated he thinks Drainage would be a great first step, that is your run before you can walk, let's show that it can work with Drainage, we wait a year or two, so we know that it works, let's move on and add additional publications to that list, Hoffman could not agree with Eichmeier more. Hoffman stated that Granzow had asked if Hoffman looked at our claims for the week, and stated he could not believe how much in there was just publication. Hoffman stated that just shocks him every week when he looks at how much we are paying in publications every week. Granzow stated mandated in three newspapers. Eichmeier stated especially when the landowners already have all the information.

Torbert stated he would say two things in terms of our legislative process, number one, most of our legislative wishlist comes from our Clerks organization, which is not a formal organization but we certainly look to them as people who are out there on a day to day basis working with drainage laws to recommend things and would urge participation in that and secondly we normally go out with a mailing or emailing in October or November if you have things you are interest in seeing in the legislative session we will look at it. Hoffman asked if the IDDA has a lobbyist, Mona Bond is our contract lobbyist and our legal counsel is Doug Strych who also does lobbying for us as legal counsel.

Hoffman stated he was glad Torbert was here and he should feel free to come in any time. Torbert stated one more thing he wanted to mention generally is the IDDA was approached last year about becoming a partner in a grant that was put together by the Iowa Ag Water Alliance. The Iowa Ag Water Alliance was a group that is an offshoot of the Iowa Soybean Association and they were going to write a grant that was going to be a federal grant under the NRCS for what is called conservation drainage and they wanted the IDDA to be one of the partners in it. Torbert stated he took it to our Board and we agreed to do so, so that grant is in the process of getting off the ground. Torbert stated what conservation drainage is, to look at the situation we have now if you look at drainage infrastructure, the purpose of that infrastructure is to take water off the land when you have too much water, very simple, drain the land so that it retains productivity, but we all know that in Iowa, sometimes we have too much rain and sometimes we don't have enough. Torbert stated so the question becomes that maybe instead of draining all that water all at once, maybe there is a way we can save some of that water for when we need it. Torbert stated there are a couple of ways that can be done, one of the ways is to keep the water in the soil profile, and there are companies that market water control structures that do that so instead of all the water draining from the land, some of it is retained. Torbert stated that other systems where the water is actually pumped into holding ponds and then it is used for irrigation, that is not too common in Iowa, but it does happen in other places. Torbert stated what conservation drainage does is, if you all are doing an improvement instead of just putting in a bigger version of what you have now, maybe there is a way we can put in a system that is more environmentally friendly, that has conservation practices as part of that system, that incorporates wetlands or saturated buffers or bio-reactors or any number of factors that makes the drainage more environmentally friendly. Torbert stated that is what this grant is doing is trying to encourage people to participate in this conservation drainage practice, from the perspective of a Drainage District Trustee two things would have to happen, number one if you have an improvement you have to direct your engineer to see if there are ways to incorporate drainage conservation practices, into the new drainage system, and secondly the engineer's would have to design those in. Torbert stated cost is obviously always a consideration and we are hopeful, although it has not been finalized yet, under the terms of the grant the cost of these structures could be paid for. There is still going to be some costs that are not going to be covered, for example, you are taking land out of production and we realize that there is going to be lost opportunity costs. There is also going to be in some cases maintenance of these structures but having the cost of the structure paid for up front is a huge part of it and the IDDA's role is one of education and encouragement, if you are looking at a project, that may be something to think about. Torbert stated he thinks in terms of looking at the lay of the land, in terms of how people have looked at drainage and how practices have changed, in the legislative community and the environmental community the days when we are just draining land is not going to last forever, the process is going to have to change and we are either going to be aware of that change and it is going to be

forced on us and we choose to be part of it, so that is what this grant is about. Torbert thinks that is what the future of drainage looks like.

Granzow stated we have tried to start doing that already, there are people that want blocks put in to slow their drainage up. Gallentine stated he has heard of tilers within the last 2 to 5 years being inquired of if there is a way to put a valve in that tile to block off that water from leaving for the dry period. Torbert stated and there is. Hoffman stated he has one last question, we are all familiar with the Des Moines Waterworks suit, do you see anything pending or in pending regarding litigation that we need to be concerned about going forward. Torbert stated not directly no, the Des Moines Waterworks lawsuit was a direct assault because it was filed against Drainage Districts, there is another lawsuit that has not been resolved yet that was brought forward by a couple of environmental groups, against the Department of Ag and the Department of Natural Resources, and basically the contention of the lawsuit is that state regulators are not doing enough to protect water quality. Hoffman asked if that was between Waterwatch and ICCI. Torbert stated yes, that lawsuit has not been resolved yet but that does not directly involve drainage and in terms of litigation Torbert is not aware of anything else imminent out there at this time and we have been watching it pretty closely. Hoffman asked how about commercial wind development in drainage districts, has there been much talk about that in your Association amongst members. Torbert stated there has been some conversation about it and mainly the conversations we have had relate to the installation of the wind turbines and making sure the drainage structures are protected. Torbert stated our legal counsel has drafted a resolution that has been used, not so much on wind, but what it was originally used for was when the Dakota access pipeline was coming through, but the same concerns, you are going to be putting this pipeline right across our drainage structures, how are you going to make sure that they are all protected. Torbert stated so we wrote resolution that some counties could pass and some did, so that it made very clear what had to be done to protect the drainage infrastructure, we have since modified that resolution so it is broader, to apply it to wind turbines or power lines so that you could do so, that is something that we have available. Granzow stated he would not mind having that copy, Hoffman asked if Torbert could send that to the Drainage Clerk, Torbert stated he would.

Hoffman stated we have a large scale proposed wind turbine project, that would primarily be based in drainage District, so when you look at our map, anything in color is a drainage district on the map. Granzow stated that would pretty much cover the windmills. Hoffman stated we are just concerned that everything on top of the actual structures being put in the ground are the crane walks that have no problem whether the facility is 6' deep or 16' deep, a 100 year old clay structure is not going to hold up to anything, so part of our ordinance, you would have to GPS track the crane walks, we would install a GPS unit on their crane. and several other provisions to make sure that we protect that infrastructure, Torbert stated that is something he had not thought about. Hoffman stated the Clerk could share a copy of that with Torbert. Torbert asked if that was something we should incorporate. Granzow stated there is a lot of things in there that maybe you haven't thought of yet, put the two together you might have a better one. Gallentine added that we have had some crane walks in Franklin County over some tile routes and it is an interesting process to watch, they put these large wooden mats where they think the tile is, and these things are 12" thick and they put this crane, and walk it up on top, and all of a sudden this mat disappears down into the ground and when the crane comes back off it pops back up out of the ground, you wonder what just compressed underneath it. Granzow stated we put a lot of thought into ours and guaranteed we missed stuff too.

Hoffman thanked Torbert for coming and sharing his update. Torbert thanked the Trustees for having him.

5. DD 1 WO 244 - Discuss W Possible Action - Completion Letter W Attachments & Final Pay Estimate # 7

Smith stated this is our completion letter we received from McDowell's and Smith noted the last page also includes final pay estimate with the lein waivers. Gallentine stated this is the project west of Steamboat Rock on the blacktop there where we replaced the crossing with DD 1 underneath the blacktop because the current tile runs underneath the box culverts there, Gallentine believes that this was fully funded by Secondary Roads or should have been fully by Secondary Roads since that is where the work occurred was in the road crossing. McDowell's has finished the work and is done with the punch list so we think it is time you can go ahead and authorize final payment, we always recommend that you contact adjacent landowners and make sure they don't have any damage claims, since work was in the right of way Gallentine does not think you will, but you never can tell.

Smith asked if the final pay estimate for these costs go to Secondary Roads. Gallentine stated yes, it is his understanding that all construction and engineering was to go to Secondary Roads on this project for DD 1. Smith stated she believed that was correct. Gallentine stated a couple of the landowners asked about that, Pastor Jerry asked about that and maybe Marv Kramer.

Motion by Granzow to accept the completion letter and approve the final Pay Estimate # 7. Second by Hoffman.

In additional discussion on the motion, Hoffman directed the Clerk to make sure Engineer Roll gets a copy of the final pay estimate.

All ayes. Motion carried.

6. DD Big 4 Lat 4 WO 309 - Discuss W Possible Action

Smith stated this is the work order that she had brought to the Trustees last week and had mislabeled for the incorrect district so that has been corrected and is now the right district on the work order. Smith has had some communication come in on this from Brad Mohr, of Mohr Wildlife Control, who is our local trapper on record, Smith does have the option of contacting some other local trappers who trap beaver, we have some beaver activity on this location but the beaver season in Iowa runs from November of 2020 through April 15th 2021, and that season is now closed. Smith stated it is her understanding that to trap nuisance animals outside of their season, you must be a licensed wildlife nuisance operator, so that leaves Smith with just Brad Mohr on her list. Mohr has communicated to Smith that he feels our \$100 per beaver bounty is not sufficient to cover his costs, he would like to help the Drainage Board, but realizes for him to trap it is a highly skilled trade, and notes in his email to Smith that his price breakdown for beaver trapping in Hardin County is \$45 per hour plus government mileage and the \$100 per beaver bounty, Smith is looking for some clarity or direction on how the Trustees would like to handle this, Smith spoke to Gallentine on this a little bit about this location and we have had work orders going back to 2017 with beaver activity in this same area that had been previously trapped out.

Granzow stated he thinks Smith needs to talk to the landowners and they will take care of the problem themselves. Hoffman stated Smith can forward Mohr's rates to the landowners, and ask them if they would like to solve the problem themselves, if not then maybe in the letter we can include a question if the landowners want to pay this rate and we get an overwhelming majority of people that say pay the rate, then we can pay the rate, but Hoffman is not willing to pay that rate without any direction from the people that will be billed for it. Smith stated she can communicate this to landowners, and will put a reminder on the Drainage calendar to re-agenda this in a couple of months, because we still have the issue of the beaver dam debris that would need to be cleared as well. Hoffman stated if we have someone from the lottery system go out there and clear it out as well, how long is that going to last. Gallentine stated until you get the beaver trapped, maybe a day. Hoffman stated if you get the dam out, then maybe the landowner can see the beaver out there actively working. Granzow stated if someone just puts a snare out there, then it is over. Gallentine stated the downside of that is you are paying someone \$250 to take it out but we definitely need to get rid of the beaver.

Hoffman motioned to direct the Drainage Clerk to contact landowner's with the proposed prices and asking for input and revisit it sooner than later. Second by Granzow. All ayes. Motion carried.

Gallentine asked after the beaver are trapped, we can gladly go look at this, but Gallentine does not think you need an engineer to watch someone dig up a beaver dam, Hoffman stated probably not. Gallentine recommends that the Clerk just put it into the lottery system directly.

7. Other Business

DD 128 - Granzow stated he would get a hold of Gallentine to go out and look at Dean Bright's place together, Gallentine stated his availability, Granzow will reach out to Gallentine and Bright to get this scheduled.

8. Adjourn Meeting

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