

## REGULAR DRAINAGE MEETING

Wednesday April 27, 2022, 9:30 A.M.

This meeting was held electronically and in-person

4/27/2022 - Minutes

1. Open Meeting

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

2. Approve Agenda

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

3. Approve Claims For Payment

Motion by Granzow to approve the claims for payment with a pay date of 4/29/2022. Second by McClellan. All ayes. Motion carried.

DD 14 Additional CCTV requested by landowners Williams Excavation LLC \$6,912.75

DD 56 Pay Estimate No. 2 Upper Main Tile Diversion Gehrke Inc. \$192,552.85

4. Approve Minutes

Motion by McClellan to approve the minutes of the regular drainage meeting dated 3/23/2022. Second by Granzow. All ayes. Motion carried.

5. DD 56 WO 3 - Discuss W Possible Action - Gehrke Inc. Pay Estimate # 2

Gallentine stated this is on DD 56 for the work Gehrke's did for the month, the pay estimate is in the amount of \$192,552.85. Gallentine stated it is going pretty well out there, they're actually at or slightly past the deepest parts and now it is starting to get shallow again.

Motion to by McClellan to approve the pay estimate as presented. Second by Granzow.

In additional discussion on the motion, Granzow asked Gallentine when he thought the Gehrke's would be done. Gallentine stated they're not saying. Granzow asked Gallentine when he thought they would be done at the rate they're going. Gallentine stated he is thinking they would be done early June. Granzow stated that is not bad. Gallentine stated we are at the point where we are getting more rain sometimes, they can work through it, but if the rain is bigger they will have to take a day off.

All ayes. Motion carried.

6. DD 56 WO 3 - Discuss W Possible Action - Change Order # 3

Gallentine stated he mentioned this last week. Gallentine stated once we got towards the first cropped area, we were actually running parallel with an old clay tile and that got ripped out. Gallentine stated we replaced that, and they trenched in a new plastic tile and tied that into the new district tile we are installing. Gallentine stated the tile ran through the pasture before. Gallentine stated we did not have any bid items for running parallel to something, just crossings so this is an increase of \$3, 440.

Motion by Granzow to approve DD 56 Change Order 3 as presented. Second by McClellan.

In additional discussion on the motion, Granzow asked Gallentine how big the original tile was. Gallentine stated he thought the original clay was a 5in. tile. Gallentine stated they Gehrke's were going to put a 5 or 6in tile in, depending on what they had available.

All ayes. Motion carried.

7. Discuss W Possible Action - 2022 Drainage Assessments

Kuechenberg stated she attached to drainage assessments to the Trustees agendas, these are all the districts ready to assess for 2022. Kuechenberg stated she did add DD 148 to the list, which is a private district, Kuechenberg noted she just wanted the Trustees to be aware that district is getting assessed this year. Kuechenberg stated they are ready to for approval if there are no discrepancies and she will send the notices out the following day.

Motion by McClellan to approve the drainage assessments in the amount of \$1,092,528.00. Second by Granzow.

In additional discussion on the motion, Gallentine asked if the Trustees got the spraying issue worked out with DD 148. Kuechenberg stated yes, that was handled, the county ended up paying for that bill.

All ayes. Motion carried.

8. DD 26 Lat 4 WO 306 - Discuss W Possible Action- Contractor Update

Kuechenberg stated she spoke with Adam Seward and he is all finished up with this work order. Kuechenberg stated there was two district tiles that were disconnected on Randy Madden's property. Kuechenberg stated Seward capped one of the tiles and rerouted the other into county tile per CGA recommendations.

Kuechenberg stated Seward informed her that he is moving on to WO 311 in DD 86. Kuechenberg stated this work order is for Poet, a manhole cover is missing and needs to be replaced. Gallentine stated he thinks that Poet is paying for that one. Kuechenberg stated she reviewed the minutes on this work order and the last time this work order was mentioned Poet agreed to pay it, but Seward was supposed to submit the bill to the county, and we would forward it to Poet for payment. Gallentine stated that DD 86 is the one where Poet has their own private parallel tile where this issue is happening.

9. DD 14 WO 290 - Discuss W Possible Action

Kuechenberg stated she added this to the agenda, she believes Paul is done with televising the district tile. Kuechenberg stated at the last meeting we had with DD 14 we discussed reconvening the meeting on June 8, 2022, at 10:00 a.m. in the Large Conference Room. Hoffman stated we decided after that we were not meeting on June 8<sup>th</sup> because that is the day after election, Hoffman asked if Kuechenberg has sent out anything on that yet. Kuechenberg stated she has not. Hoffman wanted to see if we could re-schedule that for the 15<sup>th</sup> of June. Kuechenberg stated that would not be a problem. Gallentine stated the televising is done, he just hasn't done anything with it because he knew the hearing was not until June. Granzow asked how the original motion was made. Kuechenberg stated she did not remember but would look through the minutes for clarification. Gallentine stated we were trying to avoid resending notices and having to publish it again. Granzow stated if we set it for June 8<sup>th</sup> in the motion it has to be on the 8<sup>th</sup>. Gallentine stated maybe it would be best if Kuechenberg looked at the minutes and brought it back. Kuechenberg stated she would take a look at that and bring it back for next week. Hoffman asked Gallentine if he has the footage yet. Gallentine stated he did. Hoffman asked Gallentine if he could report something to the Trustees before he reports to the landowners. Gallentine stated he would. Gallentine stated just preliminarily in the field, the only issue they saw was one connection that is intruding. Gallentine stated other than that no smoking guns in the field, but they will review it and check. Hoffman stated that is excellent, he appreciates Paul getting out there. McClellan asked if this would be on next week's agenda too. Kuechenberg stated she would put it on next week's agenda and report back to the Trustees how the motion was made for the continuation of the public hearing.

10. Discuss W Possible Action - New Work Order Requests

Gallentine and Kuechenberg stated they did not have any new work order requests. Hoffman stated he thought for sure we would have something with all of this rain that we've been getting.

Hoffman stated he had a question about the beaver situation. Hoffman asked Kuechenberg if we were able to get someone out and trap the beavers. Kuechenberg stated the furbearer trapping season ended April 15, 2022. McClellan asked if the landowners could remove the beavers themselves. Kuechenberg stated that is correct, they would just need to call and get permission from Nate Carr with the DNR and they can remove the beaver on their land without any permits. Kuechenberg stated our trappers would have to obtain the permits and the special licenses because we are paying them to remove the beavers. McClellan asked if we could just ask the landowners to remove the beavers until we are able to get something figured out and then we can remove the dams afterwards. McClellan stated we could also have the landowners contact someone outside of the county to remove the beavers and they could send us the bill after. Kuechenberg stated if the landowner hired someone to remove the beavers the person they hired would need to be licensed and have the proper permits outside of the furbearing season. Kuechenberg stated the same rules would apply to them as it would for us hiring someone. Gallentine stated he would think if we explained the situation to the landowners, they might be willing to remove the beavers themselves. McClellan stated some of the landowners would, but others would not be able to. Gallentine stated he does not ever remember this many beavers on Big 4 before, usually it is a dam every couple of years. Gallentine stated if they are on the main ditch, we have not had much flow, but if we get some big spring rains they might move. Gallentine stated usually we have problems with the beavers on the laterals.

11. **Other Business**

**DD 52**- Kuechenberg stated she has an update from Mike about DD 52 on Al Meister's property. Kuechenberg stated he reviewed all of the material she sent including pictures from Al and Adam Seward and a running document of all of the minutes. Kuechenberg stated he does not think the drainage district has an obligation to perform any repairs or remove any debris unless (1) the debris is obstructing the drainage facilities therefore triggering a duty to maintain or (2) a contractor hired by the drainage district caused the damages when it was completing its repairs to clear the debris that was obstructing the facility. According to Mike, it sounds like neither of those 2 things applies if it is accurate that the contractor left the debris that was already there and not impeding the facilities. Granzow stated they took trees; the trees were outside of the district but were pushed up that we said we would remove. Gallentine stated this is a tough one because it was removing trees CGA was not even on site when this was going on, he does not know what was said to Al or anyone else. Granzow stated it was a little bit of both, some of the trees were what we cut and pushed up but some of the trees/material was already there from the previous landowner.

Granzow stated, for Mike's answer, some of it is ours he would like to know how we determine what part. McClellan asked if we could just go out and light the trees on fire and burn those out of there and they can worry about the rest of it. Gallentine stated he does not know what Al is asking for. Granzow stated maybe we should pull Adam and Al in together and read them the legal statement. Kuechenberg stated she could set that up. Kuechenberg stated another thing Mike mentioned was that eventually it might end up causing obstructions to the district so we could choose to go in and clear up the debris if we wanted. McClellan asked why we would have to haul them away. Gallentine stated you would haul them off, so we don't have this situation again. Granzow stated he thought they might have told Sean, the previous landowner, that they would be cut and removed. Granzow stated he believes it was. Kuechenberg stated she will check the minutes, Kuechenberg added that she did not have a copy with her at the meeting. Gallentine stated if everyone gets along this will work but eventually someone gets heart burn after the fact. Granzow stated it got along right up until the sale of the ground. McClellan stated that was correct. Gallentine stated it was not all of the ground that was sold, maybe just one building and some farm ground. Granzow stated Piel still owns three buildings out there. Granzow wanted Kuechenberg to ask Mike if Al has any standing because he was not the owner during the project. Kuechenberg stated in her original email to Mike asking him to take a look into this situation for us she let him know a timeline of the dates and transactions that occurred in the district. Kuechenberg stated the property was sold after the work orders completion, Kuechenberg added it might have been a month or 2 after. McClellan stated that should not be our problem then. Granzow stated if the sale was finalized after, our problem would be with Sean Piel. McClellan stated at that point, Al bought it as is. McClellan stated she would like to have that proof. Granzow stated he would like Mike to provide those details in his legal opinion. Kuechenberg stated she would get the information to Mike. Kuechenberg reviewed her original email and informed the Trustees that work order 215 began in August of 2018 and wrapped up in April of 2020. Kuechenberg stated Al Meister purchased the property from Sean Piel in July of 2020. Granzow stated so there is our answer, it was finalized a few months after. Granzow asked if Sean had any complaints with the way the work order was handled. Kuechenberg stated she did not see any, but she will go through the minutes and look again to be sure. McClellan stated she does not remember ever hearing any complaints from him on this. Gallentine stated maybe the board wants a clarification from Mike Richards if those dates play a factor in this. Granzow stated he would like to know if they do. Granzow stated he believes the claim was after the fact and needs the clarification from our attorney. McClellan asked Kuechenberg if she already sent the minutes and stuff. Kuechenberg stated Mike has everything. Kuechenberg stated he reviewed the minutes, pictures, Al's concerns, and Adam's concerns before he sent me his legal opinion. Granzow stated he believes we should do something, don't get him wrong, but he thinks something is an offer all or none and not a negotiation at this point. McClellan stated she thinks it is a none after hearing those dates. McClellan stated to her, Mike should write the letter to him with his explanation, if he wants to fight it he'll know he needs to get an attorney.

**Motion by McClellan to have Mike Richards send a letter to Al Meister with an explanation. Second by Granzow. All ayes. Motion carried.**

Kuechenberg stated she has two rate sheets from our contractors so far. Kuechenberg stated Honey Creek Land Improvement and the Gehrke's sent them in so far if the Trustees would like to review them. Kuechenberg stated she was planning on sending an email out to the other contractors to remind them to get their rate sheets in. Hoffman asked the Trustees if they wanted to put a deadline on it. The Trustees agreed to give them a couple of weeks. Gallentine stated his assumption would be that if they do not send in a new one then whatever is currently on file would be their rates. Hoffman stated, right, or do they get removed from the lottery? Gallentine stated he was just saying some of them might not have sent a rate schedule in because they are using the same rates. McClellan stated we could clarify that in the letter asking for the rates. Hoffman stated yes, they shall provide a current rate sheet or they will be removed from our lottery. Kuechenberg stated she was going through the binder they have and some of the rate sheets were pretty old, 2018ish. Hoffman stated he bets if someone is working off of their 2018 rate sheet, they are not using 2018 prices. Kuechenberg stated on the other hand, the contractors have been sending in their insurance information. Hoffman asked Kuechenberg once she gets all of the rate sheets/insurance information compiled if she could just put them in a three-ring binder for the Trustees and Lee Gallentine. Kuechenberg stated she could do that.

**DD 52** Granzow stated he was thinking a little bit more on DD 52 Meister's property and would also like Mike Richards to review the agreement we made with Sean Piel so he can back his statement. Granzow stated if this is the direction, we're going he would like to make sure the agreement we made will not pin us into a corner. Kuechenberg stated she would get that information sent off to Mike Richards.

Hoffman stated one more thing he has for Lee, Ryan Keller from Navigator is at the meeting with us today. Hoffman stated he will be the local representative, he thought they could exchange information. Hoffman stated he appreciates Gallentine sending the survey paperwork down from Franklin County. Gallentine stated it was interesting more from the survey point of view than the carbon pipeline point of view.

12. **Adjourn Meeting**

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