

REGULAR DRAINAGE MEETING

6/15/2022 - 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; Jim Sweeney of Clapsaddle Garber Associates; Ivan O. Intern 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 the Drainage District 14 landowner meeting's dated 3/30/2022, 6/08/2022, and regular drainage meeting minutes dated 6/01/2022. Second by McClellan. All ayes. Motion carried.

4. Approve Claims For Payment

Motion by McClellan to approve the claims for payment. Second by Granzow. All ayes. Motion carried.

DD 9WO257 Investigation and Repair of Blowout	Clapsaddle-Garber Assoc	\$ 3,334.75
DD 11WO331 Investigation Plugged Main Tile/Intake	Clapsaddle-Garber Assoc	\$ 641.30
DD 14 Communication and viewing of CCTV	Clapsaddle-Garber Assoc	\$ 1,724.10
DD 48 Work on Reclassification of Main Open Ditch	Clapsaddle-Garber Assoc	\$ 1,953.00
DD52 Review file contents-Iowa Code-Prior Opinion	Dentons Davis Brown PC	\$ 1,202.50
DD 56WO3 Construction Observation	Clapsaddle-Garber Assoc	\$10,846.95
DD 121WO295- Original Exploration	Honey Creek Land Improvement, LLC	\$19,970.00

5. Discuss W Possible Action - Union Pacific Project To Extend Parallel Line Crossing Drainage District Facilities

Sweeney stated he was contacted by the Railroad about their land in Buckeye. Granzow asked if the Sweeney's have been railroaded then. Sweeney stated they were inquiring about purchasing right

of way from several people between 240th St. and D41. Sweeney stated that construction for their parallel that they're planning on extending ends on their property. Sweeney stated he just wants to make sure the landowners are aware of this as they are crossing over multiple drainage districts. Sweeney stated he sees this as an opportunity for districts to be able to put a condition of the purchase of this right of way that they have to repair or pay for the repairs of this right of way below the railroad. Sweeney stated he believes it is 3 districts. Hoffman stated what we could do is fundamentally treat them like they treat us and get back to them in 3-6 years. Gallentine stated unless they pay the accelerated fee. Hoffman stated then they can hire flaggers from CGA at the rate of \$300 an hour and send the CGA police. Hoffman jokingly asked what rules they want to throw up here. Hoffman stated he understands that this is going to be heavy construction. Hoffman asked if this is something they would apply for a drainage permit? Sweeney stated he imagines they might be like they always are and not follow the rules. Sweeney stated a neighbor of theirs had a conversation with them to negotiate the right of way and were offered \$500 per acre. Sweeney stated that does not really put the right taste in your mouth if that's what they were opening the conversation with. Sweeney stated they are working with Olsson for the survey and the land acquisition part of it. His thought process on this is to make sure that the landowners are united and that they ask for any future repairs on the right of way, or make them replace it right now while they are doing construction. Sweeney stated if they do the second option, you are kind of limited to whatever size gets put in there. Sweeney stated maybe this is something you could just have them oversize right away for the potential of a future improvement. Hoffman stated he would like to offer up a cease and desist, the railroad would rather ask for forgiveness later. Hoffman stated if this is something where a cease and desist is attainable so nothing can go on, we should do it. Hoffman stated he thinks televising on the front side would also be a good idea. Granzow stated he would make them replace it, if they are going to put it in on this piece, they will put it in on their tracks as well. McClellan stated they would like an observer out there when they are working. Hoffman asked how we would like to convey that to them. Granzow stated he would do a cease and desist and then bring them in to explain this is what needs to be done by your standards of the pipe. Hoffman stated our standards of a drainage coefficient also need to be met, you cannot replace our 8-inch district facility with a 2-inch garden hose. Granzow stated he is not only stopping at our spur, but they will also replace it under the rail as well. Hoffman stated correct. Granzow stated then we won't have to deal with it and they can maintain it from that point forward. Hoffman asked Sweeney if that sounds reasonable. Sweeney stated he can live with that, in fact, maybe what we do is have them size it for a half inch or one inch below the ground and tell them that it needs to be this size. Sweeney stated if that is the way you want to go instead of having them sign and importunity agreement for repairs. Granzow stated he does not want to wait for them to get back to us. Sweeney stated he is on board with making them replace it right now and then even make them repair or replace anything that happens within their right of way.

Gallentine stated the other suggestion he can make is to maybe, we always run into this with drainage district facilities is we know we have an easement, but nothing is written or in an abstract, the Trustees would like to obtain a written easement for the facility prior to selling to the UP so it is documented for that 15-foot strip that you have the easement. Hoffman stated he agrees, that is another layer of security. Gallentine stated that way your easement is binding to the UP and they don't come back and try and sell you a license agreement. Gallentine stated because they do not give easements, they only give licenses, so they can charge you each year for it. Hoffman stated he definitely wants them to follow our drainage standards during construction and wants to make sure they have an observer. Hoffman stated he wants to hold them to the same standards that they hold us to.

Motion by Granzow to direct Kuechenberg have Mike Richards draft a cease-and-desist letter to Union Pacific and to follow through on obtaining written easements for the drainage districts Union Pacific will be working in. Second by McClellan. All ayes. Motion carried.

In additional discussion on the motion, Hoffman asked Sweeney if there was anything else he would like us to do at this point. Sweeney stated he would like to have a landowner meeting to get a conversation going so we are all on the same page. Hoffman asked Sweeney if he would work with the Drainage Clerk to get a list of landowners that will be impacted by the construction together. Hoffman asked the Trustees if they just wanted the Drainage Clerk to schedule that landowner meeting. Granzow stated they just need to be on board with what they are doing. Hoffman stated they need to know how the railroad behaves, not everyone has dealt with them. Hoffman asked Kuechenberg if she could schedule a landowner meeting, at her discretion, during a regular meeting. Kuechenberg stated she could do that. Kuechenberg asked the Trustees if they would need to update their utility permit process. Kuechenberg stated their current one does not have anything in there directly discussing railroads. Granzow stated the Utility Permit does have conditions on there that need to be met regardless of the utility, so he is good. Hoffman stated he does not think we need a separate motion. Hoffman thanked Sweeney for his time.

6. DD 121 WO 332 - Discuss W Possible Action - Investigation Summary

Gallentine stated that this work order was turned in a couple of weeks ago, the landowner requested that we investigate a sinkhole. Gallentine stated this is a district in the southeast part of the county. Gallentine stated they went out and looked at it and there is a sinkhole, just upstream of the headwall and tile outlet. Gallentine stated just by looking at it CGA believes it is due to the main tile, but there is also a 12-inch private tile coming through the headwall so there is potential it is the 12-inch tile. Gallentine stated they believe the issue is the 24-inch tile, CGA recommends digging it up to see if they can find the problem. Gallentine stated the metal pipe, the CMP, has no rodent guard and is pretty rusty CGA also recommends replacing the district CMP and adding a rodent guard to it while they are there. Gallentine stated the cost on all of this should be low enough that they would not need an Engineer's Report. Hoffman asked where the district is located. Gallentine pointed to the location of the drainage district on the map. Kuechenberg stated the landowner that reported the sinkhole was Bob Muff. Gallentine stated north of Bob's property is the Lehmeir grounds. Gallentine stated we recommend assigning it to the lottery to go get it fixed.

Motion by Granzow to assign DD 121 WO 332 to the lottery. Second by McClellan. All ayes. Motion carried.

7. Discuss W Possible Action - IDDA Membership

Kuechenberg stated she received this notice in the mail the other day from Iowa Drainage District Association for the membership costs. Kuechenberg stated the balance for the year was \$3,300 for the year and the mutual protection fee, which is optional, is \$1,375. Kuechenberg stated this invoice was paid out of Rural Services in the past and was wondering if the Trustees wanted to pay it out of Rural Services again this year. McClellan asked what the mutual protection cost was for. Kuechenberg stated that is an optional fee that goes to help the IDDA pass legislative policies. Hoffman asked if they split the acres this year to not include the private drainage districts. Kuechenberg stated they did. Kuechenberg stated they are now at 110,000 acres this year from 168,000. McClellan asked how much it was for the mutual protection fee. Kuechenberg stated it was \$1,375. McClellan asked and it was \$3,300 for the annual fees? Kuechenberg stated that was correct. Granzow asked if they felt that their needs have been met. Hoffman stated he thought the conference was very good, he got a lot of good information out of it. McClellan stated they just have not had any lawsuits that they have had to use the mutual protection for. Hoffman stated some of the proactive behaviors of the IDDA on the pipeline, wind turbine, and Des Moines Waterworks stuff he knows that there is some value there. Hoffman stated he knows that Des Moines Waterworks is now under new control, it was brought up last week that they turned on the Nitrate Reduction System and it was never turned on this early in the past. Granzow asked if Franklin County pulled out. Gallentine stated that was correct. Gallentine stated he thinks Franklin County may have talked to them about some legislative ideas that they wanted to pass, and the association did not think those were pertinent. Granzow stated they were willing to try another year. Granzow asked the Trustees if they wanted both parts, or just the one part. Granzow stated he just sees the first part at this point. McClellan asked why they did not see the lawsuit part? Gallentine stated he will say this, on DD 3 with that Union Pacific case, DD 3 is not a member, DD3 approached IDDA and asked if they were willing to help with legal costs and IDDA said they were not going to and they recommended that the district did not proceed with the lawsuit. Hoffman stated he can go either way. McClellan asked if and when Des Moines Waterworks did sue Drainage Districts again, would we have Mike Richards represent us instead of the IDDA? Gallentine stated it is his understanding that they do not ever represent anyone, but they will come your aid if you are being sued. Gallentine stated and sometimes that legal aid is financial backing, but they will never give you legal representation. Hoffman stated he is not so worried about Des Moines Waterworks suing, he is starting to feel that some of these watersheds are going to be the entities because they are making the big investments and stuff. Hoffman stated they will tow the line instead of Des Moines Waterworks.

Motion by McClellan to approve membership fees to Iowa Drainage District Association in the amount of \$4,675. Second by Granzow.

In additional discussion on the motion, Kuechenberg asked if the Trustees would like the invoice to be paid out of the General Fund or the same fund, Rural Services, that it was paid out of last year. Granzow asked if they were going to start going paying back Rural Services for all of the bills. McClellan asked how close they were to doing that mass assessment. Hoffman stated it was started. Kuechenberg stated Denise did quite a bit of work on that and calculated the costs. Kuechenberg stated she knows a little bit about it, that they were planning to do about 53 districts a year, she is not certain if that included the private districts or not. Kuechenberg stated she does not have all of the details. Kuechenberg stated she can look into it and get back to the Trustees if that's what they would like. McClellan stated she did not think it did. Hoffman stated they would have to approve it; we cannot do it on their behalf only encourage it. Hoffman asked Kuechenberg to keep a running tally of where they are at in Rural Services of where they are at, so that way they can reimburse themselves when they do figure out the mass assessment.

All ayes. Motion carried.

8. **Discuss W Possible Action - New Work Order Requests**

Kuechenberg stated this is the work order she brought up a few weeks ago at the drainage meeting. Kuechenberg stated we are the controlling county on this. Kuechenberg stated the tenant, Rick Reed reported a few blowouts and a sinkhole near the ditch. Kuechenberg stated the sinkhole is what Rick is worried about most. Kuechenberg stated from what she gathered, he's done a few spot repairs over the years, she does not think he knew who to report the repairs to, this work order was actually reported to a tile distributor then someone from NRCS got a hold of Kuechenberg. Kuechenberg stated he knows now that the repairs need to be reported to the county. Kuechenberg stated the sinkhole can be repaired right away if it will not disturb the crops, but there are several blowouts according to the landowner. Granzow stated it sounds like we might need to televise. Gallentine stated this is with Story County. Hoffman asked Kuechenberg to schedule a JT meeting with them. Granzow asked if we wanted to hear back from CGA on this work order before we schedule anything. Hoffman stated that is fine. Hoffman instructed Kuechenberg to inform Story County that we do not have our own Drainage Tile crew like they do so that is why we are utilizing our Engineer. Gallentine asked who the Drainage Clerk was for Story County. Kuechenberg stated Scott is the Drainage Clerk, she's pretty sure he's been there for a while. Granzow stated he thinks we can do both, send CGA out there and set up a time with CGA. Hoffman stated they can coordinate with us to meet on a Wednesday.

Motion by Granzow to instruct CGA to investigate WO 333 and report back. Second by McClellan. All ayes. Motion carried.

9. **Other Business**

DD 11- Kuechenberg stated, the Trustees asked her to look at DD 11's previous repairs because we have a new work order in that area. Kuechenberg stated that Gallentine was very helpful and sent her a list of previous work orders that were done in that same area within the last 10 years or so. Kuechenberg stated she mapped out all of the work orders that were close to the new one that they discussed a few weeks back. Kuechenberg stated work order 70 and 77 the previous clerk, Tina S., contacted the city of Buckeye and asked that they remove the trees near Buckeye Avenue on the Main and Lateral C. Kuechenberg stated there was another work order for tree removal on Lateral D on Maple and Ellsworth. Kuechenberg stated she did not find any work orders that were done in the same area as our current work order. Gallentine stated the current work order we have an issue with 40-inch maple trees, the intake was where the issue was seen, but that is not what is causing the issue. Kuechenberg handed the Trustees a map of the current work order. Granzow stated at this point we should investigate. Kuechenberg stated we do have an investigation summary, she believes we were getting ready to send it out to the lottery, but the Trustees wanted to investigate past work orders to see if they were in the same area because we have already contacted the City of Buckeye to remove trees in the past. McClellan asked if they did it. Gallentine stated he did not know, but that tile was flowing it was just a matter if it was going to be a future impact, this time it is not. Gallentine stated there might be enough pressure to blast back. Granzow stated we need to get out there. Gallentine asked if they wanted the Trustees to cut down trees, repair the tile, or both. Granzow stated just report what you find. Hoffman stated he would get someone out there and just on a weekly basis, he is sure it will take a few days, but let the Trustees know where everything stands. Gallentine stated they will start with getting the tile to flow. Gallentine stated they can always dig through the roots and let the Trustees know the impact. The Trustees agreed. Gallentine stated they will do that through the lottery if that is ok. The Trustees stated that is ok. Hoffman stated that is ok. Gallentine stated right now it is pretty much just South Fork. Hoffman stated he talked to Adam the other day about a project, and he is getting wrapped up. Gallentine stated he thinks he is getting wrapped up in 121, so he has to touch base with him.

DD 56- Gallentine stated he just wanted to give a bit of an update on DD 56. Gallentine stated they just got the old tile cut over to the new outlet yesterday. Gallentine stated whatever rain they had is flowing through the new outlet.

Granzow stated he received a disturbing call from a landowner the other day about rural water services. Granzow stated Rural Iowa is telling people in drainage districts that it is a \$2,300 process. Granzow stated rural water is charging their clients \$2,300 just to have them file a permit with us. Granzow stated he told the person he spoke on the phone with that we do not charge a fee unless they are crossing a district facility. Granzow stated the person wanted to hear both sides of the story. Gallentine stated, it is up to rural water how they deal with and absorb those costs. Granzow stated it is, but if they want to charge \$2,300, this person says they might as well drill a well. McClellan stated, yes. Kuechenberg stated we went through this similar story months back with a landowner in Radcliffe near the Handsaker's property. Granzow stated the person he spoke with thinks that rural water is already past the drainage district facilities. Granzow stated if that was the case, we would not charge anything. Gallentine stated he is sure rural water is also using this as a pressure tactic on the Trustees. Granzow stated that is what he explained to this person. Granzow stated he just wanted to bring this up to make sure we do not charge. Kuechenberg stated we do not charge a filing fee; we only charge if they are crossing district facilities. Kuechenberg stated the applicant is charged those fees; it is \$2,000 per crossing. Kuechenberg stated whatever is unused is refunded back to the applicant. Granzow stated he doesn't even care if they expose the tile themselves as long as it does get exposed, and we observe it. Kuechenberg stated that is all in our permit as well.

DD 152 - Kuechenberg stated she received an email from Taylor, his crew responded to an issue in DD 152 where it crosses S27 in Sherman Township. Kuechenberg stated Taylor reported the drainage structures were buried about 4-5 feet, he recommends cleaning the waterway both upstream and downstream. Kuechenberg stated this is shared with a private drainage district 55 div. 2. Gallentine asked if the waterway is a district facility. Kuechenberg stated she did not know. Gallentine stated if the district did not pay to put the waterway in originally, it does not pay to clean it. Gallentine stated we run into that too. Granzow stated we'll send CGA out to investigate. Hoffman stated he would let their Trustees know that there is something going on there, if we need to have a joint meeting to give them a heads up. Kuechenberg asked Pearce to pull up DD 152 on Beacon. Gallentine stated he sees it, it's just right south of DD 56, so they will be in the neighborhood. Kuechenberg stated it was in section 15 and 16. Granzow asked Gallentine to let the Trustees know what was going on.

Motion by Granzow to instruct CGA to investigate. Second by Hoffman. All ayes. Motion carried.

10. Adjourn Meeting

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