

**DANE COUNTY DRAINAGE BOARD MEETING**  
**October 17, 2019**

Location: Middleton City Hall, 7426 Hubbard Ave, Middleton, WI 53562

Drainage Board Members Present: Scott Ringelstetter, Leonard Massie, Paul Maly

Others Present: John C. Mitby, (Board Attorney) Elizabeth Spencer (Board Attorney), Barton Chapman (DATCP), Jeremy Balousek (Dane Co. Land and Water Resources Department), Kyle Minks (Dane Co. Land and Water Resources Department), Kevin Murphy (Times-Tribune), Gurdip Brar (City of Middleton Mayor).

District Members present:

District No.19: Kristy Rupprecht, Jorge Estrada, Lara Estrada, Jeremy Cushman, Jeff Glasel, June Glasel, Hema Partha, Yinghui Liu, Matt Acker, Thomas Wagner, Cynthia Richson, Wayne Rounds Jr., Eileen Brownlee, Michael Murphy, Ron Hellenbrand, Shannon Barman, Horst Gierke, William Kohl, Richard Watts, Maureen McMahon, Leif Hubbard, Jeanette Wheat, Deborah Mureoan, Tom Dandervort, Jane Hinrichs, James Hinrichs, Susan West, Shawn Stauske, Pat Hansen and Richard Hansen.

Meeting called to order at 6:30 PM by Chairman Scott Ringelstetter.

History of District 19 and Status under Ch. 88

- John Mitby reviews the history and formation of drainage districts and the Board and how members are appointed to the Board. The Board operates under Ch. 88 of the Wisconsin Statutes which provides it with numerous advantages for maintaining drainage districts such as the use of 20 ft. corridors and to bypass some permitting procedures.
- The last assessed work performed in District 19 was a clean out in 1959/1960. The district currently has approximately \$175.
- Jim Hinrichs explains that a pump located on the Hellenbrand Farm, that he and his family maintained, operated from 1976 until August 2018. This pump appeared to take care of the drainage issues until it ceased operating. The Hinrichs covered all related fees without reimbursement from any municipality. Hinrichs was paying approximately \$1,200 to \$3,000 per year.
- The pump assisted in decreasing the surface water which lowered the water table.
- Luke Fuszard contacted the Board in 2019 regarding the district and its ability to help with the water issue. Currently about 20 out of 120 houses in Hidden Oaks are being affected since the pump stopped operating. Homeowners' sump pumps are operating continuously.

- J. Hinrichs does not wish to operate the pump any longer. There has been an attempt to rebuild the pump but it is currently underwater which may or may not affect future operation. MG&E has pulled the fuse at the request of the Hinrichs.
- W. Rounds Jr. explains that part of the issue with water backing up is that the culverts are undersized and improperly set and this is seen at the culvert at Sunnyside. As this prevented the district from functioning it contributed to the dormant state of the district. J. Hinrichs adds that a feeling by many that there was no benefit from the district also led to its dormancy along with fighting from owners of non-agricultural land.
- J. Mitby notes the 3 main issues are:
  - The status of the pump and what to do with it
  - The issues being experienced by homeowners in Hidden Oaks
  - Clean out of the ditch

#### Public Questions, Comments and Input

- *Notification to Owners.* L. Fuszard asked whether builders were required to notify homeowners of new construction that the home would be located in the district. L. Massie confirms that since the 1990s they were required to be informed and drainage districts do appear on the tax bill. J. Mitby is not aware of any legal precedent regarding the issue.
- *Background of Pump.* L. Fuszard has gathered additional background on the pump. He was informed that the DNR was not involved with the pump. He has met with both the DNR and Dane County about restarting the pump. The DNR indicated that it wasn't to remove the pump and create a wetland and is in talks to purchase the Hellenbrand land for that purpose. L. Massie clarifies that the district can own a pump. B. Chapman also adds that the drainage residents can petition to remove or add land to the district which would affect the pump.
- *Municipality Involvement.* Mayor Brar asks will the Board resolve the problem at this meeting. L. Massie provides that the Board needs more information including profiles and records to determine what solutions are available. J. Mitby notes that most success has come when the municipality contributes to the work with the Board. Other municipalities such as Sun Prairie and Oregon have contributed to resolve matters.
- *Dane County Intentions.* J. Balousek from Dane Co. Land and Water Resources Department states that the County owns flooded property and wants to remove the pump and have been in contact with DNR. They would like to remove the pump and the berm/dam to allow water to flow under HWY 14 via a culvert. A study has already been performed on the grade and it is flat up to Blackhawk Ski Club. There is no grade until west of low road. Any fish habitats do not start until the grade begins. J. Mitby asks if the Board should wait to see if the County is going to complete the purchase. J. Balousek cannot comment on what County will do. L. Massie requested a copy of the County study as it will assist the Board.

- *Benefits Assessment.* W. Rounds Jr. asks how the benefits for assessment are determined. L. Massie provides that there is a formula that considers how quickly the soil drains, the field crop etc. Then a hearing is held regarding the assignment of benefits. In the past, residential lots have been assessed a flat rate of \$75 but this is being reevaluated. There is a scaler on the land use which affects the percentage paid. Managed forestland designation does not affect the assessment.
- *Homeowner Issues.* K. Rupprecht notes that many Hidden Oaks residents have sump pumps that are operating constantly and this has led to new problems including the need to have radon removed and creation of algae on the city bike path behind the homes. L. Massie directs her to discuss this with the city as the bike path belongs to the city.
- *Culverts.* B. Barman asks if the culvert is clogged since it is not draining as it has in the past. J. Massie states that downed trees are causing the issue.
- *Snow Hauling.* Jane Hinrichs expresses concern over snow that is hauled in during the winter months and piled contributing extra water to the area. L. Massie states that the Board has not had contact with any new developments or anyone piling snow. However, if given contact information the Board can contract them to advise them of the issues it is causing. Jane Hinrichs alleges that DRS and Westside Warehouses are involved in hauling the snow.
- *Beaver Dams Impact.* W. Rounds Jr. asks if the DNR has looked into beaver dams or other washouts contributing to the flooding issues. L. Massie notes that there is a large deposit of gravel from last year's flooding but it has not been removed and it is not in the district. J. Balousek states that the County cannot go on to private land to remove beaver dams. S. Ringelstetter notes that the DNR will issue permits to remove beaver dams but that is the landowner's issue.
- *Sub-District to Operate Pump.* L. Massie notes that the district members could form a sub-district to control the pump. However, they will need to file a petition with the Board for this to occur. J. Hinrichs thinks the pump may run but it will require \$3,000 to \$4,000 to repair and need \$3,000 to run the electricity. S. Barman notes that the pump was discussed at a June County meeting and the minutes seem to indicate that the pump is on Hellenbrand property but owned by the DNR. J. Balousek clarifies that the pump is on private property and he has no control over the pump. W. Rounds Jr. asks if an easement from the railroad to put in pipeline can be done via sub-district. L. Massie states that the district can decide. P. Maly states that digging out the ditch as maintenance is the better option here.
- *Voting on Future Action.* L. Fuszard request clarification on how voting works to decide a course of action. J. Mitby states that the Board decides what action will be taken. L. Massie states that a hearing or meeting will likely be held before the Board decides.
- *Options for Short-term Fixes.* B. Barman asks if there is any short term fix available. L. Massie states that the pump would be short term but no one here knows if the pump will actually work and if it does operate if it will have any effect.

- *Hidden Oaks HOA Involvement.* Deb Mearson, Hidden Oaks HOA President discusses the possibility of creating Hidden Oaks sub-district but is unsure of feasibility. Jane Hinirch suggests including commercial properties in the sub-district. B. Barman expresses concern over the possibility of the County shutting this down. B. Chapman explains that they cannot drain another's property but the sub-district gives a mechanism to get things done separate from the entire district.
- *Long-term Actions.* L. Fuszard asks long term what is there for the Board to study. L. Massie states that an engineering firm would need to be hired, the Board would need funds, and another meeting would be necessary. G. Heier asks if there is any regulatory or statutory tensions here contributing to issues or preventing action. L. Massie explains the 2018 changes to chapter 88, some of which made things easier like with permits.
- W. Rounds Jr asks if owners can see the scaler of assessments. L. Massie say he can create a sample and get it posted on the website, the statutes state how it is done.

#### Desired Action Items from Owners

- L. Massie request to know what the owners want and what do they expect from the Board.
  - L. Fuszard would like to know the costs of a long-term study and engineering costs. L. Massie notes that the Board works with REA and can get an estimate. He thinks it will be \$15,000-\$25,000. A study would bring the records up to date and would provide profiles. There are requirements under Ch.88 and ATCP 48 regarding studies. J. Mitby notes that the profiles themselves will not provide a solution but will provide the status of the district and there will be more costs to bring things up to speed.
  - J. Balousek ask how much will it cost to develop and assessment. J. Mitby estimates \$500.
  - J. Mitby estimates that there will be \$30,000-\$50,000 in clean out work to be done before deciding a next long term step. He proposes that after L. Massie gets information from REA that all estimates will be posted on the website. The residents should contact the town and city about getting involved and we will need information on who is dumping snow in the area. Residents should contact the city regarding any snow being dumped.

#### Future Action

- In the next 30 days the Board will post the profile provide by the County on the district website. The Board will also obtain estimates of costs of an engineering study, clean out costs, sample assessment, and the correct agency for direction on culvert. Then a follow up meeting will occur.

L. Massie moves to adjourn meeting. P. Maly seconds. MC 3-0. Meeting adjourned at 9:06 pm