

DANE COUNTY DRAINAGE BOARD ANNUAL MEETING

December 3, 2020

Location: Video Conference via ZOOM

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

Others Present: Elizabeth Spencer (Board Attorney), Jeremy Balousek (Dane Co. Land and Water Resources Department), Laura Hicklin (Dane Co. Land and Water Resources Department).

District Members/Member Representatives present: Chuck Bollig, Doug Case, Robert Procter, Danielle Baudhan-Tierney, The Kvalos, Kyle Minks, Kate Brattlie, Eileen Brownlee.

Approximately 25 district members attended the hearing via Zoom. Many called in by phone and names were not provided.

This hearing was recorded. These minutes are not a transcript of the hearing.

Meeting called to order at 6:32 p.m. by Chairman Scott Ringelstetter.

Review/approve minutes of July 9, 2020 Hearing (District 19)

- L. Massie moves to approve minutes. P. Maly seconds. MC 3-0.

Review/approve minutes of September 1, 2020 Hearing (Districts 8 and 9)

- L. Massie moves to approve minutes. P. Maly seconds. MC 3-0.

Review/approve minutes of October 28, 2020 Hearing (District 8 and 9)

- L. Massie moves to approve minutes. P. Maly seconds. MC 3-0.

Review/approve minutes of October 29, 2020 Hearing (District 19)

- L. Massie moves to approve minutes. P. Maly seconds. MC 3-0.

Review/approve minutes of November 23, 2020 Meeting (District 28)

- L. Massie moves to approve minutes. P. Maly seconds. MC 3-0.
- W. Rounds has comments for changes regarding minutes from previous hearings. He can submit those comments/edits in writing to E. Spencer. W. Rounds edits have been made to the July 9 hearing minutes but the website does not have the most recent minutes.

Review annual inspection reports for the various districts

- J. Mitby explains that the Board has not yet posted the annual reports to the website due to the changeover from the old to new website.
- P. Maly and S. Ringelstetter provide that they both individually inspected drains but the Board as a group did not inspect together due to COVID risks.
- J. Mitby also notes that the fiscal year has changed for the Board and it now ends on 12/31/

Assessments: 1) Discussion on how assessments are calculated (Spreadsheet); 2) Review and reallocation of general expenses to include Districts 2, 12 and 23

- S. Ringelstetter explains how calculations work. Currently the minimum is set at \$75.00 for residential properties and the rest of the properties benefits are calculated based on soil type and drainage. This information is sent to the county and the assessments are generated. There is a general fund from which all districts pay for administrative costs. The allocation of costs is based on the size of the district. There have been additional districts activated that need to start contributing.
- J. Mitby explains that the recent website update was done at no cost.
- L. Massie explains that the assessments of benefits for each district rarely change. There will be another hearing for District 19 regarding the different land types. The adjusted rates were presented at the last District 19 meeting but there was not much feedback on them at that meeting.
- C. Bollig comments that the assessment system is not working well at all. He is on the edge of his district and being assessed while not receiving much benefit. Specifically, his property is located on a hillside, is not ag land, and has no standing water. He questions why some residences in the area are assessed and some not.
 - S. Ringelstetter states that the Board has given the explanation on this matter before and that C. Bollig remains unsatisfied with it.
 - L. Massie notes that ATCP 48 and Wis. Stat. Ch. 88 covers the fact that lands in the district have surface runoff and the district can act as a storm water management to regulate this.
 - P. Maly notes that his own property is in the same situation.
- C. Bollig asks why Shy Acres has not been annexed in as the Board has that power.
 - L. Massie notes that this would result in a legal battle that cannot be won. The legal fees to bring in these properties are not worth it. L. Massie notes that the Board is not ignoring C. Bollig but that is not a fight they will pick.
 - C. Bollig notes that there have been volunteers to hire a lawyer. J. Mitby responds that the costs if the Board is sued go to the district members to pay. If a significant benefit exists then it would make sense to annex.
- C. Bollig inquires if he may file another petition to the Board?
 - L. Massie responds that it is not the assessment system at issue here but the borders created when the district was formed over 100 years ago.
- C. Bollig again inquires about the Stangl properties being removed in 2018. He will file another petition.
 - L. Massie notes that the Board has gone over this numerous times with Mr. Bollig.
 - J. Mitby requests that C. Bollig be clear in the petition who he wants in the district.
- W. Rounds asks if the Board is still proposing a land use factor change that involves the W class going to a factor of 2 while others are remaining the same?
 - L. Massie states that this will be discussed at the next District 19 meeting.
 - W. Rounds is concerned about uniformity.
- R. Procter would like to clarify L. Massie's comment that there was not much reaction at the District 19 meeting as his client, OW Holdings, LLC, does object to an assessment and the Board moving forward.
 - J. Mitby notes that the Board received the petition and it will proceed with the assessment process.
 - R. Procter notes that he will be at the court hearing on 12/10.

- J. Case asks if the Board is telling district members that it's not worth it to bring in 40 houses at \$75, yet it's worth it to keep a few properties in when it's clearly not equitable? And now they're increasing the assessment to \$235?
 - S. Ringelstetter notes that the Board is not interested in that battle. There have not been steps to initiate that process yet. The Board does not want to spend the district members' money in court when they could clean the ditches instead. P. Maly seconds these comments.

District policies: standard for brush/tree removal in corridors

- S. Ringelstetter explains the policy that everyone should keep their own corridor clean of brush and trees. The failure to keep these areas clean becomes an issue when maintenance must occur and those who went through the trouble to keep their area of the corridor clean while others haven't. Going forward, it will need to be kept clean by order of the Board or a regular maintenance plan. The districts should foot the bill for one initial clean out and then follow a more stringent program. This has been discussed many times over the years.
- L. Massie notes that the Board needs to put in writing the policy and adopt it. S. Ringelstetter will work on a policy.
- P. Maly notes that as landowners get older many are unable to do the work themselves.
- N. Brattlie recognizes that this is a sticky situation and asks if it's addressed in the District 8/9 MOU with Sun Prairie. He does agree that this all becomes an obstacle to maintenance and probably needs a total maintenance plan here.
 - J. Mitby states that it is.
- M. Van Haren raises the issue of sediment runoff also being a significant problem. He will be cutting trees and is glad to know that this should be occurring.
 - J. Mitby request that M. Van Haren provide copies of any videos he has regarding the runoff issues.
- W. Rounds asks how the Board deals with the Shoreland Zoning ordinances.
 - L. Massie notes that up until 2018, the Board had to deal with various county agencies. Changes in the law eliminated these issues.
 - Regarding clean outs, W. Rounds also notes that box elder is a sellable species. It is not worth much but if there is enough the Board may be able to find a logger willing to come in.

Discussion of engineering work.

- J. Mitby notes that the Board needs an engineering firm to agree that the invoice will not be paid until an assessment is run and that there is a gap between assessment and payment. The Board rarely carries reserves. If this does not work a new firm may be needed.
- L. Massie notes that the Board could elect to have the district carry a larger balance but the Board prefers not to as there is not interest earned to the district. They prefer that the owners keep their money.
- S. Ringelstetter states that the Board needs a reasonable base balance and also proposes having a standing monthly meeting. J. Mitby recommends a meeting every 6 weeks.

Discussion of changes to assessment formula and set new assessment formula.

- S. Ringelstetter notes that the changes were covered earlier in the meeting.
- J. Mitby notes that there will need to be a hearing and they would probably need to include the engineer.

- C. Bollig notes that he is strongly opposed to this.
- Jerry (?) has a question regarding resurfaced lots versus commercial lots if residential and commercial lots are the same size. He is not sure what the Board is talking about with the increase surface water and run off flow. Why are they increasing fees on the residential, commercial, and industrial lots where there appears to be no justification?
 - L. Massie notes that his is why a hearing is needed. Please send written comments.

District 8 and 9: Status of loan application for project and approve any resolutions regarding loan from Board of Commissioners of Public Land.

- S. Ringelstetter explains that they have just received the loan application from the BCPL. Resolution on the matter will be taken care of at the next meeting. Assessment should be going out in the mail in the next week.
- J. Mitby notes that the Board will need a copy of the assessment roll to attach to its application. There is also still no signed contract with RG Huston.

District 19: Discussion of Petition to Dissolve District No. 19 and next steps.

- J. Mitby notes that there is a telephone scheduling conference next Thursday (12/10). The Board's attendance is not required. The Board will be filing an answer regarding its position.
- R. Procter notes that the Board was sent a letter today by the County stating the position that work not move in the District and to work with the County. OW Holdings, LLC has noted that the Board does not want to work with the Town of Middleton or the County.
 - J. Mitby notes that the letter requested that the Board hold things in abeyance; there was no request to dissolve.
- L. Hicklin states that the County has no position on whether dissolution is appropriate. They want the opportunity to work with the Board and landowners to reach a uniform solution. The County is willing to invest resources to bring everyone together. They are concerned that moving ahead will bring a focus to finances and not on actual solutions. The County is willing to take the lead here.
- S. Ringelstetter believes that the HOA previously supported the Board; W. Rounds has helped the Board by providing information for the assessment of landowners; the Board has worked with the county in the past and are not opposed to working with them; at this time everyone is getting ahead of themselves and jumped directly to the cleaning of the ditch. The Board is in no position to do work yet and are still trying to determine the assessment of benefits. However, now the Board must also invest time and energy and the lawsuit and the District is responsible for that bill.
- L. Massie notes that the Board is a long way from any clean out. The Board only has a limited record of the District and must have plans approved by the State Drainage Engineer. Any work is 2-3 years out. The Board is willing to talk to any and everyone.
- L. Hicklin appreciates the Boards comments but given a lack of activity over decades it appears to be a large leap to assessments before appreciating what might be down the road. She believes that discussion would be more productive if there is no threat of assessment.
- J. Mitby notes that there is no approved profile, so no assessment for maintenance can occur but engineering plans are needed. There will not be a big assessment for work now.
- W. Rounds disputes that he has not spoken to J. Mitby as much as J. Mitby alleges. He was the last secretary of the Middleton Board. He believes that the breaks should be put on the process, his position on the petition is that the district would be dissolved; he believes that the Board is headed

down a dangerous path and that the District has not worked as it was supposed to since it was formed. He would like to see a sample assessment for half a million to 6 million to see what would be paid. His property receives no benefits from the district and never has. He requests that each Board member spend a whole day viewing the area.

- J. Balousek asks if there has been a formal position by the Board on the petition.
 - E. Spencer states that the board will be filing an answer.
- L. Massie notes that the Board should not do anything unless approved and he does not see anything over \$1,000,000 ever happening.

District 28: Discussion of upcoming project and contract with contractor from November bid.

- S. Ringelstetter stats that Rusty Curtis will be providing the signed contract and his certificate of insurance.

District 29: Approve Assessment for Cost of \$15,000.00.

- L. Massie moves to assess for costs in District 29 for \$15,000.00. P. Maly seconds. MC 3-0.

District 25: Approve Assessment for Cost of \$25,000.00 for clean out and fixing the tile main.

- S. Ringelstetter states that they may be a little short of funds. District 25 is a district that can have numerous minor issues so a couple things must be fixed every couple years.
- J. Mitby notes that there is still an ongoing dispute with Deforest.
- P. Maly moves to assess for cost in District 25 for \$35,000.00. P. Maly seconds. MC 3-0.

District 33: Status of engineering plans with the State Drainage Engineer and approve any plans, if necessary.

- S. Ringelstetter notes that the First Addition is still hammering out plans.
- L. Massie notes that the plans have been submitted. The State Drainage Engineer had a DNR representative examine the plans which resulted in a report of an area as prime wetland despite its history so now a series of permits would be required. He has spoken with J. Rau 3-4 weeks ago and was under the impression that Rau would be putting a meeting together. Since there has been no approval of plans by the State Drainage Engineer everything remains in limbo.

Public comments

- C. Bollig on District 8. He is still waiting for reasoning of the removal of the Stangl property from the District back in 2018. He would like a copy of the recording of this meeting.
 - E. Spencer will provide a copy of the recording.
- J. Wills on District 19. He is the owner of OW Holdings, LLC. He is curious as to why this district exists when nothing has been done for decades and landowners have accepted the state of its conditions. He notes that water runs from the City of Middleton golf course and yet it is not in the district. He owns storage facilities and the drainage is doing its job there. The Board has not gotten in touch with him. The City of Middleton contributes a ton to the district with imperious surfaces. All the districts are obsolete as no one pays attention to them. The drainage issues should be a county issue. The assessments are an unjust tax. The town of Middleton is joining his lawsuit to dissolve. He has improved his facilities to deal with drainage. Everything about the Drainage Board is obsolete.
 - L. Massie apologizes for failing to view J. Wills' property but this is a result of COVID precautions. He volunteers to still view it.

- J. Wills notes that W. Rounds both know a lot about the drainage issues here. He does not think the Board has been doing its due diligence with the matter. Having an engineering study will be a waste of funds.
- C. Bollig seconds the comments made by J. Wills.

Adjourn

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