

DANE COUNTY DRAINAGE BOARD HEARING

December 21, 2020

Location: Hearing held virtually via ZOOM

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

District Members present:

Heidi Meier, Charles Bollig, Carlie Rademacher, Mark Bradley, Brian Rademacher, Josh Miller

Others Present: John Mitby (Board Attorney), Elizabeth Spencer (Board Attorney)

Approximately 17 district members and interested parties attended the hearing via Zoom. Many called in by phone and names were not provided.

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

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

Discussion of District 8 and 9 financial status in relation to clean out of districts.

- S. Ringelstetter explains the bidding process that occurred and the costs that were discussed at previous meetings. District 9 will pay \$145,000 for the clean out work and District 8 will pay \$321,000. The City will pay the rest of the costs. The assessment for costs was approved at a previous meeting for a higher amount. The Districts are pursuing loans from the Board of Commissioners of Public Lands to ease the burden on the district members. The interest rate is at 2.5% and the loan would be for a term of 5 years. District members can pay in full or in installments.
- Unknown District member asks what kind of money will each landowner be expected to pay?
 - S. Ringelstetter states that the assessment amount is dependent on the assessment of benefits to that specific district member. It is likely 3-4 times the previous assessment received.
 - J. Mitby notes that homes in Sun Prairie will receive no assessment due to Memorandum of Understanding (“MOU”).
- Unknown District member ask if they can deduct the assessment.
 - S. Ringelstetter notes that he personally deducts it as a land improvement cost.
 - J. Mitby notes that the Board has not checked into this but will speak to a tax advisor on it.
- Heidi Meier asks when will the assessments be received?

- S. Ringelstetter hoped that they would be sent out last week but there was a hold up at the treasurer's office. He hopes they will go out next week.
- P. Maly also notes that Ditch clean out is farm maintenance and can be deducted on taxes in his experience.
- Chuck Bollig asks whether the assessments for the homeowner's/residential properties will be \$75.00?
 - S. Ringelstetter states yes, any change in the residential flat fees will not happen tonight.
 - J. Mitby does not know if the residential owners can deduct this amount.
- Unknown caller asks when does the work start? If you pay it off in full will there still be interest?
 - J. Mitby states as soon as possible. If paid off in full there will be no continued interest.
- Jeff (Unknown last name) asks if paid in full do the district members still pay the interest for the loan?
 - S. Ringelstetter states that if paid in full, the District holds the money until the end. It may be rebated or kept for the next project.
 - L. Massie states that they can credit the money in the next assessment for cost. The Board will need to sort through the options. The Board does not want people to pay more than they have to.
 - S. Ringelstetter notes that the majority of the assessments are not horrible for the district members but they do want to avoid burdening anyone.
- C. Bollig asks how a \$50,000 assessment is not a big deal for a district member?
 - S. Ringelstetter notes that it is for some and it would sting.

Discussion regarding borrowing funds from the Board of Commissioners of Public Lands.

- S. Ringelstetter explains that the BCPL has provided several hoops that the Board must jump through to authorize the application.
- J. Mitby explains Wis. Stat. 88.41.
- **L. Massie moves to authorize the BCPL loan applications for District 8 and 9.**
 - **P. Maly seconds. MC 3-0.**
- **S. Ringelstetter reads the following BCPL loan Borrowing Resolution for District 8:**

WHEREAS, pursuant to the provisions of Chapters 24 and 88 of the Wisconsin Statutes, drainage board may borrow money from the State Trust Funds In the manner prescribed to pay obligations of the District; and

WHEREAS, pursuant to the provisions of Chapter 24 of the Wisconsin Statutes, the Board of Commissioners of Public Lands ("BCPL") is authorized to make loans from the State Trust Funds to drainage districts for such purposes,

NOW, THEREFORE, BE IT RESOLVED, that the Dane County Drainage Board, Dane County, Wisconsin, is hereby authorized to borrow from the Trust Funds of the State of Wisconsin the sum of Two Hundred Eighty Four Thousand Four Hundred And 00/100 Dollars (\$284,400,00) for the purpose of financing drainage projects within Dane County Drainage District 8 of District Main within Dane County Drainage District 8 and for no other reason. Such loan shall be payable within 5 years from the 15th day of March preceding the date the loan is disbursed. The loan will be repaid in annual installments with interest at the rate of 2.50 percent per year from the date of disbursement of the loan to the 15th day of March the following year and thereafter annually as provided by law.

BE IT FURTHER RESOLVED, that no funds from the proceeds of this loan shall be used by Dane County Drainage District 8 for any purpose other than financing drainage projects within Dane County Drainage District 8 of Dane County Drainage District 8.

BE IT FURTHER RESOLVED, that the Dane County Drainage Board shall levy upon all benefited lands within Dane County Drainage District 8, a direct and irrevocable assessment sufficient for paying the principal and interest on this loan when due.

BE IT FURTHER RESOLVED, that the Dane County Drainage Board hereby certifies that the most recent assessment of confirmed benefits for parcels within the Dane County Drainage District 8 reflects the actual current benefits to the parcels that are affected by projects funded by this loan, and that no reassessment of benefits is anticipated or required from the projects to be funded by this loan.

BE IT FURTHER RESOLVED, that in accordance with Section 88.40, the Dane County Drainage Board shall record a certified copy of the order levying assessments for costs in the office of the register of deeds in each county in which the assessed lands are situated, including a true description of each parcel of land that was so assessed and the amount of the assessment. These assessments and the interest thereon shall become a lien upon the assessed lands until this loan is paid in full. Unpaid assessments shall be collected as taxes pursuant to Section 88.42 of the Wisconsin Statutes.

BE IT FURTHER RESOLVED, that if BCPL agrees to make such loan, that the President and Secretary of the Dane County Drainage Board are authorized and empowered, in the name of the drainage district, to execute and deliver Certificates of Indebtedness to BCPL, in such form as required by BCPL, for the sum of money that may be loaned to Dane County Drainage Board pursuant to this resolution. The President and Secretary are authorized and directed to perform all actions reasonably necessary to fully carry out the provisions of Chapter 24 of the Wisconsin Statutes, and these resolutions,

BE IT FURTHER RESOLVED, that these recitals and these resolutions and the votes by which they were adopted, shall be recorded, and that the Secretary of Dane County Drainage Board shall forward this certified record, along with the application for the loan, to BCPL.

- **P. Maly moves to adopt and a vote of ayes and noes is taken.**
 - **L. Massie votes Aye.**
 - **S. Ringelstetter votes Aye.**
 - **P. Maly votes Aye.**
 - **MC 3-0.**
- **S. Ringelstetter reads the following BCPL loan Borrowing Resolution for District 9**

WHEREAS, pursuant to the provisions of Chapters 24 and 88 of the Wisconsin Statutes, drainage board may borrow money from the State Trust Funds in the manner prescribed to pay obligations of the District; and

WHEREAS, pursuant to the provisions of Chapter 24 of the Wisconsin Statutes, the Board of Commissioners of Public Lands ("BCPL") is authorized to make loans from the State Trust Funds to drainage districts for such purposes,

NOW, THEREFORE, BE IT RESOLVED, that the Dane County Drainage Board, Dane County, Wisconsin, is hereby authorized to borrow from the Trust Funds of the State of Wisconsin the sum of One Hundred Twenty Five Thousand Six Hundred And 00/100 Dollars (\$125,600.00) for the purpose of financing drainage projects within Dane County Drainage District 9 of District Main within Dane County Drainage District 9 and for no other reason. Such loan shall be payable within 5 years from the 15th day of March preceding the date the loan is disbursed. The loan will be repaid in annual installments with interest at the rate of 2.50 percent per year from the date of disbursement of the loan to the 15th day of March the following year and thereafter annually as provided by law.

BE IT FURTHER RESOLVED, that no funds from the proceeds of this loan shall be used by Dane County Drainage District 9 for any purpose other than financing drainage projects within Dane County Drainage District 9 of Dane County Drainage District 9.

BE IT FURTHER RESOLVED, that the Dane County Drainage Board shall levy upon all benefited lands within Dane County Drainage District 9, a direct and irrevocable assessment sufficient for paying the principal and interest on this loan when due.

BE IT FURTHER RESOLVED, that the Dane County Drainage Board hereby certifies that the most recent assessment of confirmed benefits for parcels within the Dane County Drainage District 9 reflects the actual current benefits to the parcels that are affected by projects funded by this loan, and that no reassessment of benefits is anticipated or required from the projects to be funded by this loan.

BE IT FURTHER RESOLVED, that in accordance with Section 88.40, the Dane County Drainage Board shall record a certified copy of the order levying assessments for costs in the office of the register of deeds in each county in which the assessed lands are situated, including a true description of each parcel of land that was so assessed and the amount of the assessment. These assessments and the interest thereon shall become a lien upon the assessed lands until this loan is paid in full. Unpaid assessments shall be collected as taxes pursuant to Section 88.42 of the Wisconsin Statutes.

BE IT FURTHER RESOLVED, that if BCPL agrees to make such loan, that the President and Secretary of the Dane County Drainage Board are authorized and empowered, in the name of the drainage district, to execute and deliver Certificates of Indebtedness to BCPL, in such form as required by BCPL, for the sum of money that may be loaned to Dane County Drainage Board pursuant to this resolution. The President and Secretary are authorized and directed to perform all actions reasonably necessary to fully carry out the provisions of Chapter 24 of the Wisconsin Statutes, and these resolutions.

BE IT FURTHER RESOLVED, that these recitals and these resolutions and the votes by which they were adopted, shall be recorded, and that the Secretary of Dane County Drainage Board shall forward this certified record, along with the application for the loan, to BCPL.

- **Maly moves to adopt and a vote of ayes and noes is taken.**
 - **L. Massie votes Aye.**
 - **S. Ringelstetter votes Aye.**
 - **P. Maly votes Aye.**
 - **MC 3-0.**
- S. Ringelstetter notes that RG Huston requested a change in the contract as they want proof that the District has financing. The Board does have an approved assessment.
- J. Mitby also notes that Huston had concerns over costs of the project if they must stop and restart, a mobilization fee.
- S. Ringelstetter recommends an expansion of the work date to 5/1. P. Maly states that 5/15 would be fine too.
- L. Massie states that the Board should know the mobilization fee in advance.
- J. Miller notes that work should occur north to south, you can go through the county park in May and get most of District 9 done after that. The work should start with the focus on ag land. Moving south to north would require additional work in the case of a large rain event.
- J. Miller also notes that depending on the start date unfrozen precipitation will be an issue. They would need input from Huston here on what they are thinking.
- S. Ringelstetter notes that there is the issue of getting the corridor clear.
- J. Miller notes that Huston is capable of moving in a rapid fashion. He has observed this.

- J. Mitby directs S. Ringelstetter to speak with Huston and get an understanding in writing.
- L. Massie also notes that the engineer will be monitoring all work to ensure it keeps within the engineering plans.
- E. Spencer will work with our paralegal to finalize the loan application.

Issue Order for Assessment for Costs.

- L. Massie and J. Mitby note that no separate order will be necessary.

New example of assessment of benefits.

- L. Massie explains the Board's challenges with the assessments.
- J. Mitby notes that the Board cannot deal with the issue tonight. They must still figure out how to allocate the assessments if they want to make changes.
- **P. Maly moves to table the discussion. L. Massie seconds. MC 3-0.**

Billing of Sun Prairie for costs to date, engineering, meeting inspection, contracts etc. per MOU.

- J. Mitby notes the Sun Prairie total for the bill is \$9,302.06. We will send them an invoice and request they make payment.
- **L. Massie moves to approve the billing of costs to date to Sun Prairie for engineering, meeting inspection, contracts etc. per the MOU. P. Maly seconds. MC 3-0.**

Discuss next steps.

- J. Mitby outlines that the Board shall now finish the loan application, contact RG Huston regarding the work, look into the tax deduction of assessments and Wis. Stat. 88.41.

Additional public comments.

- C. Bollig asks if item 4 of the agenda will be addressed in the future?
 - S. Ringelstetter- yes.
- C. Bollig inquires about the Stang property removal from 2018, if there is any additional explanation, and what the procedure for removal in that case was.
 - L. Massie explains that the parcel was voted to be removed. The parcel is over a hill and cannot receive a lateral and the entire 40 is a DNR mapped wetland. Only P. Maly and himself were there the day they voted to remove that parcel. If a hearing was not properly done and is needed this will need to be discussed with Attorney Mitby who will direct the Board what to do.
- C. Bollig does not believe there was a hearing on the matter and is concerned about the legality.
 - J. Mitby states he will provide an answer in the first two weeks of January.
- J. Miller- Wants to know whether R. Curtis will do a scoop and spread and not just a dip and dump based on the minutes from the 11/23 meeting on the topic of District 28. There was a mess left behind in District 11 when work was done.
 - S. Ringelstetter states that Curtis will level it. There is also a significant difference in the soil type of Districts 11 and 28. He will write up a corridor or maintenance plan still.

- J. Miller just does not want to have to revisit these issues in the future.
- J. Mitby notes that after the work in 8 and 9 is completed there will be a corridor maintenance plan approved by the Board and presented to all interested parties. Feel free to email ideas.
- P. Maly moves to adjourn at 7:59 pm. L. Massie seconds. MC 3-0.