

DANE COUNTY DRAINAGE BOARD MEETING
July 9, 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).

District Members present:

District No. 19: Jane Hinrichs, Wayne Rounds Jr., Eileen Brownlee, Cynthia Richson, Marty Van Haren, Luke Fuszard, Jim Wills, Arianne Neigh, Bartlett Durand. *Approximately 40 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 6:36 p.m. by Chairman Scott Ringelstetter.

Explanation of Benefits Assessment Procedure

- S. Ringelstetter explains the benefits assessment procedures.
- L. Massie discusses the benefits procedures and its two steps. There are the different types of soil considered and then the difference between agricultural lands and non-agricultural lands. L. Massie is now suggesting that the assessment cost be changed to \$200/residential property, with a multiplier of 10 for commercial property runoff, and a multiplier of 15 for manufacturing runoff.

Brief Summary of documents submitted by district members

- L. Massie states that the Board received documents and commentary from Wayne Rounds and others on the initial sample assessment provided back in January 2020. All documents and comments are considered by the Board.

Testimony of Interested Persons and Discussion by Board

- Bartlett Durand- Durand lives in Hidden Oaks and briefly reviews the history of drainage in the area. He notes the following problems with the assessment of benefits as it now stands: members do not have any idea what benefits will occur even if they get the funds, it seems that the water drained will just cause problems for the Cross Plains, there may be no benefit to the community or individuals, and there should be involvement of Dane County Parks and the Wisconsin Department of Natural Resources.
- Arriene Neigh on behalf of the Blackhawk Ski Club- Neigh is President of the Blackhawk Ski Club and speaks on its behalf. There is currently a storm water management problem and the Club is concerned about using an agricultural-based entity to control what seems to be an urban problem. The club has questions over why they are included in this, as they do not use the land for agricultural purposes, they actively manage waterways, they

have a high ratio of pervious to impervious surfaces, and are almost completely undeveloped.

- Marty Van Haren- Van Haren describes the location of his property as near commercial property; it is not an agricultural property. While there are many facets to touch on, he highlights the following: his property is sitting on blue clay and he has found a hidden layer of clay under the property, so there is nowhere for the water to go if it cannot runoff. He is concerned what would happen if the drainage district ultimately dissolves. He did a self-inspection of the drainage district and found a culvert under USH 14 where the water level was 6-8 in. from the top of the culvert. He believes that beaver dams along Black Earth Creek maybe contributing to the issue. He has taken photos of the ditch and water flow off of Schwartz Road. He is concerned that they may end up being unable to use their septic system due to the water level. He does not support any dissolution of the district because it will cost large agricultural land owners too much, but he is concerned about how they will maintain the district.
- Wayne Rounds, Jr.- Rounds submitted a packet of information back in February. He also submitted a letter to the Board on July 1, 2020, voicing his opposition to the sample assessment of benefits. Twin Valley Farms has four parcels that are currently not part of the assessment, but that he was informed would be added to the assessment. He does not want to be assessed for benefits that he has never received. Rounds reviews the history of the ditch from the 1950s to the late 1980s and the current lack of records from that period. Much of his property has no drain or tile. He recites part of his submission which included a statement from the USDA on wetlands regarding conversion after 1990 to make agricultural land. He has no problem paying benefits on land that he farmed that was prior converted or farmed wetland, but does not believe that he should be assessed benefits for wetland that has never been farmed or converted and has been designated as wetland by the USDA, rendering him ineligible to participate in USDA programs. Additionally, part of the area is managed forest, and this has not been fully taken into account by the assessment of benefits. He acknowledges that there is an internally drained quarry and will provide more information to the Board on this if necessary. Rounds has contributed to the area by planting 200,000 trees and as a farmer he does not wish to cause problems for his neighbors. He implores the Board to work with the DNR on the areas contributing outside the district and to ensure that all soil types, slopes, and land use are correct.
- Luke Fuszard- Discusses the history of the involvement of the Board since 2018. He was the homeowner that sent the initial letter to the Board. He asks everyone, what are the other solutions than the Board involvement and assessment? They have previously tried to work with DNR, city, town, etc., to no avail. He is all ears on any other options out there.
- Attorney Mitby notes that it is important to get the profile and additional information on the next steps, so work can be done. No assessments are likely to be made tonight, and the Board likely needs to return to the drawing board. The district must be mapped out and an engineer is necessary. In the end, an assessment is needed.
- M. Van Haren asks, what is the intention of the Board/District going forward?
 - L. Massie provides the history of the District created under Ch. 89 and the fact that the Board has no records. Before going forward, the State Drainage Engineer needs to approve all plans. That is why the Board needs an assessment of benefits in place, so they can perform an assessment for costs to get plans. This will most

likely cost \$30,000 to \$35,000. Once plans are in place, then the Board can meet to determine what they will do and in what sequence the work will be formed. A balance is necessary to avoid flooding. If a workable solution cannot be met, it is up to the District to decide how to move forward and whether that includes dissolution.

- A benefit assessment cannot happen now. The sample assessment needs changes.
- M. Van Haren- In reading the District handbook and the State laws, it appears that lands adjacent to the district can be assessed. Van Haren asks, if they drain water into the district, can they be added?
 - L. Massie says that to add property into the district, you must be able to demonstrate that the additions are contributing water and receiving a benefit. This can lead to a large legal battle that isn't really worth the effort, given the amount assessed compared to the costs of such a battle.
- L. Fuszard asks Attorney Mitby about the timeline of receiving a new assessment?
 - Attorney Mitby estimates another hearing could occur in 90 days. The Board would need 60 days to obtain additional information and then another 30 for posting notices.
- W. Rounds- Once the benefits assessments are set, what is the importance of getting information to the Board? It is very important for all members to get all information to the Board before the benefits assessment is set
 - J. Mitby explains that once the benefits assessment is set, it is difficult to change. This is not something on which the Board rushes to pronounce judgment.
- Jim Wills of OW Holdings, LLC and Schwartz Road LLC- He desires that the process be fair. He believes that many are not included in the assessment lists, and there are lots of roofs and parking lots contributing. He spoke with L. Massie regarding the golf course and how they should be contributing. He notes that Bollenbeck Acres appears to be changing their land by wanting to put in a cross-country skiing area and to use snow cannons. He wants considerations on how the latest stormwater management facilities and business investments contribute to the surface water.

Board Comments and Orders

- P. Maly notes that we need to hire engineers first and we need money to do that.
- L. Massie notes that the Board is in no position to lock down an assessment for benefits this evening.
- S. Ringelstetter notes that there is a lot of information here to work with. There needs to be a workable assessment of benefits, and then another hearing is needed to approve it. There are allegations that some parcels weren't included and that needs to be double-checked. Rarely is a parcel missing.
- **P. Maly moves that the Board is not prepared to make an assessment of benefits at this time and moves to recess the hearing. L. Massie seconds. MC 3-0.**
- **L. Massie moves that in the next 45 days the Board will try to obtain more information and meet with members of the district. 30 days thereafter, the Board will post on the drainage website a new sample assessment and date for the continuation of the hearing. The Board shall then have 30 days to notice the hearing. P. Maly seconds. MC 3-0.**

Additional Public Comments

- W. Rounds offers to give site tours to any member of the district and can provide additional records.
- J. Wills provides his contact information to the Board.

Adjourn

- **L. Massie further moves to recess hearing until revised benefits assessment is shared with members of the district. Then the hearing shall continue. P. Maly seconds. MC 3-0**
- Hearing recessed at 8:20 p.m.