

DANE COUNTY DRAINAGE BOARD HEARING
September 1, 2020

Location: Hearing held virtually via ZOOM

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

District Members present:

District No. 8: Jerry Bradley, Charles Bollig, Josh Miller, Matt Fluegge, Carlie Rademacher

District No.9: Josh Miller

Others Present: John Mitby (Board Attorney), Elizabeth Spencer (Board Attorney), Chris Hampton (Town of Cottage Grove) Kate McGinnity (Dane County Board of Supervisors, District 37)

Approximately 40 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 6:33 p.m. by Chairman Scott Ringelstetter.

Petitions for Permanent Zero Sum Assessments for Charles and Linda Bollig, Matt Fluegge, and Doug and Jane Case

- Board members L. Massie, P. Maly and S. Ringelstetter all support the petitioning property owners remain in the district.
- M. Fluegge further explains the petitions. He raises the issue of those in the district not being assessed and says he has identified about 40 properties that should be assessed.
- S. Ringelstetter states that the Board would like names of those properties that district members believe should be assessed. If they are not currently in the district boundaries they cannot be assessed. The Board would need to identify the lands which receive benefits and then see if they can be annexed.
- M. Fluegge provides that currently neither his, the Bolligs, nor the Cases properties receive benefits.
- S. Ringelstetter explains that given that the properties contribute water that the district drain must handle they are receiving a benefit. The Board is aware of the boundaries and carve outs. The current boundaries pre date the current Board.
- C. Bollig provides that the following properties should likely be in the district: 2858 Cty Hwy T, 2795 Cty Hwy T, subdivisions on Hwys N and T totaling 32 parcels, 5673 Hwy N, and half of the Creek Haven development.
- S. Ringelstetter explains that all the petitioning parties bought property in the district which is why they pay an assessment. The Board could annex more property which likely would result in litigation.
- L. Massie further provides that it is a legal issue to add and subtract land from the district. To annex any land there is a process in Wis. Stat. Ch. 88 that must be followed and the matter would likely wind up in circuit court. The current assessment for residential

properties is at \$75/lot and the fight is not really worth it. Additionally, the maps provided on the website may not fully reflect the actual boundaries of the district.

- S. Ringelstetter states that the Board was prepared to discuss the petitions tonight. They have explained the reasoning for opposing a zero sum assessment and the petitioners just disagree with reasoning. The residential fees are currently \$75.00/lot which may increase in the future. P. Maly adds that real estate taxes also increase over time similar to if the Board were to increase the assessments.
- C. Bollig states that Attorney Mitby advised that they petition for a zero-sum assessment over withdrawal. He also argues that if more properties were added to the district each party could be assessed less, creating less of a hardship for every district member.
- Attorney Mitby provides that the Board can look into who can be added to the district and he will review the annexation law. The key is to know if the alleged contributors are actually benefitting and how difficult it would be to add them in. It is possible for property owners to petition for themselves to be added to the district.
- L. Massie explains that moving surface water and subsurface water are two different matters and will be viewed differently.
- The Board will give Chuck Bollig notice of when it inspects but needs to check rules regarding a quorum first.
- **P. Maly moves that the Board investigate the water contributions of the Bollig, Fluegge and Case properties along with the properties that have been mentioned tonight as potential contributors. The Board will also look at the law for options to annex any contributing properties not already in the district and contact the state drainage engineer regarding these issues. The Board will report back in 45 days. L. Massie seconds. MC 3-0.**

REA Maintenance Plans and R.G Huston Plans for Districts 8 and 9

- S. Ringelstetter explains that the MOU with Sun Prairie was entered into over a year ago. Sun Prairie shares in the costs of upkeep in Districts 8 and 9. Sun Prairie is responsible for 45% of costs in both districts. REA determined the scope and the amount of work that needs to be done in each district. They assembled a bid package for contractors. Proposals were reviewed by the Board and they selected the lowest bid. A preliminary assessment has been posted on the drainage website. R. G Huston was the winning bidder.
- J. Mitby adds that Sun Prairie actually has no land in District 8 but in order for 9 to function 8 must function. Second, we know that people have commented on tree removal and that the trees are not small and the owners will need to be contacted on what to do with the debris. Thus, we may need to extend the corridor for the work to occur. This will all likely be staged work not completed in one go. The Board has an obligation to get the work done.
- L. Massie explains that there will be three stages: tree removal, spreading of spoil, and cleaning the ditch. The work would start at the south end of District 8 and then move north toward Berg St. in Sun Prairie. Eventually spoil will be removed or spread depending on its quality. The expectation is that the work would be done after crop harvest and before planting. About 6 laterals in 9 and 13 laterals in 8 and the main drain will not be cleaned. Everyone in the district will be contributing to this cost regardless of the location of the project. This should allow for only minor maintenance over the next 25 years.
- S. Ringelstetter provides the following numbers:

- District 8- \$429,397.50 in total costs. 45% will be paid by Sun Prairie and 55% will be paid by the district members. The Board will add 15% due to payment lags. District Members will pay \$271,593.91.
- District 9- \$264,065 in total costs. Sun Prairie will pay 45%. The district members pay 55% plus 15% for a total of \$167,021.11.

Public Comments on Assessment for Costs related to REA Maintenance Plans

- Carlie Rademacher
 - Asks how the assessments are made per property and who manages these matters so that this type of event does not happen every year.
 - L. Massie explains how benefits to each property are assessed. No work has been done in big way in a long time in these districts. The Board completes annual reports which monitor the situation in each district. All sums collected by the districts are handled by the County Treasurer.
- Chris Hampton, Cottage Grove
 - C. Hampton asks if any work will be done in the Koshkonong Creek.
 - L. Massie explains that yes all of the work will involve it.
 - C. Hampton asks if the Board must get DNR permits?
 - L. Massie explains that no, since the Board has established drainage plans on file with the State Drainage Engineer and will not be expanding the drain or making any changes to the established plans they do not need permits.
 - C. Hampton asks about the responsibility for damages downstream and clarifies that Cottage Grove will have more flooding if the water is moving faster.
 - L. Massie states that it will be hard to demonstrate this and explains the formation of the district and the ditch ability to handle 24-hour storms. The board does not have control downstream.
 - C. Hampton asserts that the Board has control because the Sun Prairie treatment plants are contributing.
 - L. Massie explains that the Board had engineers examine the additions by the treatment plant and its ability to handle the water.
 - C. Hampton asserts that if the Board fails to clean the entire Koshkonong, the flooding will increase and the damages will come back to the district.
 - L. Massie explains that the Board does not have authority to clean the entire Koshkonong.
- 839-8911
 - The caller reviewed maps and notes that certain large properties have been removed around N and TT.
 - S. Ringelstetter states that the Board has not taken any recent action to remove any properties from the district but will review the map boundaries.
 - Caller states that there was a DNR meeting on the matter.
 - L. Massie provides that the DNR cannot alter district boundaries.
 - Caller asks that if Cottage Grove added land then are they still in the district
 - L. Massie stats that would be in the district.
 - S. Ringelstetter looks at maps and states that the district boundaries do not include many of the Duschack properties.

- L. Massie states that the Board has not changed the boundaries in years. They will look into the boundary issues but it appears that Duschack properties were not in the district in 2005. They will also examine the Cottage Grove annexation.
- Joe and Josh Miller
 - Joe has property in District 9. His assessment was approximately \$18,000 while his neighbor's was only \$6,500. He has bids for work to be done on his property that don't exceed \$12,000.
 - L. Massie explains that part of the \$18,000 assessment is the share of work done elsewhere in the district. The difference between the neighbors is the assessment of benefits not the length of the channel which they border.
 - Joe asks if he hires a contractor for \$12,000 will he still get assessed
 - L. Massie explains that the Board must approve all work. The Board does have a history of reimbursing district members who have work performed after those district members enter into an agreement approving the work with the Board. The Board will sometimes give partial credit.
 - Joe asks if there is an option for a payment plan for the anticipated work
 - Attorney Mitby provides that no payment plans have been discussed yet. It would need to be discussed with the contractor and Sun Prairie.
 - Joe asks if there is any money in District 9?
 - E. Spencer provides that the District has 69,526.13. L. Massie states there is no open book but the assessment is on the website.
 - Joe asks about the petitions submitted to the Board regarding clean out work.
 - L. Massie provides that they were not discussed by the Board. J. Mitby states that the Board will act within 45 days.
 - J. Miller provides that current maintenance by district members is hit and miss. Some people neglect their property and everyone shouldn't be saddled with this. He doubts that there will be any pushback from landowners for Huston to do the work. Everyone who has taken care of their trees do not want to pay for the lack of care by others.
 - J. Mitby notes that the Board does not have the power to pick and choose landowners. L. Massie notes that there is a set of conditions that the contractor will need to abide by that were put together by the consulting engineer. Also a rep of the Board will be supervising any of the clean out work.
 - J. Miller lastly notes that he is concerned with REA's quality control. He reviewed the bid documents and provided feedback to them where he felt vital information was absent and only one change was made.
 - J. Mitby and L. Massie note that they can look for a new engineer but are limited by the list put together by the State Drainage Engineer.
- Sun Prairie
 - Treasurer asks where the previously assessed funds have gone and explains the issues with complaints she receives.
 - S. Ringelstetter provides that 8 was spent on the lateral in the west and that 9 remains with the County Treasurer. He also provides that all calls or complaints can be sent back to the Board for a response.
- Jerry Bradly
 - He does not know why some of the Duschack properties are not in the district. He understands J. Miller's point but there is the issue of policing the district members'

voluntary clean out and the people not adjoined directly to the ditch still benefit but would not be responsible for any cost. It's a tough call. Cottage Grove does have a point regarding the continuity of the creek and how the district was formed. It will take multiple municipalities working together to solve the issue. He will call the Sun Prairie mayor on the matter.

- Kate McGinnity, Dane County Board of Supervisor, District 37
 - Farmers are concerned about the lower Koshkonong in Deerfield. Is this something that the supervisors should be concerned over? Should they review the affected portions of the Koshkonong? What should they tell their constituents?
 - L. Massie states that prior to COVID, the Board met in Deerfield regarding District 23 which includes a portion of the town. We are on hold with District 23 at the moment but it needs new plans to move forward as it was suspended since the 1960s. Without an overall plan there will still be issues with the creek.
 - J. Mitby notes that it is helpful to have the Board inspect the area.
- Chris Hampton, Cottage Grove
 - C. Hampton questions why the Board does not annex all the land in the Koshkonong area.
- Jerry Bradley
 - He notes that the county Board involvement is important. They are spending a lot currently on flood control related to the Yahara and the Sugar River. They seem to have room in their budget to be involved in these issues.
- **J. Mitby notes that the Board will make a grocery list of items that need to be taken care of and were discussed tonight. An assessment must be done at some point.**

District 25 Emergency

- S. Ringelstetter notes that Kartechner looked at Hirschlab and it is collapsing. They recommend replacing the entire line. There is an issue whether to do the work up to the railroad tracks and stop or to continue on. The board will need to have a meeting.
- L. Massie notes that this could get expensive.

Adjourn

- L. Massie move to adjourn at 9:05 pm. P. Maly Seconds. MC 3-0.