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STATE OF MICHIGAN

OFFICE OF THE OTTAWA COUNTY WATER RESOURCES COMMISSIONER

IN THE MATTER OF:

STEADERS BOROUGH NORTH DRAIN

Proceedings commenced at 10:08 a.m. on Tuesday, December 12, 2017, at the Holland Fire Station #1, 131 Riley Street, Holland, Michigan - In Re: Steaders Borough North Drain and Board of Determination, held before Terri L. Zimmerman, Certified Shorthand Reporter No. 2882 and Notary Public for Ottawa County, Michigan.

APPEARANCES:

Joe Bush, Ottawa County Water Resources Commissioner
Jennifer Vandenberg, Assistant

Chairman Bill Cargo
Secretary Glenn Nykamp
Member Ken Souter

1 Holland, Michigan

2 December 12, 2017 - commencing at 10:08 a.m.

3 Steaders Borough North Drain

4 Board of Determination

5 _____

6
7 WATER RESOURCES COMMISSIONER JOE BUSH: Well, good
8 morning everyone. Welcome to the Holland Township Fire
9 Department. I'm Joe Bush, the Water Resources Commissioner.
10 We're here based on a petition from Holland Township that I
11 received to have an orphan drain system possibly established
12 with this public hearing today. That's why you're here and
13 you got the invite.

14 So I appreciate you taking the time this morning.
15 I know it's out of your schedule. So, again, I graciously
16 apologize for having it in the morning. But we try to find a
17 good time to have these meetings, and we just pick a time,
18 because no time works better than the other. Seems like
19 nighttime doesn't work well for people either. So I just
20 pick ten o'clock and eleven and try to have these.

21 So the reason you're here is, again, to possibly
22 establish an orphan drain system that has been performing
23 from the township. We've established quite a few of these
24 since I've been elected as the Ottawa Water Resources
25 Commissioner, also known in the past as a drain commissioner.

1 I want to say that the township has wanted to
2 establish these orphan drain systems. There's about 90 of
3 them. And there's no ownership. The township doesn't own
4 them. The road commission doesn't own them. The county
5 doesn't own them. Nobody owns them. When I say "own them,"
6 no jurisdiction.

7 So who do you call when there's problem? Nobody
8 really knows. Nobody ever thinks to call -- if they do call
9 the township, "Well, it's not ours." Or if they call the
10 road commission, "Well, that's not really ours; call Joe."
11 Well, they call Joe. And Joe's like, "Well, it's an orphan.
12 We can't really fix anything because we don't have easements,
13 have no jurisdiction." And there's no realm of course.

14 That's what a county drain is. A county drain is
15 we have easements and we have jurisdiction, permission, and
16 we can special assess across the district -- the drain
17 district to fix the infrastructure. So that's kind of why
18 we're here today.

19 We're not here for a project. There is no project.
20 And there's no known issues currently, that I'm aware of.
21 The only issue -- and I'll bring it up, is -- we've fixed it
22 for multiple years, apparently -- there's a pond on the
23 corner of 104th and Perry. And there will be a map later.
24 And there's an engineering firm here that I picked to go
25 through the process, what they found out and their inspection

1 out there.

2 So in the meantime, that pond has always been an
3 issue at 104th and Perry. I think all of you know that pond
4 pretty well. There's a lot of cattails around it. There's
5 always root balls in the out -- the outfall and the outlet
6 there. There's always root balls in there. Every year it
7 seems like we go there and clean them out with our
8 contractor. So other than that, there's no known issues that
9 I'm aware of today.

10 So we're not proposing any new infrastructure. No
11 big costs. The township is picking up today's costs for the
12 engineer and to establish these BODs and these orphan drains.
13 The township picks up the cost. So there's no special
14 assessment, as we know it today.

15 Now, if we went in and redid the system, there
16 probably could be. And we can talk about the percentages and
17 all that when we get towards the end. If you have any other
18 questions, we can talk about how that works. But as
19 currently, I don't see any work being performed on this
20 system, at all, unless something -- that's why we have an
21 informational/public hearing, so we can hear and this board
22 can hear what the issues are, because I'm not aware of any as
23 of today.

24 Everything is court recorded. And I do that --
25 it's not in drain code. But I do that so you can go back and

1 look at the transcripts later and reread it. And if there
2 was something you were confused on or I said this or said
3 that, everything is court recorded word for word. And you
4 can always go to miottawa.org in about four to six weeks.
5 They're usually posted on the website, if you go under Water
6 Resources Commissioner.

7 You're probably wondering who these three gentlemen
8 are, because I don't -- I don't really run the meeting,
9 per se, the hearing. These three gentlemen do. And I pick
10 that. That's appointed through the drain code from the drain
11 commissioner or water resources commissioner. And that is
12 because I can't say "yes" or "no." Because when it comes to
13 a project or establishing or moving forward with something in
14 drain code, I have to have a public hearing like today. So
15 there's no empty checkbook or there's nothing that I -- you
16 know, these three gentlemen.

17 And I always have these. You go back to
18 miottawa.org, go under water resources. Look at all the
19 other BODs that I've had. I've always had to pick three
20 panel members. And I pick the folks that have got experience
21 in drainage. They're either current township managers or
22 supervisors or road commission people. And they understand
23 the assessment, the apportionment, drainage, and engineering,
24 somewhat, to where -- they're not engineers, but they
25 understand that with their own townships.

1 And they have no properties in Steaders Borough or
2 in Holland Township. These folks I pick outside of the
3 jurisdiction to make sure that they don't have any
4 affiliation with what we're talking about today. So there's
5 no influence. And I do that on every petition I get. And
6 right now we've been having quite a few petitions.

7 So I'll do introductions currently. And going from
8 my left to the right is Ken Souter. And he's from Port
9 Sheldon Township. Bill Cargo -- and Ken worked years and
10 years at the road commission in the engineering department.

11 And then we've got Bill Cargo. He's the current
12 township manager at Grand Haven Township. He understands
13 drainage and township business very well. And then Glenn
14 Nykamp is the supervisor at Zeeland Township.

15 So I work with these folks all the time on their
16 drainage issues as well. So I pick people with experience,
17 and they know how to run meetings and boards. And they
18 understand what it takes to, you know, listen to the folks
19 here today, if there's any issues or questions, because
20 they'll pick a chair, once I swear them in, and a secretary.
21 And then they'll run the meeting. If there's any further
22 questions after that, they can ask myself or my engineer --
23 the engineering firm I picked for this particular project.

24 When I say "project," there's not really a project.
25 It's just the petition project.

1 Other people in the audience, this is Jerry Olman.
2 He's at the road commission. I've worked with Jerry for
3 years, so we work a lot together and collaborate a lot
4 together. We got Jen. Jen's my secretary. She's the one
5 that you probably called in to, maybe, at one time or got the
6 notices from. She takes care of all my legal stuff.

7 We've got Lucas Timmer; he's with Prein Newhof.
8 Ken Bosma; he's with Prein Newhof. Then we got the township
9 manager from Holland, is Don Komejan. And then we got our
10 court reporter, Mrs. Timmer. Right?

11 COURT REPORTER: Zimmerman.

12 WATER RESOURCES COMMISSIONER JOE BUSH: Or
13 Zimmerman. I'm sorry. Zimmerman. So, again, everything is
14 court recorded and word for word, so I just want to make that
15 clear.

16 And then once I give them the oath, we'll go from
17 there. This is, again, a petition that was brought to me
18 just to establish an orphan drain system. I'll have the
19 engineer go in further detail on that in the future at this
20 meeting.

21 So, gentlemen, would you please rise and raise your
22 right hand.

23 Do you each of you solemnly swear to faithfully
24 perform and discharge the duties imposed upon you as members
25 of the board of determination, appointed by the Water

1 Resources Commissioner of Ottawa County, to determine
2 necessity of drainage improvements in a certain drain to be
3 known and designated as the Steaders Borough North Drain in
4 the Township of Holland in the county, as required by law?

5 MEMBER BILL CARGO: I do.

6 MEMBER GLENN NYKAMP: I do.

7 MEMBER KEN SOUTER: I do.

8 WATER RESOURCES COMMISSIONER JOE BUSH: Thank you.

9 MEMBER BILL CARGO: The first order of business is
10 to elect a chairperson and a secretary. Do I have a motion
11 to elect a chairperson.

12 MEMBER KEN SOUTER: I have a motion to elect Bill
13 Cargo as chairperson.

14 MEMBER GLENN NYKAMP: I support that.

15 MEMBER BILL CARGO: Okay. We have a motion on the
16 floor from Ken, seconded by Glenn, to elect Cargo as the
17 chairperson. All in favor, say "aye."

18 MEMBER GLENN NYKAMP: Aye.

19 MEMBER BILL CARGO: Aye.

20 MEMBER KEN SOUTER: Aye.

21 MEMBER BILL CARGO: Opposed? Then I will act as
22 the chair for this.

23 And also we then need to elect a secretary. I will
24 make a motion to elect Glenn Nykamp camp as the secretary.

25 MEMBER KEN SOUTER: I'll second that.

1 CHAIRPERSON BILL CARGO: And Ken has given me
2 support. So all in favor of that, please say "aye."

3 MEMBER KEN SOUTER: Aye.

4 CHAIRPERSON BILL CARGO: Aye.

5 MEMBER GLENN NYKAMP: Aye.

6 CHAIRPERSON BILL CARGO: And so Glenn, you will be
7 the secretary for this meeting.

8 We do have -- also I'm going to make a motion to
9 limit the comments, as far as the public hearing, to three
10 minutes. We do that because, quite frankly, you could give a
11 summary of War and Peace in three minutes of talking. And so
12 we like to hear what people have to say. We can then respond
13 to questions, and we can keep this moving forward. So do I
14 have a motion to limit public comments to three minutes per
15 person?

16 SECRETARY GLENN NYKAMP: So moved.

17 MEMBER KEN SOUTER: Supported.

18 CHAIRPERSON BILL CARGO: Glenn has made the motion.
19 Ken has supported the motion. All in favor say "aye."

20 SECRETARY GLENN NYKAMP: Aye.

21 CHAIRPERSON BILL CARGO: Aye.

22 MEMBER KEN SOUTER: Aye.

23 CHAIRPERSON BILL CARGO: And so we will move
24 forward with this.

25 The next thing we have is we have the

1 superintendent of Holland Charter Township here, Don. Are
2 there any comments that the township needs to make on this --
3 on this proposal to bring this orphan drain under public
4 control?

5 DON KOMEJAN: I would say just that I think
6 Mr. Bush has outlined -- the township is making proactive
7 efforts, going forward over the next several years, to bring
8 what, essentially, are private -- currently private drains --
9 the term "orphan" is used for that, but essentially they're
10 private. And without the transition from private drains,
11 under the authority of the Water Resources Commission, there
12 is not a process and there is not funding capabilities to
13 handle regular maintenance or potentially any improvements.

14 The township's action by its board is to,
15 essentially, establish a drain district and determine a realm
16 of course and then address any needs that may or may not be
17 present. That could be part of what can be talked about
18 today. But this is, basically, a proactive action by the
19 township board to take a private drain into the authority of
20 the county.

21 CHAIRPERSON BILL CARGO: Now, Don, from what I
22 understand, the township has, in the past, helped pay for
23 maintenance of this private drain.

24 DON KOMEJAN: Well, we'll say not officially
25 authorized to do so, but I have participated to handle issues

1 that really needed to be handled.

2 CHAIRPERSON BILL CARGO: And that's kind of what I
3 was getting at. From what I understand, under state law, you
4 cannot spend public money on private drains.

5 DON KOMEJAN: That's correct.

6 CHAIRPERSON BILL CARGO: So now that you're aware
7 that this is a private drain, technically the township does
8 not have the authority to spend any public monies to maintain
9 this private drain.

10 DON KOMEJAN: Nor does any other municipalities.

11 CHAIRPERSON BILL CARGO: Or the county or anybody
12 else. Okay. I just wanted to get that out there, because I
13 think that's the main reason, is that, if maintenance is
14 going to occur on this in the future, which has been covered
15 by public entities, now that you know it's a private drain
16 you would have to bring this into the public sector. Is that
17 a fair summary, Joe?

18 WATER RESOURCES COMMISSIONER JOE BUSH: That is
19 correct.

20 CHAIRPERSON BILL CARGO: Okay. I just wanted to
21 understand that. Any other comments, Don?

22 DON KOMEJAN: Not at this time.

23 CHAIRPERSON BILL CARGO: Okay. At that point I'm
24 going to ask the engineer, Ken Bosma, from Prein & Newhof to
25 give us an overview of this.

1 KEN BOSMA: Okay. A lot of what you're going to
2 hear was probably already covered from Joe and from Don. But
3 we just want to go through that real quickly.

4 But as they noted, again, this is an orphan drain,
5 which just -- right now, currently, there's no authorization
6 to take care of or maintain the drain system in there.

7 How this began, a petition by Holland Township was
8 submitted on November 2 of this year. It's under a
9 Chapter 8. And these different chapters are under the
10 Michigan Drain Code by the state. And what a Chapter 8 drain
11 means is that there was already an existing portion of the
12 drain, so branches or so can be added to the drain in that --
13 under that chapter. And that's what this is being
14 established as, is under a Chapter 8 drain. So when you hear
15 that term, it's just really something that Joe has to follow
16 under the state with the Michigan Drain Code.

17 Okay. Back up just one second a minute, Lucas.

18 We'll also explain, on the petition with Holland
19 Township, why this is even being done and why your area has
20 been selected. As Don alluded to, there are several of these
21 in the township that need to be established over time. We're
22 talking several of these that are in each section of the
23 township in there.

24 And where this began is in about the mid-1900s,
25 prior to that developments that went in, none of these drains

1 were established before. About the mid-1990s is when the
2 drain office, working with the state, started making these
3 county drains. So as new developments come in, they already
4 have gone through these processes with the developers
5 already, and they will not need to go through this process
6 that we're doing now. So again, what we are doing is looking
7 at older developments in there.

8 Just another item, again, I think that Joe has
9 addressed, is that this is a board of determination meeting.
10 Again, it's something that follows from the Michigan Drain
11 Code. That's why we have this meeting today. It has to go
12 through this process in order for it to be established, if it
13 is going to be established. And that's what we have to
14 determine.

15 And the next slide. So when we talk about going
16 back to the way orphan drains and that began, the part that
17 we're here for, for the Steaders Borough North, has --
18 basically four parts of the plat were constructed in four
19 different years. And you can see that the last one was in
20 the late 1990s. That was the one that actually had kind of
21 established already a county drain. So the other ones, which
22 all -- and we'll get to a map in just a minute. Prior to
23 that, those were not established. And that's why we're
24 trying to bring them all in together so that maintenance and
25 all that can occur in some form or fashion.

1 So here's the map of the area. We have Perry
2 Street on the north. We have 104th on the east. And then
3 this outline in this kind of this red area is the drainage
4 district area that we see as what is called the Steaders
5 Borough North. And the four plats are in there.

6 Steaders Borough No. 1 is along the north edge.
7 Steaders Borough No. 2 is kind of down in the south edge
8 here. And then Steaders Borough No. 3 is kind of, I think,
9 the eastern portion in the middle. And then Steaders Borough
10 No. 4 is on the west side. Or I'm sorry. I have that
11 reversed. The Steaders Borough 3 is on the west and Steaders
12 Borough 4 is on the east. So all those plats are within that
13 portion of the drainage district there.

14 What you also see on this map is some lines that
15 are in the streets there, that are kind of purple or blue.
16 And some along Perry Street and some along 104th Avenue.
17 Those are, today, the way the current storm sewer system is.
18 All that, basically, being a closed storm sewer system. They
19 all head towards that pond at 104th and Perry Street and then
20 they go across and discharge into another county drain, which
21 is the No. 4 and 43 drain, the open drain across the street.

22 But how this area is defined, then, is because they
23 all come to the same point. And that's the area that drains
24 to that pond and outlet. We've looked at construction
25 drawings to establish that. We've looked at the county GIS

1 system, Geographical Information System, which gives us
2 elevations. So like the parcel to the west of Steaders
3 Borough, we were able to determine kind of what area drains
4 this way, versus maybe drains another way. So that's how
5 that drainage district is set up.

6 The next one we have is just an overview of the
7 same district. And you can maybe see your house or parcel,
8 whatever on it. But it's an aerial view of the same
9 district.

10 And the next slide. So we really -- and as Joe
11 indicated, there are no known issues at this point. I think
12 you have addressed some earlier. But there are no known
13 issues. So at this point, like Joe said, there is no project
14 plan.

15 The next step that we have going through here is,
16 obviously, public testimony from you. Now, that doesn't mean
17 that you guys -- if there is an issue, you can bring it up or
18 whatever it may be. And Joe's office would have to look at
19 it. But again, from our understanding, going into this,
20 there's no known issues at this point.

21 As we get through this, the board of determination,
22 then, has to decide if this is necessary to make this
23 expanded part of the drainage district, and whether, you
24 know, it serves the public health, welfare, and convenience
25 of the area.

1 If they deem it necessary, then this orphan drain
2 system will now become county system; and Joe will be
3 responsible for maintaining it. So you have somebody that
4 you can go to. If there's a sinkhole in the road, because a
5 storm sewer separated or if it gets clogged with some trees
6 or whatever it may be, there's a way for Joe's office now to
7 maintain that system.

8 If there is something brought up here today that
9 gets extensive, then we would look at, like I said, maybe a
10 project in there. If there's not, we're basically done. If,
11 again, they determine it's necessary that it be done, the
12 establishment of the drain can be put together.

13 And I think as Don from Holland Township has
14 indicated, the township picks up all those costs and there
15 are no costs to the property owners. If there was something
16 that was a big project in there and gets very costly, for
17 whatever reason, then we would look at a project. And then
18 those items would be assessed accordingly to the county, to
19 the township, to the road commission, and then to parcels at
20 large.

21 We've had some of those in the township. Again, it
22 doesn't mean that's necessarily going to happen here today.
23 But just so you know, some of these that we do go through,
24 sometimes there are bigger issues at the end. And then those
25 are how those items are addressed.

1 In the future, if there's maintenance items, Joe
2 right now, through the Michigan Drain Code, has \$5,000 he can
3 spend per mile of drain per year, if there is an issue. So
4 if there's a sinkhole near a catch basin or something like
5 that, he can go and repair that and get that taken care of
6 without any more hearings or whatever it may be. But again,
7 if it becomes an extensive project down the road, then we
8 would have to hold another meeting like this and board of
9 determination to determine if that project is necessary to
10 move ahead before that can happen.

11 I think that's all I really have on this.

12 CHAIRPERSON BILL CARGO: Ken, just a few questions
13 from me now. Maintenance doesn't always mean a sinkhole. I
14 mean, even storm drains, they fill up with gravel and sand.
15 Eventually somebody has to go in there and suck out the
16 gravel and sand from the pipes or from the catch basins,
17 things like that; is that correct?

18 KEN BOSMA: Correct. And again, it just falls
19 under that \$5,000 per mile. It's something that Joe's office
20 can just do.

21 CHAIRPERSON BILL CARGO: And now that you
22 understand that, the county can't do that. Now the township
23 can't do that, if it's not part of the drain system.

24 KEN BOSMA: Correct. That's why it falls under
25 Joe, yeah.

1 CHAIRPERSON BILL CARGO: And there's nothing in
2 this drain system that's going to require major maintenance
3 that you're aware of.

4 KEN BOSMA: Not that we're aware of today.

5 CHAIRPERSON BILL CARGO: Okay. Do you guys have --
6 Glenn or Ken, do either of you have any questions for the
7 engineer?

8 MEMBER KEN SOUTER: Not at this point.

9 SECRETARY GLENN NYKAMP: No.

10 CHAIRPERSON BILL CARGO: Okay. Then what we are
11 going to do is we're going to open this up for a public
12 hearing at this time. And all we would ask is that when you
13 stand up -- we don't have a podium or anything, and I think
14 we can hear everybody in this room. So if you would just
15 stand up at your seat, we would ask that you give your name
16 and your address. And simply, if you have any comments,
17 we'll take your comments at this time.

18 First of all, I just want to verify. Do we have
19 any letters or e-mails that have been provided to us?

20 JENNIFER VANDENBERG: No.

21 CHAIRPERSON BILL CARGO: Okay. And that's -- first
22 of all, I'll ask the road commission. Also the Ottawa County
23 Road Commission is here. The Ottawa County Road Commission
24 would have some responsibility. If there was anything major
25 involved with this, if it's part of the county drain system,

1 under the state code, the road commission would pay a portion
2 and the county would pay a portion and the township would pay
3 a portion, by state law. And anything, then, would be
4 assessed to the homeowners. I believe that's correct. Is
5 that your understanding too?

6 JERRY OLMAN: Right.

7 CHAIRPERSON BILL CARGO: Do you have any comments
8 you want to make on this?

9 JERRY OLMAN: My name is Jerry Olman with Ottawa
10 County Road Commission. The road commission's stand on these
11 orphan drains is we would be in favor of having them turned
12 into a county drain or a drainage district, so there is
13 someplace to go for maintenance.

14 CHAIRPERSON BILL CARGO: That said, I'm going to
15 start at the center table here. Do you have any comments?
16 I'm going to move across the table. Any comments from this
17 table?

18 AARON SCHOLTEN: Sure. Aaron Scholten, 1425
19 Steaders. Just a couple questions relating to the pond on
20 the corner. That was not originally part of the drainage
21 system, correct?

22 KEN BOSMA: No. I think that was part -- it was --
23 built as part of the development overall.

24 AARON SCHOLTEN: That was privately owned years
25 ago, correct? Do we know when that was purchased by the

1 township?

2 KEN BOSMA: That has always been part of the plats
3 and the system. All the systems, that I'm aware of, has
4 always gone into that.

5 AARON SCHOLTEN: We don't know when the township
6 purchased that?

7 KEN BOSMA: The township didn't purchase it.

8 CHAIRPERSON BILL CARGO: It stays on private land.
9 There would be a public easement to allow it to be used, as
10 it is being used right now, for storm drain water.

11 AARON SCHOLTEN: Sure.

12 CHAIRPERSON BILL CARGO: So right now with the
13 private system, nothing would change, in terms of if this is
14 brought under county control.

15 AARON SCHOLTEN: And then relating to maintenance
16 over the past upwards of 30 years, who has -- I mean, who's
17 picked that up?

18 CHAIRPERSON BILL CARGO: It's been -- it looks like
19 it's been 20 years since this was established, maybe longer.
20 But it sounds as if the county and the township assumed that
21 this was part --

22 DON KOMEJAN: To some degree the road commission.

23 CHAIRPERSON BILL CARGO: And again, the road
24 commission also made the assumption that this was a public
25 drain and they operated under that false assumption. They

1 can't go back and undo what they've done. In fact, they've
2 done what they should have done. But it wasn't public. Now,
3 to make it legal for them to do that type of maintenance, it
4 needs to be part of the county drain.

5 AARON SCHOLTEN: So who paid for the maintenance
6 this past summer with going through and vacuuming out all the
7 drains?

8 CHAIRPERSON BILL CARGO: Vacuuming out the drains,
9 would that have been a road commission responsibility?

10 JERRY OLMAN: I don't know if the road commission
11 vacuumed these out this year. Were you aware of --

12 AARON SCHOLTEN: Someone did.

13 JERRY OLMAN: So we did quite a few catch basins in
14 Holland Township this year, several hundred.

15 CHAIRPERSON BILL CARGO: Typically when you see
16 somebody vacuuming out the catch basins, that's the road
17 commission. And, technically, they were spending public
18 monies on a private drain. And again, we're talking only,
19 that under state law, we shouldn't be spending public monies
20 on private drains. But, again, they were operating under the
21 assumption that it should have been a public drain and they
22 probably assumed that it was.

23 AARON SCHOLTEN: Okay. And then --

24 WATER RESOURCES COMMISSIONER JOE BUSH: So that
25 wasn't an assessment. There was no assessment.

1 AARON SCHOLTEN: Correct.

2 JERRY OLMAN: So the road commission probably
3 picked it up.

4 WATER RESOURCES COMMISSIONER JOE BUSH: So the road
5 commission probably picked it up.

6 AARON SCHOLTEN: And so then when plat No. 4 was
7 done in '98, why was this all not reviewed and brought into
8 whatever we're talking about.

9 CHAIRPERSON BILL CARGO: The people who were here
10 20 years ago could answer that. I don't think anybody here
11 can.

12 KEN BOSMA: Well, we'll say that what is done, the
13 process is done strictly through a developer. So at that
14 point when that phase was being developed, that was an
15 opportunity for the drain office to do those agreements with
16 the developer directly. Okay? The previous basins then were
17 already being sold off and parceled, so they didn't have that
18 same opportunity. But that's what the differences were.

19 CHAIRPERSON BILL CARGO: For all new developments,
20 to get approval from the township, they have to be part of
21 the storm drain, if they have any storm drain in them. I
22 believe that's the township policy.

23 MEMBER KEN SOUTER: And on the original plat when
24 the platted corner off here, Perry and 104th, is it shown on
25 the plat that there is an easement for drains on there or

1 not?

2 KEN BOSMA: I would -- thought --

3 WATER RESOURCES COMMISSIONER JOE BUSH: Correct.

4 KEN BOSMA: -- there was.

5 WATER RESOURCES COMMISSIONER JOE BUSH: Yeah.

6 MEMBER KEN SOUTER: So the rights to that pond is
7 with the plat itself?

8 KEN BOSMA: Yes.

9 WATER RESOURCES COMMISSIONER JOE BUSH: Right.

10 CHAIRPERSON BILL CARGO: But there's nobody who
11 actually owns a plat anymore, because that would have been
12 the developer who left.

13 MEMBER KEN SOUTER: Yeah.

14 CHAIRPERSON BILL CARGO: Okay.

15 KEN BOSMA: It would probably be an easement on
16 those parcels.

17 MEMBER KEN SOUTER: There's an easement.

18 KEN BOSMA: Yes.

19 MEMBER KEN SOUTER: Okay.

20 WATER RESOURCES COMMISSIONER JOE BUSH: You got any
21 more questions?

22 AARON SCHOLTEN: I probably used up my three
23 minutes.

24 KEVIN LEE: Kevin Lee, 10415 Springfield Circle.

25 If it's a private drain, how can the township ask for it to

1 go public? I'm just kind of --

2 CHAIRPERSON BILL CARGO: That's under state law.
3 They can petition for any piece of property or they can
4 make -- the petition can come from two sources. It can come
5 from the property owner or it can come from the municipality.
6 Because the township wants to maintain this, from what I
7 understand, they petitioned for this to go into the county
8 responsibility.

9 DON KOMEJAN: The township wants it to be
10 structured for future maintenance. The structure comes out
11 of the state drain code under the authority of the water
12 resources commissioner. However, then it authorizes -- and
13 who we talked before -- the county as a governmental unit,
14 township as a governmental unit, and the road commission as a
15 road agency, will be participating, as, potentially, they've
16 done before, but under proper authorization.

17 KEVIN LEE: And then if there were an assessment,
18 what percentage of who pays for what? So what does property
19 owners --

20 CHAIRPERSON BILL CARGO: That actually is
21 determined at the time. But typically, the township pays a
22 certain amount that come up to around 20 percent, 25 percent.
23 And then the road commission picks up, normally, 12 1/2
24 percent, if I recall.

25 WATER RESOURCES COMMISSIONER JOE BUSH: It varies.

1 JERRY OLMAN: It varies.

2 CHAIRPERSON BILL CARGO: But somewhere in that
3 vicinity. And then the county can contribute also. But it
4 depends on the size and the type of assessment that it is.
5 That's determined by the drain commissioner at the time,
6 looking at the project.

7 KEVIN LEE: So far I'm not looking at 50 percent
8 yet. So then it possibly all comes from homeowners? It just
9 depends?

10 CHAIRPERSON BILL CARGO: If there's a major
11 project, the property owners would definitely pay an
12 assessment. But again, they're saying they don't see
13 anything major with this system, other than the normal
14 maintenance. And normal maintenance is typically covered
15 under the operating costs of the township, the county, and/or
16 the road commission.

17 KEVIN LEE: And if there were an assessment, would
18 there be -- how is it determined what the property owners --
19 would they just say, okay, you --

20 CHAIRPERSON BILL CARGO: They'd have a public
21 hearing on all of that information. So you'd --

22 KEVIN LEE: I mean, for each parcel. So is it per
23 parcel? Say there's a hundred properties, is it divided
24 equally?

25 WATER RESOURCES COMMISSIONER JOE BUSH: Can I

1 speak, Mr. Chair?

2 CHAIRMAN BILL CARGO: Yes.

3 WATER RESOURCES COMMISSIONER JOE BUSH: So what we
4 do is, we have a spreadsheet. So we have a software that we
5 put in the numbers, and then I work with the engineer. And
6 we -- everybody's going to be different. And we go off
7 sometimes coefficient factors. We use factors. And it could
8 be the size of your property. And it could be --

9 KEN BOSMA: What those coefficients are is
10 impervious.

11 WATER RESOURCE COMMISSIONER JOE BUSH: Impervious,
12 yeah.

13 KEN BOSMA: So if you have more driveway, more
14 rooftop, yours might be a little bit different then, say,
15 somebody next to you with a lot more land that's not
16 developed.

17 KEVIN LEE: And doesn't that also mean, if there is
18 a drain or not a drain in your actual yard that --

19 WATER RESOURCES COMMISSIONER JOE BUSH: Correct.
20 People to the west, that empty lot, they're going to be --
21 they're going to be assessed too. Just because they don't
22 have a home there, doesn't mean -- their water does runs that
23 way. So -- and we do it -- you know, we use factors and we
24 got software that we plug in the numbers, after we take away
25 the road commission, the county, and the township

1 appportionment.

2 We'll just say it's 50 percent. Then we assess 50
3 percent over the whole -- everybody. And everybody won't be
4 the same, because half of those homes may only have half of
5 their property in the drain district. So they might be
6 paying a hundred bucks; some might be paying a thousand.

7 And we give an acreage factor, too, which is
8 important. So the person who lives to the west who owns,
9 say, 100 acres -- I'm just throwing this number out -- he's
10 not going to pay a hundred times the person who just has a
11 one-acre lot, because that's a hundred times more. So we
12 give a benefit factor for acreage. So if they have more
13 acres, they do get a factor, otherwise we'd break them, you
14 know. And that's not what we're -- we're here to fix the
15 problem, not to tax, you know.

16 CHAIRPERSON BILL CARGO: But again, we're
17 emphasizing that the engineer doesn't believe there is any
18 problems --

19 WATER RESOURCES COMMISSIONER JOE BUSH: Correct.

20 CHAIRPERSON BILL CARGO: -- that would require a
21 districtwide assessment at this time. This is simply to
22 bring it into the system.

23 KEVIN LEE: And the next question, real quick, I
24 guess, what is the -- what does the scheduled maintenance
25 look like for you guys? For right now -- knowing that this

1 will go into the system, potentially, what does that look
2 like? What would you -- would you inspect it? Would you --
3 what does the next ten years look like?

4 CHAIRPERSON BILL CARGO: I doubt that they have a
5 ten-year capital improvement plan or maintenance. It's
6 typically done as an examination. They respond to issues;
7 they respond to problems. If they -- if the pond area begins
8 to fill up, somebody lets them know. Where they notice that
9 it needs to be filled up, they'll go out and do the work.

10 Same thing with the road commission. They will
11 have a system where they go out and they suck out the gravel
12 from the -- from these catch basins so that water will
13 continue to run to the holding area, to the retention area,
14 retention pond. I'm not sure what type of pond it is. Is
15 that a fair summary, Joe?

16 WATER RESOURCES COMMISSIONER JOE BUSH: Yeah.
17 That's fair.

18 CHAIRPERSON BILL CARGO: Okay. I'll go back to the
19 very back table. Are there any questions on the back table?

20 LON KIMBERLIN: I'm Lon Kimberlin, 1512 West
21 Springfield Circle. What is the status of the northwest and
22 southeast parts of the drain? The drain comes across this
23 and then north or even the southwest corner, and then heads
24 back off to the northwest.

25 KEN BOSMA: You're talking about here?

1 LON KIMBERLIN: No. 104th and Perry.

2 KEN BOSMA: Yeah.

3 LON KIMBERLIN: The drainage -- the drainage ditch
4 simply comes across 104th.

5 KEN BOSMA: That is not part of this area. That's
6 a separate county drain right now. So that --

7 LON KIMBERLIN: But it is county? It's not an
8 orphan system?

9 KEN BOSMA: Correct. That is a county drain. It's
10 called the No. 4 and 43.

11 LON KIMBERLIN: Okay.

12 CHAIRPERSON BILL CARGO: Any other comments or
13 questions? I'll go to the very back table. Starting at the
14 left, any questions in the center with the Detroit hat? And
15 finally on the far right, any questions or comments?

16 UNIDENTIFIED PERSON: No.

17 CHAIRPERSON BILL CARGO: Okay. At that point I'm
18 going to close the public hearing to public comments. I
19 appreciate everybody's patience. I think we gave everybody a
20 little bit more time just to answer the questions. I think
21 it was important in this situation to do that.

22 At that stage, we're going to have a discussion,
23 among the board members, to see if there's anything that we
24 would like to do with this. Question No. 1, Ken, do you have
25 any --

1 MEMBER KEN SOUTER: Close the public portion first.

2 CHAIRPERSON BILL CARGO: I think I just did.

3 MEMBER KEN SOUTER: Okay. Very good. You did a
4 good job.

5 CHAIRPERSON BILL CARGO: Well, thank you. Like I
6 said, I like the compliment. There you go.

7 MEMBER KEN SOUTER: I actually think that it makes
8 the most sense, and we have been through this, and several of
9 the townships are doing the same thing. And it always came
10 as a real surprise to me that these weren't county drains.
11 And it's probably a legal part, rather than what we intended
12 to do when the plat was developed. So I was always really
13 surprised that this didn't become a county drain right from
14 the start.

15 I'm happy that there's no problems with this drain
16 at this point, other than normal things, which ponds tend to
17 fill up. They need to be cleaned out. Catch basins, Jerry
18 knows, needs to be cleaned out. So I see it as a plus for
19 everybody to get this thing under the county system and get
20 it -- get it authorized so that, if something goes wrong,
21 somebody's there to fix it.

22 CHAIRPERSON BILL CARGO: Okay. Glenn, do you have
23 any comments?

24 SECRETARY GLENN NYKAMP: I just wish that all of
25 them came underneath the drain commission. It would be a lot

1 easier for everybody to do that. Obviously, it's not
2 happening. But it's just -- it's just a good thing to do.
3 Then you know who's in charge, when it gets -- it gets taken
4 care of more often, better. And in our township we have some
5 issues because of that. So, no, I think it's a good idea.

6 CHAIRPERSON BILL CARGO: I tend to agree that, if
7 you have a drain system, somebody needs to be responsible for
8 the drain. If nobody's responsible -- really, I appreciate
9 the fact that both the township and the road commission and
10 the drain commissioner have acted to maintain this system.
11 But now that they understand it's not technically part of the
12 drain code, they're doing the right thing by getting it
13 underneath the drain code. And I think that that is
14 important. So I also support bringing this under control of
15 the county.

16 And I think we have some motions on that. And what
17 I'm going to do, is I'm going to ask Glenn to make a motion
18 with regard to bringing this under county control, if there's
19 no other comments from the board.

20 MEMBER KEN SOUTER: None from me.

21 CHAIRPERSON BILL CARGO: None from me.

22 SECRETARY GLENN NYKAMP: Okay. It is moved that
23 we -- I got to find where I'm at here. Actually, it looks
24 like Mr. Cargo was supposed to make the motion to -- if the
25 drain is necessary or not necessary.

1 CHAIRPERSON BILL CARGO: Can I see this for a
2 moment, take a look at it? Okay. I will make the motion
3 that the drain is necessary. And this is the first of two
4 motions. I'll make a motion that this drain is considered
5 necessary.

6 MEMBER KEN SOUTER: I'll support that motion.

7 CHAIRPERSON BILL CARGO: So we have a motion on the
8 table and seconded by Ken. So that would be Ken. And then
9 the all in favor, say "aye."

10 MEMBER KEN SOUTER: Aye.

11 CHAIRPERSON BILL CARGO: Aye.

12 SECRETARY GLENN NYKAMP: Aye.

13 CHAIRPERSON BILL CARGO: Now, this other one is, if
14 this is -- was approved and considered to be necessary, what
15 we would also make a motion is that a portion of the cost for
16 the protection of public health in Holland Township, that a
17 portion of the maintenance or any future type of improvements
18 to this drain be assessed to Holland Charter Township.

19 And so I will make the motion that the drain is
20 necessary for the public -- section of public health in
21 Holland Charter Township and that a portion of the costs
22 shall be apportioned to the municipality Holland Charter
23 Township at large.

24 MEMBER KEN SOUTER: I'll second that.

25 SECRETARY GLENN NYKAMP: Okay. Then there's one

1 more.

2 CHAIRPERSON BILL CARGO: We have a motion on the
3 table.

4 SECRETARY GLENN NYKAMP: I'm sorry.

5 CHAIRPERSON BILL CARGO: Any discussion on that?
6 Okay. All in favor say "aye."

7 MEMBER KEN SOUTER: Aye.

8 SECRETARY GLENN NYKAMP: Aye.

9 CHAIRPERSON BILL CARGO: Aye.

10 SECRETARY GLENN NYKAMP: Then we have one more on
11 the bottom here. It says moved by and seconded by, but we
12 want to make sure that we include that the Steaders Borough
13 No. 4 drain, that's already a drain, becomes part of this
14 whole process.

15 CHAIRPERSON BILL CARGO: Okay. So I will then make
16 a motion that the drainage district boundary be adjusted as
17 necessary and lands, including the Steaders Borough No. 4,
18 which is already part of the county drain system, be added
19 and deleted as determined by the water resources
20 commissioner, as recommended by the engineer. So that is my
21 motion. Do I have a second?

22 MEMBER KEN SOUTER: Second.

23 CHAIRPERSON BILL CARGO: Okay. We have to motion
24 on the table. And this motion is basically saying that the
25 lines you see up on here are probably fairly accurate, but

1 they need to be adjusted somewhat. And so we leave that to
2 the engineer to make a recommendation to the drain
3 commissioner or water resources commissioner. And that is
4 what we're authorizing them to do with this motion.

5 Are there any other comments or questions on this?

6 MEMBER KEN SOUTER: Nope.

7 CHAIRPERSON BILL CARGO: All in favor, say "aye."

8 MEMBER KEN SOUTER: Aye.

9 CHAIRPERSON BILL CARGO: Aye.

10 SECRETARY GLENN NYKAMP: Aye.

11 CHAIRPERSON BILL CARGO: And so we now have -- this
12 now is actually part of the Ottawa County drain system. And
13 I will adjourn this, take a -- make a motion to adjourn this
14 public hearing at this time. Is there a second for that?

15 MEMBER KEN SOUTER: I'll second that.

16 CHAIRPERSON BILL CARGO: Then without objection, we
17 will adjourn this meeting at the current time of about 10:44.

18 (At 10:45 a.m., hearing concluded.)

19

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21

22

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24

25

1 STATE OF MICHIGAN)
2 COUNTY OF OTTAWA) ss

3
4
5 I certify that this transcript, consisting of 35
6 pages, is a complete, true, and correct record of the
7 proceedings held in the matter of the Steaders Borough North
8 Drain held by the Board of Determination on Tuesday, December
9 12, 2017.

10
11
12
13
14
15 Dated: 12/20/2017

16 _____
17 Terri L. Zimmerman, CSR-2882
18 Certified Shorthand Reporter
19 O'Brien & Bails
20 141 East Michigan Avenue - Ste 206
21 Kalamazoo, MI 49007-3943
22 1.800.878.8750
23 My commission expires: 2-12-2021
24
25

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