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STATE OF MICHIGAN
COUNTY OF OTTAWA

IN RE: RIVER AVENUE DRAIN
BOARD OF DETERMINATION

Proceedings commenced at 11:00 a.m., on Wednesday,
April 20, 2022, at the Holland Charter Township Fire Station
No. 1, 131 Riley Street, Holland, Michigan, held before
Marjorie A. Covey, CSR-2616, RPR, Certified Shorthand
Reporter and Notary Public.

APPEARANCES:

- Mr. Joe Bush, Ottawa County Water Resources Commissioner
- Mr. Josiah Timmermans, Chief Deputy to Water Resources Comm.
- Ms. Marie Snyder, Secretary

- Mr. Rich VanderKlok, Board Chairman
- Mr. Josh Westgate, Board Secretary
- Mr. Howard Baumann, Board Member

- Mr. Lucas Timmer, P.E., Prein & Newhof
- Mr. Ken Bosma, P.E., Prein & Newhof

- Mr. Steve Bulthuis, Holland Charter Township Manager

- Mr. Jerry Olman, Ottawa County Road Commission

1 Holland, Michigan

2 April 20, 2022 - 11:02 a.m.

3 PROCEEDINGS

4 WATER RESOURCES COMM. JOE BUSH: Good morning,
5 everyone. I'm Joe Bush, the Ottawa County Water Resources
6 Commissioner, also known as the drain commission -- or drain
7 commissioner.

8 We're here for the River Avenue Drain Board of
9 Determination at the Holland Township Fire Barn. We
10 appreciate you taking the time to come and kind of listen on
11 how this process works.

12 We're here today because we received a petition
13 from Holland Township, and their board, to move forward with
14 another orphan drain. We just got done with one, this is
15 number two for today. This is an orphan drain that's been on
16 their list for quite some time to get established and maybe,
17 hopefully, be under my jurisdiction for future maintenance or
18 any project that could come.

19 Today there is no project, there is no known issues
20 that we're aware of. But, again, this is just on the list
21 for Holland Township to establish as a county drain.

22 I currently have over probably a thousand or
23 better, we know for sure around a thousand county drains, but
24 it seems like every year we keep adding more drains. Ottawa
25 County is definitely growing.

1 And one of the concerns is infrastructure. And
2 when it's an orphan drain, the road commission, township or
3 county, we don't have any jurisdiction over an orphan. Under
4 a 9-1-1 emergency, the road commission might go out and do a
5 temporary fix on it, but historically, if it's an orphan,
6 there is really no mechanism to fix it when it comes to an
7 assessment or cost or liability or accountability. Who do
8 you call, right?

9 So this is on the list to do. And when I get a
10 petition, I -- the next step is to get a Board of
11 Determination, and that is get a three-panel Board from
12 Ottawa County. They have to be Ottawa County residents, but
13 they do not live in the drain district that is provided on
14 the map or within the presentation. Nor -- they do not live
15 in Holland Township.

16 So the Drain Code tells me to appoint a three-panel
17 panel that has no properties or nearby properties or do not
18 live in the township. So that is per Drain Code.

19 The next thing I do is find a location and get
20 everybody together and hold a Board of Determination. So
21 that's why we're here today.

22 The three-panel Board, their decision is basically,
23 yeah, move forward and put it under Joe's jurisdiction, or
24 not, based on testimony or any issues.

25 Again, I will repeat, I don't know of any issues in

1 this River Avenue Drain, it's just an orphan.

2 Some people get concerned and think that once it's
3 under my jurisdiction, we're going to have a big project;
4 that's only warranted if there is issues. If there is no
5 issues, if it's not broken, why fix it. Right now we're not
6 planning on fixing anything today unless there is something
7 in the public testimony of, hey, there is issues, and we'll
8 go look at those.

9 So that's the board's decision today. So it's not
10 whether to have a project or not. Even though the letter
11 that gets mailed out, it says something about a project or
12 construction, that's all per Drain Code. That's what I have
13 to put in the newsletter that goes out to inform people of
14 what's happening today.

15 So I'll go ahead and do introductions. We do have
16 an engineering firm, Prein & Newhof. We have Ken Bosma and
17 Lucas Timmer who has done a lot of these Boards of
18 Determinations and orphan drains. I kind of hire them to go
19 out and do a preliminary sketch of what's out there, put a
20 drain district together, a watershed, and kind of go through
21 the historical records and kind of follow up with that for
22 today's presentation.

23 The road commission is always here, or tries to be
24 at every one of these Boards of Determinations. So we have
25 Jerry Olman from the road commission.

1 We have Steve Bulthuis. He's the township manager
2 for Holland Township.

3 We have two of my staff. We have Josiah, my chief
4 deputy; and Marie, my secretary.

5 And of course, Margie is our court reporter. She's
6 done a lot of these for me. And this is not required by
7 Drain Code or drain law to have a court reporter at BODs, but
8 I do for the protection of everybody involved, the property
9 owners, the township, the county, and especially when it
10 comes down to what -- who said what and the presentations is
11 on there, everything is court recorded word for word.

12 So if anybody wants to give public testimony, we
13 always love that, and state your name and address, and kind
14 of your concern or what the problem is. We want to make sure
15 it's getting documented and we want to make sure your voice
16 is heard.

17 So we record all of these and it works out well.
18 In about four to six weeks I post those on my website at
19 miottawa.org. It will be under Board of Determination
20 projects, or petition projects. It will be listed on there,
21 and you can read it word for word for your enjoyment, if
22 you're bored and you want to see what Margie typed up. So we
23 love having her at all of these.

24 The next thing is picking a panel. When I pick a
25 three-panel Board, I pick based on location, make sure

1 they're not in the township or the watershed. Number two is
2 do they understand Drain Code, what their job is today, and
3 drainage; and can they run a meeting. Those three things are
4 very crucial to making today's decision, and making sure that
5 we're legal and doing everything by Drain Code.

6 So today we'll start from my right and go to the
7 left, we have Howard Baumann. He is the current township
8 supervisor in Port Sheldon Township for another week and a
9 half, and he's going to be enjoying retirement soon.

10 And then we have Rich VanderKlok, he is from
11 Georgetown Township. He was on the township board there for
12 many years, so we enjoy having him on this Board as well. He
13 has a lot of knowledge.

14 As well as Josh Westgate. Josh, the furthest to
15 the left, he has -- he was a supervisor in Wright Township
16 for many years.

17 So these three gentlemen, obviously, know how to
18 run a meeting. They know what their job is today. It's not
19 to pick a project or a cost or anything.

20 Today's cost, by the way, and the minutes will be
21 picked up by Holland Township because they've been trying to
22 do, we'll just say hypothetically, eight to ten of these a
23 year, get these orphans established because, you know, there
24 is quite a few more to go, but several townships are wanting
25 to establish more and more orphan drains because

1 infrastructure is aging. People don't like flooding, and
2 it's nice to have that person you can call to get a response
3 and show up and try to come up with solutions. So that's
4 key. We try to provide a great customer service, and when
5 it's an orphan, it's tough.

6 So once I give these three gentlemen the oath, they
7 will the run the meeting. And I'm happy to answer any
8 questions upon their request, but they'll be making the
9 decision, not me, on whether to put it under my jurisdiction
10 or not with a motion later in the meeting.

11 So at this time, I'll go ahead and have these
12 gentlemen rise and raise their right hand.

13 Do each of you solemnly swear that you will
14 faithfully perform and discharge the duties imposed upon you
15 as required by law as members of the Board of Determination,
16 appointed by the Ottawa County Water Resources Commissioner,
17 to determine the necessity to locate, establish and construct
18 the proposed River Avenue Drain located in Holland Charter
19 Township in said county, gentlemen?

20 BOARD MEMBER HOWARD BAUMANN: I do.

21 BOARD MEMBER RICH VANDER KLOK: I do.

22 BOARD MEMBER JOSH WESTGATE: I do.

23 WATER RESOURCES COMM. JOE BUSH: Thank you.

24 BOARD MEMBER RICH VANDER KLOK: Our first item of
25 business will be the election of the chairperson for the

1 Board of Determination. Is there a motion?

2 BOARD MEMBER HOWARD BAUMANN: I'll make a motion to
3 elect Rich as our chair.

4 BOARD MEMBER JOSH WESTGATE: I'll support.

5 BOARD MEMBER RICH VANDER KLOK: Moved and supported
6 that Rich VanderKlok serve as chair.

7 All those in favor, say aye.

8 BOARD MEMBER HOWARD BAUMANN: Aye.

9 BOARD MEMBER RICH VANDER KLOK: Aye.

10 BOARD MEMBER JOSH WESTGATE: Aye.

11 BOARD CHAIR RICH VANDER KLOK: That's carried.

12 And then a motion would be in order to elect a
13 secretary, and I would make the motion that Josh Westgate
14 serve as secretary.

15 BOARD MEMBER HOWARD BAUMANN: And I'll second that.

16 BOARD CHAIR RICH VANDER KLOK: Motion is made and
17 supported.

18 All those in favor, say aye.

19 BOARD MEMBER HOWARD BAUMANN: Aye.

20 BOARD CHAIR RICH VANDER KLOK: Aye.

21 BOARD MEMBER JOSH WESTGATE: Aye.

22 BOARD CHAIR RICH VANDER KLOK: That motion is
23 carried.

24 Then the next item will be rules of public comment.

25 And we will hopefully hear from you who are here as public.

1 You have five minutes to present your comments, and we ask
2 only that you give us your name, your address, and then we
3 will hear your comments.

4 So I make a motion that those be the rules of, for
5 public comment. Is that supported?

6 BOARD MEMBER RICH WESTGATE: I'll support that.

7 BOARD CHAIR RICH VANDER KLOK: Motion is made and
8 supported.

9 All those in favor, say aye.

10 BOARD MEMBER HOWARD BAUMANN: Aye.

11 BOARD CHAIR RICH VANDER KLOK: Aye.

12 BOARD SECRETARY JOSH WESTGATE: Aye.

13 BOARD CHAIR RICH VANDER KLOK: That is carried.

14 And we've already had the role and function of the
15 Board and the procedural history.

16 And now, I'm going to turn it over to our engineers
17 for their presentation.

18 ENGINEER LUCAS TIMMER: Thank you, Rich.

19 My name is Lucas Timmer, I am an engineer with
20 Prein & Newhof out of Holland, Michigan. And I am here to
21 present to you about the River Avenue Drain.

22 So the River Avenue Drain is an orphan drain. And
23 an orphan drain is an existing storm water drain system that
24 is without authorized local and county governmental
25 jurisdiction, and administrative, procedural and funding

1 mechanisms to address current or future needs for maintenance
2 and improvements.

3 So essentially this system here, this proposed
4 River Avenue Drain, right now, Ottawa County Water Resources
5 Commissioner doesn't have legal jurisdiction, the county road
6 commission does not have legal jurisdiction, or the township
7 doesn't have legal jurisdiction.

8 So we're here today then to get -- to possibly get
9 that legal jurisdiction through the Ottawa County Water
10 Resources Commissioner, depending on the Board's decision.

11 So Holland Charter Township filed a petition to
12 establish this as a county drain on March 3, 2022, and we are
13 here today now, as part of that petition process, we are
14 required then to have this Board of Determination per
15 Michigan Drain Code.

16 So we provided some of the preliminary engineering
17 work that was needed for the River Avenue Drain. So the
18 first thing that we did is we reviewed utility record plans,
19 utilities being storm sewer, water mains, sanitary sewer, in
20 the area of the drainage district.

21 And we also reviewed plat maps. So some of the
22 plats that are a part of this proposed drainage district
23 include Howards Addition, which was formed in 1872; J.C.
24 Dunton Addition, in 1903; and the Oakwood Subdivision, which
25 was 1928 when that one was established.

1 So once we reviewed all these records, we then
2 delineate a drainage district. So a drainage district is
3 essentially a watershed. The property within that drainage
4 district or watershed are considered contributing runoff to
5 the proposed River Avenue Drain, and we use county GIS,
6 Geographic Information System contours, which are one-foot
7 contours. And we use aerials then to be able to delineate
8 our drainage district.

9 We then visit the site. So we drive around the
10 proposed drainage district. We review drain infrastructure,
11 and then we confirm that the drainage patterns from what we
12 expected from doing our work on our computer match up with
13 what we're seeing out in the field.

14 So this map is the proposed drainage district, a
15 little difficult to see on this PowerPoint, but we have an
16 easel in the back where you can see it a lot easier.

17 Just to explain this to you guys, this red boundary
18 here is the proposed drainage district, or watershed
19 boundary. So the land within this drainage district is
20 considered contributing runoff to the proposed River Avenue
21 Drain.

22 These blue lines here are the proposed River Avenue
23 Drain. They're existing storm sewer that's already been in
24 the ground, serving River Avenue, West Lakewood Boulevard,
25 Vanderveen Avenue, Dutton Avenue, and Manley Avenue, to help

1 provide drainage for them.

2 And then you can also see that this proposed drain,
3 the upstream end is up at Manley Avenue near 136th, it all
4 travels to the southeast, and then it goes to the southwest
5 near the, I believe that's Little Caesars right there, and a
6 Russ's. And it goes then to the southwest into the already
7 existing Dutton County Drain, which then flows to the south
8 to Lake Mac.

9 So after this, we will have a time for public
10 testimony where you guys can indicate if there are any
11 drainage issues. The Board will then determine the necessity
12 of the petition based on public health, welfare and/or
13 convenience, after hearing the public testimony.

14 If this infrastructure is deemed necessary to be a
15 county drain by the Board, then the system will become a
16 county drain.

17 If the Board determines that it's not necessary for
18 this infrastructure to be a county drain, then no further
19 action will occur.

20 So if this drain is deemed necessary by the Board,
21 and no drainage issues are brought up, which at the time
22 we're not aware of any drainage issues, I know Jerry Olman
23 from the road commission might speak up later and indicate if
24 there are any drainage issues he's aware of, but if there are
25 no drainage issues, Holland Township will pay for all these

1 cost, all the legal and engineering costs to get this
2 established as a county drain.

3 In the future, if there are drainage issues, or if
4 we find out today there are significant drainage issues that
5 require some form of project to alleviate those problems,
6 then the county will have us review feasible projects, review
7 drainage, we'll do project design and survey.

8 We would then bid that project out for
9 construction. And then there would be something called a Day
10 of Review of Apportionment. What that would be would be
11 everyone within that drainage district would be notified that
12 there is a day that they can come in to review what their
13 apportionment or assessment is of that project. And
14 assessments for that project would be made out to Ottawa
15 County, Ottawa County Road Commission, Holland Township, and
16 also to the property owners within that drainage district.

17 If there was, let's say, a project that came out of
18 this today because there are drainage issues, Holland
19 Township would still cover all the costs of establishing, and
20 they would then also, on top of that, cover some of the drain
21 improvement. But the rest of the drain improvement costs
22 then would be assessed out to the county, the road commission
23 and the property owners.

24 So in the future, if there are drainage issues, a
25 petition then would be needed. So either the township would

1 petition, or you as the property owners would then petition
2 for a project to maintain the county drain.

3 The county doesn't necessarily need this petition
4 if the costs to maintain the drain are low, less than 5,000
5 per mile, they can then maintain the drain without having to
6 go through the petition process.

7 But if there is a big issue that requires a big
8 project to take care of the drain in the future, then you
9 would be notified again, and we would have a Board of
10 Determination like today about that project.

11 So all future assessments will be made to Ottawa
12 County, the Ottawa County Road Commission, Holland Township,
13 and property owners for any work that would be done on this
14 drain in the future.

15 And at this point I'd like to say, again, we're not
16 aware of any issues at this point. We're just looking at
17 getting this established so that if there are issues in the
18 future, someone has jurisdiction over it.

19 Thank you.

20 BOARD CHAIR RICH VANDER KLOK: Okay. Thanks,
21 Lucas.

22 Before we open it up for public comment, Steve from
23 the township, do you have any comments that you would like to
24 make?

25 HOLLAND TOWNSHIP MANAGER STEVE BULTHUIS: Certainly

1 just underscore the comments that Joe made at the outset that
2 the township is going through a deliberate process of taking
3 its orphan drains and bringing them under the jurisdiction of
4 the Water Resources Commissioner, and that was the reason for
5 the petition.

6 BOARD CHAIR RICH VANDER KLOK: Okay, thank you.
7 Jerry from the road commission, any comments,
8 Jerry?

9 ROAD COMMISSION JERRY OLMAN: Just that the road
10 commission, we're not aware of any issues with the system.
11 We are in favor of having the county take control of it.

12 The system is within the road right-of-way, and --
13 but there are several commercial properties that are also
14 tied into it. So I think it's appropriate that the county
15 would have jurisdiction over it.

16 BOARD CHAIR RICH VANDER KLOK: Okay. Thank you,
17 Jerry.

18 Then I'm going to open it up for public comment.
19 And the gentleman in the back, if you would state your name
20 and address and any comments that you'd like to make.

21 MR. JOHN SIMMONS: John Simmons, 112 Vanderveen.

22 Yeah, I just wonder why we were having this, and it
23 came up about the Quality Car Wash building, quite a large
24 car wash there. And if that would affect -- they're going to
25 tie into the North River Drain, I'm assuming there, or North

1 River Avenue.

2 But I'd be upstream of that quite a ways. But just
3 wondering what effect, if any, that that would have on the
4 current system, you know, going north from there.

5 BOARD CHAIR RICH VANDER KLOK: Lucas, do you know
6 to --

7 ENGINEER KEN BOSMA: I can address that.

8 BOARD CHAIR RICH VANDER KLOK: Or Ken.

9 ENGINEER KEN BOSMA: I'm sure Joe's office would
10 say the same thing, that they have to go through a site plan
11 process review. And that will be looked at, and storm water
12 management on their site, the same as any other development
13 that comes in.

14 They're trying to get where all connections of
15 parcels and all of that come into a county drain, so this
16 allows them too to have a connection to a county drain. Even
17 though on their own site, they're going to have their own
18 storm water management type system.

19 BOARD CHAIR RICH VANDER KLOK: Okay. Is that
20 helpful?

21 MR. JOHN SIMMONS: Yes, um-hum.

22 BOARD CHAIR RICH VANDER KLOK: Okay, anything else?

23 MR. JOHN SIMMONS: That's it.

24 BOARD CHAIR RICH VANDER KLOK: And the lady next?

25 MRS. SIMMONS: I'm with him.

1 BOARD CHAIR RICH VANDER KLOK: Okay. No comments?

2 MRS. SIMMONS: No. I think 20 years ago, maybe,
3 there was water pooling on Vanderveen, but they put in a
4 drain connected from the north side of the street, put in one
5 in the neighbor's front yard on the south side of Vanderveen,
6 and we haven't had any trouble except 2009, June 19th, when
7 everybody had trouble.

8 BOARD CHAIR RICH VANDER KLOK: Sure. Sure. Thank
9 you.

10 Then I'm going to close public comment time. And
11 now turn it over to the Board.

12 Josh, Howard, any comments from either of you?

13 BOARD SECRETARY JOSH WESTGATE: This seems to be a
14 very straightforward process to include this into the county
15 drainage system. It gives a benefit of protection to all the
16 property owners in the area.

17 And I'm definitely for it, I'm in favor of the
18 project.

19 BOARD CHAIR RICH VANDER KLOK: Okay, Howard?

20 BOARD MEMBER HOWARD BAUMANN: Yeah, I agree with
21 Josh. I think it's good to take these orphan drains and
22 include them under the Water Resources Commissioner's office,
23 just so if there is a problem down the road, there is a
24 vehicle to take to get it fixed.

25 BOARD CHAIR RICH VANDER KLOK: Um-hum. Good. I

1 would agree with that. I always like to see these orphan
2 drains come under the jurisdiction of the Ottawa County Water
3 Resource's office for those very reasons.

4 And so, therefore, I would make the motion that
5 the -- that the -- oh, there it is. I'm just looking at the
6 correct wording for this.

7 I would make a motion that the proposed drain is
8 necessary and conducive to public health, convenience and
9 welfare.

10 Is that supported?

11 BOARD SECRETARY RICH WESTGATE: I'll support that.

12 BOARD CHAIR RICH VANDER KLOK: Motion is made and
13 supported.

14 Those in favor, say aye.

15 BOARD MEMBER HOWARD BAUMANN: Aye.

16 BOARD CHAIR RICH VANDER KLOK: Aye.

17 BOARD SECRETARY JOSH WESTGATE: Aye.

18 BOARD CHAIR RICH VANDER KLOK: And that is carried.

19 Joe, do you want to say anything about the appeal
20 process?

21 WATER RESOURCES COMM. JOE BUSH: Yes. If somebody
22 wanted to appeal today's decision, they have ten days
23 starting today to appeal that through circuit court.

24 And I appreciate you guys serving as the Board
25 today. So, thank you.

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BOARD CHAIR RICH VANDER KLOK: Okay, thank you.

There is no other business to come before us, so I will declare the meeting adjourned.

Thank you, all.

(Board of Determination adjourned at 11:23 a.m.)

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