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STATE OF MICHIGAN
COUNTY OF OTTAWA

IN RE: NORTH HOLIDAY HILLS DRAIN
BOARD OF DETERMINATION

Proceedings scheduled for 11:00 a.m., commencing at 11:40 a.m., on Tuesday, October 22, 2019, at the Barber School Community Building, 102 West Exchange Street, Spring Lake, Michigan, held before Marjorie A. Covey, CSR-2616, Certified Shorthand Reporter and Notary Public.

APPEARANCES:

- Mr. Joe Bush, Ottawa County Water Resources Commissioner
- Mr. Chad Meints, Chief Deputy to Water Resources Comm.
- Ms. Sara Hirts, Secretary to Water Resources Comm.

- Mr. Bill Cargo, Board Chairman
- Mr. Rich VanderKlok, Board Secretary
- Mr. Ken Souter, Board Secretary

- Mr. Jerry Olman, Ottawa County Road Commission

- Mr. Gordon Gallagher, Spring Lake Township Manager

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

1 Spring Lake, Michigan

2 October 22, 2019 - 11:40 a.m.

3 PROCEEDINGS

4 WATER RESOURCES COMM. JOE BUSH: Welcome, everyone.

5 I apologize for the delay. The last Board of Determination
6 went longer than we anticipated, within a half-hour or 35
7 minutes.

8 So again I appreciate everybody's patience. I
9 appreciate your time coming here, learning a little bit about
10 what I do as your elected official, and also what a Board of
11 Determination is, what the letter meant and kind of what the
12 public hearing is all about.

13 So there is two reasons why we hold a Board of
14 Determination, a public hearing like this. And it's either I
15 get a petition from the people, you folks that live in a
16 watershed or a drain district that sign the petition, or the
17 township.

18 We've had multiple phone calls from certain
19 individuals about concerns up in North Holiday Hills. And
20 there is a couple lakes -- lakes or ponds that people live on
21 and there has been some issues this year.

22 So in order to look at those issues and do more --
23 because technically it's an orphan drain. When I say it's an
24 orphan, it's not under my jurisdiction. People are like well
25 how does that happen? Well I have a thousand county drains

1 and not every subdivision back in the '70s, the '80s, even
2 the '90s, were established legally as a county drain.

3 So I have no jurisdiction, there is no easements
4 under my jurisdiction, and there is no way for me to go do
5 the work because technically it's an orphan drain.

6 So what happened is the township said well, we'll
7 make a petition for you, Mr. Bush, Joe Bush, the Water
8 Resources Commissioner to hold a Board of Determination and
9 this is why we're here today.

10 And this is a public comment so speak loudly, your
11 name, address, because everything is court recorded. Margie
12 here does a lot of my BODs. It's not by Drain Code that I
13 have to have one, but I do to protect you, the property
14 owners and the township and me, if there is something said,
15 we can all go back and say, what did I say, or what did the
16 township say, or what did who say. We always want to know.

17 Sometimes we try to do it by hand, we don't get it.
18 With the court recorder everything is court recorded.

19 So if you have a problem or concern or dislike or
20 we don't agree, please come up to the mic to speak because
21 this is your time and it's going to be recorded.

22 And then by Drain Code I have to appoint a
23 three-panel board and that's what I did. These gentlemen
24 have no properties in Spring Lake Township in that drainage
25 district or watershed. And I usually appoint people who have

1 done these for many, many years. They understand -- I'll
2 point to this a lot, Drain Code of 1956.

3 These gentlemen have been doing this and understand
4 this book. It's not very thick but it's very complex. And
5 they also understand kind of government and how the townships
6 work and they understand drainage.

7 So these gentlemen have been doing these, I'll be
8 going on my third term, and at least since I started, and
9 they've been doing it before I started.

10 So they're here to listen to you folks. You guys
11 are the public comment time.

12 They never -- I don't think they've been out there.
13 I haven't called them and said, hey, this is happening out
14 here. I don't tell them about any project, it's not my job
15 to. It's you guy's job and the engineering firm and the
16 township and the road commission or whoever else is involved
17 in this situation why we're here today to share with them.
18 It's not my job.

19 I'm able to go look at it, check it out, give
20 advice, they petition me. I don't have any ownership, I
21 can't do a lot with it. That's my job. But when it comes to
22 an orphan, or not a county drain, I have to hold this BOD
23 today.

24 I'll go ahead and do introductions.

25 From my left to my right is Ken Souter. He's from

1 Port Sheldon Township. He was an engineer with the road
2 commission for nearly 40 years so he understands drainage,
3 drain law and how this kind of process works very well.

4 In the center is Bill Cargo, he is Grand Haven
5 Township's -- he is actually the manager there. He's been
6 doing these for many, many years and he understands, again,
7 that book Drain Code.

8 And then we have our -- oh, my gosh, Mr. VanderKlok
9 is from -- the last meeting there -- Mr. VanderKlok is with
10 Georgetown Township, and he's on the board there. And he has
11 been doing these BODs as well and understands why we're here
12 today.

13 So it's very crucial that if there is issues or
14 concerns, that you come up and speak, because again these
15 three gentlemen haven't been out there, they don't understand
16 what's going on. It's not my job to share with these folks.

17 Margie is our court recorder.

18 Ken and Lucas, these two gentlemen here in the
19 front row, they're from Prein & Newhof. We hired them kind
20 of to start the process and get an idea of what's going on
21 out there a little bit and do an overview.

22 Today is not based on is there a project, today is
23 based on the necessity for me to take ownership of this
24 situation and kind of move forward. That's what today is.

25 So it's not like well we got a project. No.

1 They're not here to determine that. The Board of
2 Determination is to figure out if there is a necessity to
3 move forward or not.

4 And the engineering is all minimal, because I don't
5 have the resources to go out and do it because it's not a
6 county drain yet. Today's necessity could determine that.
7 Totally up to these three gentlemen.

8 Jerry Olman is from the road commission. He's been
9 out there too and looked at this issue.

10 Gordon Gallagher, your township manager, he's
11 there. He might have a few words later. And then my staff
12 is in the back that helped standing up against the wall or
13 signing you in, we have Sara and then Chad. So they're from
14 my staff.

15 Once I give these three gentlemen the oath, they'll
16 run the meeting. Any questions you can ask them and they'll
17 ask me, but they make a determination. I have no influence
18 on this, it's totally these three gentlemen, based on your
19 comments and testimony.

20 So again, I appreciate your testimony today and I
21 apologize that it ran -- the other one ran a little bit
22 longer. And I appreciate listening to your comments today
23 and again, thank you for your time.

24 Gentlemen, please rise and raise your right hand.

25 Do you each solemnly swear that you will faithfully

1 perform and discharge the duties imposed upon you as required
2 by law as members of the Board of Determination appointed by
3 the Ottawa County Water Resources Commissioner to determine
4 the necessity to locate, establish and construct the proposed
5 North Holiday Hills Drain located in Spring Lake Township in
6 said county, gentlemen?

7 BOARD MEMBER KEN SOUTER: I do.

8 BOARD MEMBER BILL CARGO: I do.

9 BOARD MEMBER RICH VANDER KLOK: I do.

10 WATER RESOURCES COMM. JOE BUSH: Thank you.

11 BOARD MEMBER BILL CARGO: The first thing we need
12 to do is to select a chair and a secretary. Do I have any
13 motion to select a chair?

14 BOARD MEMBER RICH VANDER KLOK: I make a motion
15 that Bill Cargo serve as chair.

16 BOARD MEMBER KEN SOUTER: I second the motion.

17 BOARD MEMBER BILL CARGO: Since we have a majority
18 already, we won't have any discussion.

19 All in favor, say aye.

20 BOARD MEMBER KEN SOUTER: Aye.

21 BOARD MEMBER BILL CARGO: Aye.

22 BOARD MEMBER RICH VANDER KLOK: Aye.

23 BOARD CHAIRMAN BILL CARGO: I'll be glad to chair
24 this meeting.

25 I will also make a motion that Rich be selected as

1 the secretary for this Board of Determination.

2 Do I have support?

3 BOARD MEMBER KEN SOUTER: You have support.

4 BOARD CHAIRMAN BILL CARGO: So there is a motion on
5 the table to select Rich as the secretary.

6 All in favor, say aye.

7 BOARD MEMBER KEN SOUTER: Aye.

8 BOARD CHAIRMAN BILL CARGO: Aye.

9 BOARD MEMBER RICH VANDER KLOK: Aye.

10 BOARD CHAIRMAN BILL CARGO: So, Rich, you will be
11 the secretary for this.

12 BOARD SECRETARY RICH VANDER KLOK: Okay.

13 BOARD CHAIRMAN BILL CARGO: Typically at this stage
14 we do a few things. We talk about first the engineer will
15 give a presentation.

16 But even before that I often ask if there is any
17 comment from the township? I know that Gordon Gallagher, the
18 township manager is here, if he has any comments, if he could
19 come up to the podium, that would be great.

20 SPRING LAKE TOWNSHIP MANAGER GORDON GALLAGHER:
21 This also is a good opportunity to see if the mic is working,
22 yes.

23 First off, thank you for your service, it's greatly
24 appreciated.

25 The last hearing that you had I think was very

1 straightforward from the fact that there was all this stream
2 water running through one specific place.

3 And the hearing that you'll be doing today is a
4 little unique. And one of the challenges that you'll have, I
5 think, is trying to determine what's in the best interest of
6 this neighborhood. As the township board did, the township
7 board was trying to find a solution, and it made sense to
8 bring the Water Resources department into this. I think it's
9 a very unique situation.

10 The other thing is about ten years ago Spring Lake
11 Township started requiring developments that would be similar
12 to North Holiday Hills to actually have a drainage district
13 as part of the development. So that situations like what we
14 have now won't happen in the future.

15 So if this development were going on today, we
16 would require a drainage district for the development to make
17 sure that water was being dealt with. But today we don't
18 have that in place, and I'm not sure what you will determine
19 because it's -- it is -- it's an extremely unique situation
20 where you have a development that is, for the most part,
21 developed in a series of sand dunes and it seems as though
22 water should just leach away, but again it doesn't seem to
23 be, and it seems to be creating issues.

24 And then there is also water contribution from the
25 road system through the North Holiday Hills area that goes

1 into some ponds.

2 So admittedly I think the township board really
3 wanted to bring this issue to this kind of forum so that you
4 could hear all sides of this and try and figure out what the
5 next steps would be.

6 BOARD CHAIRMAN BILL CARGO: Gordon, a couple quick
7 questions. Was this petitioned by the township board?

8 SPRING LAKE TOWNSHIP MANAGER GORDON GALLAGHER:
9 Yes.

10 BOARD CHAIRMAN BILL CARGO: Okay. The other thing
11 is you had talked about that during the '70s, '80s and even
12 into the '90s that, from what I understand, when these type
13 of developments were created, the drain commissioner would
14 review and approve the drainage plans. But for some reason,
15 although they thought that brought it under his control, it
16 technically didn't bring that under his control.

17 SPRING LAKE TOWNSHIP MANAGER GORDON GALLAGHER: I
18 believe that's correct.

19 BOARD CHAIRMAN BILL CARGO: So there is an
20 assumption for most of the people that lived in these
21 subdivisions that their drainage was actually under the
22 control of the, at the time of the drain commissioner, now
23 the Water Resources Commissioner. But because there wasn't a
24 specific approval by the board that we have many of these
25 orphan drains in these older subdivisions.

1 SPRING LAKE TOWNSHIP MANAGER GORDON GALLAGHER: I
2 think that's correct, yes.

3 BOARD CHAIRMAN BILL CARGO: Okay, thank you.

4 At this stage I'll ask the engineer to give us a
5 brief review of this and talk about the North Holiday Hills
6 development. Also I suspect you're going to tell us when
7 this occurred and when the development was created.

8 ENGINEER KEN BOSMA: I'll try to speak up so
9 everybody can hear me.

10 Some of these things have already been addressed by
11 the drain office and by the township, but it's an orphan
12 system, again, with no jurisdictional or administrative
13 procedural funding measures in place and that's why we're
14 meeting today.

15 I think you asked the question whether this was
16 petitioned by the township, and the township manager
17 indicated, yes, and this was done on July 8 of this year.

18 This is under the petition under what's called
19 Chapter 4 of the Michigan Drain Code. Chapter 4 means that
20 it would just establish it as a new drain. There is no
21 drain, nothing, tied to it, nothing existing so that's what
22 Chapter 4 means.

23 And then we're required to have this Board of
24 Determination as part of this same Drain Code.

25 Five plats are within this district which I'll show

1 you in a minute what that district is, and those plats go
2 from 1962 to 1990 as they were developed in there. So you
3 can see the range of time in there. And we'll get into that
4 here.

5 So the more northeasterly -- it's not pointing
6 there, it doesn't show on the TV but the more northeasterly
7 part is where the 1962 piece began, and it worked its way
8 kind of westerly and southerly as it was developed, so the
9 more 1990 ones are on the very southerly portion of this
10 area.

11 What we are showing here in the red is what we
12 consider the watershed to what would be -- what was
13 petitioned for. So this whole area, which encompasses all
14 those plats of the North Holiday Hills plus some additional
15 land on the outskirts there show what is there.

16 How we determine that is we look at -- Ottawa
17 County has what they call a GIS system, geographical
18 information system that provides us with one-foot contours
19 which we can follow to identify what goes into what areas.

20 In addition, we've done kind of a field review to
21 kind of confirm that what we've plotted here is as we think
22 it is, and also looking at construction drawings. So that's
23 how that district was defined.

24 This is the same picture, but what it is showing --
25 so inside here there are five individual areas that are

1 identified on the plats as showing detention systems. So you
2 can see by the different colors there is five different
3 detention systems and what these are also showing is what
4 areas go to what detention systems. So some of them you may
5 have seen some dry ponds, some are wet out there, but there
6 are five identified on different plats.

7 This is again the same thing, but it's just an
8 aerial view so if you wanted to take a look at your house or
9 so and how it sits on there, you can take a look at that.

10 There is also on the board there later you can see
11 the same thing.

12 UNKNOWN SPEAKER: Can you tell us what the
13 individual red lines are within --

14 ENGINEER KEN BOSMA: The purple ones there? Yes.

15 So those purple lines are existing storm sewer
16 systems that we can identify from construction drawings or
17 when we field visited we were able to identify the storm
18 sewer systems that are in there that eventually go to those
19 detention or retention systems.

20 BOARD CHAIRMAN BILL CARGO: Now are they -- just a
21 quick question, and we'll take public comments later so I'm
22 going to tell the public right now, let's go through this.

23 But the question I did have is you talked about
24 retention or detention. Do these ponds have an outlet, any
25 of them?

1 ENGINEER KEN BOSMA: No. They're really retention.

2 BOARD CHAIRMAN BILL CARGO: Retention ponds, okay.

3 ENGINEER KEN BOSMA: Okay. I think the plat calls
4 them detention but they are retention.

5 So this is a blown-up area of the more southerly
6 portion of the district which kind of identified more as the
7 wet pond areas that are out there now. Again the ones more
8 in the north that as we observed them were more dry.

9 So that's the area we're going to focus in,
10 particularly we have some pictures of these areas that we're
11 going to show you.

12 So this here is the pond. If you look it's the
13 pond to the left side here (indicating), which is more -- and
14 I'll even go back a little further, which is identified by
15 the pink service area. The other one I'll show you is by the
16 more orange service area.

17 So this picture is of that pond. What you see
18 around it is the berm elevation and then there is a house in
19 the back here that I think the calls actually came in from
20 which had some concerns of water in there.

21 Reviewing even some of the construction documents
22 we have identified that it looks like there was about a half
23 a foot of freeboard, which actually this seems to show when
24 it was designed for what the high water elevation was to be
25 to the top of the berm elevation.

1 This shows again the same berm. To the left there
2 is kind of the pond. To the right is that house that called.
3 You can see there is water on the other side of the berm.

4 This is the same house that we were looking at back
5 here, that blue house right there. And what this picture is
6 showing is you can see water sitting in the backyard there.

7 This house is -- I'm not going to be able to show
8 you very well without the pointer working on the screen
9 there. But that house is more kind of where that first
10 purple line heading southwesterly out of that pond is at.

11 And there is an electrical system in that which I
12 believe was used for a bubbler system in that pond, so it
13 just surrounded some water in there.

14 This is a picture of the other southeasterly pond
15 that was identified. You can see a swing set has already
16 been submerged somewhat by the water in there.

17 And then this is showing it going to the house. I
18 know we talked to this particular individual. At the time
19 that person said they had no issues actually with the high
20 water as far as affecting their house or anything.

21 So the next steps really are again the public
22 testimony, which you guys will have a chance to talk about
23 it. And the board will be able to determine whether this is
24 necessary or not.

25 If it is necessary, then the Water Resources

1 Commission office will move ahead with looking at what
2 solutions can be done, and then put a project together, and
3 get something done.

4 If it's deemed not necessary, then we're done,
5 there is no more work to be done on this.

6 BOARD CHAIRMAN BILL CARGO: A quick question. Just
7 so I understand for the benefit of the public, if -- right
8 now this is an orphan drain, so there could be no public
9 monies spent on this because you cannot spend public monies
10 on a private problem?

11 ENGINEER KEN BOSMA: Correct.

12 BOARD CHAIRMAN BILL CARGO: Okay. Typically when
13 these type of small issues occur, communities will pay often
14 up to a certain percentage, 5,000, 10,000, 15, 20,000, a
15 hundred percent out of their general fund; also they could
16 get contributions from the road commission to help solve some
17 of the problem because some of the drains that go into this
18 are street drains. But again being an orphan drain that's
19 not an option.

20 ENGINEER KEN BOSMA: Correct.

21 BOARD CHAIRMAN BILL CARGO: Okay. That's all I
22 have.

23 Do you have any questions for the engineer?

24 BOARD MEMBER KEN SOUTER: Yeah. Basically all
25 these ponds as such are natural depression areas, how is this

1 affected by the height of basically Spring Lake, Lake
2 Michigan right now? Is there -- have you come up with any
3 elevations that directly correlate with that?

4 ENGINEER KEN BOSMA: No. A good question.

5 To say how it correlates, I mean you're really
6 starting to get into the underground and testing all the way
7 back to Lake Michigan because there can be obviously clay
8 layers or hardpan layers that raise that.

9 It is our opinion based on this, as well as what
10 we've seen all across the county, that this impact that we're
11 seeing in some of these pictures is due to the way this year
12 has occurred.

13 BOARD MEMBER KEN SOUTER: With all of the rain?

14 ENGINEER KEN BOSMA: Yes. So it's -- so the area
15 has become so saturated that it just can't infiltrate out
16 anymore.

17 BOARD CHAIRMAN BILL CARGO: The other question I
18 had is at these ponds, if they're there for a very long
19 period of time, you get a lot of organics. The organics over
20 time can create almost a clay layer that prevents the water
21 from draining into the natural water table to do whatever is
22 around there.

23 Have you looked at the bottom of these existing
24 ponds to see if you have something that's impeding these
25 waters from just draining into the ground?

1 ENGINEER KEN BOSMA: Just from a visual standpoint
2 of walking around the pond we can see some growth in there,
3 probably some organics that may be withholding it and that.

4 But again, I think looking basically at the
5 elevation versus what the high water is on the construction
6 drawings, it's probably not far from what that designed high
7 water is.

8 BOARD CHAIRMAN BILL CARGO: Okay, appreciate it.

9 Rich?

10 BOARD SECRETARY RICH VANDER KLOK: No.

11 BOARD CHAIRMAN BILL CARGO: Then I appreciate your
12 time.

13 ENGINEER KEN BOSMA: Thank you.

14 BOARD CHAIRMAN BILL CARGO: We have the road
15 commission here too, Jerry, often known as Ken. That's from
16 the previous meeting.

17 Do you have any comments?

18 ROAD COMMISSION JERRY OLMAN: Just a couple.

19 I am familiar with the issues as I was called out
20 there with the Water Resources Commission a couple of times.
21 And there have been over the last several years a couple of
22 catch basins, minor issues, catch basin repairs, that sort of
23 thing.

24 But even if there wasn't any issues, just the fact
25 that it's an orphan system, the road commission would be in

1 favor of having the Water Resources Commission take the
2 system over so there is a government authority to respond to
3 issues like we're having today.

4 BOARD CHAIRMAN BILL CARGO: Thank you. Appreciate
5 that.

6 At this stage I just again want to define what
7 we're here for. We, as a Board of Determination are simply
8 looking at is there a problem and should that problem be
9 addressed by the -- by the Water Resources Commissioner.

10 We're not here to talk about what the solution is
11 because we don't know. They can't have done a study yet.
12 And we're also not here to say what would be a fair
13 assessment. Would the assessments be relegated only to the
14 subdistricts that are benefiting or would it be something
15 different.

16 Also, we're not here to talk about what percentage
17 should be paid by the road commission. Obviously if there is
18 a solution, the road commission, because many of these are
19 street drains going into this, is going to pay a percentage,
20 or what percentage the township and county should pay.

21 But again, unless this is brought into a public
22 drainage system, public monies can't be spent.

23 Is that a fair summary of what we're here for
24 today, Rich, Ken?

25 BOARD SECRETARY RICH VANDER KLOK: Correct.

1 BOARD MEMBER KEN SOUTER: Correct.

2 BOARD CHAIRMAN BILL CARGO: Joe, anything you want
3 to add to that?

4 WATER RESOURCES COMM. JOE BUSH: No.

5 BOARD CHAIRMAN BILL CARGO: The other thing is I'm
6 going to make a motion at this time that we limit public
7 comments to three minutes per individual. We do that because
8 you can summarize War And Peace in three minutes. So
9 hopefully you can summarize whether there is a problem in
10 your area or not within three minutes.

11 And so I will make that motion. Is there support?

12 BOARD MEMBER KEN SOUTER: Second.

13 BOARD CHAIRMAN BILL CARGO: There is motion and
14 support to limit public comments to three minutes per
15 individual.

16 All in favor, say aye.

17 BOARD MEMBER KEN SOUTER: Aye.

18 BOARD CHAIRMAN BILL CARGO: Aye.

19 BOARD SECRETARY RICH VANDER KLOK: Aye.

20 BOARD CHAIRMAN BILL CARGO: Okay. I appreciate
21 that.

22 Again, when you come up to the podium, for the
23 benefit of the court reporter, if you would give your name
24 and address, that would be helpful to us.

25 And I'm going to start off in the very front row

1 right here. Exactly.

2 We're going to go row by row.

3 MS. TRACEY MOORE: I have pictures that I'd like to
4 share.

5 BOARD CHAIRMAN BILL CARGO: Your name and address,
6 please?

7 MS. TRACEY MOORE: Tracey Moore, 18702 Aztec Drive,
8 Spring Lake, Michigan.

9 BOARD CHAIRMAN BILL CARGO: Okay.

10 MS. TRACEY MOORE: I'd like to share photographs.

11 BOARD CHAIRMAN BILL CARGO: If you want to give
12 them to me, that would be fine. I'll share them with the
13 people up here.

14 MS. TRACEY MOORE: Can I share them with the
15 public?

16 BOARD MEMBER KEN SOUTER: If you have enough of
17 them.

18 BOARD CHAIRMAN BILL CARGO: We'll share and we'll
19 let you pass these other ones.

20 We'll share, you can give these to the public.

21 MS. TRACEY MOORE: I'll give them these.

22 BOARD CHAIRMAN BILL CARGO: That's fine.

23 MS. TRACEY MOORE: So my home has been affected
24 with an ongoing flood since May 20th or May 24th of this
25 year. I continue to have flooding in my backyard that's

1 severe. The pictures are dated starting in May 24th, I had
2 water coming in.

3 I have never experienced this type of flooding in
4 my yard ever. I did experience one time where I had standing
5 water in my backyard about ten years ago, but it went away
6 within 24 hours.

7 This is completely different. I did notice that
8 last year my backyard was getting soggy and soggy. But I
9 didn't -- I didn't know too much about this pond until this
10 year.

11 This year I determined that this isn't just a
12 decorative pond, it's a retention pond, and all the pipes
13 that are leading into it and three corners of it are actually
14 storm water drains that are actually routed to this pond.

15 I did my own little walking around the neighborhood
16 and I did not have the original plans. And I've been looking
17 for those for a long time.

18 But what I found is that the majority of the street
19 drains, which of course include everybody's lawn and roof
20 runoff and their driveways, are going down into the street
21 and they're finding their way into these catch basins. And
22 it looks to me like the majority of the neighborhood drains
23 are going to the pond behind my house.

24 The drawings that the engineer provided show like
25 some other dry areas where the storm drains should be routed,

1 but to be perfectly honest I looked all over the place and I
2 did not see anything like that.

3 And if they're there, they're dry. They're not
4 holding any standing water. Just the two ponds, the one
5 behind my house, and the one further down the road, which I
6 have to say is at a lower elevation than the one behind my
7 house.

8 BOARD CHAIRMAN BILL CARGO: Okay.

9 MS. TRACEY MOORE: The photograph of the swing set
10 and the water, that was placed in the water deliberately.

11 UNKNOWN SPEAKER: No. No.

12 MS. TRACEY MOORE: It wasn't? Well it has a zip
13 line going from the house to the pond so I assumed.

14 UNKNOWN SPEAKER: I will speak later.

15 MS. TRACEY MOORE: Okay.

16 BOARD CHAIRMAN BILL CARGO: So from what I
17 understand you're saying that this has a significant impact
18 on you. You are having flooding related to the storm water
19 system that's in place?

20 MS. TRACEY MOORE: I do, and I have a problem every
21 single time it rains. The problem has gotten worse, I've
22 lived here for 20 years and the problem has gotten worse I'd
23 say in the last eight to ten years that my backyard is
24 getting harder to keep grass in it. It's like getting wetter
25 and wetter.

1 And to be honest, I did not understand that it was
2 that pond getting higher and higher that was causing the
3 backyard to flood like it is.

4 BOARD CHAIRMAN BILL CARGO: Okay. I appreciate it.

5 MS. TRACEY MOORE: And it's not going down. And I
6 have had my soil tested in my backyard, it's clay -- it's not
7 clay, it's sand at least 25 feet down.

8 BOARD CHAIRMAN BILL CARGO: Okay. And that's what
9 we're looking for is to determine if there is a problem. I
10 appreciate your time. Thank you.

11 The gentleman next?

12 MR. TOM HUBBELL: Thank you.

13 BOARD CHAIRMAN BILL CARGO: Can you give your name
14 and address?

15 MR. TOM HUBBELL: I shall because I have a memory
16 problem and it seems to disappear on me.

17 My name is Tom Hubbell. I'm at 18703 Aztec Drive,
18 Lot Number 97.

19 I'm here today to speak for the Tom Hubbell and
20 Diane Hubbell Trust, because that's what the ownership of
21 that property is registered under.

22 This lot and home was designed and bought through
23 the David Bos organization in 1986. The house was probably
24 the sixth one on the street and it was before the Sioux
25 addition, the extensions of Winnebago and Tomahawk Drive and

1 the addition of these three.

2 During a conversation buying lot 97 from the David
3 Bos Organization I was told that our septic system would be
4 septic tanks with a drain, tile drainage system. And the
5 groundwater would be controlled by four connected water
6 collection basins located throughout the North Holiday Hills
7 Estate.

8 While the house was being built, we installed the
9 tubing, four-inch tubing around the foundation of the house
10 to collect any -- any kind of water that might be draining,
11 building up in the area.

12 This water was collected in a sump pump and pumped
13 out of our basement into our front yard and underground
14 reservoir.

15 In 2014, the rains became pretty heavy, and we
16 began having standing pools of water in our backyard. So a
17 second sump pump system was installed outside the house, and
18 collected water that was piped to an underground basin in our
19 front yard. All again staying on our property.

20 Around March of this year, these two sump pumps
21 were cycling every 15 seconds. At that time we added another
22 ground pump to draw this water off our property from the
23 back, it's a walkout basement home, to the front yard.

24 We were able to keep this water from a standing
25 water situation in our basement. However, the first rows of

1 cement blocks in our basement are all saturated. We've been
2 running dehumidifiers, fans, heating elements, anything we
3 can find to try to dry that out. It's not working as much as
4 we'd like to have it worked.

5 Our problem, which is what you want me to get to,
6 is our front yard is over saturated, and we are nearing
7 standing water that's going to flood into our septic system,
8 and that is eventually going to drain into the street.

9 Now I don't think anyone in this room wants sewage
10 water draining into the streets. And that is a problem.
11 There is no place for excess surface water to go.

12 BOARD CHAIRMAN BILL CARGO: I appreciate it.
13 Basically what I'm understanding you to say is that you do
14 see there is a problem within this district and you would
15 like to have the drain commissioner become involved?

16 MR. TOM HUBBELL: Your words are correct.

17 BOARD CHAIRMAN BILL CARGO: Thank you very much.

18 MR. TOM HUBBELL: Thank you.

19 MS. SALLY EDWARDS: Hi. My name is Sally Edwards.
20 I live at 18525 Shawnee Drive. This is the oldest area.

21 I'm in this neighborhood and I walk a lot. And the
22 area that is being affected is truly -- I mean that's just --
23 that's an awful thing to face.

24 My house is not affected. I'm only saying that to
25 just let you know that we are at the northern end of this

1 drainage district, if I can loosely call it that.

2 BOARD CHAIRMAN BILL CARGO: Okay.

3 MS. SALLY EDWARDS: And looking at this map it
4 looks like there is an area behind my house and I think John
5 Martin's house and some of the others that is a dry basin.

6 BOARD CHAIRMAN BILL CARGO: Okay.

7 MS. SALLY EDWARDS: I do not ever see water
8 standing in there.

9 BOARD CHAIRMAN BILL CARGO: Are you at a higher
10 elevation, do you believe?

11 MS. SALLY EDWARDS: We are higher certainly than
12 the people on Aztec are, definitely.

13 So that was all I want to share.

14 BOARD CHAIRMAN BILL CARGO: Appreciate it.

15 Next?

16 MR. BILL GRAY: Hi, I'm Bill Gray. I'm at 18641
17 Sioux Drive.

18 Just a couple of questions which may not be
19 pertinent at this time, but I'm just wondering about them.
20 Because along Aztec and even Mohican, the Mohican one drains
21 into the other, the pipes in the ground and the sanitary
22 lines drain into the other pond, but along Aztec they drain
23 into the one bigger one in question.

24 I happen to walk that quite often. And there are a
25 lot of sink holes in the roads which probably means the

1 piping put in originally has some problems.

2 And when I asked the county worker one day filling
3 in those sink holes, who will be replacing those pipes, they
4 said that's the township's.

5 So my question, if it can be answered at this
6 point, is if this becomes a water drainage area, does that
7 change who is responsible for the roads being torn up and the
8 pipes replaced?

9 The second question would be if there is any idea
10 at this time if that one pond in question has a drain from
11 it, the likely area it would go is into the parks. And are
12 there critical dunes there, and what could possibly be the
13 determination on the direction that they go into?

14 BOARD CHAIRMAN BILL CARGO: You're asking good
15 questions and that's something that the Water Resources
16 Commissioner will have to examine. It's not something we can
17 answer today.

18 If you put in the -- if these retention ponds
19 become detention ponds, meaning that they allow the water --
20 they contain the water but allow it to leave eventually, he
21 would have to get authorization from the DEQ and any other
22 landowners, he'd have to get easements and sufficient
23 easements to allow the water to be transported somewhere
24 else.

25 With regard to the street drains, again, that's one

1 of the problems is a lot of people, even the township I
2 suspect back in the 1960s and '70s when this was created,
3 assumed that the drainage that they need to be replaced would
4 be done by the Ottawa County, at the time, Drain
5 Commissioner.

6 But there isn't sufficient records to show that he
7 has that authorization or responsibility, which is why we're
8 looking at whether this orphan drain, meaning nobody has
9 responsible for it, should be made into a county drain.

10 Does that make sense?

11 MR. BILL GRAY: Okay. So are you saying if it's
12 made into a county drain, the county picks up the costs?

13 BOARD CHAIRMAN BILL CARGO: Well they'll pick up a
14 portion of the costs. How they assess the costs will be the
15 township will have to pay at the very least a portion of the
16 costs, the county road commission will have to pay a portion
17 of the costs, the county will pay a portion of the costs, and
18 then there will be a question of what will be assessed to the
19 private property owners in terms of benefit and everything
20 else.

21 And that's a whole another matter because at this
22 stage we don't even know what the solution is, we're simply
23 trying to determine whether there is a problem.

24 MR. BILL GRAY: Okay, thank you.

25 BOARD CHAIRMAN BILL CARGO: The far side? Next?

1 Okay, second row back on my left, does anybody want
2 to speak?

3 Okay, somebody raised their hand, that would be
4 fine.

5 MS. KATHY DROOGER: My name is Kathy Drooger, and I
6 live at 117 Stonegate Court, Spring Lake.

7 I'm here representing my son and daughter-in-law,
8 Justin and Kristi Drooger at 19059 Sioux Drive. I formerly
9 lived there for 20 years and during the time that we lived
10 there we had the water -- that big drainage pond that was
11 shown on the slide was the one with the play -- the play yard
12 in the back.

13 And there was only one time where the water came up
14 pretty close to the house and we were pretty nervous about
15 that. But that is a drainage pond, we are told that it is a
16 drainage pond. And there are drains out in that street so we
17 were comfortable with that, but it got a little close that
18 time during those 20 years we lived there.

19 Since our son and daughter-in-law have moved in in
20 2013, this is the highest it's ever been.

21 When they put the play yard back there there was --
22 it goes way down. But this year it's going up and staying
23 up. Thankfully they do not have any water damage in their
24 home and they haven't had any. But their concern is is it
25 going to continue to go higher?

1 And when we lived there, we dredged out that pond.
2 We were allowed, because three-quarters of that pond was on
3 our property. But supposedly there is an easement, the
4 county owns it because there is an easement on that property?
5 So were able to dredge it out a little bit so it would be
6 deeper.

7 So that's really, I just wanted to say that at this
8 point I think our son has dredged it out one time a little
9 bit, but still it's getting -- maybe it's not draining out?
10 I'm just not sure. There is a lot of drainage from the road.

11 BOARD CHAIRMAN BILL CARGO: Okay.

12 MS. KATHY DROOGER: So --

13 BOARD CHAIRMAN BILL CARGO: Appreciate it.

14 MS. KATHY DROOGER: -- and the dog --

15 BOARD CHAIRMAN BILL CARGO: You see it getting
16 worse over time is one of the takeaways that I'm hearing you
17 say?

18 MS. KATHY DROOGER: Pardon me?

19 BOARD CHAIRMAN BILL CARGO: The problem is it's
20 getting worse over time?

21 MS. KATHY DROOGER: It is worse, yes, it has gotten
22 worse.

23 BOARD CHAIRMAN BILL CARGO: Appreciate it.

24 And the second row on what would be my right,
25 anybody across the aisle want to speak in the second row?

1 MR. JOHN MARTIN: My name is John Martin, I live at
2 18505 Shawnee Drive.

3 My question on this development, when this was put
4 together, the subdivision, the properties in the lower part,
5 were they checked out to be in a floodplain?

6 BOARD CHAIRMAN BILL CARGO: I'm not sure if this
7 would be anywhere close to the 100-year floodplain.

8 Can anybody from -- can Ken respond to that
9 question?

10 ENGINEER KEN BOSMA: I don't think the elevation
11 where you're at, nor are you close to a drain that would be
12 in the floodplain.

13 BOARD CHAIRMAN BILL CARGO: This doesn't even come
14 close to being in a floodplain.

15 MR. JOHN MARTIN: We've lived there 23, 24 years
16 now, and all water is at a historic high in our area, coming
17 into Spring Lake. You got another foot and it's going to be
18 coming into the road.

19 Is this -- this is a serious problem for the people
20 living down in these areas, and I feel for them, because
21 there is not much they can do unless the solution is solved
22 to correct this problem.

23 Thank you.

24 BOARD CHAIRMAN BILL CARGO: Appreciate it .

25 MR. DAVID REDMAN: Dave Redman, 18500 Shawnee.

1 Just a question on the process.

2 So if a determination is made something needs to be
3 done here, does that mean that it's absolutely going to be
4 done?

5 Because we don't have any indication that this,
6 what the remedy was and what the cost of that remedy would
7 be.

8 BOARD CHAIRMAN BILL CARGO: You're right. That is
9 something that's not addressed at this point. We're only a
10 Board of Determination to determine if there is a problem,
11 and if it necessitates involvement of the county.

12 The county has to look at a variety of solutions
13 and a variety of costs, and they also have to go through the
14 permitting process with what used to be called the Michigan
15 Department of Environmental Quality, it's now called EGLE,
16 and I can't remember what that stands for, but it sounds
17 really nice. But again, that's something that he will have
18 to determine. And you will have -- you will be able to have
19 input into that because he'll be doing it in a transparent
20 fashion.

21 MR. DAVID REDMAN: I just wanted to make sure that
22 we're clear on what the consequences of the outcome of today
23 is.

24 BOARD CHAIRMAN BILL CARGO: The consequences of
25 this is whether this becomes a public drain. If it becomes a

1 public drain, then public monies can be spent.

2 But again if the solution is too expensive, then
3 the cost could be assessed to a portion on the property
4 owners in the area, absolutely.

5 MR. DAVID REDMAN: Thanks.

6 BOARD CHAIRMAN BILL CARGO: Far end of the second
7 row?

8 Third row back, the gentleman with the cap? United
9 States Air Force cap.

10 MR. DENNIS MASSON: Yes, sir. My name is Dennis
11 Masson, M-A-S-S-O-N. I live at 18606 Sioux Drive which is in
12 the actual north, kind of north section on that map.

13 The question I have, a couple of questions, one is
14 for the engineers. Where does the drainage from my home go?
15 And specifically -- I live right there (indicating). So
16 where does that drainage go? You said there was a detention
17 pond somewhere?

18 ENGINEER KEN BOSMA: Yes.

19 MR. DENNIS MASSON: Where is that?

20 UNKNOWN SPEAKER: Behind Frank's house.

21 BOARD CHAIRMAN BILL CARGO: He's in the light green
22 section?

23 ENGINEER KEN BOSMA: It's right here, there is a
24 detention -- or drainage area right here, so it comes through
25 the road and sits right in that area.

1 BOARD CHAIRMAN BILL CARGO: And that's one of the
2 dry detention areas?

3 ENGINEER KEN BOSMA: Yes.

4 MR. DENNIS MASSON: So the drainage from that
5 section, that green section does not go into either of the
6 retention ponds?

7 ENGINEER KEN BOSMA: The wet ones that you see,
8 correct.

9 MR. DENNIS MASSON: Right.

10 ENGINEER KEN BOSMA: Correct.

11 MR. DENNIS MASSON: The other question is who
12 physically owns the retention ponds?

13 ENGINEER KEN BOSMA: Right now, it's -- the
14 property owners own it, but there is supposed to be an
15 easement to the drain office.

16 But through new requirements that began in the mid
17 1990s, it was looked at as to what is legal from a legal
18 perspective, paperwork type issues.

19 Since these were all developed before the mid
20 1990s, these have been considered what they called orphan
21 drains, under nobody's jurisdiction.

22 BOARD CHAIRMAN BILL CARGO: And that's why we're
23 here today because there is not jurisdiction to say who has
24 the easements and is responsible.

25 MR. DENNIS MASSON: Okay.

1 BOARD CHAIRMAN BILL CARGO: It was assumed it was
2 the drain commissioner, but it wasn't correct.

3 MR. DENNIS MASSON: Okay. Are those detention
4 ponds working properly? They're dry so does that mean
5 they're working properly?

6 ENGINEER KEN BOSMA: If you're not having issues,
7 they're working properly, if water is getting to them and
8 they're infiltrating it to the ground.

9 MR. DENNIS MASSON: Is that water from those,
10 that's coming from that detention pond, is that eventually
11 getting into the -- I'm talking from the detention pond is
12 that water getting into the retention pond?

13 ENGINEER KEN BOSMA: It may. It's a whole
14 different thing when you get into underground water type
15 study as to where it goes because there could be hardpans or
16 clay layers that can alter that.

17 BOARD CHAIRMAN BILL CARGO: And one of the things
18 I'm going to ask to is that you direct your questions to us.

19 MR. DENNIS MASSON: I'm sorry.

20 BOARD CHAIRMAN BILL CARGO: And we'll follow
21 through with the engineers. But any other questions that you
22 have?

23 MR. DENNIS MASSON: No, I'm good. Thank you.

24 BOARD CHAIRMAN BILL CARGO: Thank you very much.

25 The gentleman next to you?

1 MR. TOM PETERSON: I'm Tom Peterson. I live on
2 18077 Winnebago Drive. And I'm one of the homes on the pond
3 in the pink section that's having most of the problems.

4 And I've lived there for 24 years. And when we
5 came there, when we moved there there was only a few houses
6 on Aztec. All of the rest of them hadn't been built yet.

7 And the pond itself has been great for a bunch of
8 years and in the last year or two it's been way too high.
9 And what we've done about that is pump it ourselves.

10 What we've been doing, we purchased -- the
11 neighbors around the pond itself -- the pond is all on our
12 property, private property, we bought a large, four-inch
13 trash pump. And then 600 feet of hose, and we're pumping it
14 across Sioux Drive up into a neighbor's private property
15 where they have a natural sand dune bowl up there. And
16 that's been sort of our emergency valve. It's the thing that
17 we've been able to do to keep the water from continuing to be
18 overflowing.

19 In other words, when we get a really hard rain like
20 we've had several times this year, the water comes up, it
21 actually overflows the berm banks. When that happens, of
22 course, a lot of the property around the pond gets flooded.

23 The properties that aren't flooded are real close
24 to being flooded because it's only about ten inches maybe
25 (indicating) or so before they would be flooded.

1 So we feel it's imperative that we keep that pond
2 as low as we can to make room for subsequent rains and waters
3 that come flowing toward us. Which I figure about 50 homes
4 in our area, in the pink section, probably based on your
5 drawing maybe more, are flowing into that retention pond.
6 And there is no place for it to go.

7 If the water table is as high as it is right now,
8 we're just kind of stuck.

9 So one of the questions that I've got long term is
10 if you created a drainage district, would that -- would --
11 how much of our pond would go away?

12 The pond is secondary, but that was just a question
13 that kind of eats at my soul because we kind of like the
14 looks of the pond but we want all possible -- you know, we
15 want everything our way. We want it to be just so high and
16 not any higher.

17 BOARD CHAIRMAN BILL CARGO: I know, I live on a
18 pond and I have the same concerns.

19 The Water Resources Commissioner would try to find
20 a solution. Obviously the issue is not to create all of
21 these into dry areas.

22 He works to -- he's very environmentally sensitive.
23 He did a project in Hiawatha Forest in Grand Haven Charter
24 Township and received awards for it because he was trying to
25 work with the natural area, and retain as much of the natural

1 ponding as he could.

2 So I can't answer the question. I just know that
3 Joe has emphasized working with nature and not against nature
4 on these types of issues.

5 MR. TOM PETERSON: Super, appreciate it.

6 BOARD CHAIRMAN BILL CARGO: Is that a fair summary,
7 Joe?

8 WATER RESOURCES COMM. JOE BUSH: That's fair.

9 BOARD CHAIRMAN BILL CARGO: Okay.

10 I'm going to go -- I'm not taking repeats at this
11 time.

12 But we're going to stay on this side. At the very
13 end, we'll give you a chance, but if the next person could
14 come up, I'd appreciate it.

15 MS. BETH LaBEFF: Hi. Beth LaBeff, 18761 Hopi in
16 Spring Lake. I'm the current association president. We have
17 a very small association, \$35 a year, and I've learned a lot
18 about retention ponds and drains that I didn't know anything
19 about.

20 So my question would be if it is determined that we
21 didn't get a drain district, and it was going to be covered
22 by private funds, would we have the opportunity before it's
23 voted on to decide whether this is something that the
24 association could do as a one-time --

25 BOARD CHAIRMAN BILL CARGO: You would not, because

1 you probably don't have easements for that anyhow. If it
2 doesn't exist, that means you don't even have easements for
3 it as an association, I suspect.

4 But regardless, that's not the question in front of
5 us and we'll make a determination either yah or nah without
6 saying we want the association to step in.

7 MS. BETH LaBEFF: Okay. It is obviously a concern
8 with some of our owners, but I also want to get all the
9 information I can for all of our owners. Thank you.

10 BOARD CHAIRMAN BILL CARGO: Fair enough.

11 Next, any questions from the next person?

12 MR. BOB SHAY: Bob Shay, 18555 Zuni Drive.

13 Obviously this year is one of the highest water
14 levels that we've seen. It's certainly been an issue. Very
15 interested to hear what Mrs. Drooger had to say about the
16 dredging of the one, which is the area we're in, we're in the
17 northeast section of that orange.

18 And it raises an interesting question about whether
19 or not easements could be given by the current property
20 owners of the other pond that would help in discussing the
21 maintenance and whether dredging had to take place and things
22 like that.

23 Is there actually an easement on either of those
24 ponds that the Water Resources Commissioner has access to?

25 BOARD CHAIRMAN BILL CARGO: From what I understand

1 there is not at this stage. Part of what the Water Resources
2 Commissioner will have to do if we determine that there is a
3 necessity to create the North Holiday Hills drainage district
4 is seek the easements that are necessary to maintain the
5 system.

6 Joe, is that correct?

7 WATER RESOURCES COMM. JOE BUSH: That's correct.

8 BOARD CHAIRMAN BILL CARGO: So at this stage we're
9 not aware of any easements for these ponds that are given
10 over to Ottawa County.

11 MR. BOB SHAY: Okay. Voluntarily or involuntarily
12 through a drain district?

13 BOARD CHAIRMAN BILL CARGO: Yep.

14 MR. BOB SHAY: Okay. And I was also very
15 interested to hear that the pond that is at most risk, and
16 seems to be the issue appears to be at the level that it was
17 designed for.

18 BOARD CHAIRMAN BILL CARGO: Not if it's flooding
19 like that, that's not what it's designed for. These ponds
20 are never designed to put the water into the house next to
21 it.

22 MR. BOB SHAY: Certainly. But if the pond was
23 designed at high level to be within six inches of the top,
24 which I think is what I heard the engineer say --

25 BOARD CHAIRMAN BILL CARGO: He said it was within

1 six inches of the top. He didn't say it was designed to be
2 within six of the top.

3 Correct, Lucas?

4 ENGINEER KEN BOSMA: No. The construction plans
5 did say it was six inches from the top, could be. The day we
6 were there it was at six inches from the top. We have not
7 been there everyday this year.

8 BOARD CHAIRMAN BILL CARGO: Okay. And that was not
9 after an immediate rain event or was it?

10 ENGINEER KEN BOSMA: No. That was, I think in
11 June.

12 BOARD CHAIRMAN BILL CARGO: Again, if it's causing
13 flooding, then it's not, even if it was designed to be six
14 inches from the top, it wasn't causing flooding then. And
15 that's the issue we're seeing. And again this is an old
16 system, and any system, if it's not maintained, is going to
17 have these types of issues.

18 MR. BOB SHAY: Yeah. Maintenance could certainly
19 be a question. You already heard about the undercutting of
20 the roads, so there is probably several cubic yards of sand
21 and other fill that have been swept into that pond over the
22 years due to that construction, so that may --

23 BOARD CHAIRMAN BILL CARGO: And that could prevent
24 it from floating away. Because remember we talk about
25 historically high water levels, but the last time we had

1 these same waters levels is in '86. So it isn't as if this
2 happens only once every hundred years. These high water
3 levels are something that we're going to be dealing with now
4 like we did in '86.

5 MR. BOB SHAY: Every 30 years or so.

6 BOARD CHAIRMAN BILL CARGO: Yeah.

7 MR. BOB SHAY: The one point I would make on what
8 you said about it being old and it shouldn't cause flooding,
9 I would expect, but I don't know, that that drain or that
10 pond, and the elevation of that pond and the design for that
11 was probably there prior to the house. So that should be
12 kept in mind also.

13 BOARD CHAIRMAN BILL CARGO: Yes, absolutely.

14 Next, in the next row over, across the aisle,
15 anybody in that row?

16 I'll go across the aisle first. Anybody in the --

17 MR. MIKE HOUSKAMP: Hi. Mike Houskamp, 18556
18 Shawnee.

19 So I was actually on the association board this
20 summer and have heard a lot of problems and certainly we feel
21 for everybody that's flooding.

22 I live in the original circle, first part of
23 development. I have several sand dunes between me and the
24 ponds and so forth. I don't know of anybody in the original
25 portion that has issues.

1 As I look at the GIS map, 608 appears to be the
2 level back there and I drove through there several times.
3 Wherever there is 608, there tends to be water. That line
4 runs right through the middle of the red house, or the house
5 with the red roof. I would assume that house was built too
6 low. I think they're in the water table.

7 The easiest solution might just be to raise the
8 house up two feet, put a new floor in and that would take
9 care of it.

10 While I sympathize, that is a big problem,
11 obviously flooding; but if it's built within that 608, it's
12 going to flood, the line runs right through it. It even
13 talks about it in the original documentation for the
14 neighborhood, that that particular lot -- there is three lots
15 there and it says make sure you build your septic above, it
16 has to be minimum above the flood -- or water table,
17 etcetera.

18 So I almost think it's just a water table issue
19 more than anything else. I think the drains are working as
20 they should.

21 BOARD CHAIRMAN BILL CARGO: And again I think
22 that's something that the drain commissioner, if we decide
23 this is a necessity, if the drain commissioner goes in there
24 because we decide there is a necessity for this to be brought
25 under his control and he decides the solution is not --

1 MR. MIKE HOUSKAMP: Right.

2 BOARD CHAIRMAN BILL CARGO: -- doing some project,
3 that is a possibility.

4 MR. MIKE HOUSKAMP: I just wanted to raise my
5 thoughts.

6 BOARD CHAIRMAN BILL CARGO: I appreciate it.

7 Next? Anybody else in that row?

8 Okay. The row behind, on my left side? Yes, if
9 you could come up. And again just your name and address.

10 MR. WILL TAMMENGA: Sure. Will Tammenga, 18539
11 Zuni.

12 So I'm curious about some of the history of the
13 storm drainage system in the roads and how that impacts the
14 present responsibility with the road commission. So if --
15 don't usually the street storm systems belong to the road
16 commission, and therefore shouldn't they have the
17 responsibility for assuming whatever repairs are necessary to
18 solve the problem?

19 BOARD CHAIRMAN BILL CARGO: The question becomes
20 whether they are necessary for the operation of the road or
21 whether they are there to drain the storm sewer away using
22 the road right-of-way. And what often happens is it's not
23 necessary for the operation of the road. I don't know, does
24 this road have curb and gutter?

25 (Inaudible response.)

1 So you are taking that water away and that's why if
2 there is a percentage given for assessments, it's normally a
3 greater percentage based on the amount of road because the
4 road is an impervious surface.

5 But they are not responsible for going off site and
6 that means that the drain commissioner would be.

7 MR. WILL TAMMENGA: Well that's right. And I've
8 heard that several times today that they're not responsible
9 if there is no easements or a drainage district established.
10 But still the street storm, which is probably the primary
11 contributor to whatever kind of water is being impacted on
12 the flood areas, definitely come from the street system. So
13 it seems to me there is a direct correlation between pond --

14 BOARD CHAIRMAN BILL CARGO: There is a correlation,
15 there is going to be responsibility going from the road
16 commission.

17 You worked, Ken, with the road commission can you
18 expand on this at all?

19 BOARD MEMBER KEN SOUTER: Basically when you do a
20 design for drainage of an area, the road -- I'll assume that
21 that road is a 30-foot blacktop street. And then they've got
22 berms on both sides, and another probably 15 or 17 feet
23 outside of that which is like your lawn area. The road
24 commission will pay a definitely higher percentage of the --
25 because of their impervious area.

1 But you also have to remember that the house roof
2 is impervious, the house driveway is impervious, and they all
3 always drain those back to the road. Those come into the
4 road right-of-way.

5 Now everybody pays based on their impervious areas
6 in the drain assessment. So the road commission will
7 definitely pay a larger percentage. The county at large pays
8 part of that percentage, because of the health benefits and
9 welfare and this sort of thing.

10 So, yes, there is no question that each area has a
11 certain amount of drainage that leaves their site. And some
12 of it may even leave their site and go down and go into that
13 system.

14 BOARD CHAIRMAN BILL CARGO: By vis-a-vis the
15 ground.

16 BOARD MEMBER KEN SOUTER: By the ground.

17 BOARD CHAIRMAN BILL CARGO: Not over the surface.

18 BOARD MEMBER KEN SOUTER: But everybody's water
19 goes somewhere. And just because maybe your water, you see
20 it go down into your grass, it may come out in their
21 basement.

22 MR. WILL TAMMENGA: It's possible there is
23 subsurface movements and that stuff.

24 BOARD CHAIRMAN BILL CARGO: The one thing we know
25 about engineering 101 is water flows downhill. We know the

1 water that flows on your property, whether you're on a hill
2 or not, ends up in the lower elevations.

3 MR. WILL TAMMENGA: I happen to be in one of those
4 areas where I live in a large sandy dune. So whatever water
5 lands on my property, on impervious surfaces or pervious
6 surfaces, definitely drains into the surrounding sand. And I
7 don't think any of it is sheeting to the street system.

8 The second related question then is I think I heard
9 much of the conversation today saying that the largest impact
10 to the storm retention ponds definitely comes from the street
11 storm system.

12 And I wondered if you could ask the engineers if
13 they could sort of confirm that, that most of the charging
14 that's going onto that detention pond comes from the street
15 storm system.

16 BOARD CHAIRMAN BILL CARGO: Well the thing is right
17 now we can say that that's the greatest source of impervious
18 area. But again that's not what we're here to determine.
19 We're here to determine whether there is a problem and
20 whether there is a necessity.

21 That's a question that will be resolved if and when
22 they look at an assessment roll.

23 MR. WILL TAMMENGA: Thank you.

24 BOARD CHAIRMAN BILL CARGO: Okay, yep?

25 MR. PETE HAINES: Pete Haines, 18550 Cree Court.

1 We're in that horrible MSU green section there.

2 BOARD CHAIRMAN BILL CARGO: Said the U of M
3 graduate.

4 MR. PETE HAINES: Yeah. And I actually have a
5 storm drain right at the end of my driveway.

6 BOARD CHAIRMAN BILL CARGO: Okay.

7 MR. PETE HAINES: So it's not connected to that
8 system. But I really want to thank you, I want to thank our
9 township and I want to thank the county for taking the time
10 to advocate and understand for the taxpayers and the property
11 owners, we'll figure this out.

12 There is a problem, clearly. My basement is dry,
13 I've got a lot of neighbors who have been fighting this for
14 months. I walk that neighborhood daily and when you see
15 hoses pumping it out of the houses that's a sad, sad thing.
16 I didn't expect to deal with that.

17 We bought a house five years ago. It was built in
18 the late 1990s. I am shocked to think that a developer was
19 able to build that development and not have reasonable water
20 drainage. There is a big difference between a detention pond
21 and a retention pond.

22 BOARD CHAIRMAN BILL CARGO: Absolutely.

23 MR. PETE HAINES: And calling it a detention pond
24 is a myth if it doesn't have any way to really outlet the
25 water, so I think some people were misled along the way. So

1 that makes me angry. I appreciate your help.

2 My biggest question, and maybe this isn't the right
3 audience, is what might be the funding mechanism when it
4 comes to making repairs or developments? Is it something
5 that gets bonded, maybe paid back over a special assessment
6 over many years? Or is that --

7 BOARD CHAIRMAN BILL CARGO: We hope that any
8 solution that's brought up will be economical and relatively
9 inexpensive.

10 I mean we've had that before. We've had districts
11 that have had major problems and it's been something that the
12 drain commissioner, now that he has the authority to go in
13 there and make the solution, uses a solution that's sized to
14 the problem.

15 And so -- I thought it was very interesting to hear
16 that you had one person on a pond that solved their problem
17 by pumping it on somebody else's property. By the way, that
18 person is very generous to allow you to do that.

19 MR. PETE HAINES: She's a sweet lady too.

20 BOARD CHAIRMAN BILL CARGO: She is. And hopefully
21 something can be as simple as that except not having to do it
22 mechanically.

23 So don't assume that just because there may be a
24 problem that's going to be solved, that it's going to be a
25 Cadillac solution that goes well beyond the needs of the

1 neighborhood.

2 Joe has been, in my working with him, relatively
3 inexpensive in trying to find the least expensive.

4 He runs for public office every few years. He
5 doesn't want to have solutions that aren't viable and
6 feasible and understandable and sustainable to the community
7 at large.

8 So, again, Joe, do you want to add to that?

9 WATER RESOURCES COMM. JOE BUSH: No, I think you
10 hit it.

11 BOARD CHAIRMAN BILL CARGO: He's an elected
12 official. His goal is not to make it overly expensive.

13 BOARD MEMBER KEN SOUTER: And his goal is to make
14 you happy so that you vote for him again.

15 MR. PETE HAINES: That has been our experience.
16 And as one property owner for sure, we trust you, we
17 appreciate your help with this problem.

18 BOARD CHAIRMAN BILL CARGO: Thank you.

19 Across the aisle? Yes? Either one.

20 MR. RON ADDISON: Ron Addison, 18823 Winnebago.

21 Actually what you guys just said I think answered
22 my question, but I'm very specific about stuff and just so I
23 understand the process -- and everything you said is a little
24 comforting, I guess.

25 But if a determination is made that this is needed,

1 then at some future date does the neighborhood have the
2 opportunity to pull back if the cost is exorbitant because at
3 some point in time you find the cost is -- the cost exceeds
4 the benefits, the marginal cost exceeds the marginal benefit.
5 So once the determination is made today are we on the path
6 and we can not change it?

7 BOARD CHAIRMAN BILL CARGO: You're on the path
8 where individually you have a township that will be looking
9 at the costs and you have a county that will be looking at
10 the costs and that's the mechanism you need to follow to make
11 sure the costs are reasonable.

12 And I can't promise you that they won't follow
13 through on your fear. I'm simply saying based on history,
14 you work through the township, because they're going to have
15 to pay a portion of it, or maybe even a hundred percent of
16 it. Or you work through the road commission to make sure the
17 project stays on task and is a reasonable cost to the benefit
18 that is being received.

19 MR. RON ADDISON: Okay.

20 BOARD MEMBER KEN SOUTER: Joe, you always have a
21 day of review of those costs, don't you, at that point?

22 WATER RESOURCES COMM. JOE BUSH: We do.

23 BOARD CHAIRMAN BILL CARGO: And you do typical
24 cost-benefit analysis too?

25 WATER RESOURCES COMM. JOE BUSH: Always, every

1 project.

2 BOARD CHAIRMAN BILL CARGO: So just realize they do
3 that, they have to be able to justify it.

4 Next?

5 MR. TED WOODS: Ted Woods, 18563 Aztec Drive.

6 I'm just wondering if you know how many houses are
7 affected or have any flooding in their basements, and are
8 they primarily all around the ponds?

9 BOARD CHAIRMAN BILL CARGO: We only know that if
10 people come up and actually tell us. So we heard from one
11 person for sure who's had flooding in the basements. We've
12 heard from other people saying they're using their sump pumps
13 constantly and are afraid of flooding in their basements.
14 But based on this hearing there is only one person I know
15 whose lower level has been specifically flooded.

16 MR. TED WOODS: Okay, thank you.

17 BOARD CHAIRMAN BILL CARGO: We're not going to
18 repeat. Let me get through all of this.

19 MR. JOEL YATES: Joel Yates, 18661 Pawnee.

20 I do not believe that there is a problem that the
21 township needs to be concerned with. What I've heard is in
22 1986 the water levels were very similar. I've heard nobody
23 today say that the problems existed truly where there was
24 water in their basement until this year.

25 In my path -- I've lived on Spring Lake. I built

1 that house on Spring Lake because I enjoyed the view knowing
2 full well I was taking on the risk of living on that water.

3 But at this point in time I do not believe there is
4 a problem in the neighborhood. There might be a problem with
5 some retention ponds that maybe from your point are filled
6 with some organics, but I don't see an issue.

7 BOARD CHAIRMAN BILL CARGO: And I'll go back to the
8 next row back on the right side, anybody back there that
9 would like to speak?

10 Thank you.

11 MR. RUSS ALBRIGHT: I'm Russ Albright. I'm at
12 18716 Aztec Drive, the next door neighbor to Tracey. I can
13 testify the photos aren't doctored.

14 I actually think there is two problems going on
15 this year -- two problems going on that we're experiencing.
16 One is the high water level and one is the fact that this
17 water is crashing down into the pond.

18 We've had the problem with our basement since this
19 spring, put in the whole full internal drain system to pump
20 out. Now it just pumps into our yard and sort of sits there
21 and --

22 BOARD CHAIRMAN BILL CARGO: It's circulating,
23 you're pumping it and it's circulating back --

24 MR. RUSS ALBRIGHT: Yeah, that's right. We're just
25 fighting against it at this point. Just letting you know

1 we're wet too.

2 BOARD CHAIRMAN BILL CARGO: Thank you.

3 Anybody else in the back section of the room on the
4 right?

5 And then we'll go to the left, anybody in the back
6 section on the left?

7 Okay, if you have some new information that's
8 important, we're going to give somebody a chance to repeat,
9 but only once.

10 If you don't have new information, I've heard an
11 awful lot, but we will listen to that.

12 The gentleman right there, do you have new
13 information?

14 MR. TOM PETERSON: Do you want me to go to the --

15 BOARD CHAIRMAN BILL CARGO: Yeah, you have to so
16 the court reporter can hear you. I appreciate that.

17 Name and address again?

18 MR. TOM PETERSON: Tom Peterson, 18807 Winnebago
19 Drive.

20 When we were talking about how many people are
21 involved, a lot more than you think.

22 BOARD CHAIRMAN BILL CARGO: Okay.

23 MR. TOM PETERSON: We know of at least eleven
24 people who have had to tear out their basement carpets.

25 BOARD CHAIRMAN BILL CARGO: Okay.

1 MR. TOM PETERSON: And start over, and you know
2 what that entails, furniture and other things.

3 And we also know there are a large number, I
4 couldn't tell you how many, but dozens more who are real
5 close (indicating) to that, getting their carpet wet and
6 having a problem. And if the water continues, then there is
7 going to be a lot more issues.

8 The other thing I'd like to mention is that we have
9 been lucky in that we have not had two big issues with water
10 in a short period of time. We've had them like four or five
11 weeks apart, and that's been a God send. Because if we had
12 several in a row, we would -- a lot more of us would be in
13 trouble.

14 BOARD CHAIRMAN BILL CARGO: Appreciate it.

15 I used to feel calm about living on my pond, I'm
16 getting more nervous.

17 Okay. We're going to take two more comments and
18 that's going to be it.

19 I'll take right from here on the right.

20 MR. MARLOW KING: Marlow King, 18685 Pawnee Drive.

21 Is it my understanding that no work can be done by
22 the township, the road commission or anybody other than the
23 private residents on that, on these ponds?

24 BOARD CHAIRMAN BILL CARGO: Technically what an
25 orphan drain means, technically you can't spend public monies

1 on a private problem.

2 Now I'll be the first to admit that I would expect
3 if there was an emergency, the township could do something,
4 that it might bend that rule as much as it could without
5 breaking it.

6 But the point is they're not supposed to and
7 they're not going to do a long-term solution when they don't
8 have authorization to move forward.

9 MR. MARLOW KING: Okay, thank you. Also is there
10 any particular reason why soil samples were not done as part
11 of the initial assessment?

12 BOARD CHAIRMAN BILL CARGO: Yeah. Because at this
13 stage, again that's spending public money. All he can do out
14 there right now is do a very general idea of saying this is
15 where the boundaries are, this is what we think the problem
16 is, but before I can solve the problem or study the problem,
17 he has to have authorization by saying it's a drain district.

18 Is that a fair summary, Joe?

19 WATER RESOURCES COMM. JOE BUSH: That's correct.

20 BOARD CHAIRMAN BILL CARGO: Thank you.

21 Then I had one other person who wants to -- I can't
22 remember if you spoke before or not. But if you'd give your
23 name and address I'd appreciate it.

24 MR. BERNIE TASSIN: Bernie Tassin, currently at
25 18536 Pawnee; previously at 185 -- no, 18564 Zuni; and before

1 that 18673 Pawnee. I can't get it right. If I get real
2 drunk, I always have a house I can remember where to go.

3 BOARD CHAIRMAN BILL CARGO: As long as you're
4 walking there and not driving.

5 MR. BERNIE TASSEN: Right, walking, of course.
6 Do we have a problem? Yes.

7 Is it a small number of people? The direct effect
8 is a small number of people, that's obvious. I wouldn't want
9 to have to go through what this lady showed us with her
10 pictures.

11 I've been a realtor for 40 years, we all have a
12 problem, and we all need to make it work.

13 But where do you draw the line, and I think there
14 is a lot of people out there saying it, you want a
15 development, but you never want it in your back yard. We've
16 got to look at it and make it work for all of us.

17 BOARD CHAIRMAN BILL CARGO: Okay, appreciate it.

18 I think everybody -- we've given everybody an
19 opportunity to speak and so we're going to close the public
20 comment portion of this hearing at this time.

21 And then we will have a discussion among ourselves
22 in front of you to see what our feelings are.

23 The last time I started with Ken, so this time I'm
24 going to go to my left and start with Rich.

25 BOARD SECRETARY RICH VANDER KLOK: I also have some

1 correspondence.

2 BOARD CHAIRMAN BILL CARGO: Thank you, I forgot to
3 do that.

4 BOARD SECRETARY RICH VANDER KLOK: This came to the
5 Ottawa County Water Resources office, so I'm just reading
6 from that note.

7 "Hi, Joe, I would like to comment on this
8 situation. I prefer anonymity as I don't want a
9 me-versus-you with my neighbors. I have lived on Sioux since
10 '94 and can't even remember that, this being an issue.
11 Homeowners assume a risk living near creeks, lakes, rivers or
12 ponds. They should consider fill or retaining walls to
13 protect their property. I don't believe a drastic knee jerk
14 reaction as drain construction is warranted. Water levels
15 are high all over as water table rise and fall. Thank you."

16 Okay. So in regard to comments, obviously there is
17 a problem. And I think there has to be a solution, and I
18 think my sense is that the solution is to see the necessity
19 for -- excuse me, for creating the drain district and moving
20 forward, and to be equitable. But also again scope is
21 important. But I do -- I've heard from folks here that there
22 is an issue, a problem, and future issues can arise and
23 probably will.

24 BOARD MEMBER KEN SOUTER: Well put. I don't know
25 how Joe is going to solve this problem because it seems like

1 to me that these roads, houses, everything drains to ponding
2 areas that were meant to seep away into the ground and
3 everything is going to be cool. And this isn't working.

4 I was involved with the Park West Drain, and I got
5 a lot of faith in Joe because that area down in Park
6 Township, you were involved in it (indicating), was a real --
7 I mean we had blueberry farmers that didn't want the water
8 any lower than a certain area; we had people that had water
9 in their basements; we had people that the water was over the
10 roads.

11 And through this whole -- correct me if I'm wrong,
12 but through this whole high water area recently, they haven't
13 had a problem over there, have they?

14 WATER RESOURCES COMM. JOE BUSH: (Indicating).

15 BOARD MEMBER KEN SOUTER: So I've got a lot of
16 confidence in Joe and his engineering staff that they can
17 come up with a solution that isn't going to mess up one
18 person, isn't going to dry up these ponds, I don't think they
19 have any intentions of drying up these ponds.

20 But people that are having water in their basement
21 right now means those ponds are way too high.

22 Is there a way to get the water down so it's
23 reasonable? I don't know. But I don't think that Joe is
24 going to go overboard to try to dry the whole area up so that
25 it's a desert.

1 I'm in favor of basically making this a drain
2 district so he has an opportunity to actually look at it and
3 hopefully come up with a solution.

4 BOARD CHAIRMAN BILL CARGO: And I tend to agree
5 with both what Rich has said and what you have said. This is
6 an area where there is obviously a problem.

7 Whether when this subdivision was constructed long
8 ago, whether they could have foreseen this or not is no
9 longer the issue. The problem is is that -- the issue is
10 that there is a problem right now. And that problem to me
11 necessitates bringing this under the public control so public
12 monies can be spent to both study it and come up with a
13 solution, and then implement that solution.

14 That said, I'd look for a motion, if there is
15 support for finding that this is necessary.

16 BOARD SECRETARY RICH VANDER KLOK: Okay.
17 Mr. Chairman, I would make a motion that the location,
18 establishment and construction of the North Holiday Hills
19 drain is necessary and conducive to the public health,
20 convenience or welfare.

21 BOARD MEMBER KEN SOUTER: And I will second that.

22 BOARD CHAIRMAN BILL CARGO: I think we've all made
23 comments on that, based on public testimony today, and so I
24 will say that everybody who is in favor, say aye.

25 BOARD MEMBER KEN SOUTER: Aye.

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BOARD CHAIRMAN BILL CARGO: Aye.

BOARD SECRETARY RICH VANDER KLOK: Aye.

BOARD CHAIRMAN BILL CARGO: All said aye.

Opposed? And again that is passed unanimously.

At this stage, I'm going to turn the meeting over to Joe who will talk briefly about the appeal process, and once he has spoken, then we will adjourn the meeting.

WATER RESOURCES COMM. JOE BUSH: Thanks, Mr. Chair.

Again, I appreciate everybody coming today. There is an appeal process if you want to appeal today's Board of Determination, starting today you have ten days to do that with the Probate Court. So you're able to do that if necessary, if you feel that need.

Also I appreciate again your patience and your time. It's very much appreciated. So thank you for coming.

BOARD CHAIRMAN BILL CARGO: And we're adjourned.

(Board of Determination adjourned at 12:56 p.m.)

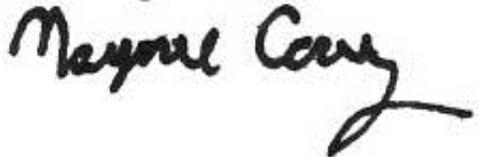
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CERTIFICATION OF COURT REPORTER AND NOTARY PUBLIC

STATE OF MICHIGAN)
) SS
COUNTY OF MUSKEGON)

I certify that this transcript, consisting of 63 pages, is a complete, true and correct record of the testimony of North Holiday Hills Drain Board of Determination, held in this case on October 22, 2019.

DATE: November 6, 2019



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Notary Public Expires: October 14, 2021, Muskegon County, Michigan/Acting in the State of Michigan.

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