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STATE OF MICHIGAN
COUNTY OF OTTAWA

IN RE: SURRY OAK DRAIN
BOARD OF DETERMINATION

Proceedings commenced at 10:00 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

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Holland, Michigan

April 20, 2022 - 10:00 a.m.

PROCEEDINGS

WATER RESOURCES COMM. JOE BUSH: Well good morning everyone. My name is Joe Bush, the Ottawa County Water Resources Commissioner, also known as drain commissioner. The title changed back in, when I got elected in 2012. So this is the water resources, still the same department.

And so I appreciate you guys being here, to listen to the, I think this is the Surry Oak Drain Board of Determination. The reason we have these Boards of Determinations and the reason why we're here at the fire barn is to -- we got to receive a petition along the Surry Oak Drain which, a petition means I need to hold a Board of Determination and hear of any issues or conflicts or water problems in the said drain district. That's why you got a mailing list, or a mailer, because in the mailing list is the watershed and you live in the drain district.

And these petitions have been coming in from Holland Township over the years. We usually do five, six, maybe seven of these orphan drains, we call them. This is one of the orphan drains on the list. Holland Township has been dwindling these down over the years, and we try to do up to maybe ten a year of orphans.

An orphan means the county drain officer, or water

1 resources commissioner, the township, or the road commission
2 has really no ownership of the infrastructure, whether it's
3 in the street or a side yard or a backyard or the outlet, and
4 it was brought to our attention this is one of the ones that
5 needed to be taken care of and brought under my jurisdiction.

6 In order to have that, to be a county drain, the
7 first step in Drain Code is to have a Board of Determination.
8 And that's our first step.

9 Well the first step is the petition. Once we get a
10 petition, then we have a public hearing. And then I pick a
11 three-panel Board and these three-panel Board members, these
12 three especially have done quite a few of these over the
13 years.

14 I usually, number one, I pick people who cannot, by
15 law, live in the said drain district or in that township. So
16 these three gentlemen do not live within the said drain
17 district that we're talking about today, nor do they live in
18 the township.

19 When it comes to picking a three-panel Board, again
20 this is all through Drain Code, I pick people who know
21 drains, drain history, know drain law pretty well. Over the
22 years they've gotten to know what their job role is.

23 We're not here for a project. We're not here for a
24 cost of a project. The township picks up today's costs
25 because this is part of their program. So Holland Township,

1 who is here, and I'll do introductions in a second, they pick
2 up the costs for this because they like to see it under my
3 jurisdiction. Because at some point this infrastructure will
4 fail somewhere, sometime, whether it's a sink hole in the
5 road, or whether it's in somebody's backyard and there is a
6 plugged culvert. It's always an issue with infrastructure
7 when it comes to getting to its age of needing some repairs
8 or at least looked at. So that's why Holland Township is
9 doing this.

10 Other townships are doing it as well, tackling
11 these orphan drains so they don't become a problem down the
12 road or flood somebody's basement.

13 So I pick the three-panel Board, we're here today.
14 And I always have a court reporter, so Margie has done a lot
15 of these for me over the years.

16 And then we always have an engineer presentation,
17 it's going to be short and sweet because there is not a
18 lot of infrastructure, it's not a really big watershed, and
19 we don't really know of any issues, that's we know of.
20 That's why we hold a Board of Determination, for the public
21 to bring something to our awareness that, oh, there is an
22 issue.

23 But as of right now we don't have a project because
24 they have to vote, by the end of the meeting, whether to make
25 a motion to put this under my jurisdiction or not.

1 So it's not me just going, oh, hey, Joe wants to
2 take this over. No, there is a whole Drain Code and a whole
3 law process that we follow.

4 That being said, we're always -- there is a public
5 comment time, and if there is issues, that's why we hold
6 these, we want to make that known, and let this Board know
7 that, to help them make that decision. Not just because it's
8 an orphan, but if there is issues, then we definitely need to
9 be looking into those.

10 Currently right now, if you have infrastructure and
11 it's not a 9-1-1 in the middle of the road where the road
12 commission might go out and temporarily fix it, there is no
13 mechanism or no way to fix it. It's under nobody's
14 jurisdiction, unless it's 9-1-1 and it's a sink hole and the
15 road is closed. Then the road commission might, under
16 emergency situations, fix it, but technically they don't
17 really have jurisdiction over it because the infrastructure
18 is taking on private and public water.

19 So that being said, once I give these three
20 gentlemen the oath, they'll run the meeting. They'll pick a
21 chair and secretary and run through all the legal things.

22 And then during the public testimony, please speak
23 your name and address so the court reporter -- because these
24 are always on my website. In about four to six weeks after
25 today's meeting, you can always read them word for word.

1 I do a court recorder because, it's not required by
2 law, but I do it for your protection as property owners, the
3 township, the county, the road commission, these three
4 gentlemen.

5 It's nice to know what was said. Sometimes
6 typically these are bigger meetings than what we have today,
7 and sometimes these are large issues. We want to make sure
8 they're recorded and they're known, so we can go back and
9 listen and read it and figure out what was said, or what did
10 they say.

11 So at this time, I'll go ahead and do
12 introductions. Again, I'm Joe Bush, the Water Resources
13 Commissioner. We have some of my staff, we have Marie who
14 was signing people in. We have Josiah, my chief deputy, and
15 Marie is my secretary.

16 We have Steve Bulthuis, the Manager of Holland
17 Township. He's the one that's been kind of running this
18 program of getting these orphans established because there is
19 a lot of drains, I have a thousand county drains. It's hard
20 to keep track of all of them.

21 And if there is an orphan, they're on the bottom of
22 the priority list most of the time. So the township and the
23 township board has been very proactive in trying to get those
24 under my jurisdiction for future maintenance.

25 And then we have Jerry Olman from the road

1 commission who usually comes to all the Boards of
2 Determinations as well.

3 And then we have the engineering firm, Prein &
4 Newhof, we have Lucas Timmer and Ken Bosma. They'll do a
5 little presentation on kind of the area, some of the history
6 on it.

7 And then we have our three panel Board members. We
8 got Howard Baumann, who is the current supervisor of Port
9 Sheldon Township, only for about a week and a half, and he'll
10 be retiring.

11 We have Rich VanderKlok, he was the Georgetown
12 Township board member for many years, and he's done these
13 BODs for a long time.

14 And then we have Josh Westgate. He is from the
15 Wright Township area, he was Wright Township Supervisor for
16 many years as well.

17 So I try to pick supervisors or board members from
18 other townships, who have been through the process,
19 understand Drain Code, understand how to run a meeting, and
20 also understand the other side of it, coming from the
21 township's view and how important drainage is countywide.

22 So, gentlemen, at this time, please rise and raise
23 your right hand.

24 Do you each solemnly swear that you will faithfully
25 perform and discharge the duties imposed upon you as required

1 by law as members of the Board of Determination, appointed by
2 Ottawa County Water Resources Commissioner, to determine the
3 necessity to locate, establish and construct the proposed
4 Surry Oak Drain, located in Holland Charter Township, in the
5 said county, gentlemen?

6 BOARD MEMBER HOWARD BAUMANN: I do.

7 BOARD MEMBER RICH VANDER KLOK: I do.

8 BOARD MEMBER JOSH WESTGATE: I do.

9 WATER RESOURCES COMM. JOE BUSH: Thank you.

10 BOARD MEMBER RICH VANDER KLOK: The first order of
11 business that we have is the election of a chairperson. So
12 motion would be in order to --

13 BOARD MEMBER JOSH WESTGATE: I make a motion to
14 elect Rich VanderKlok as chair.

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

16 BOARD MEMBER RICH VANDER KLOK: Motion has been
17 made and supported that Rich VanderKlok serve as chair.

18 All those in favor, say aye.

19 BOARD MEMBER HOWARD BAUMANN: Aye.

20 BOARD MEMBER RICH VANDER KLOK: Aye.

21 BOARD MEMBER JOSH WESTGATE: Aye.

22 BOARD MEMBER RICH VANDER KLOK: Those opposed?

23 That's carried.

24 Our next order of business is to elect a secretary.

25 BOARD MEMBER HOWARD BAUMANN: I'll make a motion to

1 elect Josh Westgate as secretary.

2 BOARD CHAIR RICH VANDER KLOK: And I will support
3 that.

4 All those in favor, say aye.

5 BOARD MEMBER HOWARD BAUMANN: Aye.

6 BOARD CHAIR RICH VANDER KLOK: Aye.

7 BOARD MEMBER JOSH WESTGATE: Aye.

8 BOARD CHAIR RICH VANDER KLOK: That is carried
9 also.

10 And then we have the rules of public comment. And
11 we will have a period where we will appreciate hearing any
12 public comment. And we'll have a motion that the rules of
13 public comment be that there be a five-minute time limit.

14 And I will make that motion, is that supported?

15 BOARD SECRETARY JOSH WESTGATE: I'll support.

16 BOARD CHAIR RICH VANDER KLOK: Moved and supported.

17 Any comment?

18 All those in favor, say aye.

19 BOARD MEMBER HOWARD BAUMANN: Aye.

20 BOARD CHAIR RICH VANDER KLOK: Aye.

21 BOARD SECRETARY JOSH WESTGATE: Aye.

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

23 And we've already talked about the role and
24 function of the Board.

25 And now I'm going to turn it over to the engineers

1 to give their report.

2 ENGINEER LUCAS TIMMER: Thanks.

3 My name is Lucas Timmer, I'm an engineer with Prein
4 & Newhof out of Holland.

5 And today we're going to present to you on the
6 Surry Oak Drain.

7 So as Joe mentioned in the introduction, the Surry
8 Oak Drain is an orphan drain system, so that means that it is
9 an existing storm water drain system that is without
10 authorized local and county governmental jurisdiction, and
11 administrative, procedural, and funding mechanisms to address
12 current or future needs for maintenance and improvements.

13 So essentially, Ottawa County Water Resources
14 Commissioner at this time does not own the drain, the road
15 commission doesn't own the drain, the township doesn't own
16 the drain, because there was no legal framework for them to
17 be responsible for the drain. So Holland Township has been
18 proactive throughout the township of getting these orphan
19 drain systems established and making them a part of the
20 Ottawa County Water Resource Commissioner's drain system.

21 So to do that, Holland Township filed a petition to
22 establish a drainage district on March 3, 2022. And once
23 that petition was established, the Michigan Drain Code then
24 requires us to have this Board of Determination, which we're
25 all at here today.

1 So we were hired to do some of the preliminary
2 engineering work for this Board of Determination.

3 So one of the first things we reviewed was we
4 reviewed the utility record plans, which are the water main
5 plans, sanitary sewer plans, storm sewer plans that you have
6 for your neighborhood. And we also reviewed plat maps, so we
7 looked at the Oak Park Hills plat, which was setup in 1961;
8 Oak Valley Estates was setup in 1969; and Oak Valley Estates
9 No. 2 was setup in 1979.

10 So once we reviewed all that information, we then
11 delineated a drainage district. So a drainage district is
12 essentially a watershed. The land within the drainage
13 district would then contribute runoff to the proposed Surry
14 Oak Drain infrastructure. And we're able to do that by using
15 one-foot county contour data, and also using aerial data, and
16 our record plans also help us to figure out then where high
17 points and low points are in the road which can help us
18 delineate a watershed.

19 We then always go out to visit the site to visit
20 the drain infrastructure. So we drive around the site and
21 make sure we have some confidence in our watershed boundary,
22 and also to confirm where the drain infrastructure is located
23 within your neighborhood and confirm drainage patterns.

24 So this is the map of the drainage district and the
25 route and course.

1 Back on the easel over there you can get a lot
2 better view of that map, and you can definitely look at that
3 following the end of the meeting here.

4 But this red boundary here is our drainage district
5 boundary or our watershed boundary. So the land within this
6 drainage district is considered contributing to the proposed
7 infrastructure.

8 And we also have a storm sewer system that runs
9 along Surry Oak Drive. It has a backyard 12-inch that gets
10 some water from the backyards at the house on the west end,
11 and it travels to the east, and then it goes through an
12 easement through the side yards here of the two properties
13 along Hill View Drive, and then discharges into an open drain
14 here, into Drain Number 40.

15 We also have some drain infrastructure on Ann
16 Street that drains Ann Street through a side yard easement
17 that drains back to Number 40.

18 The Oak Park Hills infrastructure is also leaching
19 basins. So we have leaching basins on Oak Park drive in two
20 locations. We also have leaching basins on two locations on
21 Beth Street. And leaching basins essentially are catch
22 basins that have a bunch of holes in the structure that then
23 drain that water through infiltration into the sand in that
24 area.

25 You can also see on this map the different plat

1 boundaries. So here is Oak Valley Estates No. 2; Oak Valley
2 Estates, this is to the north; and then the oldest plat, Oak
3 Park Hills is the furthest plat to the north.

4 So following this we'll have a time for public
5 testimony. At the end of public testimony the Board will
6 then determine if it's necessary, the necessity of the
7 petition, based on public health, welfare and/or convenience.

8 And if it's deemed necessary by the Board, then
9 this existing system will no longer be an orphan system, it
10 will be part of a Water Resources Commissioner drain system.

11 If deemed not necessary by the Board, then no
12 further action will occur, and the system will remain an
13 orphan system.

14 So if the drain is deemed necessary by the Board,
15 and we find out that there is no drainage issues, which at
16 the time we're not aware of any drainage issues, then Holland
17 Township will cover all the costs of getting this established
18 as a county drain. So those costs will then not be assessed
19 out to anyone else. The township will cover those costs.

20 However, if we find out there are drainage issues,
21 and you guys bring things up that need addressing, and that
22 requires a project, we will then review what is a feasible
23 project. We will review that with Ottawa County. They will
24 select what makes sense as a feasible project, we will do
25 design and survey, acquire any easements if they're needed.

1 We would bid the project out, and then construction would
2 occur.

3 And then following that, there would be something
4 called a Day of Review of Apportionment. So essentially the
5 Day of Review of Apportionment, the apportionment splits the
6 cost out to everyone within the drainage district.

7 In this case, assessments would then be made to
8 Ottawa County, the Ottawa County Road Commission, Holland
9 Township, and the property owners within that drainage
10 district boundary.

11 But if that project did occur, Holland Township
12 would still cover the costs of getting this established, but
13 then those project costs on top of that, Holland Township
14 would only pay a portion of those costs, with the county and
15 the road commission and the property owners paying the
16 remainder of the costs of that project.

17 So if drainage issues ever were to occur in the
18 future, let's say there was a storm sewer collapsed or
19 something in your neighborhood, what would end up happening
20 is a petition would be needed by the township or the
21 residents of the drainage district to maintain the county
22 drain, if the project costs more than 5,000 per mile. So
23 that's per Drain Code.

24 So let's say one of those leaching basins was
25 filled with leafs and needed to be cleaned out, the county

1 can do that work without the petition since it would be less
2 than the 5,000 per mile drain.

3 But if it was a large project, we would have
4 another petition like this, a Board of Determination where
5 you guys would all get invited so you'd be made aware of that
6 project.

7 If a project were to occur in the future,
8 assessments for all future projects would be made to the
9 county, the road commission, the township and Holland
10 Township.

11 So that's the end of my presentation. I'll go back
12 to the map here. Thank you.

13 BOARD CHAIR RICH VANDER KLOK: Okay, Lucas, thank
14 you so much.

15 Before we open public comment, I just wonder,
16 Steve, do you have anything that you want to add to this?

17 HOLLAND TOWNSHIP MANAGER STEVE BULTHUIS: No, just
18 reiterate what Joe said at the outset that the township is
19 going in a very deliberate manner, working through having all
20 of these orphan drains within the township come under the
21 jurisdiction of the Water Resources Commissioner.

22 BOARD CHAIR RICH VANDER KLOK: Okay. Thank you.

23 Jerry, from Ottawa County Road Commission, anything
24 from you Jerry?

25 ROAD COMMISSION JERRY OLMAN: Yeah. I'm in

1 agreement with the orphan drains being transferred ownership
2 to the drain, have it become a county drain system.

3 But on this particular one, on Beth Street, about
4 two months ago, I don't know if these are addresses here,
5 130, or if that's a property number. But anyway right near
6 the bend of those two leaching systems, that property owner
7 called and said that leaching system wasn't functioning
8 properly -- there was some standing water.

9 So when I got out to take a look at it, the
10 standing water wasn't there anymore. So it looks to me like
11 it still functions, it just functions not as well as it did
12 back in the '60s when it was installed.

13 BOARD CHAIR RICH VANDER KLOK: Sure.

14 ROAD COMMISSION JERRY OLMAN: But that's the only
15 issue that I've come across.

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

18 Then we'll open it for public comment, and if you'd
19 like to make a comment, please state your name and your
20 address, and let us know if you live within the district.

21 And in order to do this, I think I'll just start
22 right in the front row. If you'd like to state your name and
23 address.

24 MR. GORDON JAEHNIG: We're Gordon and Barb Jaehnig.
25 We reside at 337 Donann Drive.

1 First of all, just a point of clarification. It
2 says that a petition was filed with the Ottawa County Water
3 Resources Commissioner, who filed this petition?

4 BOARD CHAIR RICH VANDER KLOK: It would probably
5 have been the township.

6 MR. GORDON JAEHNIG: And on whose behalf then was
7 it filed, I guess?

8 BOARD CHAIR RICH VANDER KLOK: I would say on
9 behalf of the township, the residents.

10 MR. GORDON JAEHNIG: Okay. The timing of this
11 thing just kind of bothers me a little bit because I know
12 Midwest Construction is looking to develop some -- or build
13 some units adjacent to the subdivision there. And I know
14 there have been some drainage issues.

15 So I guess I'm just trying to clarify whether we're
16 really doing this for Scott Geerlings of Midwest Construction
17 or whether we're doing it for the residents of the
18 neighborhood.

19 And, by the way, we have a storm drain in our yard
20 that works fine, you know.

21 So I guess I'm of the opinion, if it aint broke,
22 don't fix it, especially if it's going to cost the existing
23 residents a lot of money.

24 BOARD CHAIR RICH VANDER KLOK: Right. Well at this
25 particular time we don't know of any issues. So there is no

1 project that's planned.

2 And the only reason that there would be a project
3 would be if we hear from you, the residents that there is a
4 major issue out there. Then obviously the county would have
5 to take some action, if it's brought into the county system.

6 But we are not aware of any issues that are there.
7 It's just simply to bring it into the county system.

8 MR. GORDON JAEHNIG: Okay. Well obviously from my
9 perspective there are no issues, but I can't speak for
10 everybody in the subdivision.

11 BOARD CHAIR RICH VANDER KLOK: Sure. And based on
12 what we've heard from the road commission also, apparently
13 there aren't, and from the engineer, there are not issues
14 there.

15 MR. GORDON JAEHNIG: So then back to the question,
16 is this tied into the Midwest Construction proposal to build
17 apartment buildings in that area that we're talking about?

18 BOARD CHAIR RICH VANDER KLOK: I have no idea,
19 maybe -- Joe.

20 WATER RESOURCES COMM. JOE BUSH: Mr. Chair, would
21 you want me to just take a few seconds?

22 BOARD CHAIR RICH VANDER KLOK: Yes.

23 WATER RESOURCES COMM. JOE BUSH: I can kind of
24 makes a few clarifications.

25 And you're right, I know Scott Geerlings has

1 reached out to me a few times. This has nothing to do, and
2 it's court recorded, it has nothing to do with Scott
3 Geerlings' Midwest development or whatever he's proposing
4 with the township. I know that's probably under the planning
5 commission and there is a lot of steps for that.

6 One thing that Mr. Geerlings brought to my
7 attention for the protection of the homeowners, there is a
8 drain that's an open ditch that comes about right where the
9 property line is, right?

10 ENGINEER LUCAS TIMMER: Right.

11 WATER RESOURCES COMM. JOE BUSH: And they had
12 proposed enclosing that to the county drain at their cost.

13 So if they develop this (indicating), there is no
14 impact to the drainage for the subdivisions because here is
15 what happens in developments, at no fault of anybody's, but
16 five years after they develop, you start having drainage
17 problems because of the development.

18 Scott Geerlings said, and I'm quoting him so he's
19 not -- not word for word, I'm not quoting him, I should say,
20 he wanted to make sure that that does not have any impact
21 moving forward. And he wanted to make sure that it was sized
22 correctly, and it's part of the easement that he was willing
23 to grant, and he doesn't want any flooding because it is
24 taking a lot of water on.

25 There is maybe proposed developments down the road.

1 That size 48-inch seems a little big, right, but I think it's
2 for future development down the road. That's what I'm being
3 told.

4 So when I say future development, not here, because
5 this pipe is not taking anybody's water here (indicating).
6 That pipe is going to be just an enclosed concrete pipe.

7 So this pipe has nothing to do with that
8 development, period.

9 Now, that being said, when I say future
10 development, I think it's more --

11 ENGINEER KEN BOSMA: It's for Beeline Road.

12 WATER RESOURCES COMM. JOE BUSH: Beeline Road.

13 ENGINEER KEN BOSMA: It would be to widen and have
14 curb and gutter, that's what it was always setup for.

15 WATER RESOURCES COMM. JOE BUSH: And that goes
16 back, so if Beeline was to be improved with curb and gutter
17 and widened, you have to be able to have the 48-inch to be
18 able to compete with that water. So I think that was the
19 future plans, years ago, was why that was a 48-inch.

20 So I will repeat, there is no project today.
21 Scott -- this isn't for Scott Geerlings' project at all,
22 because the drain district is over here. But guess what, if
23 there is an impact here, it's going to affect everybody's
24 water over there.

25 So that's why Midwest said, you know, why don't I

1 just enclose that, so then if -- I don't even know what's
2 happening with Midwest. That's at the township and state
3 level, and I don't even know. We haven't seen anything on it
4 as far as plans. Because it hasn't got -- I don't know,
5 Steve?

6 HOLLAND TOWNSHIP MANAGER STEVE BULTHUIS: I'm not
7 aware -- I know he's been through the planning commission
8 review process, but I don't know if he's pulled a permit,
9 building permit yet.

10 WATER RESOURCES COMM. JOE BUSH: Correct. So I
11 don't know where it is yet. But we will review that stuff
12 and I know it hasn't come before us.

13 The only thing they were going to get would be a
14 soil erosion permit, because that is our county drain that
15 he's tying into with that 48-inch. So that dashed blue line
16 is the Number 40, which is that county drain.

17 So, and again, this has nothing to do with today's
18 project because the whole cost, and it's court recorded, the
19 whole cost, is picked up by Midwest to lay a 48-inch pipe to
20 get to this drain, because then there is no obstruction for
21 future development.

22 Whether it happens or not, I don't know. I can't
23 say, because I don't know. So that's what I know.

24 MS. BARB JAEHNIG: I'm Barb Jaehnig, Gordon's wife,
25 obviously. Same address, 337 Donann Drive.

1 And it seems to me if that is an orphan project
2 right now, you guys, the township does not have control of it
3 at all, then them taking that portion of that drain and
4 putting, making it 48-inch so that they can build there, and
5 build these apartments, and so on and so forth, that they're
6 doing with Georgetown -- or I'm sorry, with our township
7 here, Holland Township, could be an issue. And it seems to
8 me like maybe, hey, if this is part of the township, then
9 that's a heck of a lot easier for them.

10 Plus, every time you obtain something, and then you
11 look into it, it's like, oh, yeah, it looks great now. But
12 then you look at it and, oh, no, there is this problem, this
13 problem, this problem, we're going to have to tax the owner
14 for that. And then the taxes come back to us.

15 I also want to know, when you did your petition,
16 did you go around to all the people that live in this area
17 and talk to them about what they want? Or did you just --

18 WATER RESOURCES COMM. JOE BUSH: When it's a
19 petition from the township, that's not required. They do
20 pass a resolution and it's on the agenda at the township
21 level.

22 MS. BARB JAEHNIG: Okay, that's fine. But this
23 affects the people in that area, and I think it should be a
24 resolution --

25 WATER RESOURCES COMM. JOE BUSH: It was.

1 MS. BARB JAEHNIG: -- that you talk to them and
2 have them sign the petition, not just the people that are
3 here in the office and here is what we want to do, so we'll
4 sign a petition so we can take ownership of it. To me that's
5 stealing.

6 WATER RESOURCES COMM. JOE BUSH: Well it's not
7 stealing because it's on the agenda, and it's way beforehand,
8 and there is a resolution. The township board does vote on
9 it.

10 MS. BARB JAEHNIG: Well the board votes on it, but
11 does the board live there?

12 WATER RESOURCES COMM. JOE BUSH: They're the
13 township representation.

14 So in drain law, I'm just saying, you know, don't
15 bite off the hand, I'm just giving you the message. It's
16 drain law.

17 MS. BARB JAEHNIG: I'm just saying, if you look at
18 it as a whole picture, it looks really fishy.

19 ENGINEER KEN BOSMA: Well I might just add a few
20 things.

21 With regard to why the township petitions it, they
22 can do that by Drain Code. But why they do that is because
23 it's sitting under a public right-of-way. If there is a
24 failure there, that affects the street, and the road
25 commission, and the township don't have any rights to repair

1 this drain. So this is why they've been going through the
2 process with many of these throughout the township to clean
3 these up.

4 It's no different than any other infrastructure,
5 like water main, sanitary sewer, somebody has the ability to
6 get in there and fix and repair this, this is why they're
7 doing the process.

8 And in answer to the parcel to the east there,
9 there is a -- there is actually a benefit of us, right now,
10 doing this drain. And even if they feel like they attached
11 to it, they're granting an easement here that gives us right,
12 because right now it's not a county drain, that gives us
13 right to get to that county Drain 40, and they are going to
14 do this at no cost to us.

15 If there was a significant cost here, those would
16 have to be passed onto the property owners as well. So there
17 is a big benefit of work --

18 MS. BARB JAEHNIG: I understand what you're saying,
19 but --

20 WATER RESOURCES COMM. JOE BUSH: Let me give you
21 this.

22 MS. BARB JAEHNIG: In the end, it's to their
23 benefit.

24 ENGINEER KEN BOSMA: No.

25 MS. BARB JAEHNIG: It is.

1 ENGINEER KEN BOSMA: It's to your benefit too.

2 MS. BARB JAEHNIG: No, it is, because they want to
3 build on that property. They want to make sure everything is
4 right for them so that they can get a bunch of people in
5 there, and they can earn, you know, what, a thousand, \$1500
6 on each unit that they build there.

7 WATER RESOURCES COMM. JOE BUSH: Have you been to
8 the township board? Has there been hearings at the planning
9 commission?

10 MS. BARB JAEHNIG: Yes, and we were there, it was
11 via Zoom, because it was during COVID. But yeah, we were
12 there.

13 WATER RESOURCES COMM. JOE BUSH: Let me give you a
14 hypothetical because this happens in my world. I have the
15 whole county, not just Holland Township. What if Geerlings
16 didn't really like to keep that open ditch maintained, we
17 don't hold a public hearing, and it happens to get filled in
18 and causes flooding? There is no easement, there is no
19 county drain, who are you going to call to go on Scott
20 Geerlings' property and fix it? How are you going to fix it?
21 How would you fix it?

22 As a property owner, say you lived right here
23 (indicating), and that drain goes right to the property line,
24 right? It's a 48-inch pipe already there. All we're doing
25 is attaching it.

1 Hypothetically, they develop this, and they cause
2 drainage problems. It's an orphan, who would you call to fix
3 it?

4 MS. BARB JAEHNIG: Hypothetically, is he allowed to
5 do that? He doesn't own the drain.

6 WATER RESOURCES COMM. JOE BUSH: He owns that
7 property.

8 MS. BARB JAEHNIG: But we own property that has
9 drainage on it too, that doesn't mean we can block the
10 drainage.

11 WATER RESOURCES COMM. JOE BUSH: I'm not saying
12 block it. I'm just saying what if it changes, it could
13 change.

14 MS. BARB JAEHNIG: If he causes the change, then
15 that should be his problem and he should be --

16 WATER RESOURCES COMM. JOE BUSH: Who would you call
17 though?

18 MS. BARB JAEHNIG: He would have to do it.

19 MR. GORDON JAEHNIG: If it's on his property, it
20 should be his issue.

21 WATER RESOURCES COMM. JOE BUSH: He doesn't have to
22 take care of it. There is no easement, there is no right of
23 way.

24 MS. BARB JAEHNIG: If he caused it, which is what
25 you are saying, he builds on there and he causes it --

1 WATER RESOURCES COMM. JOE BUSH: But who is going
2 to go after Scott?

3 MS. BARB JAEHNIG: -- he shouldn't be able to do
4 that.

5 WATER RESOURCES COMM. JOE BUSH: Who is going to
6 watch it? If you call me and tell me, hey Joe, or call the
7 township and you're going to go, man, since that development,
8 I'm flooding. I'm going to call Scott Geerlings, and say,
9 did you change anything? No.

10 I don't have an easement, I can't go and tell him
11 anything --

12 MS. BARB JAEHNIG: So you're saying Scott is not
13 honest and he would do that?

14 WATER RESOURCES COMM. JOE BUSH: No. I'm just
15 saying anybody, that's who we're talking about because that's
16 who you're referring to. Obviously you don't like the
17 development, let's get it out there. You hate it.

18 MS. BARB JAEHNIG: Yeah.

19 WATER RESOURCES COMM. JOE BUSH: You don't want it.

20 MR. GORDON JAEHNIG: I think we made that clear at
21 that Zoom meeting.

22 MS. BARB JAEHNIG: I think we made that clear at
23 that meeting.

24 WATER RESOURCES COMM. JOE BUSH: So you're making
25 it clear today.

1 I just want it court recorded that they don't want
2 it and like it, so that's kind of half the issue.

3 The other half of the issue is we're trying to fix
4 it. Because if we have an easement --

5 MS. BARB JAEHNIG: It just seems -- well how long
6 has that drainage been there?

7 WATER RESOURCES COMM. JOE BUSH: It's probably
8 since the '60s, obviously.

9 MS. BARB JAEHNIG: And all of the sudden he needs
10 to build, and all of the sudden it becomes an issue and we
11 have to deal with it now.

12 WATER RESOURCES COMM. JOE BUSH: What's the issue
13 though? There is no issue.

14 MR. GORDON JAEHNIG: It might be if we get assessed
15 for improvements.

16 ENGINEER KEN BOSMA: That's where I want to just
17 jump in here because I think, going back to what Joe said
18 earlier about Holland Township, Holland Township has been
19 working on these orphan drains for these last six, ten years.

20 MS. BARB JAEHNIG: But not that one.

21 ENGINEER KEN BOSMA: No, they've been going through
22 all of them.

23 ENGINEER LUCAS TIMMER: There is over a hundred of
24 them.

25 (People speaking over each other.)

1 MS. BARB JAEHNIG: It just seems really fishy.

2 WATER RESOURCES COMM. JOE BUSH: And here is
3 another one, I'll put it on the record. We have another one
4 right after this here, shortly. 10:30, right?

5 BOARD CHAIR KEN VANDER KLOK: No, 11:00.

6 WATER RESOURCES COMM. JOE BUSH: Oh, 11:00, we have
7 another one, Quality Car Wash is going in where the old
8 Burger King was and River. Should we go after Quality Car
9 Wash because they're putting a car wash there?

10 I mean it's another orphan drain system that has no
11 jurisdiction, and it's not for Quality Car Wash. It's
12 because it's on the list to actually -- we have another six
13 -- 50 of these orphans in the township? We're just trying to
14 get ten a year.

15 This just happened to be on the list and it
16 happened to be Scott Geerlings is next door.

17 Now when I talked to Scott, I said, hey, what about
18 that drain that goes to Drain 40, what are you going to do
19 with that?

20 He's like, what do you want to do?

21 And I said, at your cost you're going to have to
22 enclose it to make sure that those people to the west do not
23 have flood and have water problems.

24 So you don't have to go dig it out, clean it out,
25 there is no cost to you, to anybody, period, the township, no

1 taxpayer's money.

2 Scott said, I will do that before -- even if the
3 project doesn't even happen, you're getting an enclosure to
4 Drain 40. Even if the township or whatever turns the
5 development down, you're still getting an enclosure, no
6 matter what.

7 MS. BARB JAEHNIG: And it looks more like what's
8 happening is, oh, well we really need that enclosed in order
9 to develop this property. So --

10 WATER RESOURCES COMM. JOE BUSH: No, they don't
11 need it enclosed.

12 MS. BARB JAEHNIG: So if this is part of the
13 township, we can go ahead and enclose it and get permission
14 to do it, and then we can go ahead and build and everything
15 is good to go.

16 WATER RESOURCES COMM. JOE BUSH: It has nothing to
17 do with why we're here today.

18 BOARD CHAIR RICH VANDER KLOK: We're going to move
19 on.

20 As far as you folks are concerned, there is no
21 issue in the district that you don't want, correct? Your
22 concern is --

23 MS. BARB JAEHNIG: But the --

24 BOARD CHAIR RICH VANDER KLOK: Wait a minute, your
25 concern is potential development to the east?

1 MS. BARB JAEHNIG: And -- and, it's also that there
2 is no issues now, but then all of the sudden it becomes part
3 of the township, and then, oh, yeah, we found this and this
4 and this, and there go your taxes.

5 BOARD CHAIR RICH VANDER KLOK: Well, but there are
6 no issues now.

7 MR. GORDON JAEHNIG: Correct.

8 ENGINEER KEN BOSMA: May I just jump in one more
9 time?

10 One of the things that was outlined in our slides
11 there is if there is no project now, and this is developed as
12 a county drain, that's it.

13 If there is a problem in the future that's
14 expensive, it has to go through this same process that we're
15 doing right now.

16 So there is another opportunity again for people to
17 speak and to address if it's an expensive process. As we
18 indicated, if it's just cleaning out a leaching basin or
19 something like that, that can be done under the code because
20 the drain commissioner can spend up to 5,000 per mile per
21 drain, which isn't a lot of money. Anything beyond that we
22 have to go back through this procedure again.

23 MS. BARB JAEHNIG: I understand that. But it just
24 seems to me like we come here, we talk to you guys about
25 issues that we've got with some of the things you're doing,

1 and has anything ever gone against it?

2 MR. GORDON JAEHNIG: Well anyway --

3 BOARD CHAIR RICH VANDER KLOK: You have larger --
4 you have another issue.

5 MR. GORDON JAEHNIG: Right.

6 BOARD CHAIR RICH VANDER KLOK: Another issue aside
7 from drain.

8 MR. GORDON JAEHNIG: Right.

9 BOARD CHAIR RICH VANDER KLOK: The gentleman in the
10 back with a cap, do you have any comments that you'd like to
11 make, sir?

12 UNKNOWN SPEAKER: No, I'm actually for the next
13 meeting. I just wanted to hear this.

14 MR. GORDON JAEHNIG: So you're --

15 BOARD CHAIR RICH VANDER KLOK: Nothing, good.

16 MR. GORDON JAEHNIG: -- has nothing to do with what
17 we're talking about.

18 BOARD CHAIR RICH VANDER KLOK: Correct. Exactly.

19 MR. GORDON JAEHNIG: And we're saying there is no
20 real major problem, so there is no reason to throw a ton of
21 money at this, i.e., assessing the property owners. Is that
22 a fair conclusion?

23 BOARD CHAIR RICH VANDER KLOK: Well there is no
24 project, so there is nothing that says there is going to be
25 an assessment of any kind.

1 MR. GORDON JAEHNIG: Okay.

2 BOARD CHAIR RICH VANDER KLOK: There is no project
3 that has been approved.

4 Then I'm going to close public comment --

5 BOARD SECRETARY JOSH WESTGATE: You have one more
6 in the back --

7 BOARD CHAIR RICH VANDER KLOK: No, he already said
8 that he's --

9 BOARD SECRETARY JOSH WESTGATE: Okay.

10 BOARD CHAIR RICH VANDER KLOK: Is there anyone else
11 that wants to make public comment that hasn't spoken as yet?

12 Then I'm going to close the public comment time,
13 and then I'm going to ask Howard and Josh if they have any
14 comments that they'd like to make?

15 BOARD MEMBER HOWARD BAUMANN: I've got a question
16 for Joe. On the -- this is where the enclosure ends now
17 (indicating)?

18 WATER RESOURCES COMM. JOE BUSH: Yes.

19 BOARD MEMBER HOWARD BAUMANN: So the red is the
20 drainage district?

21 WATER RESOURCES COMM. JOE BUSH: Correct.

22 BOARD MEMBER HOWARD BAUMANN: So would you take
23 this in as well?

24 WATER RESOURCES COMM. JOE BUSH: It would just be
25 route and course and easement over it. It won't be in the

1 drain district because they're not in it now.

2 BOARD MEMBER HOWARD BAUMANN: But there will be
3 some authority over it?

4 WATER RESOURCES COMM. JOE BUSH: Oh, yeah. Well
5 they were going to give me easement even in the open ditch
6 because I have to get to 40.

7 Otherwise I don't --

8 ENGINEER KEN BOSMA: Howard, all that red line is
9 representing is water coming into that system. Even though
10 the pipe goes out, there will be no water coming into that
11 part of that pipe.

12 BOARD MEMBER HOWARD BAUMANN: But you'll have an
13 easement for that portion.

14 WATER RESOURCES COMM. JOE BUSH: Yes. Because he's
15 already looking at that, because if it does get developed, at
16 some point we'll be doing a drainage review on that parcel,
17 which he's not submitted anything. And then we'll have our
18 own detention ponds and all the other stuff per our
19 development standards. But that hasn't come in.

20 So that's why I can't hypothetically speak if it's
21 happening or not because I haven't seen it. I don't know
22 where it is with the township. I know they were working with
23 the planning township.

24 BOARD CHAIR RICH VANDER KLOK: Go ahead.

25 BOARD MEMBER HOWARD BAUMANN: I think --

1 BOARD CHAIR RICH VANDER KLOK: I'm sorry.

2 BOARD MEMBER HOWARD BAUMANN: I think it's a good
3 idea to take this into the county system just so there is a
4 vehicle to maintain it, if there is an issue down the road.

5 BOARD SECRETARY JOSH WESTGATE: Correct. It gives
6 the Water Resources Commissioner's office a legal way to
7 maintain any of the drainage in this district.

8 BOARD CHAIR RICH VANDER KLOK: Okay. Anything
9 else?

10 Is there a motion to that effect, that would be to
11 bring the drain into the county system, and it is necessary,
12 and conducive to public health, welfare and convenience?

13 I would make that motion.

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

15 BOARD CHAIR RICH VANDER KLOK: I made the motion,
16 it's been supported by Howard.

17 All those in favor, say aye.

18 BOARD MEMBER HOWARD BAUMANN: Aye.

19 BOARD CHAIR RICH VANDER KLOK: Aye.

20 BOARD SECRETARY JOSH WESTGATE: Aye.

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

22 And, Joe, do you want to say anything about the
23 appeal process?

24 WATER RESOURCES COMM. JOE BUSH: Yeah. So if
25 anybody wanted to appeal today's decision based on what you

1 guys have done, they can do that within ten days, including
2 today, through circuit court, but you can appeal it, which
3 does, it's not free, there is a cost to it. But then it goes
4 to the courts and you can appeal today's decision based on
5 the motion that you made.

6 Just a few other quick comments that why we're here
7 and talking about developments, my office is not, you know --
8 we go and follow the law. And we also can't turn away
9 developments because, whether property owners don't like it
10 or, you know, a lot -- it goes to the planning commissions,
11 it goes through the zoning. There is a lot of requirements
12 met for developments.

13 When it gets to my office, we look at the drainage,
14 we look at the water quality features and our development
15 standards.

16 I just wanted that in the minutes to say that, I
17 get people calling me, you got to stop this development.

18 Well it's got to go through the townships. Every
19 township, all three of you know, you all got different
20 zoning, ordinances. So when it comes to my office, it's
21 usually making sure they're doing their development standards
22 as far as water quality and all the flood management, and
23 storage, and detention, retention ponds and all the other fun
24 stuff that we have to review.

25 So I just wanted to make that note too.

1 BOARD CHAIR RICH VANDER KLOK: Okay, thank you.

2 MS. BARB JAEHNIG: Then can I make a note too or is
3 it only him that gets to make additional --

4 BOARD CHAIR RICH VANDER KLOK: Well the public
5 comment time is over.

6 MS. BARB JAEHNIG: Of course.

7 WATER RESOURCES COMM. JOE BUSH: So, yeah.

8 BOARD CHAIR RICH VANDER KLOK: Then I declare that
9 we are adjourned.

10 (Board of Determination adjourned at 10:41 a.m.)

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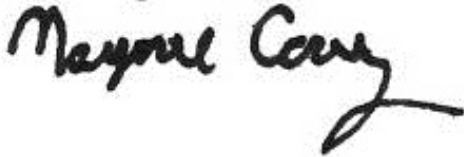
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CERTIFICATION OF COURT REPORTER AND NOTARY PUBLIC

STATE OF MICHIGAN)
) SS
COUNTY OF OTTAWA)

I certify that this transcript, consisting of 38 pages, is a complete, true and correct record of the Board of Determination - Surry Oak Drain, held on April 20, 2022.

DATE: April 30, 2022



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