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STATE OF MICHIGAN

COUNTY OF OTTAWA

IN RE: BOOM DRAIN

BOARD OF DETERMINATION

Proceedings commenced at 4:00 p.m., on Wednesday,  
June 14, 2023, at Barber School, 102 West Exchange Street,  
Spring Lake, Michigan, held before Marjorie A. Covey,  
CSR-2616, Certified Shorthand Reporter, RPR and Notary  
Public.

APPEARANCES:

Mr. Joe Bush, Ottawa County Water Resources Commissioner  
Mr. Shaun McLarty, Chief Deputy  
Ms. Marie Snyder, Secretary

Mr. Rich VanderKlok, Board Chairman  
Mr. Josh Westgate, Board Secretary  
Mr. Ken Souter, Board Member

Mr. Lucas Timmer, P.E., Prein & Newhof

Mr. Gordon Gallagher, Spring Lake Township Manager

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Spring Lake, Michigan

June 14, 2023 - 4:00 p.m.

PROCEEDINGS

WATER RESOURCES COMM. JOE BUSH: Well, good

evening, everyone. I'm Joe Bush, the Ottawa County Water Resources Commissioner, also known as the drain commissioner, same office, different title. Back in 2012 they changed the title. But it's the same office, so we're still known as the drain commissioner. But the title is Water Resources Commissioner. So I appreciate everybody taking the time to come to Barber School here in Spring Lake Township and talk about the Boom Drain Board of Determination, as it says right there.

We're here for the BOD, they call it. The reason why we're here is we received a petition from property owners on a current situation out on Boom Road, with the property owner, and a so-called drain that I don't have any jurisdiction over. In order to make it a county drain, it has to go to a Board of Determination. That's why we're here.

The first process, again, is petitions. We received those by landowners or the township. In this case, the property owners petitioned my department, or my staff, and here we are.

The first step after we receive a petition is to

1 hold a public hearing. This is the time for the public to  
2 give testimony on whether you have issues, whether you don't  
3 have issues, whether you're in favor of, or not in favor of,  
4 I guess. We want to hear it. This is your time to talk to  
5 these gentlemen, not to me.

6 So when there is a Board of Determination, I have  
7 to appoint three people outside of the township that have  
8 affected lands or own properties in said township, but they  
9 have to live in Ottawa County, so I appoint three gentlemen  
10 today who have done many, many of these boards of  
11 determination.

12 I have quite a few of these countywide because I am  
13 elected countywide, so I see all the drains. Right now we  
14 have about 1300 of them that are under my jurisdiction. I'm  
15 just one person with a few staff.

16 So when it comes to this Board of Determination, we  
17 have a hearing, I appoint three gentlemen, I'll introduce  
18 them in a second. And then we open it up to testimony.

19 We do have a court reporter, her name is Margie.  
20 I've been -- that's not required by law, but in Drain Code,  
21 this is part of the process, having a court reporter is not,  
22 but I figure I like to do that to protect you and me. You as  
23 the property owner, me as the elected official, on what was  
24 said, who said it, how did they say it. Because today's  
25 words, it's hard to keep track of who said what, when, where,

1           how and why.

2                       So when it's court recorded, we can always go back  
3           and look at those because we forget what was said not only  
4           maybe a week later, but maybe a year later. We can always go  
5           back and reference these board of determination meeting  
6           minutes from years past. I've been doing this for ten years,  
7           so we've had quite a few of these over the years.

8                       Again, Margie has been doing these again for years  
9           for me and it works out well. It takes about four to six  
10          weeks to get them back from her, but again she's a court  
11          reporter. So when you do speak up, speak loudly, your name,  
12          your address, and your concern.

13                      Don't be scared, don't be shy, we're all friendly  
14          in here and we're all neighbors. So if there is issues, be  
15          sure to speak about them, otherwise we don't know about them  
16          unless you talk. We heard from certain property owners, but  
17          not from everybody, that's why we open it up. This is  
18          according to Drain Code. I'm doing what state law tells me  
19          to do.

20                      The three gentlemen right now are, again, people I  
21          look for when I appoint a Board of Determination, number one,  
22          they understand Drain Code, state law. Number two, they know  
23          how to run a meeting, and they all have been in leadership in  
24          their roles in the past, or currently, and they understand  
25          how to run a meeting. And number two, they listen to the

1 public and they understand drainage, that's important, right?

2 They understand why they're here.

3 They're not here to make a decision based on cost  
4 or project or any of that. They're here to make a  
5 determination, that's why it's called a Board of  
6 Determination, whether to move forward or not with a project.

7 So they don't know the scope. They haven't heard  
8 of the situation before this. I do not speak, nor my staff,  
9 nor the engineer, speaks to these gentlemen to actually know  
10 what's going on. By law, I'm not supposed to be doing that,  
11 and I don't do that.

12 So they're here today to hear the situation for the  
13 first time. They haven't been out there, they haven't  
14 investigated it. The only people that have been out there is  
15 Prein & Newhof. We do have Lucas Timmer from Prein & Newhof.  
16 He does an overall view of what's going on out there, but we  
17 don't do a survey, we don't have a project, because we have  
18 to have a Board of Determination first. We have to have a  
19 preliminary oversight of location, what's going on, and so  
20 they have the information for that for this meeting,  
21 particularly.

22 So once we do that, and he goes and does that,  
23 he'll be giving a PowerPoint later in the agenda, on what he  
24 kind of found out out there. And again, it's preliminary.  
25 It's not like a full dive right into all the issues. That's

1 why you folks are here.

2 He'll just give an overview of what he saw out  
3 there and a brief synopsis of a presentation.

4 We do have Gordon Gallagher, he's the Spring Lake  
5 Township Manager, he's here as well.

6 And these three gentlemen, like I said, they have a  
7 lot of experience. I'll name them from right to left. We  
8 have Josh Westgate who used to be the township supervisor in  
9 Wright Township for many years, also a business owner. But  
10 he definitely has been doing quite a few of these for me over  
11 the years.

12 In the center is Rich VanderKlok. He is from  
13 Georgetown Township, he used to be a board member in  
14 Georgetown for many years.

15 And then Ken Souter used to be an engineer with the  
16 road commission for almost 40 years, right, 38?

17 BOARD MEMBER KEN SOUTER: Thirty-eight.

18 WATER RESOURCES COMM. JOE BUSH: Thirty-eight. So  
19 worked there as an engineer. He's retired, he doesn't work  
20 there anymore, so there isn't a conflict of interest.

21 Usually the road commission shows up here, but  
22 they're not here, usually they're here too for  
23 representation.

24 So once I give these gentlemen the oath, they'll  
25 run the meeting. I don't have a say, I don't have a voice in

1 this at all. They're happy to ask me questions, but as far  
2 as decision making, it's totally up to these gentlemen to  
3 make that decision based on testimony here today.

4 I have a few of my staff here. We have Marie, my  
5 secretary, and Shaun, my chief deputy. And again, I'll  
6 mention Margie because she's the most critical part. She  
7 wants to get your name, address and hear your testimony. She  
8 wants to make sure she gets it right because she's a court  
9 reporter and we can use it later.

10 I will go ahead and give these gentlemen the oath  
11 at the moment and let them finish their business.

12 Gentlemen, please rise, raise your right hand. Do  
13 you each solemnly swear that you will faithfully perform and  
14 discharge the duties imposed upon you, as required by law, as  
15 members of the Board of Determination, appointed by the  
16 Ottawa County Water Resources Commissioner, to determine the  
17 necessity to locate, establish, and construct the proposed  
18 Boom Drain, located in Spring Lake Township, in said county,  
19 Gentlemen?

20 BOARD MEMBER JOSH WESTGATE: I do.

21 BOARD MEMBER RICH VANDER KLOK: I will.

22 BOARD MEMBER KEN SOUTER: I will.

23 WATER RESOURCES COMM. JOE BUSH: Thank you.

24 BOARD MEMBER RICH VANDER KLOK: Our first item of  
25 business is the election of a Chair. And a motion would be

1 in order for that.

2 BOARD MEMBER JOSH WESTGATE: I'll make a motion to  
3 appoint Rich VanderKlok as Chair.

4 BOARD MEMBER KEN SOUTER: I'll second that motion.

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

7 All those in favor, say aye.

8 BOARD MEMBER KEN SOUTER: Aye.

9 BOARD MEMBER RICH VANDER KLOK: Aye.

10 BOARD MEMBER JOSH WESTGATE: Aye.

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

12 Then a motion would be in order to appoint someone  
13 as secretary.

14 BOARD MEMBER KEN SOUTER: I'll move that Josh be  
15 secretary.

16 BOARD CHAIR RICH VANDER KLOK: I will support that  
17 Josh Westgate be secretary.

18 All those in favor, say aye.

19 BOARD MEMBER JOSH WESTGATE: Aye.

20 BOARD CHAIR RICH VANDER KLOK: Aye.

21 BOARD MEMBER KEN SOUTER: Aye.

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

23 And then, I would like to make a motion for rules  
24 of public comment. And I would move that public comment be  
25 limited to three minutes. And when you do come forward, I



1 would ask that you come to the podium and, again, give your  
2 name, and your address. And the reason for you coming to the  
3 podium is so that Margie can hear you so she can record your  
4 comments there.

5 So I make the motion for public comment to be three  
6 minutes. Is there a second?

7 BOARD SECRETARY JOSH WESTGATE: I'll support the  
8 motion.

9 BOARD CHAIR RICH VANDER KLOK: Moved and supported.  
10 All those in favor, say aye.

11 BOARD SECRETARY JOSH WESTGATE: Aye.

12 BOARD CHAIR RICH VANDER KLOK: Aye.

13 BOARD MEMBER KEN SOUTER: Aye.

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

15 And then we've already talked about the engineering  
16 report.

17 And before I do that, Gordon, do you have anything  
18 that you want to say relative to this particular --

19 TOWNSHIP MANAGER GORDON GALLAGHER: I just want to  
20 tell you that Spring Lake Township will support the outcome  
21 today.

22 And I also want to take a quick minute just to  
23 introduce Peter, who is with me. He is an intern with us,  
24 and is learning about some of the things that happen locally.

25 So, thank you.

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

2 Lucas, we'll turn it over to you, and Lucas will  
3 give us the engineer's report.

4 ENGINEER LUCAS TIMMER: All right. Thank you,  
5 Board.

6 Once again my name is Lucas Timmer. I appreciate  
7 you guys all coming out today to learn more about the Boom  
8 Drain. I know during the presentation a lot of you may have  
9 questions and may want to ask me questions during the  
10 presentation. I please ask you for our court reporter's sake  
11 to wait to ask your questions. You'll get the opportunity  
12 right after the presentation to go up and provide some public  
13 comment. And at that time I can go back to a specific slide  
14 that you want me to look at.

15 So I would appreciate it if everyone can work with  
16 Margie, and that produces a lot better court recorded minutes  
17 of this meeting if we can all be patient.

18 Once again, Lucas Timmer, Prein & Newhof. I'm an  
19 engineer based out of the Holland area, and we did some very  
20 preliminary work looking at the Boom Drain.

21 So the Boom Drain is considered an orphan system.  
22 So what that means is it is an existing storm water drain  
23 that is without authorized local and county governmental  
24 jurisdiction.

25 So what that means is that no county entity

1 currently has any sort of ownership of this. The drain  
2 commission or Water Resources Commissioner, they don't own  
3 it. The road commission isn't responsible for it. Spring  
4 Lake Township isn't responsible for it.

5 So if you don't have a county or local government  
6 jurisdiction responsible for a drain, then it also means it  
7 lacks any administrative, procedural, and funding mechanisms  
8 to address current, or future needs for maintenance and  
9 improvement. So essentially, at this point, it's considered  
10 an orphan or private system.

11 So for a private, orphan system to become a county  
12 drain, the Michigan Drain Code of 1956, which is a great read  
13 if anyone has trouble sleeping at night, you can read about  
14 how that process is set up to establish a county drain.

15 So how this was setup is we first received an  
16 application for laying out and designating a drainage  
17 district. So this was submitted by private property owners  
18 on September 12, 2022. And per Drain Code it needs to be  
19 signed by at least ten freeholders with lands located in  
20 Spring Lake Township, with at least five of the freeholders  
21 with lands liable for an assessment for this proposed Boom  
22 Drain.

23 So our attorney reviewed that. That document was  
24 good.

25 The next document you handout then after you

1 receive that application is a petition to locate, establish  
2 and construct a county drain. So that was submitted on March  
3 20, 2023. And the requirements for that was it needed to be  
4 signed by a number of freeholders with lands liable for an  
5 assessment equal to at least half the number of freeholders  
6 whose lands would be traversed by the proposed Boom Drain.

7 So we had our attorney review that as well, and  
8 that also, the petition that was submitted was good to go.  
9 So that's what ended up leading us to this Board of  
10 Determination today.

11 So as Joe mentioned we have a three-panel board  
12 here up front. These board members don't have any  
13 connections to anyone who lives in the district. They don't  
14 have any -- they don't live in Spring Lake Township. They're  
15 here to provide, by majority vote, whether it's necessary to  
16 establish this as a county drain, based on whether it's  
17 conducive to the public, health, convenience or welfare.

18 So some of the preliminary engineering that we did  
19 is we first reviewed utility record drawings and plat maps.  
20 So as many as you may have noticed, and some of you probably  
21 live in Timberlake Estates, Timberlake Estates is at the  
22 north end of the district, and that plat was established in  
23 1999.

24 The storm sewer system in Timberlake is its own  
25 county drain system. And they also have their own pond and

1 an outlet to that pond. And I'll discuss that a little more  
2 later when I show a map.

3 So once we reviewed those utility record drawings,  
4 we reviewed the water main drawings, Timberlake drawings, we  
5 then delineate a drainage district.

6 So a drainage district is essentially a watershed.  
7 So if you were invited to this Board of Determination, it's  
8 assumed that either all of your property, or a part of your  
9 property, is within this watershed. So it then is considered  
10 that part of your property contributes runoff to this  
11 proposed Boom Drain.

12 We then visited the site to locate drain  
13 infrastructure and confirm drainage patterns. We create this  
14 watershed on GIS, we have one-foot contours. We have  
15 something called LiDAR, which provides elevations every  
16 square foot throughout the entire county. So that gives us  
17 great data to produce a watershed.

18 We then go on the site to confirm that what we see  
19 in the office, putting something together on Geographic  
20 Information Systems, matches up with what we're seeing on  
21 site.

22 So I was out there back in November, right before  
23 Thanksgiving. I did a little walking around the site, but a  
24 lot of areas I'm limited to walk to because I'm not going to  
25 just start wandering around your backyard without letting you

1 know.

2 So there are certain things that you guys may have  
3 additional information about the drain infrastructure that  
4 you can let me know after the presentation.

5 So for location, this is more for the Board,  
6 because if you've been invited here, you probably know where  
7 this it.

8 The Boom Drain is located right at the southeast  
9 corner of Spring Lake Township. It's right off of Boom Road,  
10 south of Leonard by the township line, right by 144 and  
11 148th.

12 So the next map shows our current drainage  
13 district, or watershed in red, and it also shows the route  
14 and course, the proposed route and course. A lot of you guys  
15 got this map in your mail, and what this shows is that if we  
16 started at Spring Lake, there is a pipe, which I will show in  
17 some pictures later, that currently is buried and kind of  
18 bubbling, water is bubbling out, and it goes actually  
19 underneath a house.

20 So the home for 14641, when that home was built  
21 decades ago, I don't know exactly what year, it was actually  
22 built right on top of a storm sewer, which is problematic for  
23 those property owners as that storm sewer not only serves  
24 their properties, but serves all the properties to the west  
25 and east and north of them.

1                   So we also then have a ditch that looks like it  
2                   hasn't been maintained in a very long time, but that ditch  
3                   continues to go to the north toward the pond. So all the  
4                   properties in that red boundary there, or portions of that  
5                   property, we consider those as contributing runoff.

6                   So with Timberlake, as well, there is a pond at  
7                   Timberlake that serves as a storm sewer in the road. You  
8                   notice, though, that some of the properties in Timberlake are  
9                   considered in the district. And that's because from contour  
10                  data that we have, the water appears to go from their front  
11                  yards to their backyard to kind of a wet area that ends up  
12                  contributing towards that base flow then towards that  
13                  proposed Boom Drain.

14                  And we noticed too to see if that pond for  
15                  Timberlake, if any of the water in the backyards of those  
16                  homes on Timberlake would go into the pond. It doesn't seem  
17                  like it at that point from my site visit looking at the pond.  
18                  But you guys may have other information that I'm not aware  
19                  of.

20                  Moving on, we'll start upstream. We have a pond at  
21                  14667 Boom Road that drains out into an open watercourse. So  
22                  these photos are from back in November when we had snow on  
23                  the ground, and ice. So that's some pictures of that pond.

24                  We then have a ditch that is there, but it's filled  
25                  with brush. There is some old debris and pipe that are

1 within the open watercourse, because this is an example of an  
2 orphan system, right? There is no county jurisdiction that's  
3 been responsible for maintaining that.

4 Now if you keep heading towards 14641, you can see  
5 at their backyard, you see where their grass lawn is, and you  
6 can actually see the ditch just ending and going into a  
7 ten-inch pipe. And that pipe then, I showed some pictures of  
8 it, actually goes right underneath their home.

9 Now when you cross the street to Boom Road, and  
10 you're looking at Spring Lake, you can't find the other end  
11 of that pipe at this point. The other end of the pipe  
12 appears to be buried.

13 There is water going through there continually,  
14 from what I've heard and what I've noticed. So it is flowing  
15 and working, which is good for everybody upstream and for the  
16 property owner that lives there. But it is problematic that  
17 that pipe is not seen.

18 So following this presentation, you'll have an  
19 opportunity for public testimony. So like I said, if you  
20 have any questions on any photos, on the drainage district,  
21 that's your opportunity to come up and bring that up.

22 So following public testimony, the Board here will  
23 determine the necessity of the petition based on public  
24 health, welfare and/or convenience.

25 So if it's deemed necessary by the Board, then the



1 existing system that is an orphan system will become a county  
2 drain.

3 If deemed not necessary by the Board, no further  
4 action will occur, the system will remain private or an  
5 orphan system.

6 So just to give you some idea on some of the next  
7 steps, so you understand, if it was deemed necessary by the  
8 Board, what would then happen is Joe would then utilize us to  
9 start coming up with a project design.

10 As Joe said, we didn't do any survey, we haven't  
11 done any significant research on what a project would be. It  
12 was more just a quick site visit, because we didn't know if  
13 this would become a drain or not because we won't know until  
14 after the Board.

15 So we'd do a project design, and then we'd have to  
16 go through easement acquisition to obtain easement access so  
17 that Joe, in the future, could maintain the drain from those  
18 property owners where that drain is.

19 So upon completion of the design, the project then  
20 would be let out for contractors to bid through a public bid  
21 process.

22 After the project is bid, and projects costs are  
23 determined, a day of review will be held to review  
24 apportionments. So what apportionments are is basically the  
25 percentage who have is paying what for this specific project.

1                   So the cost of this project then would be assessed  
2                   to the Spring Lake Township, so they would pay a portion of  
3                   that cost at large. Ottawa County, and the Ottawa County  
4                   Road Commission, would also pay a portion based on benefits  
5                   to the road right-of-way, which is Boom Road there. And the  
6                   remaining costs would be on the parcels within the district.

7                   Once that day of review of apportionment occurs,  
8                   and you guys in the audience, if you live in the district,  
9                   you would be invited to that to come speak to what your  
10                  apportionment assessments are, once that occurs, then  
11                  construction would start after that.

12                  So if this were to become a county drain, and there  
13                  are drainage issues in the future, there are different  
14                  methods for those drainage issues to be addressed.

15                  So the first thing is from Drain Code, the drain  
16                  office can perform routine maintenance up to 5,000 per mile  
17                  of drain. This drain isn't a mile so they could do \$5,000  
18                  worth of work, which is very minimal in today's day and age,  
19                  but they could maybe remove some debris blocking the drain or  
20                  something along those lines.

21                  If the extent of maintenance exceeds the \$5,000 per  
22                  mile of drain in a year, then a maintenance resolution from  
23                  the township could be signed to exceed that maintenance  
24                  limit. Some townships do that. I'm not aware if Spring Lake  
25                  Township does that, but that's also an option.

1                   The final option would be a new petition. So just  
2                   as we got a petition from the property owners, we could get a  
3                   new petition if there are drainage issues in the future. And  
4                   that could either come from the property owners or the  
5                   township, and then we'd have a meeting similar to what we  
6                   have today informing you guys of what issues are out there  
7                   and what can be done to address those issues.

8                   So in the future all assessments for the project  
9                   would be made out to Spring Lake Township, Ottawa County,  
10                  Ottawa County Road Commission, and parcels within the  
11                  district.

12                  So one final thing, Joe, is Jerry Olman from the  
13                  road commission did reach out to me yesterday. He said he  
14                  wasn't able to make it today, but he had no comment on the  
15                  drain.

16                  So, thank you.

17                  BOARD CHAIR RICH VANDER KLOK: Lucas, thank you.

18                  I would like to know if either Josh or Ken, if they  
19                  have any questions for Lucas?

20                  BOARD MEMBER KEN SOUTER: I always got some  
21                  questions.

22                  Do you have a picture of that map up again?

23                  You said that the plat has a ponding area, right?

24                  ENGINEER LUCAS TIMMER: That's correct.

25                  BOARD MEMBER KEN SOUTER: Does that ponding area

1 not flow to the body of water? Or does it flow in a  
2 different direction than what this drain is?

3 ENGINEER LUCAS TIMMER: That's a good question. So  
4 that pond flows in a different direction, and I have the  
5 record plans from when that plat was put in.

6 That pond takes the drainage from Timberlake Court,  
7 and there is an outlet through a ditch that actually flows to  
8 the west. And that plat, you can actually see the yellow  
9 line right at the bottom of the plat there, Ken. I think  
10 it's a 10 or 20-foot easement that actually brings it out to  
11 Spring Lake.

12 BOARD MEMBER KEN SOUTER: Secondly, it's not Spring  
13 Lake. It's part of the Grand River.

14 ENGINEER LUCAS TIMMER: Oh, there we go, Grand  
15 River.

16 BOARD MEMBER KEN SOUTER: That was my only other  
17 thing. This is a bayou off of the Grand River, I take it.

18 ENGINEER LUCAS TIMMER: Yes. Thank you. I'm a  
19 Holland boy and I know my Lake Mac very well. Sorry.

20 BOARD MEMBER KEN SOUTER: So the plat, and the road  
21 in the plat does not drain through here?

22 ENGINEER LUCAS TIMMER: The road in the plat does  
23 not drain through here, correct.

24 BOARD CHAIR RICH VANDER KLOK: Okay. Josh, do you  
25 have any questions at this point?

1 BOARD SECRETARY JOSH WESTGATE: Not at this point.

2 BOARD CHAIR RICH VANDER KLOK: Then I will open it  
3 up for public comment.

4 And if you'd like to make a comment, I'd just ask  
5 that you come forward and give us your name and your address.  
6 And we'll start at the very back.

7 The gentleman with the red shirt? If you have a  
8 comment, would you come forward and state your name and  
9 address?

10 PETER MURDOCH: My name is Peter Murdoch. I live  
11 at 14627 Boom Road, along with my wife, Sheila.

12 The only comment that I really have is the  
13 recognition that that is an orphan, and it's makeshift.  
14 That's the appearance that we get being adjacent to this  
15 property and the situation there.

16 So I really can't define whether it's a big problem  
17 or it isn't, but it appears that just the lack of management  
18 and oversight on that space, it bears recognition and  
19 evaluation because there might be problems that, not being an  
20 engineer, that I'm not familiar with.

21 BOARD CHAIR RICH VANDER KLOK: Sure.

22 PETER MURDOCH: But I know we do get flooding back  
23 there from time to time. And we've made requests of the  
24 property owners adjacent to us, both current and previous to  
25 them, that those pipes be cleared on occasion to facilitate

1 the flow.

2 But that's pretty much the observations that we  
3 have.

4 BOARD CHAIR RICH VANDER KLOK: Excuse me, what is  
5 your address again?

6 PETER MURDOCH: 14627.

7 BOARD CHAIR RICH VANDER KLOK: Thank you. Anything  
8 further?

9 PETER MURDOCH: Not that I can think of.

10 BOARD CHAIR RICH VANDER KLOK: Thank you.

11 BOARD SECRETARY JOSH WESTGATE: Thank you.

12 BOARD CHAIR RICH VANDER KLOK: The next row? The  
13 lady in the pink there? If you'd like to say something.

14 MOLLY BROUWER: Hello. My name is Molly Brouwer.  
15 I'm the property owner of 14792 Timberlake Court. It's  
16 recorded under the name Molly Dewald.

17 I am here to object to the proposed drain. I knew  
18 nothing of this ahead of time. I'm a little confused because  
19 you said the original petition required ten signatures, and  
20 there are ten properties involved. I didn't sign anything.

21 My point of view is that I don't see a need for the  
22 drain. I wasn't aware of any other issues. But my property  
23 is the property that contains the drainage pond or retention  
24 pond. And my property also has open drainage ditches on the  
25 east and south side.

1                   So it does get a little bit wet back there  
2                   sometimes, but it's a low-lying area, and that's just part of  
3                   the ecosystem that we bought into when we purchased the  
4                   property and built our home.

5                   So I don't feel like there is a danger to public  
6                   health, convenience or welfare.

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

8                   The next lady.

9                   UNKNOWN SPEAKER:   I don't have anything.

10                  BOARD CHAIR RICH VANDER KLOK:   In the front row  
11                  here, sir?

12                  JEFF PATTYN:   Hello, everybody.   My name is Jeff  
13                  Pattyn.   I live at 14667 Boom Road.   So looking at the map,  
14                  and the outline of it, obviously our property is pretty dead  
15                  center to that.   The blue line originates pretty much in the  
16                  center of our property.   The pond that is shown is our pond.

17                  That has always been a low area there.   There has  
18                  never been water buildup.   It seems to flow fine.   Obviously,  
19                  it doesn't impact our property at all or the house right next  
20                  to us.   I don't know beyond that.

21                  But for us our concerns would be, one, how is that  
22                  going to change the lay of the land currently, what is going  
23                  to happen, what could happen, and what types of costs comes  
24                  along with that.   We've been in the house for a little over  
25                  14 years, so how is that going to impact us going forward,

1 right? If there is no issues now, why should we take on  
2 additional costs, when obviously that's been there the entire  
3 time.

4 So those are my concerns. I would like to see,  
5 obviously, how the current situation, the current land would  
6 be impacted and the costs that would be assessed to that and  
7 how it hits each property owner.

8 BOARD CHAIR RICH VANDER KLOK: Sure. And relative  
9 to that, as we said, we do not know what the costs for any  
10 kind of project would be. Our task here today is to  
11 determine whether or not we need to go forward with  
12 something, to recommend.

13 But you have indicated that you don't have issues.  
14 Is that correct?

15 JEFF PATTYN: That is correct. There has never  
16 been an issue with us in the drainage area that I've ever  
17 seen. And so far what I've seen today, I haven't seen any  
18 proof that there is an issue with that, right?

19 Like, maybe we could spend a little time cleaning  
20 the drain there. If water is flowing through it, it's  
21 obviously still working. Why do we need to tear into  
22 something at a cost when may not even need to happen.

23 BOARD CHAIR RICH VANDER KLOK: Okay.

24 JEFF PATTYN: Again, as the major property owner on  
25 this, I'd like to think I'd have some kind of say.



1                   Like you said, none of us have any idea of the  
2                   costs that we're asking for.

3                   BOARD CHAIR RICH VANDER KLOK:   Correct.

4                   BOARD MEMBER KEN SOUTER:   So you're the biggest  
5                   piece of property there, right?

6                   JEFF PATTYN:   Yes, sir.

7                   BOARD CHAIR RICH VANDER KLOK:   All right.   Anything  
8                   further?

9                   JEFF PATTYN:   That's for it for me.

10                  BOARD CHAIR RICH VANDER KLOK:   Okay.

11                  EVE PATTYN:   I have a question.   My name is Eve  
12                  Pattyn, I am the same property owner.

13                  My question is if something does get done, and we  
14                  have to bear some of the cost of that, is that percentage  
15                  broken up based on how much land we have in that area or per  
16                  home?   Like you said there is ten pieces of land here, does  
17                  that get split evenly between ten?   Or because we're the  
18                  major property owner for this, do we take the majority of the  
19                  burden of that?   Because like I said, we don't have a problem  
20                  with this at all.

21                  BOARD CHAIR RICH VANDER KLOK:   That is a good  
22                  question.

23                  How would you respond to that, Joe?

24                  WATER RESOURCES COMM. JOE BUSH:   Typically, we have  
25                  a formula, but a lot of it is land use, how much runoff.   But

1           you have the pond.

2                   EVE PATTYN: We drain right into the pond.

3                   WATER RESOURCES COMM. JOE BUSH: Right.

4                   EVE PATTYN: And we have no issue at all.

5                   WATER RESOURCES COMM. JOE BUSH: Right.

6                   EVE PATTYN: And I don't think we should bear the  
7 majority of the burden of that, if it's not an issue that we  
8 have. So I would like to know if we're going to bear the  
9 brunt of that.

10                   WATER RESOURCES COMM. JOE BUSH: There would be --

11                   EVE PATTYN: Am I 60 percent and everybody else is  
12 40? Because we're 60 percent of the land and everybody else  
13 makes up 40. I would like to know that.

14                   BOARD CHAIR RICH VANDER KLOK: And I don't think  
15 we, as a Board of Determination, are prepared to speak to  
16 that.

17                   EVE PATTYN: In previous situations, how was it  
18 handled?

19                   BOARD SECRETARY JOSH WESTGATE: That's not  
20 something this Board deals with.

21                   BOARD CHAIR RICH VANDER KLOK: No. We only deal  
22 with whether or not a project should go forward, if an orphan  
23 drain should be brought into the county system. That's all  
24 that we determine based on public comment.

25                   EVE PATTYN: I get that. I'm addressing you.

1 WATER RESOURCES COMM. JOE BUSH: Right.

2 EVE PATTYN: So how has it been handled in the  
3 past?

4 WATER RESOURCES COMM. JOE BUSH: One of the  
5 formulas we use is how much land --

6 EVE PATTYN: So we're going to take the brunt of  
7 it.

8 WATER RESOURCES COMM. JOE BUSH: There is a  
9 possibility that it could be more than the other property  
10 owners because you own more property. And the township --

11 EVE PATTYN: And we don't have an issue.

12 WATER RESOURCES COMM. JOE BUSH: That's typically  
13 the case. With the Board of Determination, it's the petition  
14 that comes in from the people who think it's necessary.

15 EVE PATTYN: Okay. So then we would also, along  
16 with the other landowners would like to say that say we do  
17 not approve of this.

18 WATER RESOURCES COMM. JOE BUSH: And that's not my  
19 decision --

20 EVE PATTYN: I know that. I'm just saying.

21 BOARD CHAIR RICH VANDER KLOK: Okay, thank you.  
22 Next one?

23 UNKNOWN SPEAKER: No comment.

24 BOARD CHAIR RICH VANDER KLOK: Next row?

25 Yes, ma'am.

1                   KIJA MEADS: Hello. My name is Kija Meads. I live  
2                   at 14641 Boom.

3                   And how this all came about was we were looking at  
4                   doing a remodel and we had concerns about that drain and  
5                   where it lay, if that was going to be a problem, and if it  
6                   was managed by anyone. So if we're digging up part of the  
7                   foundation, are we going to flood everybody else's property?  
8                   So that was a concern that we had, that's kind of why we  
9                   started all of this.

10                  Just more so we were interested to determine where  
11                  the drain was. It's not -- when we moved in we were warned,  
12                  make sure you keep that drain clear, otherwise we have had  
13                  flooding in the back. So we've been cognizant of that.  
14                  There is a makeshift catchall to get most of the debris  
15                  before it hits that tube that goes underneath our house.

16                  And then Pam Stille and Norman Dodds from Blue  
17                  Water Custom Homes, and Norman Dodds Architecture. They  
18                  wrote a statement for us.

19                  They said, "Thank you for reaching out to discuss  
20                  the easement. Norman and I have had many conversations after  
21                  you shared there was a drain easement under your home. These  
22                  are our main concerns:

23                  "Any drainage easement should be open and  
24                  accessible for maintenance. Building an easement under a  
25                  home prevents maintenance as needed.

1 "A young family should not have to absorb the  
2 burden of a drainage easement under their home. Future water  
3 problems to the home and yard could occur should a blockage  
4 happen.

5 "A home never should have been built over a  
6 drainage easement, and this was not represented to the home  
7 owners upon purchasing the home and planning a remodel.

8 "Neighbors would benefit from the drainage easement  
9 and should share costs in rerouting the system before any  
10 construction begins."

11 So I just did want to make that clear as well. We  
12 didn't know that this drain would be a thing when we bought  
13 the house two years ago. It was brought to our attention by  
14 our neighbors telling us to keep that clear to prevent any  
15 sort of water from building up on our property, their  
16 property, as well as properties surrounding us.

17 That's all the comments I have. Thank you.

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

19 No comments?

20 Next row, sir?

21 UNKNOWN SPEAKER: Nothing.

22 BOARD CHAIR RICH VANDER KLOK: Then in back?

23 UNKNOWN SPEAKER: No comments.

24 BOARD CHAIR RICH VANDER KLOK: If there are no  
25 further comments, then I would move that public comment be

1 closed.

2 JEFF PATTYN: Is it possible to go again?

3 BOARD MEMBER KEN SOUTER: If you have something  
4 new.

5 BOARD CHAIR RICH VANDER KLOK: If there is  
6 something new to add.

7 JEFF PATTYN: Yes, sir. Again my name is Jeff  
8 Pattyn, 14667 Boom.

9 What I would say, and what I heard through her  
10 presentation, which I get it, and I understand. But at the  
11 same time, why should other property owners take the  
12 financial burden and cost based on them not being able to put  
13 an addition in for something that was there when they  
14 purchased the property? Right?

15 Like we had to jump through hoops on our property  
16 as well. I couldn't tell you the amount of legal fees that  
17 we had to do to make our property right with the township and  
18 the deed office and everything else. I didn't ask our  
19 neighbors to pay for that. We did it ourselves.

20 So my assumption would be if they do want to make  
21 changes, if something is there on their property, that should  
22 be their issue and not mine. That's all I have.

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

24 MOLLY BROUWER: I have something else to add.

25 BOARD CHAIR RICH VANDER KLOK: Is this something

1 new we haven't heard yet?

2 MOLLY BROUWER: Because he was asking about --  
3 Molly Brouwer, 14792 Timberlake Court.

4 He was asking about the drainage ditches, and if  
5 they seemed to hold water. And, yes, they do. In the spring  
6 time when there is excess water, the ditches do drain to the  
7 pond and out to the river.

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

9 That concludes our public comment.

10 And I would make a motion that we end our public  
11 comment. Anyone in support?

12 BOARD SECRETARY JOSH WESTGATE: I'll support that  
13 motion.

14 BOARD CHAIR RICH VANDER KLOK: All those in favor,  
15 say aye.

16 BOARD SECRETARY JOSH WESTGATE: Aye.

17 BOARD CHAIR RICH VANDER KLOK: Aye.

18 BOARD MEMBER KEN SOUTER: Aye.

19 BOARD CHAIR RICH VANDER KLOK: It's carried.

20 And then, Josh and Ken, this is a very --

21 BOARD MEMBER KEN SOUTER: Unusual.

22 BOARD CHAIR RICH VANDER KLOK: -- unusual situation  
23 because if indeed, as the engineer told us, that there were  
24 ten people who petitioned, those ten people apparently aren't  
25 here, except for one, as I heard the comments.

1 Am I correct in making that assumption?

2 ENGINEER LUCAS TIMMER: That's not correct

3 necessarily, Rich.

4 So how that's setup, and I can go back to that

5 slide. And we had the attorney review it who does these

6 petitions all over.

7 So it has to be signed by at least ten freeholders

8 with lands located in Spring Lake Township. Five of those

9 need to be freeholders within the proposed district.

10 So like some of these people did not sign, but they

11 had five other freeholders within the district sign.

12 SECRETARY MARIE SNYDER: That's the application,

13 and the petition is different.

14 ENGINEER LUCAS TIMMER: The petition required, from

15 what the attorney told us, the petition required four

16 freeholders to sign who lived within the --

17 SECRETARY MARIE SNYDER: No, three.

18 ENGINEER LUCAS TIMMER: Three to sign? Thank you.

19 Marie let me know, it's three to sign.

20 So in this case it was each person who owns a home

21 is a property owner. So in the case of Kija and Justin,

22 they're two signers. And then the neighbors were two

23 signers, based on county -- or state law. So that's how that

24 works. So it did follow the necessary legal protocol.

25 BOARD CHAIR RICH VANDER KLOK: Sure, and I wasn't



1 questioning that. I was just questioning whether those  
2 individuals, which now goes down to three, whether those  
3 three individuals are here today?

4 And, Kija, you're one. And you're the second.

5 Is the third person -- (indicating). The third  
6 person is here.

7 So you three are the ones that initiated -- I  
8 shouldn't say initiated, but you're the ones who put the  
9 petition forward, okay. That clarifies.

10 But as I said, it's a confusing situation because  
11 the rest of you that make comments have no issues. And so  
12 that puts us in a quandary because, I want to hear from Josh  
13 and Ken, in terms of what they think.

14 Because I have my own personal opinion now.

15 BOARD MEMBER KEN SOUTER: I got a question. There  
16 was a comment made that there is an easement. Whose easement  
17 were you referring to?

18 ENGINEER LUCAS TIMMER: So there is an easement --  
19 I think it's going to be easier if I quick grab the thing in  
20 the back so I can use a laser pointer.

21 BOARD MEMBER KEN SOUTER: Sure. You can grab your  
22 thing in the back if you want to.

23 ENGINEER LUCAS TIMMER: Because I can't use a laser  
24 pointer on the TV.

25 It's going to be a little tough for the audience to

1 see, but I will show the Board first and then the audience.

2 The easement, Board, is right here. So there is an  
3 easement that brings water from Timberlake from the road  
4 system right here. The pond is located right here, and this  
5 pond then flows out to the west towards the Grand River.

6 BOARD MEMBER KEN SOUTER: Okay. But you said the  
7 lady that owns this house that the drain was underneath said  
8 there was an easement.

9 KIJA MEADS: I'd like to clarify that, the builder  
10 that wrote the statement used the word easement, like there  
11 would be an easement.

12 BOARD MEMBER KEN SOUTER: In other words, on your  
13 deed, there is not an easement there?

14 KIJA MEADS: Correct. But I think she was  
15 insinuating that in order for a drain to be installed, there  
16 would be -- an easement would be required is what I  
17 understand.

18 BOARD SECRETARY JOSH WESTGATE: Right. There is no  
19 title encumbrance, it's an orphan drain.

20 BOARD MEMBER KEN SOUTER: I've never had one like  
21 this.

22 BOARD SECRETARY JOSH WESTGATE: No, this is very  
23 unique. Very, very unique.

24 BOARD MEMBER KEN SOUTER: Rich, what are your  
25 thoughts?

1                   BOARD CHAIR RICH VANDER KLOK: My thoughts? Well  
2 based on what I've heard here today, I could not recommend  
3 that we bring it under the county's jurisdiction. I don't  
4 hear enough from those folks who were here of issues that  
5 need to be addressed.

6                   I think there are obviously some maintenance issues  
7 that need to be addressed, but I have no idea, nor do I want  
8 to suggest that the \$5,000 that the Water Resources  
9 Commission has would be sufficient to deal with those  
10 maintenance issues. I seriously doubt whether it would be.  
11 But not having been out there, but just hearing what some of  
12 you have said, I wonder about that.

13                   So personally, at this point, unless I'm convinced  
14 otherwise, I do not see, nor have I heard, a rationale for  
15 bringing it under the jurisdiction of Ottawa County Water  
16 Resources Commission.

17                   BOARD MEMBER KEN SOUTER: I have another question.  
18 How long is this tile? And is an old clay tile, like an old  
19 farm tile?

20                   ENGINEER LUCAS TIMMER: Let me go back to the  
21 PowerPoint quick.

22                   So this starts, with the PowerPoint starts up on  
23 the Pattyn's property. They're on the higher end where their  
24 water then flows down through that ditch.

25                   So their water flows to the south, along with the

1 other properties to the north would flow south through a  
2 ditch. Then to that tile, which is a ten-inch tile, clay  
3 tile.

4 I can't tell you off the top of my head the length,  
5 but it spans underneath the house and crosses the road. And  
6 then we couldn't locate it under the road. So it seems to be  
7 several hundred feet, perhaps.

8 And then, yeah, that water flows through the ditch  
9 into the tile, and then underneath the home to the Grand  
10 River.

11 BOARD MEMBER KEN SOUTER: Sounds like it's part of  
12 an old farm drain or something like that.

13 ENGINEER LUCAS TIMMER: Yes, and there is evidence  
14 of the old tile too in the ditch, which is interesting. I  
15 think it might have been farmed at one time before. Who  
16 knows.

17 BOARD SECRETARY JOSH WESTGATE: Is there any other  
18 storm sewer catch basins or anything like that along Boom  
19 Road in this area?

20 ENGINEER LUCAS TIMMER: There is not.

21 BOARD MEMBER KEN SOUTER: So the ditch along Boom  
22 Road, if there is a ditch along Boom Road, does not enter  
23 this tile?

24 ENGINEER LUCAS TIMMER: The ditch -- the drainage  
25 along Boom Road would generally kind of flow to the north

1           towards those people's homes.

2                   BOARD SECRETARY JOSH WESTGATE:   And there is a  
3           ditch there?

4                   ENGINEER LUCAS TIMMER:   There is a ditch -- yeah,  
5           there is a ditch there, yep.   But it just doesn't really go  
6           anywhere right now.   It's good sand, I'm assuming out there,  
7           right?   So when the water table is not high, it filtrates.

8                   BOARD MEMBER KEN SOUTER:   I couldn't -- I see there  
9           might be a problem, that the homeowner did not know that that  
10          tile existed.

11                   BOARD SECRETARY JOSH WESTGATE:   Right.   I'm  
12          starting to question, like you're thinking, that it's an old  
13          farm drain that's been there for a long time, and it's just  
14          been abandoned.

15                   BOARD MEMBER KEN SOUTER:   This is a tough one.

16                   BOARD CHAIR RICH VANDER KLOK:   I personally feel  
17          that it is not necessary or conducive to public health,  
18          safety, and welfare at this point.

19                   Therefore, I would make the motion that it not be  
20          proposed as a drain as necessary and conducive to public  
21          health, convenience, and welfare.

22                   BOARD MEMBER KEN SOUTER:   I'd second that motion.

23                   BOARD CHAIR RICH VANDER KLOK:   Motion is made and  
24          supported.

25                   Josh, do you have any comment or --

1 BOARD SECRETARY JOSH WESTGATE: No, I do not.

2 BOARD CHAIR RICH VANDER KLOK: Anything else from  
3 you, Ken?

4 BOARD MEMBER KEN SOUTER: No.

5 BOARD CHAIR RICH VANDER KLOK: Okay. The motion is  
6 made and supported.

7 Those in favor, say aye.

8 BOARD SECRETARY JOSH WESTGATE: Aye.

9 BOARD CHAIR RICH VANDER KLOK: Aye.

10 BOARD MEMBER KEN SOUTER: Aye.

11 BOARD CHAIR RICH VANDER KLOK: That is carried.

12 Typically, I should say, folks, typically, when  
13 these are approved, then there is an appeal process. And I'm  
14 curious, is there an appeal process if they want to appeal  
15 the action that we took today?

16 WATER RESOURCES COMM. JOE BUSH: Yes.

17 BOARD CHAIR RICH VANDER KLOK: Okay. Would you  
18 speak to that just briefly?

19 WATER RESOURCES COMM. JOE BUSH: I can. So if  
20 somebody wanted to appeal today's decision, you have to  
21 appeal it with the circuit court of Ottawa County, not our  
22 department. So it would go to the circuit court, and you  
23 could appeal their decision that was made today, if somebody  
24 chose to do that. So not through my department, but Drain  
25 Code, you could appeal the decision, again, through circuit

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court.

BOARD CHAIR RICH VANDER KLOK: And if I am correct,  
if the residents in this watershed wanted to petition again,  
you can do that within a year, is that correct?

WATER RESOURCES COMM. JOE BUSH: You have to wait a  
year.

BOARD CHAIR RICH VANDER KLOK: You have to wait a  
year before you can petition again.

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

BOARD CHAIR RICH VANDER KLOK: I think that  
concludes our business.

Is there a motion to adjourn?

BOARD MEMBER KEN SOUTER: I'll make that motion.

BOARD SECRETARY JOSH WESTGATE: Support.

BOARD CHAIR RICH VANDER KLOK: Motion made and  
supported to adjourn.

Those in favor, say aye.

BOARD SECRETARY JOSH WESTGATE: Aye.

BOARD CHAIR RICH VANDER KLOK: Aye.

BOARD MEMBER KEN SOUTER: Aye.

BOARD CHAIR RICH VANDER KLOK: We are adjourned.

(Board of Determination - Boom Drain -

Adjourned at 4:45 p.m.)

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CERTIFICATION OF COURT REPORTER AND NOTARY PUBLIC

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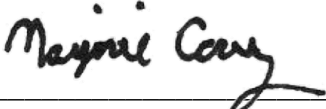
STATE OF MICHIGAN )

) SS

COUNTY OF OTTAWA )

I certify that this transcript, consisting of 40 pages, is a complete, true, and correct record of the testimony of the Boom Drain Board of Determination held in this case on June 14, 2023.

DATE: June 19, 2023



\_\_\_\_\_  
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Notary Public Expires: October 14, 2027, Ottawa County, Michigan/Acting in the State of Michigan



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