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STATE OF MICHIGAN

OFFICE OF THE OTTAWA COUNTY WATER RESOURCES COMMISSIONER

IN THE MATTER OF:

GREEN ACRES DRAIN

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Proceedings commenced at 10:00 a.m. on Wednesday,  
June 8, 2016, at the Georgetown Charter Township Hall,  
1515 Baldwin Street, Jenison, Michigan - In Re: Green  
Acres Drain and Board of Determination, held before  
Carl M. DePerro, Certified Shorthand Reporter,  
No. 4284 and Notary Public for Wayne County, Michigan.

APPEARANCES:

Joe Bush, Ottawa County Water Resources Commissioner  
Jennifer Vandenberg, Assistant  
Dan Carlton, Township Manager  
Ken Bosma, Engineer, Prein & Newhof  
Lucas Timmer, Engineer, Prein & Newhof  
  
Chair Bill Cargo  
Secretary Peggy Weick  
Member Glenn Nykamp

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Jenison, Michigan

Wednesday, June 8, 2016 - commencing at 10:00 a.m.

Green Acres Drain

Board of Determination

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WATER RESOURCES COM. JOE BUSH: Well, good morning, everyone. Welcome to Georgetown Township. I appreciate everyone taking the time this morning to come to the BOD, the Board of Determination, or the public hearing for the Green Acres Drain.

Again, my name is Joe Bush, I am your Water Resources Commissioner, or the Drain Commissioner. Changed the name when I got elected in 2012, but still the same office, same staff. And this is one of my duties as Water Resources Commissioner, is when we establish orphan drains we got to have a public hearing, and that's why we are here this morning, to listen to testimony or comments based on the letters that you received. And this is the time to give that testimony.

Again, this is one of the responsibilities that I have as your elected official in Ottawa County, is to establish a drain that is an orphan drain, is to have a public hearing. So that's why we are here this morning.

1                   Some people have asked why the time, why not  
2                   at night? Well, we have tried those too, and you get  
3                   the parents who have kids in soccer, baseball, supper  
4                   time, homework, and those families are like, well, why  
5                   can't you have it in the morning and I couldn't be  
6                   there. So it's a balancing act. So we try to have them  
7                   at 10 o'clock and be consistent. Does it work out for  
8                   everybody? No. But is it tough to make it for  
9                   everybody? Absolutely. It's a challenging job to make  
10                  everybody's time happen because everybody has different  
11                  lifestyles and different schedules. So I try to  
12                  accommodate and be consistent with all of them  
13                  throughout the County at 10 o'clock.

14                  Orphan drain, well, you are probably wondering  
15                  what's an orphan drain. That means it was never  
16                  established as a County drain. And the engineer can get  
17                  into the details later on that.

18                  But nowadays when we have a plat or a new  
19                  subdivision we have a 433 Agreement, which, that means  
20                  it's under my jurisdiction and it's then a County drain.  
21                  And back in the '80s and '90s they were not established.  
22                  A lot of them got through the cracks during the great  
23                  development years, and they are orphaned. Nobody owns  
24                  it, nobody has jurisdiction over it, whether it's the  
25                  Road Commission, the Township or the County, which is

1           myself.

2                       So we can't go in and do maintenance, there is  
3           no mechanism to fix anything, there is no easements. So  
4           that's why we are establishing this one as an orphan to  
5           a County drain system based on a Board of Determination,  
6           which means I got to hold a public hearing and get a  
7           three-panel board that has no jurisdiction, no  
8           properties, or no affiliation with this area whatsoever.  
9           And they are not even from Georgetown Township. But I  
10          got to pick a three-panel Board, and then this  
11          three-panel Board will run the meeting once I give them  
12          the oath.

13                      And then we do have a court recorder here  
14          today, so everything is court-recorded word-for-word.  
15          So when you give testimony or if you are in favor or you  
16          got issues, we need to know that, because you guys are  
17          the ears and eyes out there if there is issues. I have  
18          been called out on some issues in this area, and that's  
19          why we are here today.

20                      So everything is court-recorded, it's on the  
21          website. Give it about four to six weeks usually, and  
22          we have it up on our website at [miottawa.org](http://miottawa.org). Go under  
23          and find the Water Resources Commissioner's link, and  
24          there will be minutes on there. And if you don't have a  
25          way of computer or internet, you can call us and we will

1 be more than happy to send you a hard copy as well.

2 So again, I am here to open it up and then for  
3 questions later. But this three-panel Board, once I  
4 give them the oath, again, they run the meeting and it's  
5 their decision on whether to establish this particular  
6 area that's on the board over there as a County drain or  
7 not. So it's not, I am neutral. I can't say yeah, I  
8 want it or no, I don't want it.

9 Just an example, Holland Township, we are  
10 going through this right now, and Holland Township has  
11 about 90 orphan drains that they want to put under my  
12 jurisdiction to have maintenance, a routine maintenance  
13 mechanism set up, so we can fix potholes in their roads  
14 that are by manholes or by catch basins. People's back  
15 yards have flooding issues, and they are orphan, the  
16 home owner has to take care of it. And that's not easy  
17 for home owners to do that. Number 1, who do they  
18 contact. Number 2, what's a good contractor. Number 3,  
19 are they going to do it right. Well, if you go through  
20 our office usually we bid stuff out and we use great  
21 contractors who deal with these issues on a daily basis.

22 I have over 900 County drains right now,  
23 probably working towards 1,000 since in the last two  
24 years with having all these orphan drains and all these  
25 natural water courses that are having issues with

1 erosion, sedimentation or water quality issues.

2 So again, I don't want to speak forever. Your  
3 guys' time is precious. But again, I will do some  
4 introductions, and I introduced myself already. I got  
5 my secretary with me, Jen, she is the one that signed  
6 everybody in, handed out agendas. And then we have the  
7 court recorder Carl, and then this is the three-panel  
8 Board. From my right to my left Peggy Weick, and then  
9 we have Bill Cargo, and then we have Glenn Nykamp. And  
10 these people have very well experience in drainage and  
11 the drain code. So if you ever want to know about a  
12 drain code go to my website, look it up, it's very  
13 complicated and it's very detailed, but it's been there  
14 since 1956. So that's what I follow. It's not Joe's  
15 rules, it's Drain Code, State rules.

16 Then the engineer on the project is Ken Bosma,  
17 he is from Prein & Newhof, and he is also the engineer  
18 for Georgetown Township. So he knows this area very  
19 well.

20 And there's been a few other people, I know we  
21 have had a couple other engineers out there looking at  
22 some of these back yard issues or flooding concerns that  
23 have been called in to me in the last couple years. I  
24 don't think -- the Road Commission is not here, they  
25 usually are. The Road Commission is in favor of

1           establishing it as an orphan drain, I mean as a County  
2           drain.

3                         And then Dan Carlton was in the room, your  
4           Township Manager, he happened to be in another meeting  
5           too at the same time in the room next door, but he is  
6           aware of this. The Township is actually the one that  
7           petitioned me. So with their petition to me gives me  
8           the ability to hold a public hearing and have testimony  
9           and have this Board determine whether it's necessary or  
10          not.

11                        If you have any questions for me during the  
12          meeting or during the hearing, I will be more than happy  
13          to ask the Board and they will be more than happy to ask  
14          me or the engineer. If you have any questions I will be  
15          more than happy to answer. And I will be here  
16          afterwards too, shortly, and then we can go from there.

17                        So hopefully, that answers most of the  
18          questions why you are here and the time and, hopefully,  
19          if you guys have issues be sure to speak up and talk  
20          during the testimony time.

21                        Thank you.

22                        (Turning to Board) Please rise and raise your  
23          right hand? Do each of you solemnly swear to faithfully  
24          perform and discharge the duties imposed upon you as  
25          members of the Board of Determination, appointed by the

1 Water Resources Commissioner of Ottawa County, to  
2 determine the necessity of drainage improvements in a  
3 certain drain to be known and designated as the Green  
4 Acres Drain in the Township of Georgetown, in said  
5 County, as required by law?

6 CHAIR. BILL CARGO: I will.

7 MEM. PEGGY WEICK: I will.

8 MEM. GLENN NYKAMP: I will.

9 CHAIR BILL CARGO: The first order of business  
10 is to elect a chair and secretary. There have been some  
11 preliminary conversations, but we will confirm that.  
12 Without objection, does this Board appoint Bill Cargo as  
13 the Chair and Peggy Weick as the secretary?

14 MEM. GLENN NYKAMP: I do

15 SECRETARY PEGGY WEICK: I do.

16 CHAIR. BILL CARGO: There are no objections,  
17 so that is the appointment for this Board of Review.

18 That said, I am going to go through the  
19 agenda. Basically we are here to see if there is a need  
20 or necessity for this proposed drain, take an orphan  
21 drain and bringing it into the County drain system.

22 As you come up, we would ask that you give  
23 your name and your address for any comments that you  
24 have. And if you can, if you can explain where you are  
25 in the District, if you have a house number, that would



1 be great, because we have maps in front of us with the  
2 house numbers on them.

3 That said, the first thing I want to do is ask  
4 is there anybody from the Township, representing the  
5 Township? Dan is not in the room. Is anybody  
6 representing the Township?

7 WATER RESOURCES COM. JOE BUSH: No.

8 CHAIR. BILL CARGO: Then there will be no  
9 comments from the Township.

10 Next, I am going to take a look and ask the  
11 engineer, Ken Bosma, if you have any comments. Ken, do  
12 you have any explanations or comments?

13 KEN BOSMA: Yes, very briefly. I apologize  
14 sitting on the left here, it's just more for the  
15 computer-wise.

16 What we have here, as Joe mentioned, was the  
17 Green Acres Drain, is what we would name this if this  
18 moves forward in here. And just real briefly, there are  
19 two plats that are included in the District of this  
20 drain. One is the Green Acres Subdivision that was  
21 developed in 1956, and the other the G.H. Martin plat in  
22 1964.

23 Green Acres Subdivision is basically on the  
24 west side of this proposed District, and the G.H. Martin  
25 Plat is on the east side of this District. There are a

1        few other parcels that are in the boundary that are not  
2        within these two subdivisions. But those are the  
3        subdivisions that are within the District.

4                    I think as your Water Resources Commissioner,  
5        Joe, had mentioned, he said this was petitioned by the  
6        Township due to an orphan drain. And again, just to  
7        briefly address that, up until about the mid-1990s when  
8        plats were developed before the mid-1990s, storm sewer  
9        systems went in, sometimes there were easements shown on  
10       the plat documents, but at that point there was no  
11       method or means of which they can be maintained.

12                   Historically, the Road Commission, the  
13       townships got involved in some of that maintenance, but  
14       it was not something that they were required to do. And  
15       both of them are kind of feeling I want to say some of  
16       the economic pinch, but not only that, the ability to be  
17       able to maintain them, as Joe mentioned, how many  
18       different drains he has, let alone what these orphan  
19       drains are.

20                   As of mid-1990s new developments that go in  
21       now, the drain office has an ability to set up with the  
22       developers an agreement, which is what they call a 433  
23       Agreement, which, basically, the developer at that time  
24       transfers the storm sewer system over into the Ottawa  
25       County Drain System. So we do not have to go through

1 this procedure, and then they have the ability to do it.

2 If this is deemed as a County drain today,  
3 then it will be turned over to the County and Joe's  
4 office will be responsible for maintaining the system.

5 Just in brief, and I think Joe addressed it  
6 too, they have a limited staff as well. What that means  
7 when you maintain it doesn't always mean that every year  
8 they are going to go through there and observe it, but  
9 what it may mean is that if there is an issue at hand,  
10 property owners call and there is something that does  
11 give them the ability then to send someone out, start  
12 looking at it and, depending on the size of the project,  
13 he can do it based on drain code without an issue. If  
14 it's a big project, it might get into a petitioned  
15 project again, where you have a hearing somewhat similar  
16 to this.

17 So that's kind of the reason for doing this  
18 is, this particular system right now, there is no one  
19 who can maintain the system legally.

20 This is the District (indicating map), you may  
21 have seen some of this in your mailings, but the red  
22 line was determined then as looking at not only  
23 construction drawings, but also contours that were  
24 developed by the Ottawa County System in their GIS,  
25 which is Geographical Information System. They have

1 one-foot contours, which provides us elevations and kind  
2 of develops that. So this red line or boundary there  
3 was developed based on that system. And again,  
4 identifying through construction drawings we had there  
5 are some storm sewer shown in here, some of it is open  
6 drain, some of it is enclosed drain. There is a little  
7 structure there that was shown or identified in some  
8 kind of construction drawing. So that's how this is  
9 developed.

10 And then lastly, this is just an orthophoto  
11 with the same district shown on here. It's the same  
12 exhibit that you see on the stand over there, but it  
13 does kind of show you if your house is in there or what  
14 may be in the district, just for your viewing purposes.

15 Other than that, we are basically here today,  
16 I think as Joe has mentioned, there may have been some  
17 issues in the past. We are here more today to listen to  
18 you if there are some issues, and we will take note of  
19 them, and some of them may need to be evaluated after  
20 this meeting, again, it's if deemed as a County drain.

21 CHAIR. BILL CARGO: One of the things I did  
22 want to clarify is, the reason that they are trying to  
23 bring orphan drains into the County system is that it's  
24 not legal to spend public monies on private property.  
25 And currently this is a private drain system. And so if

1 Georgetown Township wanted to clean it out, if the  
2 County Drain Commissioner wanted to clean it out, they  
3 technically can't spend public monies on this drain  
4 system because it's not public. Right now it is  
5 private.

6 That said, we are going to begin to take some  
7 public comments, but first I am going to make a motion  
8 to limit public comments to three minutes per person.

9 SEC. PEGGY WEICK: I will second that motion.

10 CHAIR. BILL CARGO: We have a motion and a  
11 second on limiting public comments. Are there any  
12 questions or comments on than that?

13 Then all if favor say aye.

14 MEM. GLENN NYKAMP: Aye.

15 SEC. PEGGY WEICK: Aye.

16 CHAIR. BILL CARGO: Aye. Then we are going to  
17 limit public comments to three minutes. Three minutes  
18 is enough time to give a summary of war and peace and so  
19 we want to keep this moving forward.

20 And now I am going to ask for public comments.  
21 What I am going to do is point to different rows and  
22 seats, and if you want to make a public comment, come to  
23 the podium, give your name and address. If you can  
24 point out where you are at that would be great also, and  
25 give us your experience with this orphan drain.

1                   And I am going to start in row 2 in the plaid  
2 shirt on the end there. Do you have any comments?

3                   MR. CHRISTOPHER SCHMUKER: I am Chris Schmuker  
4 and I live at 1467 Winifred.

5                   I am right on the line of the blue line there  
6 for the open drain. And my neighbor next door just  
7 moved in and he doesn't know much about it. But I have  
8 been at this place for 30 years. I have never had water  
9 down that open drain. We have got more water in the  
10 street, you know, in the ends of the driveways than in  
11 that drain.

12                   That's all I have to say.

13                   CHAIR. BILL CARGO: Thank you. And next to  
14 him, any comments? In the yellow, any comments? Any  
15 public comments? The lady there, any comments?

16                   Okay. I am going to go across then to row 2.  
17 In the blue jacket, do you have any comments you would  
18 like to make?

19                   MR. EVERT HOOGLAND: My name is  
20 Evert Hoogland, I live at 1520 Winifred.

21                   And part of the concern is, the way things  
22 stand now, the ditch could be filled in. Nobody could  
23 do anything about it, legally.

24                   Another thing the concern is, we got problems  
25 with elevation, that you can't dig the ditch deeper.

1           You just clean it out so that it drains to the best of  
2           its ability because of the elevation.

3                   CHAIR. BILL CARGO:   Okay, appreciate it.

4                   Next, I am going to go over to the third row.  
5           Are there any comments that you have in the third row at  
6           the end?

7                   MS. GEORGIA KAY BOWERMAN-TRUST:   I am here in  
8           support of my mom, Georgia Bowerman,  
9           6454 14th Avenue.

10                   Never had any major issues with water at all.  
11           You know, cost is always a concern of what it's going to  
12           -- I know you guys don't know the cost now, but how it's  
13           going to impact.   A lot of these people have had the  
14           same neighbors for 40 years and they are on limited  
15           incomes now and I think cost is a major issue, is what  
16           our concern is.

17                   CHAIR. BILL CARGO:   One of the things that  
18           typically occurs is, if this is brought into a public  
19           drainage system, this orphan drain is brought into the  
20           public system, there are monies that are paid.   We will  
21           assess for the purposes of public health that Georgetown  
22           Charter Township pay a portion of the cost out of the  
23           general fund, and also that the Ottawa County Road  
24           Commission would also pay a portion of the cost out of  
25           their monies also.

1                   So any project that is put forward, especially  
2 such a small project, those are often paid 100 percent  
3 by the Township. They have a policy I suspect. But it  
4 is never put 100 percent upon the property owners. The  
5 governmental unit would pay a portion of it if there is  
6 a significant project that is required.

7                   That said, I am going to move to the next.

8                   MR. BENNY GREEN: My name is Benny Green, I  
9 live at 6441 15th Avenue.

10                   I do have a water problem. There is times  
11 that I have to have two sump pumps running in my  
12 basement and it's been flooded like three or four times.  
13 If the power goes out when the water table is high, it  
14 only takes very little time to get six inches of water  
15 in my basement. So everything down there has to be up  
16 high to keep it out.

17                   And I have had three sump pumps running at one  
18 time, and it's costly for me just for the electricity  
19 for the sump pumps, and that's not counting the damage  
20 to anything that would be down there. I don't have  
21 insurance to cover that.

22                   CHAIR. BILL CARGO: Do you have a discharge  
23 point for your sump pumps that drains, a ditch or  
24 something?

25                   MR. BENNY GREEN: Say that I again.



1                   CHAIR. BILL CARGO: Do you have a discharge  
2 point for your sump pumps that goes to a drainage system  
3 to carry it away?

4                   MR. BENNY GREEN: I have about three acres and  
5 I take one of them out maybe a hundred yards, always  
6 gone out back. And at the same time it's running into  
7 my drain field. And it's just been a problem for me. I  
8 know my neighbor even in the dry season, hers runs just  
9 about year-round.

10                  CHAIR. BILL CARGO: Appreciate it. Thank you  
11 much.

12                  And next, any comments? The individual next  
13 to him, did you want to speak?

14                  AUDIENCE MEMBER: No.

15                  CHAIR. BILL CARGO: Okay, I am going to go  
16 across, the gentleman in the yellow shirt.

17                  MR. WAYNE BOONSTRA: I might as well say  
18 something.

19                  I am Wayne Boonstra, and I live at 6393 14th  
20 Avenue.

21                  This thing kind of follows right along the  
22 edge of my yard and then back a ways. And usually every  
23 spring I will take a walk back through the field and  
24 back out there. The place is kind of a jungle out back  
25 there. I don't know how anything could drain out of it

1           anyway. Right now it's kind of filled up.

2                        But up at the road they put sidewalks in this  
3 year in front of my house, and with the flood -- there  
4 was a flood here what, two or three years ago, whenever  
5 that was?

6                        WATER RESOURCES COM. JOE BUSH: 2013.

7                        MR. WAYNE BOONSTRA: That's probably when you  
8 got called out, because it was right in front of my  
9 house.

10                      WATER RESOURCES COM. JOE BUSH: Yes.

11                      MR. WAYNE BOONSTRA: And discovered there was  
12 a manhole cover down in my front yard that was buried  
13 under a foot-and-a-half of dirt that -- I have lived  
14 there for 30 years, and I can faintly remember a manhole  
15 cover there. My dad's farmed that field before that. I  
16 can remember years back there may have been something.  
17 That thing has been covered and nothing can drain  
18 through across the road from the other side.

19                      I know my neighbor got flooded bad and  
20 everything else as well. Once they opened that up I  
21 haven't seen no issues since. But again, that whole  
22 area seems to be plugged up to drain anything to begin  
23 with.

24                      Other than that, I mean, I know there's trees  
25 and everything else in the way and the water table is

1 high throughout there. So no doubt, having to cleaning  
2 it out will probably help to make a difference on the  
3 water flow as well.

4 CHAIR. BILL CARGO: Appreciate it.

5 I notice that Dan, the Township Manager  
6 stepped in. Did you have any comments you wanted to  
7 make at this time? You weren't here earlier, so I want  
8 to give you this opportunity

9 TOWNSHIP MANAGER DAN CARLTON: I am set, thank  
10 you.

11 CHAIR. BILL CARGO: You are all set, thank  
12 you.

13 Are was there objections? Was this initiated  
14 by the Township?

15 TOWNSHIP MANAGER DAN CARLTON: Yes.

16 CHAIR. BILL CARGO: That's good to know.

17 I am going to go to the fourth row at the end.  
18 Any comments? The gentleman with the beard.

19 MR. GEORGE BLAIR: My name is George Blair, I  
20 am at 1362 Port Sheldon.

21 Just moved in in April 1st, it was my in-laws'  
22 place before that. They had been there like 65-plus  
23 years. We don't have any problems with flooding there  
24 of any kind. That's been taken care of years ago.  
25 Actually, when they had it before it never came across

1 Port Sheldon and not any farther than that.

2 I would like to mention also that it's kind of  
3 a known fact that if you want to push something through  
4 the public, that you do it in the morning. You don't do  
5 it in the afternoon, okay, or in the evening I should  
6 say. So I question your way of doing this.

7 I think there also ought to be some kind of an  
8 estimate of the cost of what this is going to cost.  
9 It's obvious that you know about what drains you are  
10 going to have to, or ditches you are going to have to  
11 dig. And if you are in that business you ought to be  
12 able to come up with whether it's going to be 10,000 or  
13 one million. You ought to be able to have something on  
14 paper.

15 The paper that I got led me to believe that  
16 this is a health issue, but I haven't seen anything here  
17 that says that it's a health issue. I haven't heard  
18 anything from the Health Department. I don't know of  
19 any tests that you have done to say well, it's going to  
20 be because of mosquitoes or you are talking about  
21 flooding and basins and so forth and stuff like that.

22 We do have a high water table here, and I  
23 think you need to expect that. This might not take care  
24 of all of that. It might take care of some of it, but I  
25 don't know that it's going to take care of all the

1 flooding issues that some of these people have in their  
2 basements.

3 I thought that according to this that you were  
4 going to have a determination today whether this was  
5 necessary or not, but on the sheet that we have is for  
6 our, what we are going to discuss today and what you are  
7 going to decide, there is only two possibilities there  
8 and none of them are to say that this is not necessary.

9 CHAIR. BILL CARGO: Actually, there is. There  
10 is a motion to either make it necessary or not  
11 necessary. And so that is actually one of the options,  
12 is to say this is not necessary. So this Board of  
13 Determination will determine whether these drains need  
14 maintenance or don't need maintenance.

15 MR. GEORGE BLAIR: The other thing is my  
16 boundary, I am on the boundary line of it. I was told  
17 here that they just send it to people outside the  
18 boundary area also just because we are neighbors.

19 The other thing that's kind of confusing is, I  
20 was under the impression of reading the letter that it  
21 was for, you know, people in this area as to whether it  
22 was going to be some kind of a health issues again, and  
23 I take off time from work and I come here and find out  
24 it's really whether we are going to determine whether or  
25 not it's going to become a County thing. And so I think

1 I was kind of deceived in that area.

2 As I read the letter it doesn't say anything  
3 about we are going to take this piece of property or  
4 this project and we are going to make it become a County  
5 project. I don't see anything like that. I think that  
6 should have been clearly, more clearly written.

7 CHAIR. BILL CARGO: Could you point out on  
8 that map where your property is? I can't find your  
9 address. I want to make sure I understand.

10 MR. GEORGE BLAIR: (Indicating.)

11 CHAIR. BILL CARGO: Okay. So you are -- now,  
12 are the boundaries the red boundaries?

13 WATER RESOURCES COM. JOE BUSH: Correct.

14 CHAIR. BILL CARGO: So he is just touching or  
15 just outside of the boundary.

16 MR. GEORGE BLAIR: It's either a foot over my  
17 line or a foot past my line.

18 CHAIR. BILL CARGO: It may be right on your  
19 line. I am not sure.

20 MR. GEORGE BLAIR: It may be. Well, thank  
21 you.

22 CHAIR. BILL CARGO: Okay. I appreciate that,  
23 thank you.

24 And then across, and then I am going to go  
25 into right behind.

1 MR. JEREMY CLARK: Good morning. I am  
2 Jeremy Clark, I live at 6470 15th Avenue.

3 I have may have missed this when the mailing  
4 went out or even today, but typically when a petition is  
5 filed there is a list of allegations or reasons why the  
6 petition would be filed. Are there a list of those  
7 somewhere that we can see, or that the reasons why this  
8 has been requested to begin with?

9 CHAIR. BILL CARGO: I think the reason was  
10 stated earlier that this is a drainage system that is  
11 private. In other words, nobody is responsible to  
12 maintain it. And I understand that Georgetown Township  
13 is taking a look at all the drainage systems, and if  
14 they are orphan drains, are requesting that they be  
15 brought into the system, because if something happened,  
16 I notice that right next to your property there is a  
17 drain that goes along the boundary.

18 MR. JEREMY CLARK: Yeah, which I had no idea.

19 CHAIR BILL CARGO: If that drain collapsed, or  
20 if that drain filled up with sediment, currently no  
21 public dollars can be spent to repair it, either at your  
22 property or downstream. So that's the reason that they  
23 are doing this.

24 MR. JEREMY CLARK: No, I get that in the  
25 general sense, but I understood too that there were

1 different complaints, maybe some different folks that  
2 had requested some help or assistance.

3 So I guess when I think about a petition I  
4 think about specific allegations that would support the  
5 petition and the motion. I understand the whole orphan  
6 drain concept in general, but I just wondered if there  
7 were any specific allegations that we could, you  
8 know --

9 CHAIR. BILL CARGO: The only allegations we  
10 have heard are that there are some trees and some  
11 drainage areas, that there are some areas that are  
12 filling up as the drain will, open drains will fill up.  
13 And those are the only allegations.

14 We have also heard allegations of a high water  
15 table, which can be impacted by having the drain bottom  
16 continually fill up. It's going to also raise the water  
17 table because the water can't drain away. So those are  
18 the allegations that have been stated here today.

19 But as far as specific ones prior to this  
20 hearing, that's why we are here, is to hear if there are  
21 concerns.

22 MR. JEREMY CLARK: Okay. The second question  
23 I have then is, it does seem to be a little ambiguous,  
24 at least to me, anyway. Now, I understand there is only  
25 an existing drain system which is private. And so I



1 understand that there would be some maintenance to be  
2 done on this drain system if it were incorporated into  
3 the County or the Georgetown system or what. So that's  
4 one issue. But then I am kind of curious, it seems like  
5 by implication there is an idea that perhaps there might  
6 be the construction of a new drain system or something  
7 to remedy water problems that exist throughout the drain  
8 district?

9 CHAIR. BILL CARGO: I have not heard that  
10 today. I have not heard somebody saying they need to  
11 expand the drainage system. That could be made in the  
12 future, but I haven't heard somebody say that. What I  
13 have heard is that there is no maintenance being done  
14 and the Township is acknowledging that they can't spend  
15 public monies on a private drain.

16 MR. JEREMY CLARK: Yes. I just want to be  
17 clear about that then. The only thing that would be at  
18 issue today is that if this were adopted or no longer an  
19 orphan drain system, that we are only talking today  
20 about the maintenance of the current drain the system  
21 and not the construction of a new drain system  
22 throughout the district.

23 CHAIR. BILL CARGO: I have not heard anybody  
24 say they need to construct a new drainage system at this  
25 time. Now, if it's brought into the system at some

1 point in the future somebody could say the only way I  
2 could solve this problem in this drainage district is by  
3 adding additional drains or culverts. But given the  
4 size of this area, even if they did that, it would be a  
5 relatively minor project. But I haven't heard anybody  
6 requesting that at today's public hearing.

7 MR. JEREMY CLARK: Or at any other time in the  
8 last three or four years that I guess it's been an  
9 issue.

10 Okay. Thank you very much. Appreciate that.

11 CHAIR. BILL CARGO: Thank you.

12 The one question I am going to ask Dan is, do  
13 you have an orphan drain policy or a policy of public  
14 money to spend? Do you have like a limit that you would  
15 spend before you go to the assessment process?

16 TOWNSHIP MANAGER DAN CARLTON: Minor  
17 maintenance we will do. It's somewhat arbitrary, a  
18 thousand dollars, 1,500, depending on what we work with  
19 on the situations planned.

20 Part of the issue has to be if the maintenance  
21 needs we feel are self-inflicted by the residents  
22 dumping debris into the drain, that we are just cleaning  
23 the debris that they dump into the drain back out.  
24 Sometimes that's a different feeling. If they feel like  
25 they have filled in or they have done work and damaged

1 the drain, then we have to re-establish it or work with  
2 the Drain Commissioner's office. That will be more of  
3 an assessment first.

4 CHAIR. BILL CARGO: I appreciate it.

5 TOWNSHIP MANAGER DAN CARLTON: But yes, we  
6 first approached them about maintaining that end there,  
7 and that's when we were informed that they didn't have  
8 any jurisdiction to do so.

9 CHAIR. BILL CARGO: And the County also can  
10 spend up to a certain dollar amount a year on drain and  
11 maintenance. What is that?

12 WATER RESOURCES COM. JOE BUSH: Well, it  
13 depends whatever I set it at. I usually match the Road  
14 Commission. So we try to match it.

15 CHAIR. BILL CARGO: So much of this could be  
16 done with public monies on a system this small.

17 WATER RESOURCES COM. JOE BUSH: Correct.

18 CHAIR. BILL CARGO: Okay, thank you.

19 Are there any other public comments? We have  
20 one public letter.

21 WATER RESOURCES COM. JOE BUSH: Mr. Chairman,  
22 we have one more.

23 CHAIR. BILL CARGO: Okay. Let me first get  
24 this letter read and we will go back for a second round.

25 SEC. PEGGY WEICK: This is a letter to

1 Joe Bush, Ottawa County Water Resources Commissioner  
2 from Alan D. Rycenga, Deacon/Chairman, Jenison Bible  
3 Church.

4 "Dear Commissioner Bush: This is to inform  
5 the Green Acres Drain Board on how Jenison Bible Church  
6 does not experience any significant flooding issues and  
7 the property perks very well. We also have a large  
8 retention pond that not only services our property, I  
9 believe it has helped our neighbors who live along our  
10 northern property line.

11 It is our hope and prayer there would not be  
12 costly assessment to Jenison Bible Church."

13 CHAIR BILL CARGO: And I am going to allow one  
14 more comment.

15 MR. CHRISTOPHER SCHMUKER: There is some  
16 trees --

17 CHAIR. BILL CARGO: Can you give your name and  
18 address just for the court recorder.

19 MR. CHRISTOPHER SCHMUKER: Chris Schmuker,  
20 1467 Winifred.

21 There are some trees growing in the drain,  
22 it's not my property, I don't think, but it's right  
23 underneath the power lines, and they have made, or they  
24 have gone around and cut trees down by the power lines  
25 and they sprayed our trees there that they were going to

1 trim for that purpose, but they never did.

2 CHAIR BILL CARGO: And that may be a reason  
3 because even if the power company cuts the trees down,  
4 they may leave the roots and stuff in the ground and  
5 that may block that drain further.

6 MR. CHRISTOPHER SCHMUKER: I can take care of  
7 that. I just don't like the idea that coming along in  
8 my old age where previously I could have cut that tree  
9 down, but there's always complications with the City  
10 because it's so close to the drain pipe. If they could  
11 come out and just trim it I could probably have my  
12 neighbors get together and we can cut those trees out of  
13 there.

14 CHAIR. BILL CARGO: Appreciate it. You may  
15 want to talk to the Drain Commissioner and/or to the  
16 Township Manager about any specific maintenance that you  
17 want to do voluntarily on your own.

18 That said, I am going to take one last  
19 comment, and this is going to be it then because we have  
20 gone through the audience.

21 Come back to the microphone, give me your name  
22 and address again for the court recorder.

23 MR. JEREMY CLARK: Yeah, thanks for indulging  
24 me. Jeremy Clark, 6470 15th Avenue.

25 The question I guess I heard limited dialogue

1 here about the assessments and all that, the maintenance  
2 of the drain. So Mr. Commissioner, in your experience  
3 then with systems like this and maintaining them, would  
4 you say typically there is not much if any of an  
5 assessment that is levied on the property, a tax?

6 WATER RESOURCES COM. JOE BUSH: From what I am  
7 hearing today I don't see a big cost. But that could  
8 change, depending on other people who are not here. But  
9 I don't see a new system put in. And I will respond to  
10 a couple other questions, Bill, before we wrap the  
11 public comment up. Yeah, I don't see a big cost,  
12 because the system is there.

13 MR. JEREMY CLARK: Right. When you say big,  
14 do you have an idea how much? I know it's pretty  
15 difficult to make that. I know you don't want to be  
16 nailed down to something, but do you have an --

17 WATER RESOURCES COM. JOE BUSH: If I say  
18 something and people will call me and say oh, you said  
19 this. So it's hard to say.

20 MR. JEREMY CLARK: Especially if it's being  
21 recorded, too.

22 WATER RESOURCES COM. JOE BUSH: That's why I  
23 court-record it.

24 MR. JEREMY CLARK: Okay. Thank you very much.

25 CHAIR. BILL CARGO: Okay. We are hearing

1 second comments. Are these questions that can be asked  
2 of the Drain Commissioner? Is it directed towards the  
3 necessity of the drain or anything like that?

4 Okay. I will give you one more chance in the  
5 blue jacket then. And give your name and address,  
6 please.

7 MR. EVERT HOOGLAND: Evert Hoogland,  
8 1520 Winifred.

9 We always understood the right-of-way means 20  
10 foot.

11 CHAIR. BILL CARGO: Right-of-way of what? Of  
12 the drain?

13 MR. EVERT HOOGLAND: Of the drain, for the  
14 right-of-way.

15 MR. KEN BOSMA: He has an easement on the back  
16 of his property.

17 CHAIR. BILL CARGO: He has an easement on the  
18 back of his property. So you have an easement but it's  
19 not a County drain?

20 KEN BOSMA: Correct.

21 MR. EVERT HOOGLAND: Right. It's only 20  
22 feet, which puts my lot line right in the middle of the  
23 creek. Now they are talking about 45 feet would put you  
24 above the creek. Now, the right-of-way is mainly just  
25 for the right to go out and clean it. It doesn't affect

1 your property at all, right?

2 CHAIR. BILL CARGO: It should not affect your  
3 property. The easement is to maintain that open ditch.  
4 That's an open ditch that he is talking about. And the  
5 maintenance they do should follow best management  
6 practices, meaning, if they do something they need to  
7 make sure it prevents erosion and collapse of the banks,  
8 that sort of thing.

9 So yes, they do have an easement and it's for  
10 the purposes of the drain maintenance.

11 MR. EVERT HOOGLAND: That's the only way it  
12 affects the property.

13 CHAIR. BILL CARGO: That should be the only  
14 way it affects the property. And I see the Water  
15 Resources Commissioner is shaking his head. So he is  
16 agreeing with me. So he affirms my statement.

17 MR. EVERT HOOGLAND: And also prevent somebody  
18 from filling the creek in.

19 CHAIR. BILL CARGO: Well, it should. You are  
20 absolutely right. You as a property owner if you filled  
21 it in they could take you to court or put the cost on  
22 you if you did it in such a fashion.

23 Property owners normally don't do that, and I  
24 don't think they are asked that. I don't think you want  
25 to fill it in, obviously.



1                   MR. EVERT HOOGLAND: No, because it would  
2 affects everybody else.

3                   CHAIR. BILL CARGO: Absolutely.

4                   MR. EVERT HOOGLAND: So you got two acres to  
5 the west and there is no right-of-way or nothing. That  
6 was the concern if you ever sell, that they could not  
7 fill it in.

8                   CHAIR. BILL CARGO: I agree, they would not be  
9 able to fill it in, yes. If it's a public drain they  
10 can prevent it from filling in. If it's a private drain  
11 and they fill it in, then it becomes a civil matter. So  
12 the reason you put it into the public realm is so you  
13 can have some public protection, because if a private  
14 individual fills in a private drain it becomes a civil  
15 matter.

16                   MR. EVERT HOOGLAND: If it's not a County  
17 drain then --

18                   CHAIR. BILL CARGO: Joe can't do anything if  
19 somebody dumped leaves in it or filled it in, that's  
20 true.

21                   MR. EVERT HOOGLAND: That was one of the  
22 biggest issues.

23                   CHAIR. BILL CARGO: What is that?

24                   MR. EVERT HOOGLAND: That was one of the  
25 biggest issues.

1                   CHAIR. BILL CARGO: I agree. I think that's  
2 one of the issues we have it in the public drain system  
3 is to give those sort of protections.

4                   MR. EVERT HOOGLAND: One time the County had  
5 come by and cleaned out the creek on the west end and  
6 they put a stone wall at the mouth of the creek. I kind  
7 of suspect they thought of it as a retention pond rather  
8 than a drainage ditch. I did take the stones out of  
9 there so it could drain. And then in the creek there is  
10 also a bar in there and I kind of dug around it so the  
11 water could flow around, and when the creek flows it  
12 kind of pulls put water out instead of flowing back this  
13 way.

14                  CHAIR. BILL CARGO: And I think those are  
15 questions that you can go over with the engineer after  
16 the meeting and tell him your experience with that  
17 drain. That's a little beyond what we are looking for  
18 right now. But do talk with the engineer, because he  
19 will take your experience with the drain into  
20 consideration. So thank you.

21                  I think I saw one last hand. Again, this is  
22 going to be the final comment, but if you could come up  
23 to the mike and give your name and address again for the  
24 court recorder.

25                  MR. BENNY GREEN: Benny Green,



1           comments.

2                         While there are not problems for all in this  
3 drain system, there are for some, and I feel that with  
4 the testimony that we have heard today, that there is  
5 definitely a problem. I do agree with Bill and with the  
6 gentleman out there that it is also a health problem  
7 when you have standing water like that.

8                         You could impact, I mean, it looks like from  
9 6541 on down, that they have some serious problems there  
10 with the drain system that's blocked, that isn't  
11 working, or in water problems.

12                        So in order to serve all in the drain, I think  
13 that it does need to become a part of the County drain  
14 system so that the people that are impacted can get some  
15 relief.

16                        MEM. GLENN NYKAMP: Yeah, I believe that what  
17 Peggy said really hit the nail on the head.

18                        Again, most people don't have the problems,  
19 but there are enough of them that have a problem. I  
20 don't think it's going to be -- I know cost was brought  
21 up earlier from the lady over here, was cost, and I  
22 don't think it's going to be that much of an issue. But  
23 once it's in the drain it's there forever, and everybody  
24 is going to that because we do have these issues. One  
25 neighbor wants to do something, the other neighbor

1 doesn't want to do anything, and nothing ever gets done.  
2 This way if it's under the jurisdiction of the Water  
3 Resources Commission it will get done. And more than  
4 likely for most of us that are in the townships and  
5 stuff like that, we typically pay a lot of that or most  
6 of it just out of our own funds, and individuals don't  
7 end up paying a lot of money for it.

8 I think there is enough issues here, it is my  
9 understanding there still might be an issue if it's  
10 yours, and it's not an issue if it's somebody else's  
11 sometimes. So I would say that it's, I think this would  
12 be a good idea to do it.

13 CHAIR. BILL CARGO: A quick question. When  
14 was this subdivision constructed in this area?

15 MR. KEN BOSMA: One was in '56 and the other  
16 one was in '64.

17 CHAIR. BILL CARGO: Okay. And I am going to  
18 go back to the developers. If the developers put a  
19 drain in the ground, I think there was an assumption  
20 that it would be a public drain back in those days, and  
21 they may not have followed the procedure. Obviously  
22 they didn't leave a mechanism for the private  
23 individuals in the subdivision to maintain this system.  
24 So I am only going to assume that they made the  
25 assumption that this would be part of the public system.

1                   And also hearing the testimony, it looks as if  
2                   in the past the County has spent some monies on it, and  
3                   maybe the Township also.

4                   So again, I think it shows the intent that  
5                   this should have been a public system.

6                   So I am also in support of taking this orphan  
7                   drain, putting it into the public system mainly for the  
8                   purposes of maintenance, not expansion, but for the  
9                   purposes of maintenance, so that public monies can be  
10                  spent to maintain these drains as they fill up the  
11                  sediment that can be used to clear out the open ditches  
12                  as they also are filled with sediment. So I am in  
13                  agreement.

14                  That said, I will make a motion that the drain  
15                  is necessary, and I will also be looking for support.

16                  MEM. GLENN NYKAMP: Support.

17                  CHAIR. BILL CARGO: Any other comments?

18                  SEC. PEGGY WEICK: No.

19                  CHAIR. BILL CARGO: It's been moved and  
20                  supported that this orphan drain is found to be  
21                  necessary. And that said, all in favor say aye.

22                  MEM. GLENN NYKAMP: Aye.

23                  CHAIR. BILL CARGO: Aye.

24                  SEC. PEGGY WEICK: Aye.

25                  CHAIR. BILL CARGO: Opposed the same. And we

1 don't have any opposition, so the drain has been found  
2 to be necessary.

3 That said, the next thing is, I think that the  
4 local municipal government should have responsibility to  
5 pay for some of the maintenance of this drain, so I am  
6 going to make a motion that the drain is necessary for  
7 the protection of public health in Georgetown Charter  
8 Township, and that a portion of any future costs shall  
9 be apportioned to the municipality at large. Is there  
10 support for that?

11 MEM. GLENN WYKAMP: Support.

12 SEC. PEGGY WEICK: Support.

13 CHAIR. BILL CARGO: I think Glenn beat you  
14 slightly.

15 So again, we have a motion on the floor. Is  
16 there they need for further discussion?

17 MEM. GLENN NYKAMP: (Shakes head.)

18 SEC. PEGGY WEICK: (Shakes head.)

19 CHAIR. BILL CARGO: Then all in favor of  
20 assessing part of the cost to Georgetown Charter  
21 Township at large say aye.

22 MEM. GLENN NYKAMP: Aye.

23 CHAIR. BILL CARGO: Aye.

24 SEC. PEGGY WEICK: Aye.

25 CHAIR. BILL CARGO: Opposed. And again, that

1 is also approved.

2 And the final thing is, is that these  
3 boundaries are preliminary. And so I am going to make a  
4 motion that the drainage district boundaries be adjusted  
5 as necessary and lands be added and deleted as  
6 determined by the Water Recourses Commissioner as  
7 recommended by the engineer. That simply allows that if  
8 there are any mistakes in terms of the boundaries that  
9 those can be corrected.

10 Do I have support for my motion?

11 SEC. PEGGY WEICK: I support it.

12 CHAIR. BILL CARGO: Peggy, you got it first  
13 this time.

14 Is there any further discussion on that?  
15 Glenn?

16 MEM. GLENN NYKAMP: No.

17 CHAIR. BILL CARGO: Peggy?

18 SEC. PEGGY WEICK: No.

19 CHAIR. BILL CARGO: Then all in favor of that  
20 motion say aye.

21 CHAIR. BILL CARGO: Aye.

22 MEM. GLENN NYKAMP: Aye.

23 SEC. PEGGY WEICK: Aye.

24 CHAIR. BILL CARGO: Opposed the same. And  
25 also passed.



1                   Again, I think this is more procedural today  
2                   than anything else. There is not a specific project  
3                   that is being discussed. There is simply a need to take  
4                   an orphan drain and bring it under public control so  
5                   that the County, the Road Commission and the Township  
6                   can spend money on maintaining this road, or, excuse me,  
7                   this drain.

8                   That said, I am going to ask if Joe, the Water  
9                   Resources Commissioner has any closing comments.

10                   WATER RESOURCES COM. JOE BUSH: I do. I just  
11                   want to follow up for the minutes on some of the  
12                   questions that came upon this Board. One them is how do  
13                   you have a project or how do you do something without  
14                   knowing what the cost is. Well, today, you Board know  
15                   that you could have said no to this petition and said  
16                   no, it's not necessary. And then if I did the  
17                   engineering and had a study done on what is the issues  
18                   and the engineer goes out and spends ten grand, how am I  
19                   going to pay for it? It's not even a County drain  
20                   system. So I want to clarify that. That's why we don't  
21                   have a project.

22                   Number 2, one of the things that got brought  
23                   up was, well, this time, 10 o'clock, because we always  
24                   seem to pass everything in the morning. That's kind of  
25                   funny. They have been doing these BODs across the state

1 at 10 o'clock in the morning for years. So this is a  
2 common practice, Board, and I just want the people in  
3 the audience to know that too. This isn't a Joe Bush  
4 time to pass stuff.

5 CHAIR. BILL CARGO: I think it's also clear  
6 you have accepted comments through email.

7 WATER RESOURCES COM. JOE BUSH: Absolutely.

8 CHAIR. BILL CARGO: And you have accepted  
9 comments through letters, even through voice mail.

10 WATER RESOURCES COM. JOE BUSH: Yes.

11 CHAIR. BILL CARGO: And so I do say that  
12 although somebody may not be able to be here, they have  
13 the ability to give their opinion

14 WATER RESOURCES COM. JOE BUSH: Yes. We have  
15 had many phone calls previously before this BOD. So  
16 this isn't the one-time, the all-fix right now. So I  
17 don't have a project, there is no new storm sewer being  
18 presented. We are not doing it to make government  
19 bigger. We are not doing it because who knows what  
20 these people dream up sometimes.

21 What we are doing, we have an existing system  
22 that has many people who are flooding, whether it's  
23 health issues, flooding issues, trees in the drain. For  
24 whatever reason, we are here today for that. And that's  
25 the comments we have taken.

1                   So I just want to clarify that for the minutes  
2                   that 10 o'clock is the normal time. We don't put a  
3                   project out there and put a cost to it when we don't  
4                   even know the issues before the public hearing, and  
5                   whether the Board determines it necessary or not.

6                   You could have came in here and said no, Joe,  
7                   and then I could have been stuck with a \$10,000 cost,  
8                   and I would love to figure out which one of the property  
9                   owners would love to pay \$10,000.

10                  So anyway, I just wanted to clarify that.

11                  And again, thanks everybody for their time  
12                  this morning. I appreciate it, and thank you. Have a  
13                  great day.

14                  CHAIR. BILL CARGO: Then without objection, we  
15                  will adjourn the Board of Determination Drain Meeting.  
16                  Thank you.

17                  (At 10:50 a.m., hearing concluded.)

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1 STATE OF MICHIGAN )  
2 ) ss  
3 COUNTY OF KALAMAZOO )  
4  
5

6 I certify that this transcript, consisting of  
7 44 pages, is a complete, true, and accurate record of  
8 the proceedings held in the matter of the Green Acres  
9 Drain held by the Board of Determination on Wednesday,  
10 June 8, 2016.

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Dated: 6/12/2016

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Carl M. DePerro, CSR-4284  
Certified Shorthand Reporter  
O'Brien & Bails  
141 East Michigan Avenue  
Suite 206  
Kalamazoo, Michigan 49007-3943  
1-800-878-8750  
My commission expires:  
10-16-2019