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STATE OF MICHIGAN
COUNTY OF OTTAWA

IN RE: SOUTH MACATAWA RIDGE DRAIN
BOARD OF DETERMINATION

Proceedings commenced at 11:00 a.m., on Thursday,
December 14, 2017, at the Holland Charter Township, 353 North
120th, Holland, Michigan, held before Marjorie A. Covey,
CSR-2616, Certified Shorthand Reporter and Notary Public.

APPEARANCES:

- Mr. Joe Bush, Ottawa County Water Resources Commissioner
- Ms. Jennifer Vandenberg, Secretary to Water Resources Comm.

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

- Mr. Don Komejan, Manager, Holland Charter Township

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

- Mr. Jerry Olman, Ottawa County Road Commission

1 Holland, Michigan

2 December 14, 2017 - 11:00 a.m.

3 PROCEEDINGS

4 WATER RESOURCES COMM. JOE BUSH: Well good morning,
5 every one. Welcome to Holland Charter Township for the Board
6 of Determination for the South Macatawa Ridge Drain.

7 Some of you are probably like why are we here, and
8 wondering what's this process.

9 I'll start off by saying I'm Joe Bush, the Ottawa
10 County Water Resources Commissioner, also known as the drain
11 commissioner. I changed the name in 2013 when I got elected
12 because this is just one process of what a drain commissioner
13 or water resources commissioner does is the BOD, or board of
14 determinations.

15 Being that that's said, we're here today because
16 this particular drain district is an orphan, as we know it
17 today. And we might find differently with public testimony
18 or some other paperwork that might come forward that we don't
19 have in our files in my department.

20 So I am one of your county elected officials. And
21 Michigan is the only one that has a drain commissioner, the
22 water resources commissioner. And this is just one of our
23 jobs is to hold a public hearing when we get a petition, and
24 we received a petition from the Township of Holland, because
25 it's an orphan.

1 One of their things that the township is doing is
2 trying to establish all their orphans. I think we're down to
3 87 now. We've been establishing quite a few of these. We
4 had a meeting prior to this one on another orphan.

5 We don't propose any work being done that we know
6 of today, that's why we hold a public hearing to hear from
7 the folks that live there if there is any issues. So it's
8 not like we have a project.

9 Today's meeting and everything is paid for through
10 the township. Don Komejan will probably share later on why
11 they're doing this.

12 And then one of the things that we look at is who
13 do you call if there is an issue? Well you call the
14 township, they say call the road commission. The road
15 commission says, call the county. And the problem is nobody
16 owns it, that's what an orphan is.

17 Nobody owns it, nobody has jurisdiction. There
18 really isn't any easements. There could be on the plat, but
19 that doesn't give somebody the right if there is an easement
20 there, to do maintenance on something because how are you
21 going to pay for it? That's another issue with an orphan,
22 who is going to pay for it.

23 So what the township is doing is being proactive,
24 and they're not the only township. Park Township is another
25 big one, we've had a lot of BODs, the board of

1 determinations. So it isn't something I just dream up for
2 the township, it's all state law.

3 And so to do that we have a public hearing, and
4 then I appoint three gentlemen for a board. That's the
5 board.

6 And I appoint those folks who have no affiliation
7 with any properties. They don't live there. They don't live
8 in the township, and don't own any properties in this
9 drainage district.

10 And I appoint them because it's not on me to make
11 that decision whether this should be a drain or not. That's
12 why we're here, just to say, should this be a county drain or
13 not? That's the only reason we're here, and hear your
14 testimony if there is issues, because if we don't know about
15 them, we don't know about them.

16 So the public is here to say maybe you don't want
17 it to be a county drain, and we want to hear that. Some
18 people are like, we don't want this to be a county drain
19 until they come to this meeting, and then they're like, oh,
20 yeah, it makes sense.

21 This isn't about a power thing or control. It's
22 just about who do you call to make sure that we fix problems
23 in the future when there is potential issues, because
24 infrastructure as we know it, does fail.

25 I'll do introductions. This is Don Komejan, he is

1 your Holland Township Manager.

2 Then I have my secretary who you either spoke to
3 on the phone or got the mailing from, that's Jen
4 Vandenberg.

5 We have the road commission here, Jerry, and Jerry
6 has probably been in this subdivision before in the past, or
7 myself, I came from the road commission for 12 years. So
8 maybe we've been there before to fix things in the past. But
9 right now there is no current issues that I know of.

10 Prein & Newhof is the engineering firm that I
11 picked to go through the process and look at issues, the
12 drain district. So I have to do that per Drain Code.

13 And this is Ken Bosma and Lucas Timmer, both from
14 Prein & Newhof.

15 And then we got Margie, and this is not required by
16 statute or Drain Code, but I always have a court reporter at
17 every one of my public hearings so you can go back to
18 MIOttawa.org, the website in about four to six, maybe eight
19 weeks, and the transcripts you can read them online. And if
20 you can't get access to online, I can give you a hard copy
21 too.

22 But that way everything is court recorded word for
23 word. So when you do give -- when it's time for public
24 comment, please come up, state your name and address, and
25 that way she can hear it and record it. So that way it's

1 documented that you spoke and you brought up whatever issue
2 or concern or reason why you wanted to speak.

3 So this is your time for this board to hear because
4 I'm neutral. I can't say yes, I want this or I don't.

5 This three panel board is it.

6 So who do I pick? That's probably another
7 question. Who do you pick for these boards?

8 I usually pick people who are experienced in
9 drainage, Drain Code, and who understand township and laws.

10 And from my right is Rich. And Rich is from
11 Georgetown Township, sits on the board there, very well
12 knowledgeable about drainage in his township and Drain Code, and
13 the process of why we're here today. I think that's
14 important.

15 In the center we have Bill Cargo. He's the Grand
16 Haven Township City -- Township Manager. And he's been on a
17 lot of these. He's been around for years. He understands
18 everything that we're talking about today.

19 And then on the left of him, the last guy there is
20 Ken Souter from Port Sheldon Township. He's retired from the
21 road commission, in the engineering department, and worked
22 there for many, many years. And he understands drainage as
23 well.

24 So I try to pick a board that I appoint that
25 understands why we're here today, and understands that they

1 expect, you know, we're here to help. And that's why I
2 picked these gentlemen.

3 I got about 12 people that I decide from. So I
4 don't just pick anybody from the crowd and say, hey, will you
5 do this.

6 And their sole decision today is to determine not a
7 project, not what we're going to do. It's whether it's an
8 orphan going into a county drain system. That's their only
9 sole job today.

10 So once I give them the oath, they'll pick a chair
11 and a secretary, and run the meeting. Any questions to them,
12 they can ask me, that's fine, or the engineer.

13 And then, yeah, there will be a public comment
14 time. Just make sure you speak loudly, so she can get your
15 name and address and your comments.

16 Gentlemen, please rise and raise your right hand.

17 Do each of you solemnly swear to faithfully perform
18 and discharge the duties imposed upon you as members of the
19 Board of Determination, appointed by the Water Resources
20 Commissioner of Ottawa County to determine the necessity of
21 drainage improvements in a certain drain to be known and
22 designated as the South Macatawa Ridge Drain in the Township
23 of Holland, in the said county, as required by law,
24 gentlemen?

25 BOARD MEMBER BILL CARGO: I do.

1 BOARD MEMBER KEN SOUTER: I do.

2 BOARD MEMBER RICH VANDERKLOK: I do.

3 BOARD MEMBER BILL CARGO: Well now that we're
4 officially seated, we do need to have an election for
5 chairperson and secretary.

6 Do I have a nomination to elect a chairperson?

7 BOARD MEMBER KEN SOUTER: I nominate Bill Cargo for
8 chair.

9 BOARD MEMBER RICH VANDERKLOK: I will support.

10 BOARD MEMBER BILL CARGO: We have a motion and a
11 support on the table. All in favor, say aye.

12 BOARD MEMBER RICH VANDERKLOK: Aye.

13 BOARD MEMBER BILL CARGO: Aye.

14 BOARD MEMBER KEN SOUTER: Aye.

15 CHAIRMAN BILL CARGO: So I will act as the Chair
16 for this Board of Determination.

17 I'm also going to make a motion that Ken be elected
18 as secretary for this Board of Determination. Do I have
19 support?

20 BOARD MEMBER RICH VANDERKLOK: Support.

21 CHAIRMAN BILL CARGO: We have a motion on the table
22 and support that Ken, you will be the secretary for this
23 Board of Determination. All in favor, say aye.

24 BOARD MEMBER RICH VANDERKLOK: Aye.

25 CHAIRMAN BILL CARGO: Aye.

1 BOARD MEMBER KEN SOUTER: Aye.

2 CHAIRMAN BILL CARGO: So we now have what we need
3 to run the meeting.

4 The other thing we're going to do is we're going to
5 have a limit on public comments. You could quite frankly
6 summarize War and Peace in about three minutes.

7 So we're going to have a three-minute limit per
8 person on any public comments that you make.

9 So do I have a motion to limit public comments to
10 three minutes per person?

11 BOARD MEMBER RICH VANDERKLOK: So moved.

12 SECRETARY KEN SOUTER: Supported.

13 CHAIRMAN BILL CARGO: We have a motion and support
14 on table. All in favor, say aye.

15 BOARD MEMBER RICH VANDERKLOK: Aye.

16 CHAIRMAN BILL CARGO: Aye.

17 SECRETARY KEN SOUTER: Aye.

18 CHAIRMAN BILL CARGO: And that said, we're going to
19 then start the actual public hearing portion of this meeting.

20 We have Don Komejan from Holland Charter Township,
21 the superintendent for Holland Charter Township.

22 Don, would you like to come to the podium and give
23 a brief overview of the township's position on this?

24 HOLLAND TOWNSHIP MANAGER DON KOMEJAN: Very brief.

25 We talked about the proactive intent that the board

1 is enacting here in Holland Township. In 2015 they adopted a
2 policy regarding storm water drains, both from a funding
3 standpoint as well as a process. And the process and goals
4 that they established were to identify and transition over a
5 multiyear period private, or otherwise known as orphan drains
6 to that of being formally incorporated into the county drain
7 system; or if they were to remain private drains, they would
8 then need to have written agreements with the township and/or
9 the county to handle future drain maintenance and
10 improvement.

11 So the support that our board gave by way of a
12 petition was to bring essentially what is now a private drain
13 system into the authority of the county drain system.

14 CHAIRMAN BILL CARGO: And, Don, from what I
15 understand, pursuant to state law, you can't spend -- the
16 township can't spend money, the Ottawa County Drain
17 Commissioner can't spend money, the road commission can't
18 spend money on a private drain system. That's illegal, is
19 that correct?

20 HOLLAND TOWNSHIP MANAGER DON KOMEJAN: The statute
21 does not authorize it. We will admit when there are
22 emergencies, the parties to be will take care of an emergency
23 usually.

24 CHAIRMAN BILL CARGO: And up to this point you
25 assumed it was part of the county drain, but you found out

1 they didn't go through the proper process back in the early
2 1990s?

3 TOWNSHIP MANAGER DON KOMEJAN: Correct.

4 CHAIRMAN BILL CARGO: I appreciate it. Any other
5 comments, Don?

6 TOWNSHIP MANAGER DON KOMEJAN: No.

7 CHAIRMAN BILL CARGO: That said, we'll have the
8 engineer, Lucas from Prein & Newhof give a presentation or
9 slide show that talks about the South Macatawa Ridge Drain.

10 ENGINEER LUCAS TIMMER: I'm Lucas Timmer, I work
11 for Prein & Newhof in Holland, I'm a civil engineer.

12 The South Macatawa Ridge Drain is an existing storm
13 water drain system, it's an orphan drain system as both Don
14 and Joe have stated. It lacks any authorized local or county
15 governmental jurisdiction, and it does not have
16 administrative, procedural and funding mechanisms to address
17 current or future needs for maintenance and improvement.

18 The Holland Township has several of these orphan
19 drain system. These systems are common in plats that were
20 established before the mid 1990s.

21 Since the mid 1990s, there is now a procedure
22 called a Section 433 agreement in which the developer and the
23 water resources commissioner establish the storm water
24 infrastructure as county drain.

25 This was petitioned by Holland Charter Township on

1 November 2, under Chapter 4 of the Michigan Drain Code.

2 Chapter 4 relates to the establishment of county drains.

3 And as Joe had mentioned, as part of this Michigan
4 Drain Code, we are required to have a Board of Determination.

5 So there is one development that's part of this
6 Macatawa Ridge Drain and that's South Macatawa Ridge.

7 So this map here is a map of a drainage district,
8 and of the storm water drain infrastructure.

9 So this red line here is called a drainage district
10 boundary. This drainage district boundary is essentially the
11 watershed. So any one within this drainage district boundary
12 contributes runoff to the storm water drain system here.

13 This drainage district boundary was determined by
14 looking at county GIS data. And county GIS data shows
15 contours so we're able to determine where high points are
16 located and low points are located, so that way you can
17 determine how runoff flows into the system.

18 We also look at record plans of when the sanitary
19 and water main and storm were installed, and that helps us
20 then determine how this boundary should be delineated.

21 The blue lines here are the storm drain
22 infrastructure. So you can see there is a storm system
23 located right here that goes through a drainage easement.
24 And then it has a discharge point through an easement located
25 right there. And there is another system here that deposits

1 its runoff out here through an easement. And then finally,
2 at the northern end of your plat there is a catch basin here
3 that brings water out and deposits it in a drainage easement
4 right here.

5 And this system right here, this creek is the Tulip
6 Intercounty Drain.

7 This shows the aerial of the drainage district. We
8 use this aerial as well in helping us determine the drainage
9 district boundary.

10 So the next step as a part of this Board of
11 Determination is we're going to have a public testimony where
12 each of you have three minutes to state what you'd like to
13 about the proposed county drain. The board then will
14 determine the necessity of this petition based on public
15 health, welfare and convenience.

16 After hearing your testimony, if the drain is
17 deemed necessary by the board, then this orphan system will
18 become a county drain.

19 If it's deemed unnecessary, then it will not become
20 a county drain.

21 If issues are brought up from you guys in the
22 public testimony, then there may be a project that needs to
23 occur. This can be a small project, something like filling a
24 sink hole, or it can be a big project like replacing storm
25 sewer.

1 If you guys don't have any known issues with the
2 system, then nothing will be done at this time.

3 In the future, say a decade from now and there is
4 issues with your storm system, then you as a drainage
5 district will petition for work to be done, or Holland
6 Township can petition work to be done.

7 A petition is not needed on some of the smaller,
8 little drain maintenance issues. So anything that costs --
9 there is a 5,000 per mile of drain, that's what Joe is
10 allowed to spend without the need for a petition, that's per
11 the Drain Code. That will not then require a petition by you
12 guys for any work to occur.

13 There will be assessments if any future project
14 occurs, and this assessment will be made out to Ottawa
15 County, the Ottawa County Road Commission, Holland Charter
16 Township and the property owners who are located within that
17 drainage district.

18 Thank you.

19 CHAIRMAN BILL CARGO: I appreciate the comments.

20 And at this stage of the, of this public hearing
21 we're going to begin to take public comments.

22 So I'm going to start on the right-hand side and we
23 will go -- my right-hand side and go over to my left-hand
24 side.

25 I'm going to start back in the third row, the

1 gentleman at the end, would you like to make any comments?

2 UNKNOWN SPEAKER: Would this be in regard to
3 problems that are currently --

4 CHAIRMAN BILL CARGO: If you could give me your
5 name and address and come up to the podium, and I can answer
6 those questions at that time.

7 The reason we're doing this is we want to make sure
8 the court reporter can hear what is being said and is able to
9 record.

10 MR. KEN BRONDYKE: My name is Ken Brondyke. We
11 live at 10623 Macatawa Lane.

12 Is there -- if there is problems currently --

13 CHAIRMAN BILL CARGO: Explain where this --

14 MR. KEN BRONDYKE: Our lot number is 26, which
15 would be this lot right here.

16 CHAIRMAN BILL CARGO: Okay.

17 MR. KEN BRONDYKE: So the water that drains off
18 from this in here, drops into this low section, and currently
19 goes out into this Tulip City Drain or whatever you want to
20 call it right now.

21 But where it goes into the creek, now this is --
22 when we moved in, it was flat land. It's not anymore, there
23 is a deep crevice there where the water through years of
24 running through has created -- I don't know what's going to
25 happen in the future but we're almost as low as the creek is

1 now, and it started out like about ten feet above it.

2 CHAIRMAN BILL CARGO: So there is an erosion
3 problem where the discharge of the drain occurs?

4 MR. KEN BRONDYKE: Yes.

5 CHAIRMAN BILL CARGO: This is being recorded. The
6 engineer will take a look at that, if they need to do
7 something to prevent further erosion, if they consider that
8 to be a problem, they will.

9 We can not as a Board of Determination tell them
10 what to do, but we can make sure they have the information.

11 MR. KEN BRONDYKE: Thank you.

12 CHAIRMAN BILL CARGO: And the lady next to you?
13 Any comments?

14 I'm going to go back to the fourth row, and start
15 in this -- the gentleman with the glasses?

16 UNKNOWN SPEAKER: No comment.

17 CHAIRMAN BILL CARGO: And next?

18 UNKNOWN SPEAKER: No comment.

19 CHAIRMAN BILL CARGO: Next?

20 UNKNOWN SPEAKER: No comment.

21 CHAIRMAN BILL CARGO: The very back row?

22 UNKNOWN SPEAKER: No comment.

23 CHAIRMAN BILL CARGO: Okay. This is going quicker
24 than we had anticipated.

25 How about in the back row on the left-hand side,

1 any comments?

2 UNKNOWN SPEAKER: No, I'm good, you answered most
3 everything I had.

4 CHAIRMAN BILL CARGO: Right straight here to the --

5 MR. KEVIN REBHAN: Yes, Kevin Rebhan, 10681
6 Northridge Court.

7 I'm curious about, you talked about the scope of
8 project based on the drain, is that the length of the blue
9 lines?

10 CHAIRMAN BILL CARGO: That would typically be
11 determined by the length of the blue line when they're
12 talking about normal maintenance. And if it's something
13 above 5,000 a mile for normal maintenance, it wouldn't occur.

14 Now this is talking about the drain commissioner,
15 because the road commissioner may be coming into your
16 subdivision and may be sucking gravel out of the catch basins
17 and that type of thing as part of their normal maintenance
18 also. And technically if it's not part of a public drain
19 system they shouldn't be doing that; but they have because
20 everybody assumes that this was a public drain.

21 MR. KEVIN REBHAN: Okay. We all did, yes. Thank
22 you.

23 CHAIRMAN BILL CARGO: Okay.

24 And the next gentleman.

25 MR. SCOTT ZASTROW: My name is Scott Zastrow, I

1 live at 10707 Northridge Court there in the subdivision.

2 A couple questions I have for this are, one of the
3 things -- why is this not handled under Act 51? And part of
4 the reason I ask that is if you go through our subdivision
5 plans back in '96, you'll find a stamp on there saying that
6 when the project is completed the roads will be dedicated to
7 the township -- not the township, the county.

8 So with that, if you look at the plans also you'll
9 see the plans or standards that were utilized for the
10 construction were all based on the county. And with all that
11 said, when you build a city or street system, what's included
12 in that are the lights, the signs, the pavement, and the
13 storm drain system.

14 CHAIRMAN BILL CARGO: We've actually had this
15 discussion before because you're right, if you look at that
16 same county plat you'll also see that it was signed by the
17 drain commissioner at the time, and because they have
18 reviewed it at that time also.

19 Unfortunately they didn't go through the typical
20 adoption process that all drain systems, all plats go through
21 now days. Since the mid 1990s, the county and the locals
22 have changed how they approve these plats to ensure that the
23 drain system, which is actually a responsibility of the water
24 resources commissioner, is also approved and brought into the
25 county system.

1 So the roads are brought into the county system,
2 but technically these storm drains are not part of the county
3 road system.

4 They approve the county road system, but it's not
5 their responsibility to maintain the storm water portion.

6 MR. KEVIN REBHAN: The gentleman on the left,
7 you're with Grand Haven?

8 SECRETARY KEN SOUTER: I live in Port Sheldon
9 Township, originally I worked for the Ottawa County Road
10 Commission.

11 MR. KEVIN REBHAN: Who is with Grand Haven?

12 SECRETARY KEN SOUTER: Bill Cargo.

13 CHAIRMAN BILL CARGO: Me.

14 MR. KEVIN REBHAN: Who is responsible for the storm
15 drains in the city?

16 CHAIRMAN BILL CARGO: I'm with the township of
17 Grand Haven.

18 In the city of Grand Haven, municipalities are
19 responsible for their storm drains.

20 For counties, townships, the county is responsible.
21 For cities, they have that responsibility. Just like in a
22 township, the main difference between a township and a city
23 is that a township does not have direct control over its
24 roads. We work with the road commission.

25 MR. KEVIN REBHAN: Correct, so then you just stated

1 the county is responsible for the storm drain system. So the
2 county road commission receives funds under Act 51 to
3 maintain the road system.

4 CHAIRMAN BILL CARGO: I said they're responsible --
5 under Act 51 they're responsible for the roads. This is part
6 of a storm drain system, which is a responsibility of the
7 county drain commissioner.

8 MR. KEVIN REBHAN: Well I'll give you some
9 documentation here, if you go through Act 51, 601 CL, it says
10 the preservation means the activity undertaken to preserve --

11 THE REPORTER: I'm sorry, I need you to speak up a
12 little bit.

13 MR. KEVIN REBHAN: Okay. It says the preservation
14 means the activity undertaken to preserve the integrity of
15 the existing roadway system, including but not limited to
16 maintenance, capital preventive treatment, safety projects,
17 reconstruction, restoration and rehabilitation.

18 But under that, you have maintenance. Maintenance
19 means routine maintenance or preventive maintenance, which
20 routine maintenance means actions performed on a regular or
21 controllable basis or in response to uncontrollable events
22 upon a road. Routine maintenance includes unplugging drain
23 facilities, repairing storm drains, repairing or emergency
24 repairs, cleaning streets, and associated drainage.

25 CHAIRMAN BILL CARGO: Let's --

1 MR. KEVIN REBHAN: Let me finish. The next section
2 which is section O, preventive maintenance means a planned
3 strategy of cost-effective treatments to the existing roadway
4 system and its appurtenances that preserve the assets of the
5 retarding deterioration and maintaining functional condition.
6 Preventing maintenance includes restoration of drainage.

7 These are all under Act 51.

8 The streets here in question became part of the Act
9 51 system on July 1st of 1996.

10 CHAIRMAN BILL CARGO: Yes.

11 MR. KEVIN REBHAN: And that was meaning that they
12 took funds from the state for the local roads.

13 CHAIRMAN BILL CARGO: Yes.

14 MR. KEVIN REBHAN: And at that point, you're now
15 plowing, and you're also maintaining the lights, you're
16 maintaining the road surface and you're maintaining the
17 drainage system that's appurtenant to that system.

18 Ottawa County's own website says that the drainage
19 systems that are put in place are for the removal of the
20 water from the roads. It's not for the adjacent properties.

21 CHAIRMAN BILL CARGO: But it also -- I happen to
22 disagree with you. I understand where you're coming from on
23 this and I can see how a simple reading of this may lead you
24 to that. But let's go a step beyond.

25 We have the problem that was just addressed by the

1 first person where they're having erosion where the discharge
2 is. That has nothing to do with maintaining the roads.

3 MR. KEVIN REBHAN: What causes it --

4 CHAIRMAN BILL CARGO: Let me finish now.

5 MR. KEVIN REBHAN: Okay.

6 CHAIRMAN BILL CARGO: And because of that the road
7 commission wouldn't have responsibility for dealing with an
8 erosion problem where the discharge is well outside of the
9 road right-of-way.

10 And so that's where, and why, we would use the
11 Ottawa County Water Resources Commissioner.

12 I understand what you're saying, and by the way the
13 road commission does do certain maintenance on this, such as
14 sucking out the gravel of the sumps in the catch basins and
15 so forth.

16 But I disagree with your analysis that that means
17 that these are the county road commission. I appreciate
18 you sharing that opinion. But I think we have enough
19 legal background on this to say, I'm not sure that's
20 correct.

21 In fact, I'm positive that your analysis is not
22 correct.

23 MR. KEVIN REBHAN: So you're telling me that Grand
24 Haven the city, Holland the city, Grand Rapids, Wyoming,
25 Kentwood, all --

1 CHAIRMAN BILL CARGO: I am telling you that cities
2 and townships are different animals when it comes to drain
3 work.

4 MR. KEVIN REBHAN: Correct.

5 CHAIRMAN BILL CARGO: Okay.

6 MR. KEVIN REBHAN: I understand that. But the
7 county then assumes the role of the city, in this case,
8 because they are receiving the funds from Act 51.

9 Therefore --

10 CHAIRMAN BILL CARGO: I disagree with your analysis
11 and I've explained to you why I disagree with your analysis.
12 I won't have a debate with you which is why we have a
13 three-minute limit. You shared your opinion. I disagree
14 with it.

15 Maybe the other gentlemen agree with you, but I do
16 not.

17 In fact, Ken, you were with the Ottawa County Road
18 Commission and an engineer.

19 SECRETARY KEN SOUTER: I basically agree with you
20 on the fact that Act 51 allowed the Ottawa County Road
21 Commission to take over the public roads and the public roads
22 system. No question about that.

23 And the infrastructure in the roadway as to the
24 catch basins which drain the roads, they takeover.

25 However, any part of that system that is external

1 to the roadway, which is the discharges, the drainage
2 easements, everything outside of the road system, is not
3 taken over by the road commission.

4 That's where we need somebody to take over. We
5 always assumed, I mean I did this for years, the takeover the
6 road system in Ottawa County. And we always assumed, because
7 the drain commissioner signed the plat, and reviewed the
8 plat, he had ultimate jurisdiction of all the drainage in the
9 subdivision.

10 There has to be some little skinny law that
11 somebody had a court case or something in the past, that all
12 of the sudden said, no, the drain commissioner doesn't have
13 any responsibility. He didn't, let's say, like the road
14 commission, take it over into the system.

15 And since, what was it, in 1998? 1998?

16 WATER RESOURCES COMM. JOE BUSH: '97?

17 SECRETARY KEN SOUTER: Okay, whatever the date was.
18 Since that point, they do that. And so the drain
19 commissioner signs the plat, takes it over into their
20 jurisdiction.

21 Those prior to that, it didn't happen.

22 And it's an error, it was an error of a long time
23 ago. So what they're trying to do here is just formally take
24 it into their, so the drain commissioner has the
25 responsibility for all the outlets, for all the drainage

1 easements in the plat.

2 And that's what this thing is all about.

3 CHAIRMAN BILL CARGO: Because all the drainage
4 easements within the plat aren't within the road right-of-way
5 either.

6 SECRETARY KEN SOUTER: That's right. And this is a
7 perfect example. There is probably easements in there for
8 the Tulip Drain that show up on the plat. I don't have the
9 actual plat in front of me.

10 Ken, is that true, that the Tulip Drain easements
11 show --

12 ENGINEER KEN BOSMA: Correct.

13 SECRETARY KEN SOUTER: -- there is easements from
14 the outlet to the Tulip Drain? They're not part of the road
15 system.

16 Where the gentleman had the erosion, that's not
17 part of the road system. And it's probably something that
18 should be taken care of because of the fact that erosion is
19 going down into the Tulip Drain and further plugging up the
20 Tulip Drain.

21 MR. KEVIN REBHAN: Let's go back to this point
22 where you guys are making --

23 CHAIRMAN BILL CARGO: I'm going to bring this to an
24 end because I'm not going to continue with a legal debate
25 about your legal opinion on this, which I disagree with and I

1 don't think it's correct.

2 So I've given you more than the three minutes we've
3 allocated. I heard your opinion, I'm not going do debate it.
4 So this part is -- your comments then are taken into the
5 record, but are over.

6 MR. KEVIN REBHAN: I'd like to submit the document
7 I have.

8 CHAIRMAN BILL CARGO: You can submit the
9 documentation. We will make that part of the official
10 record. Thank you.

11 MR. KEVIN REBHAN: Mr. Chair, could I -- would Don
12 like to discuss any of that?

13 HOLLAND TOWNSHIP MANAGER DON KOMEJAN: No.

14 CHAIRMAN BILL CARGO: I think you need to discuss
15 this outside of the public hearing.

16 MR. KEVIN REBHAN: I'm just curious if there is an
17 opportunity --

18 CHAIRMAN BILL CARGO: There is an opportunity. I
19 think they have an opportunity to share their opinion on
20 that. This has been something that's been adjudicated well
21 beyond many many times.

22 MR. KEVIN REBHAN: Do you have court cases that you
23 could --

24 CHAIRMAN BILL CARGO: I'll let you talk to them
25 after the meeting.

1 Give your name and address please.

2 MS. WENDY REBHAN: Wendy Rebhan, 10681 Northridge
3 Court. So in listening to this, and you talking about who is
4 responsible for what, in the roadway, we are -- I don't know
5 what our lot number is, but I can see the blue line goes
6 right between our lot and our next door neighbor.

7 So our driveway sits right -- should I go point it
8 out?

9 CHAIRMAN BILL CARGO: Please. I think I know where
10 you're talking about.

11 MS. WENDY REBHAN: Right here.

12 CHAIRMAN BILL CARGO: Okay.

13 MS. WENDY REBHAN: So our driveway sits right along
14 that drainage.

15 CHAIRMAN BILL CARGO: Okay.

16 MS. WENDY REBHAN: Our driveway is beginning to
17 fall. So is that --

18 CHAIRMAN BILL CARGO: If there has been a
19 separation of a pipe, which can occur --

20 MS. WENDY REBHAN: Wait, is that what you're
21 talking about, is who is responsible for that when that
22 happens? You're saying it's not Ottawa County because that's
23 not coming from the road?

24 CHAIRMAN BILL CARGO: It's outside the road
25 right-of-way, but it's within the storm drain easements.

1 MS. WENDY REBHAN: So right now --

2 CHAIRMAN BILL CARGO: If there was a separation of
3 pipe that was causing a sink hole and causing your driveway
4 to fall away, that would be the responsibility of the Ottawa
5 County Road Commission.

6 MS. WENDY REBHAN: So now you're saying --

7 CHAIRMAN BILL CARGO: Excuse me, Water Resources
8 Commissioner.

9 MS. WENDY REBHAN: You're saying if I would make a
10 phone call right now, there would be no one in charge of
11 taking care of that problem?

12 CHAIRMAN BILL CARGO: Exactly correct.

13 MS. WENDY REBHAN: So now you're saying the
14 township owns it and the township would be responsible for
15 the --

16 CHAIRMAN BILL CARGO: If Ottawa County owns it,
17 then they're responsible for dealing with that issue,
18 correct.

19 MS. WENDY REBHAN: Okay, thank you. I needed some
20 clarification.

21 CHAIRMAN BILL CARGO: And this will be -- I'll make
22 one final request, are there any other questions or comments
23 before we move on?

24 Okay.

25 MR. KEVIN REBHAN: In all this, Kevin Rebhan again,

1 could you speak to the implications, the costs and that kind
2 of thing or is this not the right format?

3 CHAIRMAN BILL CARGO: Well one of the things
4 they're saying is right now they're not aware of any costs or
5 any problems right now with the drain system.

6 Now it's always going to fail, infrastructure will
7 always have to fail at some point in the future.

8 This was built in 1996, is that correct?

9 ENGINEER LUCAS TIMMER: Yes.

10 CHAIRMAN BILL CARGO: So you're dealing with
11 infrastructure that's twenty years old. But storm drains
12 often may last fifty years before anything major has to
13 occur.

14 But then you may have something like erosion that
15 comes up, and that has to be dealt with. And if that doesn't
16 fall within the \$5,000 per linear mile, it would be assessed.
17 It would be assessed not just to the property owners, but to
18 the county, and to the township also, and possibly to the
19 road commission.

20 MR. KEVIN REBHAN: Is there immediate costs?

21 CHAIRMAN BILL CARGO: There is no immediate costs.
22 The immediate cost of bringing this into the system, if it is
23 brought into the system, it is being paid for by the
24 township.

25 MR. KEVIN REBHAN: Okay. I just wondered what the

1 cost implications are now.

2 SECRETARY KEN SOUTER: Right now, nothing.

3 MR. KEVIN REBHAN: Thank you.

4 CHAIRMAN BILL CARGO: At that point we've given
5 everybody an opportunity, we've gone beyond the three-minute
6 limit we had quite a bit, and there has been some information
7 that's been shared. And so that's going to be part of the
8 public record also.

9 That said, we're going to close the public comment
10 portion of the meeting, and I will take comments from the
11 board at this time.

12 SECRETARY KEN SOUTER: Bill, as you know, I was
13 always surprised that these were not already under the
14 jurisdiction of the county drain commissioner.

15 Having said that, I'm in favor of someone having
16 jurisdiction of them, and doing it legally. We've done
17 enough of these to know that once we make the determination
18 that this is under the jurisdiction of the Ottawa County
19 Drain Commissioner, the easements are all under his
20 jurisdiction, things are a lot simpler for the people in the
21 subdivision to be able to say, hey, I got a problem. It
22 isn't within the roads. We got a problem here, call the
23 drain commissioner.

24 The drain commissioner says, it's mine, I'll take
25 care of it, I'll take a look at it and we'll get it fixed.

1 That's the part I like about this whole thing.

2 BOARD MEMBER RICH VANDERKLOK: I would agree.

3 CHAIRMAN BILL CARGO: My comment is I tend to agree
4 also. This has been a system that was established back in
5 1997. It was assumed it was public. There has been public
6 monies spent on it even though technically they shouldn't
7 have spent public monies on a private system.

8 So given that, I'm also in support of bringing this
9 under the county drain commissioner, or water resources
10 commissioner.

11 And so that said, I would make a motion, and I will
12 make a motion that the, this drain, the South Macatawa Ridge
13 Drain, that the drain is necessary for public health, safety
14 and public health purposes.

15 BOARD MEMBER RICH VANDERKLOK: I would support
16 that.

17 CHAIRMAN BILL CARGO: We have a motion on the
18 table. Is there any discussion on this motion?

19 SECRETARY KEN SOUTER: Not from me.

20 CHAIRMAN BILL CARGO: Okay. All in favor, say aye.

21 BOARD MEMBER RICH VANDERKLOK: Aye.

22 CHAIRMAN BILL CARGO: Aye.

23 SECRETARY KEN SOUTER: Aye.

24 CHAIRMAN BILL CARGO: And the motion is approved.

25 And because of that we typically have two other

1 motions that follow.

2 The first motion would simply say that a portion of
3 any future costs and the maintenance of this, above what is
4 authorized by the County Drain Code, would be assessed to
5 Holland Charter Township.

6 So I would make a motion that the drain is
7 necessary for the protection of public health in Holland
8 Charter Township and that a portion of the costs shall be
9 apportioned to the municipality at large.

10 Do I have support for that?

11 SECRETARY KEN SOUTER: Support.

12 CHAIRMAN BILL CARGO: Is there any discussion on my
13 motion?

14 BOARD MEMBER RICH VANDERKLOK: No.

15 CHAIRMAN BILL CARGO: We have motion and support.

16 All in favor, say aye.

17 BOARD MEMBER RICH VANDERKLOK: Aye.

18 CHAIRMAN BILL CARGO: Aye.

19 SECRETARY KEN SOUTER: Aye.

20 CHAIRMAN BILL CARGO: And that is approved.

21 And then finally, we know that this is a proposed
22 drainage district that we have simply approved based on the
23 approximate boundaries of what we took from the contour maps
24 of the county GIS system, and it may be necessary that the
25 boundaries be adjusted, and that lands either be added or

1 deleted as determined by the water resources commissioner.

2 So I will make a motion that the drainage
3 district boundaries are authorized to be adjusted as
4 necessary, and lands be added and deleted as determined by
5 the water resources commissioner as recommended by their
6 engineer.

7 BOARD MEMBER RICH VANDERKLOK: I will support that.

8 CHAIRMAN BILL CARGO: We have a motion on the table
9 and support.

10 Is there any discussion on that motion?

11 SECRETARY KEN SOUTER: No.

12 CHAIRMAN BILL CARGO: And so all in favor, say aye.

13 BOARD MEMBER RICH VANDERKLOK: Aye.

14 CHAIRMAN BILL CARGO: Aye.

15 SECRETARY KEN SOUTER: Aye.

16 CHAIRMAN BILL CARGO: And that then hits on
17 everything that we were required to do today for this
18 meeting.

19 Is there any other comments?

20 BOARD MEMBER RICH VANDERKLOK: Not from me.

21 CHAIRMAN BILL CARGO: I know that you have 87
22 orphan drains in Holland Charter Township. It would be very
23 amusing to me if you would name one of them the ante-drain.
24 Just so -- in the future if you would do that, I would really
25 appreciate that, for my amusement only.

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With that said, we will adjourn the meeting. It is approximately 11:30.

(Board of Determination concluded at 11:30 a.m.)

1 CERTIFICATION OF COURT REPORTER AND NOTARY PUBLIC

2 _____
3
4 STATE OF MICHIGAN)
5) SS
6 COUNTY OF BARRY)
7

8 I certify that this transcript, consisting of 35
9 pages, is a complete, true and correct record of the Board Of
10 Determination held in this case on December 14, 2017.
11

12
13 DATE: December 22, 2017
14

15 _____
16 MARJORIE A. COVEY, CSR-2616
17 141 East Michigan Avenue, Suite 206
18 Kalamazoo, MI 49007
19 1.800.878.8750
20

21
22 Notary Public Expires: October 14, 2021, Muskegon
23 County, Michigan/Acting in the State of Michigan.
24
25

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