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STATE OF MICHIGAN  
COUNTY OF OTTAWA

IN RE: POPEYES DRAIN  
BOARD OF DETERMINATION

Proceedings commenced scheduled for 11:30 a.m., on  
Thursday, August 19, 2021, at the Holland Charter Township  
Fire Department, Station #1, Holland, Michigan, held before  
Marjorie A. Covey, CSR-2616, RPR, Certified Shorthand  
Reporter and Notary Public.

APPEARANCES:

- Mr. Joe Bush, Ottawa County Water Resources Commissioner
- Ms. Sara Hirts, Secretary
  
- Mr. Ken Souter, Board Chairman
- Mr. Rich VanderKlok, Board Secretary
- Mr. Josh Westgate, Board Member
  
- Mr. Lucas Timmer, Engineer, Prein & Newhof
- Mr. Ken Bosma, Engineer, Prein & Newhof
  
- Mr. Steve Bulthuis, Holland Charter Township Manager

1 Holland, Michigan

2 August 19, 2021 - 11:30 a.m.

3 PROCEEDINGS

4 WATER RESOURCES COMM. JOE BUSH: Good morning,  
5 everyone. We appreciate you coming here this morning to the  
6 Holland Township Fire Department for the Popeyes Chicken  
7 Board of Determination.

8 And you're probably like, why are we here and what  
9 is this about? I think I might have shared with some people,  
10 but this is a Board of Determination today, a public hearing  
11 because we were petitioned by Holland Charter Township to  
12 establish orphan drains.

13 What that means is several years ago Holland  
14 Township said, Joe, I'd like to establish a lot of these  
15 orphan drains. Orphan means nobody owns them, the township,  
16 the county, the road commission, the state, nobody has  
17 jurisdiction. There is not easements on a lot of them. And  
18 nobody has jurisdiction to fix them or be able to do any type  
19 of maintenance on them in the future.

20 So, again, several years ago Holland Township came  
21 to me and said, hey, let's start doing so many of these a  
22 year. And we try to do maybe 10 to 15 a year of orphan  
23 drains. We have quite a few of them to go yet, but we've  
24 knocked a lot of them out of the category of orphan to under  
25 my jurisdiction.

1           This isn't about county control, it's not about  
2 like I need more drains. I have more work than I can handle  
3 as far as drains. But what it really does is help the public  
4 and be public service oriented that when there is an issue,  
5 you have somebody to call to do a maintenance on the drain  
6 infrastructure.

7           Infrastructure today, as we know it, it has issues,  
8 a lot of it gets old, starts failing, or needs to be  
9 replaced, or just needs some patching to get by for another  
10 20, 30 years, it just depends.

11           So that being said, we got a petition from Holland  
12 Township. This is the third one we're doing today, third  
13 orphan. And again orphan has no jurisdiction, nobody owns  
14 it. Today's hearing is not for a project. We don't have a  
15 cost.

16           Right now there is no known issues within this  
17 storm sewer system or infrastructure that we're aware of.

18           The reason we call it Popeyes, not indirectly or  
19 directly -- or directly not indirectly, either way you want  
20 to call it, Popeyes is having a development nearby.

21           And at that time it was recognized this is a bigger  
22 orphan system that we should be looking at for future  
23 maintenance down the road. Not now, maybe it's 10, 15, 20  
24 years from now, who knows. Or if there is an issue, you can  
25 call Joe Bush or my department and we'll go out and fix it.

1           That being said, in order -- this is all state law,  
2 it's all through Drain Code, it's all through legal to do  
3 this process.

4           If this was developed today in 2021, there is a  
5 development review process, this would have been probably a  
6 433 Agreement through my department and with the state and  
7 the plat and the township. It's a whole different review  
8 process. It would probably be a county drain system if it  
9 was designed and developed today in 2021.

10           So here we are, and at that time with the petition  
11 I have to appoint a three-panel board. These gentlemen here  
12 have been doing quite a few, at least two of the three. We  
13 have a newer board member, but he's been around a long time.

14           That being said the other two have done many, many  
15 Boards of Determinations for me. They understand drainage,  
16 Drain Code.

17           Their purpose today is not to say, oh, we need a  
18 project, because I don't need more, if I can help it. But if  
19 there was an issue, they understand that. They understand  
20 today that from what I've told them, you know, we don't know  
21 of any issues.

22           Prein & Newhof will give a little presentation on  
23 what we know and what we don't know, and ask for any public  
24 comment at that time.

25           So in order to have a three-panel board and have a

1 Board of Determination, we have to hold a public hearing and  
2 that's why everybody got a mailing who is in this watershed  
3 or drain district. That's why you got a notice to say, hey,  
4 if you want to come and participate, have any comment, good  
5 or bad, doesn't matter.

6           It's all court recorded. We have Margie here.  
7 This is not required by law, but I have this court recorder  
8 at every Board of Determination for the protection of the  
9 board, myself, the county, the township, property owners,  
10 just for future reference because it's amazing how after a  
11 few years we forget what was said or what was done, or any  
12 comments.

13           So everything was court recorded just for  
14 everybody's protection and knowledge moving forward, if we  
15 have to look back. Because everything is on my website  
16 usually about four to six weeks she'll get it back to us and  
17 we post it on the website so anybody can read it. I'm very  
18 transparent on the process, the legal process according to  
19 the Drain Code.

20           So these three-panel board members again, they have  
21 no affiliation with any properties, they don't own any  
22 properties. They're not part of Holland Township, the  
23 township board or planning commission or zoning, nothing.  
24 They don't work, no staff, they're all outside of Holland  
25 Township.

1           But they have to be in Ottawa County. And I pick  
2 members based on experience, based on knowledge of Drain  
3 Code, based on their leadership. And all three of these  
4 gentlemen have had all that criteria.

5           They have to understand Drain Code and what their  
6 job is today, that's the biggest purpose. And it isn't to  
7 say, well there isn't an issue, but I can see one that could  
8 happen, and we're going to have a million dollar project now.  
9 That's not the intent at all.

10           Just make that clarification that we're not here to  
11 propose anything. We're just here for public comment and  
12 their decision is solely based on, should this be under the  
13 jurisdiction of the Water Resources Commissioner moving  
14 forward or should it not. That's the only purpose we're here  
15 for today for this public hearing is that reason only.

16           A few other introductions. Steve Bulthuis, he's  
17 the township manager for Holland Township.

18           And then we have Ken Bosma and Lucas Timmer.  
19 They're from Prein & Newhof and they've been doing a lot of  
20 these Boards of Determinations as well. They have a lot of  
21 knowledge of everything going on in Holland Township. So  
22 they're our engineers today to do a little presentation.

23           Then we have Sara, she's my secretary. Maybe some  
24 of you have met her before, but she's here to help you get  
25 signed in and help with the process.

1           And then, of course, Margie is the court recorder.  
2       So if there is any public comment, make sure you give your  
3       name, address, so she gets it all in her notes.

4           And then we have the three-panel board. I'll go  
5       ahead and do those introductions.

6           From right to left we have Rich VanderKlok who is  
7       from Georgetown Township. Rich has been currently somewhat  
8       semi-retired, but he was on the township board for many, many  
9       years. Still involved in the community, but we did these in  
10      Georgetown, we have a lot of drains in Georgetown Township so  
11      he understands drainage as well and Drain Code and the  
12      process for a Board of Determination.

13          In the center is Ken Souter, he's from Port Sheldon  
14      Township. He had 38-and-a-half years at the road commission  
15      in the engineering department. So him and I have some kind  
16      of a history together because I had 12 years with the road  
17      commission as well. So Ken and I have known each other a  
18      long time. But he's retired. So it's not like he's got any  
19      insight of what's going on except he gets a packet, this is  
20      an orphan drain system, and he's done a lot of these.  
21      Between him and Rich, they've done a lot of the orphan drain  
22      systems amongst the whole county.

23          And then our newest member is Josh Westgate. Josh  
24      was a supervisor, township supervisor at Wright Township, now  
25      he's the deputy supervisor in Jamestown Township. And again,

1 he doesn't have any properties or live near the said  
2 watershed or drain district that we're talking about today,  
3 but he understands the other drain issues because in his own  
4 township we've had quite a few of those as well, up in Wright  
5 Township. So he understands Drain Code, the process and what  
6 his job is for today.

7           Once I give these three gentlemen the oath, they'll  
8 run the meeting, and then I'm just on the sideline to answer  
9 any questions from either you folks or the board or the  
10 engineering folks with us today.

11           So again, once they get the oath, they'll run the  
12 meeting. Any questions, be sure to ask. But then the  
13 engineers will be sure to give a good presentation on kind of  
14 why we're here.

15           Again, there is no project that I'm aware of, and  
16 there is no issues that I'm aware of either. So just to make  
17 that clear that we're not looking for a project either.

18           But if there is one, we're more than happy to take  
19 it on and help residents by all means.

20           So gentlemen, please rise.

21           Do you each solemnly swear that you will faithfully  
22 perform and discharge the duties imposed upon you as required  
23 by law as members of the Board of Determination appointed by  
24 the Ottawa County Water Resources Commissioner to determine  
25 the necessity to locate, establish and construct the proposed

1 Popeyes Drain, located in Holland Charter Township in said  
2 county, gentlemen?

3 BOARD MEMBER JOSH WESTGATE: I do.

4 BOARD MEMBER RICH VANDER KLOK: I do.

5 BOARD MEMBER KEN SOUTER: I do.

6 WATER RESOURCES COMM. JOE BUSH: Thank you.

7 BOARD MEMBER RICH VANDER KLOK: I would like to  
8 make a motion that Ken Souter serve as chair.

9 BOARD MEMBER KEN SOUTER: Do we have support?

10 BOARD MEMBER JOSH WESTGATE: Support.

11 BOARD CHAIR KEN SOUTER: Moved and supported that I  
12 serve as chair.

13 All in favor, say aye.

14 BOARD MEMBER JOSH WESTGATE: Aye.

15 BOARD MEMBER KEN SOUTER: Aye.

16 BOARD MEMBER RICH VANDER KLOK: Aye.

17 BOARD MEMBER KEN SOUTER: Opposed?

18 BOARD MEMBER JOSH WESTGATE: I make a motion we  
19 appoint Rich as secretary of the Board of Determination.

20 BOARD CHAIR KEN SOUTER: I'll support that.

21 All in favor, say aye.

22 BOARD MEMBER JOSH WESTGATE: Aye.

23 BOARD CHAIR KEN SOUTER: Aye.

24 BOARD MEMBER RICH VANDER KLOK: Aye.

25 BOARD CHAIR KEN SOUTER: Opposed?

1           And I'll make a motion that, this seems a little  
2 ridiculous here because we don't have a lot of people, but  
3 make a motion that public comment be limited to about three  
4 minutes per person. With something like this I think we  
5 could go over a little bit if we needed to. But at this  
6 point that's part of the procedure.

7           So I'd like to make that as a motion. Do I have  
8 support?

9           BOARD SECRETARY RICH VANDER KLOK: I will support  
10 that.

11          BOARD CHAIR KEN SOUTER: Moved and supported that  
12 we limit it to three minutes per person.

13          All in favor, say aye.

14          BOARD MEMBER JOSH WESTGATE: Aye.

15          BOARD CHAIR KEN SOUTER: Aye.

16          BOARD SECRETARY RICH VANDER KLOK: Aye.

17          BOARD CHAIR KEN SOUTER: Okay. I was going to ask  
18 the township but they left.

19          We'll start with the engineering presentation, and  
20 then we'll go to Holland Township to see what they have to  
21 say.

22          ENGINEER LUCAS TIMMER: Thank you, Ken.

23          My name is Lucas Timmer. I'm an engineer with  
24 Prein & Newhof out of Holland, along with Ken Bosma. We were  
25 hired to review the Popeyes Drain drainage district and route

1 and course.

2 So the Popeyes Drain is an existing storm water  
3 drain system that is without authorized local and county  
4 governmental jurisdiction and administrative, procedural and  
5 funding mechanisms to address current/future needs for  
6 maintenance and improvements.

7 This whole drain area essentially was all these  
8 different private developments that kept expanding onto the  
9 county -- or onto the drain system and all the system is  
10 considered private.

11 So if there were ever any issues at this current  
12 moment, it would be the private property owner's  
13 responsibility to maintain that drainage system.

14 Holland Township filed a petition to get this  
15 established as a county drain on May 20, 2021, and we are all  
16 here today as part of that process. We are required to have  
17 a Board of Determination, and this three-panel board will  
18 determine if it's necessary for this orphan or private system  
19 to be considered a county drain.

20 So Ken and I were first hired to do some  
21 preliminary engineering to review the infrastructure at this  
22 area. So we first reviewed utility record drawings. So we  
23 reviewed the sanitary sewer, storm sewer and water main  
24 record drawings for when Manufacturer's Market was put in in  
25 1987.

1           We also reviewed some of the more recent  
2 developments like Staybridge which was just put in a couple  
3 years ago, and Popeyes which is being put in currently, and  
4 some of the other developments just to review how their  
5 drainage infrastructure is setup.

6           We then delineated a watershed boundary. A  
7 watershed is the same as a drainage district. So anyone  
8 within that watershed is considered contributing runoff to  
9 that storm water infrastructure. People on the outside of  
10 the watershed boundary are considered not contributing runoff  
11 to the drain infrastructure.

12           Ken and I then visited the site to locate drain  
13 infrastructure and confirm drainage patterns in that area.

14           So this map right here shows you the entire area.  
15 You can see Dutch Village right over here on the west end of  
16 the drainage district. We have Country Inn & Suites on the  
17 south end. We have two detention ponds. And all this blue  
18 is a lot of storm sewer infrastructure that's in this area.

19           This provides a better zoomed-in area. You can see  
20 Popeyes right here on the left is up at the upstream end  
21 along with Brann's, and I believe this was a former bank  
22 right here. And I believe this -- oh, this is Brann's.  
23 Sorry, this is Arby's right here. Trying to get my bearings.

24           But all this area here drains to the south towards  
25 this detention pond here right by Dutch Village. The Dutch

1 Village detention pond then drains right where the Gap Outlet  
2 used to be, it drains into the east, and then towards the  
3 south.

4           And then if I go to the next slide, you can see  
5 this Dutch Village pond right here again, and this drains  
6 then to the south towards a detention pond here on the south  
7 end just east of Country Inn & Suites. And then there is an  
8 outlet that then flows to Drain No. 28.

9           So everything all the way from James Street to the  
10 south ends up into the Drain No. 28 drain, kind of right by  
11 the Lakewood Boulevard right there.

12           So following this presentation we'll have some time  
13 for public testimony. You'll have, you know, an opportunity  
14 to let us know if there are any drainage issues.

15           We will then determine if it's necessary, if the  
16 petition is necessary to move on and have this drain be an  
17 established county drain based on public health, welfare  
18 and/or convenience, after hearing testimony.

19           If it's deemed necessary, then currently that  
20 entire private system that benefits multiple private  
21 properties would become a county drain system. So that if  
22 there were ever any future maintenance, the county then would  
23 be responsible, would be the entity you would call to  
24 maintain that drain, instead of a private entity that's  
25 downstream or upstream of you.

1           If deemed not necessary by the board, then no  
2 further action will occur.

3           Here is just a couple photos. Ken and I in general  
4 aren't aware of any major issues, but this is just some  
5 photos of the outlet.

6           You can see at this point the outlet is perched.  
7 It's still working, but it's perched. And over time that  
8 could become a problem with erosion.

9           You can see this is located right at the southeast  
10 corner of the pond, a lot of graffiti on the spillway, looks  
11 like a lot of youth have been hanging out back there.

12           And if you move on, this is of the 12-inch pipe.  
13 The 12-inch pipe has been exposed underneath the spillway.  
14 Everything is flowing fine and working fine, but those are  
15 things down the road that could become concerns just with  
16 that outlet there.

17           So moving on, if this drain is deemed necessary by  
18 the board, and during public testimony we find out from you  
19 guys and from others that there are some major drainage  
20 issues, and a project would be something that would be --  
21 that would be good to happen, we'd then go through the  
22 following flowchart I guess for a project.

23           So OCWRC would use us to review feasible projects  
24 and improve drainage. We would then select a project that  
25 makes sense. We wouldn't want to do something that's the

1 Cadillac project, right? Sometimes you have to go with a  
2 Yugo project and it will work just as well, right?

3 So we'll look at different projects, we'll do a  
4 project design and survey.

5 Easement acquisition, that will be a big thing as  
6 well. And I want to mention that that would even be part, if  
7 we did have a project, easement acquisition would likely need  
8 to be a part of this process because all this storm water  
9 infrastructure is currently in private property. It's not in  
10 road right-of-way.

11 So if it becomes a county drain, for Joe to  
12 maintain it in the future, he will need to have easement  
13 access so that he can maintain the system down the road.

14 But that is also a process. We would then bid the  
15 project out and construction would occur.

16 And then what would happen then is something called  
17 the Day of Review of Apportionment. So what would occur then  
18 is everyone would be notified within the drainage district,  
19 and assessments then would be made out to Ottawa County and  
20 Ottawa County Road Commission. They'd be made out to --  
21 Holland Township would pay a share. But the property owners  
22 within the drainage district would also pay for a share of  
23 that project.

24 If the drain is deemed necessary by the board and  
25 no drainage issues are brought up during public testimony,

1 then Holland Township will pay and cover all the costs of  
2 getting this as a county drain. They will pay just all these  
3 preliminary costs. There may be some additional easement  
4 costs down the road and we'll have to work out how that will  
5 be covered.

6 If drainage issues ever happen in the future, a  
7 petition would be needed. So you guys as the property owners  
8 would file a petition with Joe. You would let Joe know there  
9 is some major drainage issues, and we'd go through this  
10 similar process again. We'd have a Board of Determination so  
11 everybody in the district would be aware of what's going on  
12 and we'd have another meeting like this.

13 It's possible, though, based on, with Drain Code,  
14 that Joe can maintain without a Board of Determination, if  
15 the drainage improvements are less than 5,000 per mile.

16 So let's say a small sinkhole happened and it  
17 required some filling in or maybe patching of a storm sewer  
18 quick to prevent another sinkhole. Joe can just do that cost  
19 without having to go through the Board of Determination  
20 process, if it's less than \$5,000 per mile.

21 Future assessments for any larger projects would be  
22 made out to Ottawa County, the road commission, Holland  
23 Township and the property owners.

24 So that's the end of the presentation. I'll move  
25 back to these screens here in case that would help you guys

1 locate yourself on the map.

2 Thank you.

3 BOARD CHAIR KEN SOUTER: Steve, do you have any  
4 comments from Holland Township?

5 HOLLAND TOWNSHIP MANAGER STEVE BULTHUIS: Nope. I  
6 just want to reiterate Joe's introductory remarks in that the  
7 township has systematically gone through a process of  
8 bringing these orphan drains under the jurisdiction of the  
9 Water Resources Commissioner. We think it's a great idea,  
10 and this hearing is part of that process.

11 BOARD CHAIR KEN SOUTER: Thank you.

12 Then we'll go to the public testimony part.

13 When you stand up, please state your name and  
14 address, identify where you have lands in the district.

15 And let's start out with the public comment part of  
16 it. The gentleman here?

17 MR. MICHAEL BOCKS: Okay. I'm Michael Bocks. I'm  
18 with Dutch Village, 12350 James Street.

19 And is this an appropriate time to ask a couple  
20 questions from the presentation of Lucas?

21 BOARD CHAIR KEN SOUTER: Absolutely.

22 MR. MICHAEL BOCKS: Okay. So I heard about all  
23 these easements that are going to need to be acquired. Would  
24 that preclude changes in improvements or the development of  
25 these areas? Or how has that worked in the past if you have

1 an easement in a certain area? I wonder if that particular  
2 property owner would like to make a change that would entail  
3 moving the drain or modifying the drain in some way, would  
4 there -- what's the procedure then?

5 WATER RESOURCES COMM. JOE BUSH: Um, Lucas, you  
6 want to answer that?

7 ENGINEER KEN BOSMA: Normally we get involved, I  
8 think the drain office works very closely with you just to  
9 make sure we can make it work. But normally what we do is if  
10 there is an existing easement, we'll ask you just to abandon  
11 that and provide a new easement.

12 MR. MICHAEL BOCKS: Gotcha.

13 ENGINEER KEN BOSMA: But they'll generally work  
14 with you on locating as long as it can functionally work,  
15 yes.

16 MR. MICHAEL BOCKS: Okay. Well Dutch Village is in  
17 support of this drain. I think now there is maybe 10  
18 property owners that are working off from this.

19 Actually I thought this was Drain 29. Is it 28?

20 WATER RESOURCES COMM. JOE BUSH: It is 29.

21 ENGINEER KEN BOSMA: But 29 is outside of the  
22 district. So 29 is what comes along U.S. 31 here.

23 MR. MICHAEL BOCKS: That's 9 on the other side.

24 ENGINEER KEN BOSMA: 28 is where this outlets.

25 ENGINEER LUCAS TIMMER: This outlets into Drain 28,

1 and then Drain 9 is right there.

2 MR. MICHAEL BOCKS: So 9 is over there, yep.

3 ENGINEER KEN BOSMA: Sorry.

4 MR. MICHAEL BOCKS: So that's 28. I had my number  
5 wrong all these years. Okay.

6 Absolutely. Now with the ten different property  
7 owners, we actually had a situation that we're not sure is  
8 resolved yet.

9 Several years ago, I think Joe Nelis just gave up  
10 dogging him before the -- maybe I should use other words,  
11 since it's being recorded.

12 BOARD CHAIR KEN SOUTER: We understand that.

13 MR. MICHAEL BOCKS: So, yeah, I think they cleaned  
14 some of the debris, but I think there is still obstruction in  
15 there and that caused significant erosion to Joe's side of  
16 the pond. And, yeah, you know, any requests for maintenance  
17 has fallen on deaf ears to this day.

18 I'm not quite sure of the name, how did Popeyes,  
19 who just comes in from out of town, get to be the name of the  
20 drain?

21 BOARD CHAIR KEN SOUTER: If you want it to --

22 MR. MICHAEL BOCKS: Should it be the Dutch Drain or  
23 something like that?

24 SECRETARY SARA HIRST: They were going to name it  
25 the Sara --

1 MR. MICHAEL BOCKS: Unless there is a big  
2 assessment coming where we can blame it on Popeyes. So I  
3 don't know.

4 BOARD CHAIR KEN SOUTER: They were going to name  
5 it Sara's Drain?

6 SECRETARY SARA HIRST: They were going to name it  
7 Sara, but I wanted a nice little babbling brook. I didn't  
8 want parking lot. I wanted a good view.

9 BOARD CHAIR KEN SOUTER: I don't think there is any  
10 gospel to the name. If you would rather have it Dutch  
11 Village Drain, I mean I don't think that's a problem.

12 MR. MICHAEL BOCKS: Okay. We'll address that down  
13 the road.

14 But, yeah, the Village is absolutely in support of  
15 you adopting this orphan drain.

16 We see little things, you know. It's a 35-year old  
17 system. We see little things. I probably know the drain  
18 better than anybody. I was the one who put that road in in  
19 front of the town center there.

20 Maybe Ken knows it as well as I. And actually  
21 Prein & Newhof designed a lot of this many years ago. Maybe  
22 you know it better.

23 But it's tired, and a whole lot of other  
24 developments -- we have Popeyes and the medical facility  
25 that's coming in that's going to jump onboard.

1           And Dutch Village is almost about ready to submit  
2 an application for a new parking lot, a whole new front end  
3 to their facility.

4           I think we're going to balance -- we're trying to  
5 do a lot of green infrastructure and infiltration and stuff.

6           But, yeah, we want to know -- the pond is a very  
7 important thing to the Village from an aesthetic viewpoint as  
8 well. And, yeah, so we're pleased that this is going  
9 forward.

10           BOARD CHAIR KEN SOUTER: I would think it's kind of  
11 a nightmare for you, if you have a problem, who do you go to.

12           MR. MICHAEL BOCKS: Yeah. I should have mentioned,  
13 the easements are really sketchy in that neighborhood. They  
14 weren't put together well.

15           And the one property owner that's probably the  
16 hardest to get to do stuff probably has the most easements to  
17 go onto other properties to fix them. But nobody has an  
18 easement to go on their property.

19           So this is a huge thing that this goes forward.

20           BOARD CHAIR KEN SOUTER: Good.

21           WATER RESOURCES COMM. JOE BUSH: Good.

22           BOARD CHAIR KEN SOUTER: The gentleman in the red  
23 first? Do you want to comment?

24           UNKNOWN SPEAKER: No.

25           BOARD CHAIR KEN SOUTER: Okay. Next?

1 MR. JOE NELIS: I'm Joe Nelis from the Dutch  
2 Village, 12350 James Street.

3 So I think I have maybe a question and a couple  
4 comments to kind of piggyback onto what Mike was just saying.

5 We do have a big aesthetic interest in the pond,  
6 and I think we'd like to see some improvement in the water  
7 quality that's in that retention basin, in that pond.

8 And historically we've used that as a sprinkling  
9 pond. And so, you know, we do have that use on there. So  
10 I'd want to make sure that we could protect that use in the  
11 future if we can.

12 BOARD CHAIR KEN SOUTER: Right.

13 MR. JOSEPH NELIS: And so that's kind of a comment  
14 there.

15 The question that I would have would be, you know,  
16 I'm Dutch, so we're going to get down to money and  
17 assessments. We have a lot of square footage, but I would  
18 say if you look at that drain and the contributors to that  
19 drain, we've got very little impact.

20 You know, I think we've got our canal system which  
21 retains a lot of water on our property. We don't -- I don't  
22 feel like currently right now that we contribute a lot of  
23 water to that drain, just kind of anecdotally from me  
24 watching it rain and where the water goes and all that kind  
25 of stuff.

1           You know, the property owners on the other side  
2 have this huge network of big buildings and large amounts of  
3 asphalt that's collecting huge volumes, I think, compared to  
4 what we're doing.

5           And I would also say that, you know, with this new  
6 parking lot that we're looking at doing where we want to  
7 catch and retain and clean that water, and again store it for  
8 use for sprinkling and that kind of stuff, again, we're not  
9 going to be a huge contributor.

10           So I don't know how the assessment process works,  
11 but I would think hopefully it's based on contribution to the  
12 system of water, rather than you've got so many square feet  
13 and you're right next to it, so that's your percentage of the  
14 cost.

15           BOARD CHAIR KEN SOUTER: It's not square footage,  
16 it's how you're using the property. Commercial is different  
17 than residential, different than farm. It's how much  
18 drainage comes off the property.

19           So when you're doing a drain, I used to do them for  
20 the drain commissioner quite often because it was -- I worked  
21 for the road commission and we tied things together. And  
22 like the road commission pays for so much blacktop, and then  
23 they have open area too.

24           Residential pays for their driveways and roofs  
25 falling into the drain, but they pay a lot less for their

1 grass areas.

2 Commercial pays high percentage for the paved  
3 portion of their parking lots and roof drains because they  
4 can't control that. I mean it all goes into the drain  
5 system.

6 So everything is tied in with the use of the land  
7 versus how much water you're dumping, how much water you're  
8 dumping into the drain system.

9 Do you concur, Ken?

10 ENGINEER KEN BOSMA: So drain code basically just  
11 says, by benefits derived. But historically is like what Ken  
12 said, the drain office will typically look at area and the  
13 amount of impervious area.

14 So by you having a parking lot that becomes more  
15 pervious, that is beneficial to you overall, the canals that  
16 you retain that become more beneficial to that.

17 WATER RESOURCES COMM. JOE BUSH: Can I say  
18 something just for the record?

19 BOARD CHAIR KEN SOUTER: Yes.

20 WATER RESOURCES COMM. JOE BUSH: So when you look  
21 at the map that's up there now, if you look to the right of  
22 the ponds, of the Dutch Village, and you look at the parking  
23 lot with the buildings, there is a direct tie in. That water  
24 is doing a direct tie to the pond to the southeast.

25 So if we did work on that system alone, well that's

1 not going to benefit Joe and really Dutch Village at all, so  
2 you probably wouldn't even see an assessment because you're  
3 not getting a benefit.

4 Per Drain Code the only way I can really assess  
5 people is, number one, contribution is benefit. So you're  
6 not contributing any water to that because all your water is  
7 technically going into your own ponds.

8 And the people that are benefiting are the ones to  
9 the right because their water isn't going into your ponds.  
10 So I would assess that separately based on the work and the  
11 location.

12 So now if I were to go and clean that bottom pond  
13 on the southeast, Lucas, if you want to go down. Right there  
14 to the bottom, on the right-hand side, now if I were to clean  
15 that, everybody's water goes to that before it goes into the  
16 drain. That would probably be assessed to everybody. And we  
17 do it based on acreage, and then there is other factors.

18 We put factors in there but everybody would have to  
19 have a fair share and be equal and basically apportioned  
20 based on lot sizes.

21 But then you got your pond, so you will be reduced  
22 a lot because again your water is going into your own ponds  
23 and you're cleaning it. So there is a benefits for that, so  
24 that's how we assess that.

25 But if it's not in the bottom area, anything to the

1 right and in the parking lot like Tommy Brann's or Arby's and  
2 those others, they have a direct connect right to the drain,  
3 or to that pond.

4 But your water is going to your pond, so it's kind  
5 of two separate systems, but they're all collaborated into  
6 one in the bottom. So we'd look at that and assess it  
7 accordingly to make it fair.

8 And you would know it way beforehand, we'd have  
9 discussions on that. So it's not like I'm just going to send  
10 you, you know, here, sorry. We'd have a lot of discussions.

11 Even with the property owners who are not here or  
12 out of state, they can always read these minutes and we would  
13 have dialogue with those folks and let them know so they're  
14 aware of it. Because they're going to get a notice, you  
15 know.

16 BOARD CHAIR KEN SOUTER: And one thing to remember,  
17 Joe isn't going to come in there just to do something unless  
18 there is a problem.

19 WATER RESOURCES COMM. JOE BUSH: Correct.

20 BOARD CHAIR KEN SOUTER: So you're going to say to  
21 Joe, we have got a problem, our drainage isn't getting away.  
22 That's when it's going to happen.

23 It's not going to happen, and Joe is not going to  
24 initiate this thing and come here and say, hey, we got to do  
25 something. It has to have a problem first.

1           And at that point you're going to be able to talk  
2 to Joe. You have somebody to talk to because your drainage  
3 goes to other private property when it gets out of there. So  
4 that's why this is really quite important, I think.

5           MR. JOSEPH NELIS: Sounds good. Thank you.

6           BOARD CHAIR KEN SOUTER: I would ask the secretary  
7 to read the correspondence that we did receive.

8           BOARD SECRETARY RICH VANDER KLOK: Right. We did  
9 receive correspondence from Tom Brann. He just directs this  
10 to, "Dear Joe, I read the notice of meeting of the Board of  
11 Determination and want to express my feelings regarding  
12 spending. After COVID we are still struggling, so please be  
13 very careful with spending. Thank you, Tom Brann."

14          WATER RESOURCES COMM. JOE BUSH: If I could comment  
15 on that.

16          BOARD CHAIR KEN SOUTER: Okay.

17          WATER RESOURCES COMM. JOE BUSH: I think he was  
18 thinking we have a project. Not everybody understands the  
19 orphan drain process. And just for the minutes, we don't  
20 have a project, there is not an assessment, and the township  
21 is picking up the cost of today's Board of Determination so  
22 there is no cost.

23                 Just so Tommy understands that in the record if he  
24 wants to go back and read it.

25          BOARD CHAIR KEN SOUTER: Okay.

1           Is there anything anybody else wants to add?

2           If not, then I'm going to close the public portion  
3 of the meeting. And --

4           BOARD SECRETARY RICH VANDER KLOK: Mr. Chairman,  
5 based on public comment and the report by the engineers, I  
6 would make a motion that the maintenance and improvement of  
7 the Popeyes Drain is necessary and conducive to public  
8 health, convenience or welfare.

9           BOARD CHAIR KEN SOUTER: Any support?

10          BOARD MEMBER JOSH WESTGATE: I will support that  
11 motion.

12          BOARD CHAIR KEN SOUTER: Moved and supported.

13          All in favor, say aye.

14          BOARD MEMBER JOSH WESTGATE: Aye.

15          BOARD CHAIR KEN SOUTER: Aye.

16          BOARD SECRETARY RICH VANDER KLOK: Aye.

17          BOARD CHAIR KEN SOUTER: Opposed?

18          So that's carried.

19          WATER RESOURCES COMM. JOE BUSH: And that's it for  
20 you guys, I think.

21          BOARD CHAIR KEN SOUTER: That's it for us.

22          WATER RESOURCES COMM. JOE BUSH: Just for the  
23 record, on every record, for every Board of Determination,  
24 there is a process if somebody wanted to appeal today's Board  
25 of Determination, and that is through circuit court, and you

1 have ten days after today if somebody wanted to appeal it.  
2 So I just try to repeat that at every Board of Determination.

3 Typically nobody wants to appeal it, they like it,  
4 but I want to make it known on the record.

5 So that's it.

6 (Board of Determination - Popeyes Drain -  
7 adjourned 12:05 p.m.)

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