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STATE OF MICHIGAN  
COUNTY OF OTTAWA

IN RE: FOXWOOD NO. 1 DRAIN  
BOARD OF DETERMINATION

Proceedings commenced at 10:00 a.m., on Thursday,  
August 26, 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
- Mr. Josiah Timmermans, Chief Deputy to Water Resources Comm.
- Ms. Sara Hirst, Secretary
  
- Mr. Rich VanderKlok, Board Chairman
- Mr. Ken Souter, Board Secretary
- Mr. Todd Wolters, Board Member
  
- Mr. Lucas Timmer, Engineer, Prein & Newhof
- Mr. Ken Bosma, Engineer, Prein & Newhof
  
- Mr. Doug Kuiper, Holland Charter Township Finance Director
  
- Mr. Jerry Olman, Ottawa County Road Commission

1 Holland, Michigan

2 August 26, 2021 - 10:00 a.m.

3 PROCEEDINGS

4 WATER RESOURCES COMM. JOE BUSH: Well good morning,  
5 everyone. Welcome to Holland Township Fire Department. We  
6 appreciate the masks. I just have mine down so you can hear  
7 me and the court reporter can hear me. So when we do talk, I  
8 assume we can remove the masks so the court recorder can get  
9 your name and address further down the road.

10 I'm Joe Bush, Water Resources Commissioner, also  
11 known as the Drain Commissioner. And we're here based on the  
12 Foxwood No. 1 Drain petition we got in.

13 A few years back Holland Township has been one to  
14 establish orphan drains in the township. An orphan drain is  
15 defined as a drain that nobody technically has any ownership  
16 of, the road commission, the county, me, neither does the  
17 township. So it's just lingering out there and it's just  
18 infrastructure that is there, but nobody technically owns it,  
19 not even your homeowner's association if you have one.

20 There is easements on them usually, but that  
21 doesn't mean anybody owns it even though there is an easement  
22 on it. It really is defined as an orphan.

23 Holland Township years ago said, hey, let's start  
24 establishing these under the county drain system so there is  
25 some accountability or responsibility of some ownership of

1 somebody to call when there is issues within your  
2 infrastructure.

3 Right now who are you going to call? You call the  
4 road commission for something, and they're going to say, it's  
5 not technically ours. You call the Holland Township, and  
6 it's not really ours. Then you call me because everybody  
7 directs them to me, and I'm going to go, well, it's not  
8 really legally established. And what that means is nobody  
9 can really go in and touch it and fix it, it's really on the  
10 property owners.

11 Sometimes the property owner being affected isn't  
12 where the area of concern really is. It could be upstream,  
13 downstream, somewhere else.

14 So we're here today to have a Board of  
15 Determination and that's why we're here, having a public  
16 hearing.

17 These three gentlemen, they're actually appointed  
18 by me through Drain Code. So this is all through state law.  
19 It's nothing that Joe or the township puts in the policy or  
20 does anything. It's actually state law and it's Drain Code.

21 So the townships over the years have been  
22 petitioning me to establish these orphans. Some of them have  
23 issues, some of them do not.

24 And we're just taking them one at a time because  
25 there is a lot of them; not just in Holland Township, but I

1 cover the whole county so I have 17 townships and six cities  
2 and a village.

3 So that being said, through the petition process  
4 they petitioned me and said, hey, let's have a Board of  
5 Determination, a public hearing, you appoint your board.

6 These three-panel board members have no affiliation  
7 with anything with Holland Township. They're not on the  
8 planning commission, they're not on the township board, nor  
9 do they have any properties in the said district we're  
10 talking about.

11 What is a drain district? Well you got a mailing  
12 because everybody lives in a watershed of some sort,  
13 everybody's water goes somewhere. And basically a drain  
14 district is a watershed.

15 So everybody gets a mailing, and they're like, why  
16 did I get a mailing and you didn't? Well maybe that house  
17 could be on the borderline. We try to mail to people who we  
18 think could be in, because at this time we take public  
19 testimony and we might hear different stories of, oh, back in  
20 1990 there was a storm sewer put in by my neighbors and my  
21 water really goes that way and not this way. And that's why  
22 we have engineers here today to go verify that based on  
23 public testimony.

24 So what we know as the drain district today is what  
25 we know. If it changes, it could change, but the engineers

1 will verify that based on today's testimony.

2           These three gentlemen are here to hear testimony  
3 and say there is a decision to be made, a motion at the end  
4 of our meeting to say there could be a possibility this will  
5 be under Joe's jurisdiction moving forward; or they could  
6 say, you know what, we don't see a need to do that.

7           It's not about a cost, there is not a project.  
8 Some people get confused and say, wait a minute, they're  
9 spending money. I don't know there is a project. I don't  
10 think, from what I understand from the engineering firm,  
11 there is really issues in this Foxwood. It's been pretty  
12 quiet, there is not a project, there is no costs, there is no  
13 assessment.

14           Holland Township picks this cost up of today's  
15 court recorder and, you know, the publication in the paper  
16 and the engineering that has been provided. Holland Township  
17 picks that up at large. So it comes out of their budget that  
18 they put aside to establish orphan drains. So there is no  
19 cost for property owners today, as we know it, because we  
20 don't know of any problems. That could be different if there  
21 is an issue down the road.

22           So again, these three gentlemen will just hear  
23 testimony and say, yes, this should be under Joe's  
24 jurisdiction.

25           These three guys have done many of these BODs for

1 me in the past. So when I appoint them, I pick people again  
2 who have no properties, no investments or have anything  
3 related to the township.

4 But I usually appoint people who understand, number  
5 one, Drain Code, and what their purpose is here today.  
6 Number two, they understand township business because they've  
7 all either been involved at some point in their careers, or  
8 still are involved in their own township business, and they  
9 understand the petition process, the assessment process,  
10 Drain Code. And they understand most importantly, I think  
11 besides the petition process and Drain Code, is flooding or  
12 water problems. So they understand infrastructure.

13 So after I do introductions, I'll give these three  
14 gentlemen the oath and they'll run the meeting. Any  
15 questions, ask them, and I'm more than happy to answer them  
16 through that conversation. But again, the dialogue will be  
17 between you folks and the three gentlemen.

18 Again we have a court recorder, Marge is here.  
19 She's been doing these for many years for me. So again, this  
20 is not required by state law, but if we need to look back  
21 into something down the road, I can always go back on -- or  
22 you can too on my website on [miottawa.org](http://miottawa.org), look under Water  
23 Resources Commissioner. We post these at about four to six  
24 weeks after today's meeting. Typically we get those and I'll  
25 post them on the website.

1           If anybody wants to look at other BODs that we've  
2 had or other petitions or the process or anything like that.  
3 So we're very transparent.

4           And it's not by law, but it's always been helpful  
5 that if people have, oh, what did I say back then, or what  
6 did the board members say, or what did the engineers say, or  
7 the township or road commission, it's always nice to go back  
8 and be able to read it word for word. It's not somebody's  
9 handwriting and interpretation. It's actually, she's  
10 basically typing what you're saying. So that's good for all  
11 of us down the road.

12           So again once I give them the oath, they'll run the  
13 meeting. Any questions, they'll be happy to answer them, or  
14 if they don't -- I'll go ahead and talk about our engineering  
15 firm is Prein & Newhof. We have Ken Bosma and Lucas Timmer.

16           And then we do have a Holland Township official  
17 with us today. And then Jerry Olman is here from the road  
18 commission. And then my staff, Sara and Josiah, you probably  
19 met those two folks when you came in, they're from my staff.

20           Again, I'll go ahead and introductions to our  
21 board. And from right to left we got Ken Souter, he's from  
22 Port Sheldon Township. He had 38 years in at the engineering  
23 department. He's retired from the road commission so he has  
24 a lot of the engineering background and he knows why we're  
25 here today and his purpose.

1           Then we have Mr. VanderKlok. Rich has been a board  
2 member in Georgetown Township, currently semi-retired, still  
3 busy. But he was on the Georgetown Township board for many  
4 years and has been involved in that board as well, the BOD  
5 board.

6           The other one is Todd Wolters, he is the current  
7 supervisor at Olive Township just to the north of here and he  
8 has been on these BODs for many, many years as well.

9           So they have good experience, they understand their  
10 job today.

11           And again there is no project, there is no cost,  
12 but if there is issues that we hear today, we'll be more than  
13 happy to look into those. But Ken and Lucas would be the  
14 ones to talk to either during the meeting or afterwards,  
15 they'll stick around. We have three of these today and this  
16 is just the first one.

17           I'll go ahead and give these gentlemen the oath and  
18 then they'll run the meeting from there.

19           Gentlemen, please rise. Raise your right hand.

20           Do you each solemnly swear that you will faithfully  
21 perform and discharge the duties imposed upon you as required  
22 by law as members of the Board of Determination, appointed by  
23 the Ottawa County Water Resources Commissioner to determine  
24 the necessity to locate, establish, construct the proposed  
25 Foxwood No. 1 Drain located in Holland Charter Township in



1 said county, gentlemen?

2 BOARD MEMBER TODD WOLTERS: I do.

3 BOARD MEMBER RICH VANDER KLOK: I do.

4 BOARD MEMBER KEN SOUTER: I do.

5 I'd like to make a motion that Rich serve as  
6 chairman.

7 BOARD MEMBER TODD WOLTERS: I'll support that.

8 BOARD MEMBER RICH VANDER KLOK: Moved and supported  
9 that Rich VanderKlok serve as chairman.

10 All those in favor, say aye.

11 BOARD MEMBER TODD WOLTERS: Aye.

12 BOARD MEMBER RICH VANDER KLOK: Aye.

13 BOARD MEMBER KEN SOUTER: Aye.

14 BOARD CHAIR RICH VANDER KLOK: That motion is  
15 carried.

16 Then I'll make a motion that Ken Souter serve as  
17 secretary.

18 BOARD MEMBER TODD WOLTERS: I'll support that.

19 BOARD CHAIR RICH VANDER KLOK: Moved and supported.

20 All those in favor, say aye.

21 BOARD MEMBER TODD WOLTERS: Aye.

22 BOARD CHAIR RICH VANDER KLOK: Aye.

23 BOARD MEMBER KEN SOUTER: Aye.

24 BOARD CHAIR RICH VANDER KLOK: Those opposed?

25 That's carried.

1           Then the rules of public comment, those of you who  
2 are here and of course we want to hear your comments, so we  
3 will have -- we will allow three minutes for public comment.  
4 And when you make your comments, if you would please stand  
5 and state your name and your address, and then direct your  
6 comments to the Chair.

7           And so I'll make a motion that we have public  
8 comment three minutes.

9           BOARD SECRETARY KEN SOUTER: Second that motion.

10          BOARD MEMBER TODD WOLTERS: Three minutes per  
11 person.

12          BOARD CHAIR RICH VANDER KLOK: So that's supported.

13          BOARD MEMBER TODD WOLTERS: Support.

14          BOARD CHAIR RICH VANDER KLOK: Supported.

15          All those in favor, say aye.

16          BOARD MEMBER TODD WOLTERS: Aye.

17          BOARD CHAIR RICH VANDER KLOK: Aye.

18          BOARD SECRETARY KEN SOUTER: Aye.

19          BOARD CHAIR RICH VANDER KLOK: That is carried.

20          We've already talked about the -- Joe has mentioned  
21 the role and function of the board, and some of the  
22 procedural history. And so I'd like to turn it over to  
23 Lucas, who will give us a report from the engineering.

24          ENGINEER LUCAS TIMMER: Thank you, Rich.

25          My name is Lucas Timmer, I'm an engineer with Prein

1 & Newhof and we were hired to do the preliminary engineering  
2 work for the Foxwood No. 1 Drain.

3 So as Joe mentioned at the beginning of the Board  
4 of Determination, the Foxwood No. 1 Drain is considered an  
5 orphan drain. So it's an existing storm water drain system  
6 that is without authorized local and county governmental  
7 jurisdiction and administrative, procedural and funding  
8 mechanisms to address current or future needs for maintenance  
9 and improvements.

10 So essentially this drain is considered an orphan  
11 or private, and Holland Township is taking the proactive  
12 approach with a lot of these orphan drain systems to get them  
13 established into the county drain system so that there is a  
14 way for the public to be involved in any future maintenance  
15 and improvements with the drain system.

16 So part of the county Drain Code is that to get  
17 this as a county drain, Holland Township filed a petition to  
18 establish a drainage district and they did this on May 20,  
19 2021. And as Joe mentioned then what follows after that  
20 petition is that we have a Board of Determination meeting  
21 that you guys are at today.

22 So some of the preliminary engineering work that we  
23 did is we first reviewed utility drawings and plat maps. So  
24 we reviewed the record drawings of your storm sewer, your  
25 sanitary sewer and water mains just to get a good idea of

1 when that was all put in and get an idea on where high points  
2 and low points are located in your neighborhood roads.

3 We also reviewed your plat maps. So Fox Wood was  
4 established as a plat in 1987.

5 We then used that information to delineate a  
6 drainage district. So a drainage district is essentially a  
7 watershed. A watershed then is anyone within that boundary  
8 contributes runoff to the storm water system that's being  
9 proposed to be a county drain. People on the outside then  
10 are considered not in the drainage district.

11 And we did that using GIS contour data and aerial  
12 data that we were able to receive from Ottawa County.

13 After we do that, we then visit the site to locate  
14 drain infrastructure and confirm drainage patterns.

15 So the next slide here shows the proposed drainage  
16 district. So this red line is our proposed drainage district  
17 or watershed. So everybody within this red boundary is  
18 considered contributing runoff to the storm sewer system.

19 This blue system here is considered the proposed  
20 county drain. So you can see that Fox Wood Trail, Gray Fox  
21 Court, Fox Fire Trail, all have storm sewer systems that end  
22 up discharging through a pipe towards the Brower Drain, which  
23 is that creek to the south of your neighborhood here.

24 These purple lines here are six-inch under drains.  
25 OCWRC typically does not take in under drain as part of their

1 drain. Under drain is just used to serve the road to make  
2 sure the sand subbase has a way to drain underneath the road  
3 and get underneath the storm system.

4 The next slide here just shows an aerial. We also  
5 have a map in the back that you guys can look at as well of  
6 the proposed drainage district and drain infrastructure.

7 So as the board mentioned, following our  
8 presentation we'll have a time for public testimony. At the  
9 end of public testimony, the board will then determine the  
10 necessity of the petition based on public health, welfare  
11 and/or convenience.

12 And if it's deemed necessary by the board that this  
13 becomes a county drain, then this existing, private, orphan  
14 system will become a county drain. If deemed not necessary  
15 by the board, then no further action will occur.

16 So for this slide I want to start with actually  
17 item number two. So Ken and I are not aware of any drainage  
18 issues in the subdivision, and we may find out from you guys  
19 today that there are drainage issues because you live there  
20 and you've been there when these big storm events happen.

21 So with the understanding that there is no drainage  
22 issues, and the board then, if they were to determine that  
23 this is necessary, as Joe mentioned, Holland Township then is  
24 going to pay for all the costs to get this established as a  
25 county drain and there would be no project.

1           Let's say though today we find out from you guys  
2 that there are extensive drainage issues in your neighborhood  
3 and you've noticed sinkholes or other flooding issues, and  
4 it's deemed necessary that there should be a project. We  
5 then go through this following project setup here.

6           OCWRC then will have us review feasible projects to  
7 improve drainage. And once we do that we go through a design  
8 process, and this is how our flowchart is setup. We'll  
9 select a project, that project is usually something that  
10 makes sense. We're not going to do a Cadillac project when  
11 it requires a Yugo kind of fix.

12           We'll then do project design and survey. We'll go  
13 through easement acquisitions if it's at all necessary to  
14 obtain easements. We then go through project bid and  
15 construction.

16           And then the final step of that is a Day of Review  
17 of Apportionment. So if there is a project or any sort of  
18 future project, assessments then are made out to Ottawa  
19 County and the Ottawa County Road Commission. They're made  
20 out to Holland Township, but they're also made to people  
21 within the drainage district. So the property owners that  
22 are within the district all pay a portion of those project  
23 costs.

24           And then moving onto if there are drainage issues  
25 in the future. So if there are drainage issues in the

1 future, a petition will be needed from you guys if it's an  
2 extensive drainage issue. So this petition will then be  
3 either filed by the property owners or Holland Township, and  
4 we'll have a Board of Determination similar to what we have  
5 today.

6 If we find out there is a drainage issue and it's a  
7 small problem, let's say a small sinkhole by a catch basin,  
8 so less than \$5,000 per mile, Joe's office then has the  
9 ability then to go without a petition and a Board of  
10 Determination and just take care of the fix. And that fix  
11 then ultimately or any future maintenance will then be  
12 assessed out to Ottawa County, the road commission, Holland  
13 Township and property owners.

14 So that's the end of my presentation.

15 BOARD CHAIR RICH VANDER KLOK: Okay, thank you,  
16 Lucas.

17 I want to ask if Ken or Todd have any questions for  
18 the engineer?

19 BOARD SECRETARY KEN SOUTER: Not at this point.

20 BOARD CHAIR RICH VANDER KLOK: Todd?

21 BOARD MEMBER TODD WOLTERS: No.

22 BOARD CHAIR RICH VANDER KLOK: Then I wonder,  
23 Jerry, you're back there from the road commission. Anything  
24 from the road commission?

25 ROAD COMMISSION JERRY Olman: As far as I know, we

1 haven't had any issues with the drainage system under the  
2 roads.

3 And as far as the road commission goes, the road  
4 commission would be in favor of establishing the district and  
5 bringing the system into the water resource control.

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

8 Anything from Holland Township?

9 HOLLAND TOWNSHIP FIN. DIRECTOR DOUG KUIPER: Yeah.  
10 At the township we're systematically seeking to bring all the  
11 orphan drains under the jurisdiction of the Water Resources  
12 Commissioner, as Joe noted, and that is the reason for the  
13 petition before you today.

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

15 Then we'll go to our public comment time. And  
16 again, you have three minutes, and address your comments to  
17 the chair. Just stand and state your name and your address  
18 and then make your comments.

19 And I think what we'll do is we'll start way over  
20 there if you have a comment, sir?

21 UNKNOWN SPEAKER: No.

22 BOARD CHAIR RICH VANDER KLOK: Ma'am?

23 UNKNOWN SPEAKER: Not at present. I think I'd like  
24 to listen to what other people say first.

25 BOARD CHAIR RICH VANDER KLOK: Okay. Well, sir,



1 back --

2 UNKNOWN SPEAKER: No.

3 BOARD CHAIR RICH VANDER KLOK: No comment?

4 Sir? Okay.

5 Then let's go here.

6 MR. BRENT WALKER: Brent Walker, 10084 Red Fox Way.

7 I had a lot of curiosity questions because I  
8 thought this was going to result in a project. But if there  
9 is no project anticipated, then I -- that is correct, there  
10 is no project anticipated at this point?

11 BOARD CHAIR RICH VANDER KLOK: Correct.

12 MR. BRENT WALKER: So it's only to bring an orphan  
13 drain into the system?

14 BOARD CHAIR RICH VANDER KLOK: Correct.

15 MR. BRENT WALKER: Okay. Then I have no further  
16 comment.

17 BOARD CHAIR RICH VANDER KLOK: Okay. The next  
18 gentlemen? Name and address, please.

19 MR. MATT SMITH: Matt Smith, 10044 Fox Wood Trail.

20 My general question would be is there -- I know the  
21 engineer said they've not heard of any water issues. Have  
22 you guys heard of any water issues -- I live along the  
23 exterior along the creek and never had any water issues. But  
24 I'm curious if there are any that have been reported on the  
25 cul-de-sac right down the middle?

1 BOARD CHAIR RICH VANDER KLOK: I don't know of any,  
2 but --

3 ENGINEER LUCAS TIMMER: Rich, we are not aware of  
4 any issues along that cul-de-sac.

5 MR. MATT SMITH: Okay.

6 BOARD CHAIR RICH VANDER KLOK: Thank you.

7 Yes, sir?

8 MR. SCOTT JOHNSON: Scott Johnson, 10096 Red Fox  
9 Way.

10 I mainly came to the meeting, I thought is there a  
11 problem? I want to find out what the problem is.

12 BOARD CHAIR RICH VANDER KLOK: Sure.

13 MR. SCOTT JOHNSON: But now I've learned about  
14 these orphan drains and I see what you're trying to figure  
15 out.

16 BOARD CHAIR RICH VANDER KLOK: Sure.

17 MR. SCOTT JOHNSON: So that's why I'm here.

18 BOARD CHAIR RICH VANDER KLOK: Okay, good. Thank  
19 you.

20 Okay. Now I will go back and ask the gentleman,  
21 your name and address please?

22 MR. JEFF STARK: Jeff Stark, 3184 Gray Fox Court.  
23 I'm at the tip of the cul-de-sac, the big one.

24 What is the under drain that goes to the middle of  
25 the cul-de-sac?

1 BOARD CHAIR RICH VANDER KLOK: We can have Lucas  
2 respond to that.

3 ENGINEER LUCAS TIMMER: So the under drain, it's a  
4 six-inch pipe that's put in. It's often put in for roads  
5 that are in clay areas.

6 MR. JEFF STARK: Okay.

7 ENGINEER LUCAS TIMMER: So essentially your  
8 neighborhood I'm assuming is all clay.

9 MR. JEFF STARK: Yes.

10 ENGINEER LUCAS TIMMER: So it's put in the sand  
11 that's part of that road to make sure that sand underneath  
12 the road is able to drain through that pipe. So that's the  
13 purpose of the under drain.

14 MR. JEFF STARK: Okay.

15 ENGINEER LUCAS TIMMER: Does that make sense?

16 MR. JEFF STARK: Yes.

17 BOARD CHAIR RICH VANDER KLOK: Okay. Ma'am?

18 MS. MARGIE VELDHEER: Margie Veldheer, 3131 Gray  
19 Fox Court.

20 And we do have a problem from 3131 to the north, to  
21 the end -- to the road, there is a problem in our backyards.

22 BOARD CHAIR RICH VANDER KLOK: And the problem is  
23 you're saying flooding or water not draining?

24 MS. MARGIE VELDHEER: It's not draining. People  
25 have built their lawns up and it goes like this (indicating).

1 I mean not to that point, but so -- and then at the end of  
2 the cul-de-sac, on the left-hand side, that -- if you even  
3 drive by on the road, you can see there is a big dent with  
4 overgrown grass and stuff where it's just -- where water  
5 pools.

6 So I would think probably our backyards along there  
7 is the biggest problem.

8 BOARD CHAIR RICH VANDER KLOK: Okay.

9 MR. MARGIE VELDHEER: There is a drain, and I don't  
10 really understand why, back to 3131 going south, the next  
11 house has a culvert and then there is a drain. So they don't  
12 have a problem. But if that drain gets, particularly if that  
13 drain gets clogged, then we really have a big problem.

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

15 Now let's go back --

16 MR. GARN EVANS: My name is Garn Evans, I'm at 3145  
17 Gray Fox.

18 And to the point that was just made, there is that  
19 spur that comes up between the properties that adjoin in the  
20 back of my yard, there is also standing water, even now. So  
21 I don't know where the water comes from, but given that we  
22 haven't had a whole lot of water recently, there is still  
23 standing water in the backs of those homes.

24 BOARD CHAIR RICH VANDER KLOK: Okay.

25 MR. GARN EVANS: And I guess this is an annex of

1 this drain system into the Holland Township; as we anticipate  
2 maybe extending that spur or something, I'd be interested in  
3 that discussion.

4 BOARD CHAIR RICH VANDER KLOK: All right. Good.

5 Okay. I think everyone has had an opportunity to  
6 speak. And so I will make a motion to close the public  
7 comment.

8 Is that supported?

9 BOARD MEMBER TODD WOLTERS: Support.

10 BOARD CHAIR RICH VANDER KLOK: Moved and supported  
11 to close public comment.

12 All those in favor, say aye.

13 BOARD MEMBER TODD WOLTERS: Aye.

14 BOARD CHAIR RICH VANDER KLOK: Aye.

15 BOARD SECRETARY KEN SOUTER: Aye.

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

17 Now we have the opportunity for members of the  
18 Board of Determination to make comments regarding this  
19 petition.

20 So, Ken or Todd, who would like to go first?

21 BOARD MEMBER TODD WOLTERS: Lucas, coming into lot  
22 3105 on the corner there is a spur that goes in between 3100  
23 and 3105, is that correct?

24 ENGINEER LUCAS TIMMER: That's correct, yes.

25 BOARD MEMBER TODD WOLTERS: Okay. So for those

1 folks' issue potentially that would be extended from there to  
2 get across more of the backyards?

3 ENGINEER LUCAS TIMMER: Correct. That's a possible  
4 way to improve. Yep. We'd have to look at it first.

5 BOARD MEMBER TODD WOLTERS: Okay.

6 BOARD SECRETARY KEN SOUTER: Well pretty much I'm  
7 in favor of always getting these systems under someone's  
8 control. And I understand there is some surface issue  
9 problems there that could be maybe addressed once it's under  
10 someone's control. But at this point, it's out in limbo land  
11 and there is no one to go to.

12 So basically I'm totally in favor of getting these  
13 systems under the Drain Commissioner's, or Water Resources  
14 Commissioner's jurisdiction. I can't see any other way to  
15 get things done, if you need things done.

16 So I'm in favor.

17 BOARD CHAIR RICH VANDER KLOK: Okay. I think the  
18 point that Todd made with reference to your issues, the way  
19 to -- that that would then be addressed would be to bring it  
20 into the jurisdiction of the Water Resources Commissioner.

21 So I would make a motion that the location,  
22 establishment and construction of the Foxwood No. 1 Drain is  
23 necessary for, and conducive to public health, convenience  
24 and welfare.

25 So I'll make that motion. Is that supported?

1 BOARD SECRETARY KEN SOUTER: I'll second it.

2 BOARD CHAIR RICH VANDER KLOK: Okay. It's moved  
3 and supported.

4 Those in favor, say aye.

5 BOARD MEMBER TODD WOLTERS: Aye.

6 BOARD CHAIR RICH VANDER KLOK: Aye.

7 BOARD SECRETARY KEN SOUTER: Aye.

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

9 And the only other information that I'd like Joe to  
10 share is in regard to the appeal process and final comments.

11 WATER RESOURCES COMM. JOE BUSH: Correct. So to  
12 appeal it, you can appeal today's Board of Determination. I  
13 got to mention this in every meeting because it's in Drain  
14 Code. You can appeal today's decision with the Circuit  
15 Court. You got ten days starting today if somebody would so  
16 chose to do that.

17 Again final comments are, I appreciate you coming.  
18 I'm glad we -- this is why we have these in case we don't  
19 know about some certain issues, especially in backyards. Out  
20 of sight, out of mind. People probably drive by 100th and  
21 Riley and you don't even see it but it's in people's  
22 backyards.

23 So we'll have the engineers look into that  
24 situation, maybe take some survey and just see what we got in  
25 the backyards, so we do appreciate you bringing that up.

1           So some people say, well how did this not become a  
2 county drain when it was developed? Well from about 2007 to  
3 currently, especially since I've been in office in the last  
4 two terms, I'm on my third term now, we make sure that every  
5 developer follows the standards and we establish these kind  
6 of drain systems right when they're getting reviewed through  
7 my department, through my office.

8           So everything that's been developed basically, I  
9 won't say fell through the cracks, a lot of them did in 2007,  
10 2008, but everything is under my jurisdiction as far as  
11 subdivisions go.

12           It's called a 433 Agreement. The developer  
13 participates in that, and that's all done and they get  
14 approved through the township, so through the planning  
15 commission, through the board, approvals in the plat process.  
16 So people are like, oh, that's how it's done.

17           And back years ago that all didn't get done. It's  
18 nobody's fault, it just wasn't part of the process in the  
19 legal things that should have been done. But we're trying to  
20 make that right for people who live there today or in the  
21 future or who have been there for a long time and had issues  
22 and never knew who to call. We want to make sure we provide  
23 a customer service that we can come out and assist and have  
24 some kind of ability to fix them.

25           So we appreciate your time, and thank you.



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BOARD CHAIR RICH VANDER KLOK: Okay. Thank you,  
Joe.

Is there a motion to adjourn?

BOARD SECRETARY KEN SOUTER: So moved.

BOARD CHAIR RICH VANDER KLOK: And it's supported.  
And those in favor, say aye.

BOARD MEMBER TODD WOLTERS: Aye.

BOARD CHAIR RICH VANDER KLOK: Aye.

BOARD SECRETARY KEN SOUTER: Aye.

BOARD CHAIR RICH VANDER KLOK: We are adjourned.  
Thank you all for coming.

(Board of Determination - Foxwood No. 1 Drain -  
adjourned at 10:30 a.m.)

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CERTIFICATION OF COURT REPORTER AND NOTARY PUBLIC

\_\_\_\_\_  
STATE OF MICHIGAN )  
  ) SS  
COUNTY OF MUSKEGON )

I certify that this transcript, consisting of 26 pages, is a complete, true and correct record of the Board of Determination - Foxwood No. 1 Drain, held on August 26, 2021.

DATE: August 20, 2021  
*Marjorie Covey*

\_\_\_\_\_  
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Notary Public Expires: October 14, 2021, Muskegon County, Michigan/Acting in the State of Michigan

<hr/> <b>\$</b> <hr/>	<hr/> <b>A</b> <hr/>	<b>Apportionment</b> 14:17	<b>backs</b> 20:23	<b>Bosma</b> 7:15
<b>\$5,000</b> 15:8	<b>a.m.</b> 2:2 25:13	<b>approach</b> 11:12	<b>backyards</b> 19:21 20:6 22:2 23:19,22, 25	<b>boundary</b> 12:7,17
<hr/> <b>1</b> <hr/>	<b>ability</b> 15:9 24:24	<b>approvals</b> 24:15	<b>based</b> 2:11 4:22 5:1 13:10	<b>Brent</b> 17:6,12, 15
<b>1</b> 2:12 8:25 11:2,4 22:22 25:12	<b>accountability</b> 2:25	<b>approved</b> 24:14	<b>basically</b> 4:13 7:10 22:12 24:8	<b>bring</b> 16:10 17:12 22:19
<b>10044</b> 17:19	<b>acquisitions</b> 14:13	<b>area</b> 3:12	<b>basin</b> 15:7	<b>bringing</b> 16:5 23:25
<b>10084</b> 17:6	<b>action</b> 13:15	<b>areas</b> 19:5	<b>beginning</b> 11:3	<b>Brower</b> 12:22
<b>10096</b> 18:8	<b>address</b> 2:9 10:5 11:8 16:16,17 17:18 18:21	<b>assessed</b> 15:12	<b>big</b> 14:14	<b>budget</b> 5:17
<b>100th</b> 23:20	<b>addressed</b> 22:9,19	<b>assessment</b> 5:13 6:9	<b>big</b> 13:20 18:23 20:3,13	<b>built</b> 19:25
<b>10:00</b> 2:2	<b>adjoin</b> 20:19	<b>assessments</b> 14:18	<b>biggest</b> 20:7	<b>Bush</b> 2:4,10 23:11
<b>10:30</b> 25:13	<b>adjourn</b> 25:3	<b>assist</b> 24:23	<b>blue</b> 12:19	<b>business</b> 6:6, 8
<b>17</b> 4:1	<b>adjourned</b> 25:10,13	<b>association</b> 2:19	<b>board</b> 3:14 4:4,5,6,8 7:6, 21 8:1,3,4,5, 22 9:2,3,4,7,8, 11,12,13,14, 18,19,21,22, 23,24 10:9,10, 12,13,14,16, 17,18,19,21 11:3,20 13:7, 9,12,15,22 15:4,9,15,19, 20,21,22 16:6, 14,22,25 17:3, 11,14,17 18:1, 6,12,16,18 19:1,17,22 20:8,14,24 21:4,9,10,13, 14,15,16,18, 21,25 22:5,6, 17 23:1,2,5,6, 7,8,12 24:15 25:1,4,5,7,8,9, 10,12	<b>busy</b> 8:3
<b>1987</b> 12:4	<b>administrative</b> 11:7	<b>assume</b> 2:8	<b>board</b> 3:14 4:4,5,6,8 7:6, 21 8:1,3,4,5, 22 9:2,3,4,7,8, 11,12,13,14, 18,19,21,22, 23,24 10:9,10, 12,13,14,16, 17,18,19,21 11:3,20 13:7, 9,12,15,22 15:4,9,15,19, 20,21,22 16:6, 14,22,25 17:3, 11,14,17 18:1, 6,12,16,18 19:1,17,22 20:8,14,24 21:4,9,10,13, 14,15,16,18, 21,25 22:5,6, 17 23:1,2,5,6, 7,8,12 24:15 25:1,4,5,7,8,9, 10,12	<hr/> <b>C</b> <hr/>
<b>1990</b> 4:20	<b>aerial</b> 12:11 13:4	<b>assessments</b> 14:18	<b>board</b> 3:14 4:4,5,6,8 7:6, 21 8:1,3,4,5, 22 9:2,3,4,7,8, 11,12,13,14, 18,19,21,22, 23,24 10:9,10, 12,13,14,16, 17,18,19,21 11:3,20 13:7, 9,12,15,22 15:4,9,15,19, 20,21,22 16:6, 14,22,25 17:3, 11,14,17 18:1, 6,12,16,18 19:1,17,22 20:8,14,24 21:4,9,10,13, 14,15,16,18, 21,25 22:5,6, 17 23:1,2,5,6, 7,8,12 24:15 25:1,4,5,7,8,9, 10,12	<b>Cadillac</b> 14:10
<hr/> <b>2</b> <hr/>	<b>affected</b> 3:11	<b>association</b> 2:19	<b>board</b> 3:14 4:4,5,6,8 7:6, 21 8:1,3,4,5, 22 9:2,3,4,7,8, 11,12,13,14, 18,19,21,22, 23,24 10:9,10, 12,13,14,16, 17,18,19,21 11:3,20 13:7, 9,12,15,22 15:4,9,15,19, 20,21,22 16:6, 14,22,25 17:3, 11,14,17 18:1, 6,12,16,18 19:1,17,22 20:8,14,24 21:4,9,10,13, 14,15,16,18, 21,25 22:5,6, 17 23:1,2,5,6, 7,8,12 24:15 25:1,4,5,7,8,9, 10,12	<b>call</b> 3:1,3,5,6 24:22
<b>20</b> 11:18	<b>affiliation</b> 4:6	<b>authorized</b> 11:6	<b>board</b> 3:14 4:4,5,6,8 7:6, 21 8:1,3,4,5, 22 9:2,3,4,7,8, 11,12,13,14, 18,19,21,22, 23,24 10:9,10, 12,13,14,16, 17,18,19,21 11:3,20 13:7, 9,12,15,22 15:4,9,15,19, 20,21,22 16:6, 14,22,25 17:3, 11,14,17 18:1, 6,12,16,18 19:1,17,22 20:8,14,24 21:4,9,10,13, 14,15,16,18, 21,25 22:5,6, 17 23:1,2,5,6, 7,8,12 24:15 25:1,4,5,7,8,9, 10,12	<b>called</b> 24:12
<b>2007</b> 24:2,9	<b>Agreement</b> 24:12	<b>aware</b> 13:17 18:3	<b>board</b> 3:14 4:4,5,6,8 7:6, 21 8:1,3,4,5, 22 9:2,3,4,7,8, 11,12,13,14, 18,19,21,22, 23,24 10:9,10, 12,13,14,16, 17,18,19,21 11:3,20 13:7, 9,12,15,22 15:4,9,15,19, 20,21,22 16:6, 14,22,25 17:3, 11,14,17 18:1, 6,12,16,18 19:1,17,22 20:8,14,24 21:4,9,10,13, 14,15,16,18, 21,25 22:5,6, 17 23:1,2,5,6, 7,8,12 24:15 25:1,4,5,7,8,9, 10,12	<b>care</b> 15:10
<b>2008</b> 24:10	<b>ahead</b> 7:14,20 8:17	<b>aye</b> 9:10,11, 12,13,20,21, 22,23 10:15, 16,17,18 21:12,13,14, 15 23:4,5,6,7 25:6,7,8,9	<b>board</b> 3:14 4:4,5,6,8 7:6, 21 8:1,3,4,5, 22 9:2,3,4,7,8, 11,12,13,14, 18,19,21,22, 23,24 10:9,10, 12,13,14,16, 17,18,19,21 11:3,20 13:7, 9,12,15,22 15:4,9,15,19, 20,21,22 16:6, 14,22,25 17:3, 11,14,17 18:1, 6,12,16,18 19:1,17,22 20:8,14,24 21:4,9,10,13, 14,15,16,18, 21,25 22:5,6, 17 23:1,2,5,6, 7,8,12 24:15 25:1,4,5,7,8,9, 10,12	<b>careers</b> 6:7
<b>2021</b> 2:2 11:19	<b>and/or</b> 13:11	<b>back</b> 2:13 4:19 6:20,21 7:5,7 13:5 15:23 17:1 18:20 20:10, 15,20 24:17	<b>board</b> 3:14 4:4,5,6,8 7:6, 21 8:1,3,4,5, 22 9:2,3,4,7,8, 11,12,13,14, 18,19,21,22, 23,24 10:9,10, 12,13,14,16, 17,18,19,21 11:3,20 13:7, 9,12,15,22 15:4,9,15,19, 20,21,22 16:6, 14,22,25 17:3, 11,14,17 18:1, 6,12,16,18 19:1,17,22 20:8,14,24 21:4,9,10,13, 14,15,16,18, 21,25 22:5,6, 17 23:1,2,5,6, 7,8,12 24:15 25:1,4,5,7,8,9, 10,12	<b>carried</b> 9:15, 25 10:19 21:16 23:8
<b>26</b> 2:2	<b>annex</b> 20:25	<hr/> <b>B</b> <hr/>	<b>board</b> 3:14 4:4,5,6,8 7:6, 21 8:1,3,4,5, 22 9:2,3,4,7,8, 11,12,13,14, 18,19,21,22, 23,24 10:9,10, 12,13,14,16, 17,18,19,21 11:3,20 13:7, 9,12,15,22 15:4,9,15,19, 20,21,22 16:6, 14,22,25 17:3, 11,14,17 18:1, 6,12,16,18 19:1,17,22 20:8,14,24 21:4,9,10,13, 14,15,16,18, 21,25 22:5,6, 17 23:1,2,5,6, 7,8,12 24:15 25:1,4,5,7,8,9, 10,12	<b>case</b> 23:18
<hr/> <b>3</b> <hr/>	<b>anticipate</b> 21:1	<b>background</b> 7:24	<b>BOD</b> 8:4	<b>catch</b> 15:7
<b>3100</b> 21:22	<b>anticipated</b> 17:9,10		<b>BODS</b> 5:25 7:1 8:8	<b>chair</b> 9:14,19, 22,24 10:6,12, 14,17,19 15:15,20,22 16:6,14,17,22, 25 17:3,11,14, 17 18:1,6,12, 16,18 19:1,17, 22 20:8,14,24 21:4,10,14,16 22:17 23:2,6,8 25:1,5,8,10
<b>3105</b> 21:22,23	<b>appeal</b> 23:10, 12,14		<b>borderline</b> 4:17	
<b>3131</b> 19:18,20 20:10	<b>appoint</b> 4:5 6:1,4			
<b>3145</b> 20:16	<b>appointed</b> 3:17 8:22			
<b>3184</b> 18:22				
<b>38</b> 7:22				
<hr/> <b>4</b> <hr/>				
<b>433</b> 24:12				

<b>chairman</b> 9:6, 9	<b>construct</b> 8:24	<b>current</b> 8:6 11:8	<b>discussion</b> 21:3	<b>end</b> 5:3 12:21 13:9 15:14 19:21 20:1
<b>change</b> 4:25	<b>construction</b> 14:15 22:22	<b>customer</b> 24:23	<b>district</b> 4:9, 11,14,24 11:18 12:6,10, 16 13:6 14:21, 22 16:4	<b>engineer</b> 10:24,25 15:18 17:21 18:3 19:3,7, 10,15 21:24 22:3
<b>Charter</b> 8:25	<b>contour</b> 12:11	<hr/> <b>D</b> <hr/>	<b>DOUG</b> 16:9	<b>engineering</b> 5:10,16 7:14, 22,24 10:23 11:1,22
<b>chose</b> 23:16	<b>contributes</b> 12:8	<b>data</b> 12:11,12	<b>downstream</b> 3:13	<b>engineers</b> 4:22,25 7:6 23:23
<b>Circuit</b> 23:14	<b>contributing</b> 12:18	<b>Day</b> 14:16	<b>drain</b> 2:11,12, 14,15,24 3:18, 20 4:11,13,24 6:5,10,11 8:25 11:2,4,5,10, 12,13,15,16, 17 12:9,14,20, 22,25 13:1,2, 6,13,14,25 17:13 18:24 19:3,12,13 20:9,11,12,13 21:1 22:13,22 23:13 24:2,6 25:12	<b>essentially</b> 11:10 12:6 19:7
<b>cities</b> 4:1	<b>control</b> 16:5 22:8,10	<b>days</b> 23:15	<b>department</b> 2:5 7:23 24:7	<b>establish</b> 2:14 3:22 5:18 8:24 11:18 24:5
<b>clay</b> 19:5,8	<b>convenience</b> 13:11 22:23	<b>decision</b> 5:3 23:14	<b>design</b> 14:7, 12	<b>established</b> 3:8 11:13 12:4 13:24
<b>clogged</b> 20:13	<b>conversation</b> 6:16	<b>deemed</b> 13:12,14 14:4	<b>delineate</b> 12:5	<b>establishing</b> 2:24 16:4
<b>close</b> 21:6,11	<b>corner</b> 21:22	<b>defined</b> 2:15, 22	<b>dent</b> 20:3	<b>establishmen t</b> 22:22
<b>Code</b> 3:18,20 6:5,10,11 11:16 23:14	<b>correct</b> 17:9, 11,14 21:23, 24 22:3 23:11	<b>design</b> 14:7, 12	<b>department</b> 2:5 7:23 24:7	<b>Evans</b> 20:16, 25
<b>COMM</b> 2:4 23:11	<b>cost</b> 5:7,14,19 8:11	<b>Determinatio n</b> 3:15 4:5 8:22 11:4,20 15:4, 10 21:18 23:12 25:12	<b>design</b> 14:7, 12	<b>events</b> 13:20
<b>comment</b> 10:1,3,8 16:15,20 17:3, 16 21:7,11	<b>costs</b> 5:12 13:24 14:23	<b>determine</b> 8:23 13:9,22	<b>drainage</b> 11:18 12:6,10, 14,15,16 13:6, 17,19,21 14:2, 7,21,24,25 15:2,6 16:1	<b>everybody's</b> 4:13
<b>comments</b> 10:2,4,6 16:16,18 21:18 23:10, 17	<b>county</b> 2:16, 24 4:1 8:23 9:1 11:6,13, 16,17 12:9,12, 20 13:13,14, 25 14:19 15:12 24:2	<b>developed</b> 24:2,8	<b>drains</b> 2:14 5:18 12:24 16:11 18:14	<b>existing</b> 11:5 13:13
<b>commission</b> 2:16 3:4 4:8 7:7,18,23 14:19 15:12, 23,24,25 16:3, 4 24:15	<b>court</b> 2:7,8 5:15 6:18 12:21 18:22 19:19 23:15	<b>developer</b> 24:5,12	<b>drawings</b> 11:23,24	<b>experience</b> 8:9
<b>Commission er</b> 2:10,11 6:23 8:23 16:12 22:20	<b>cover</b> 4:1	<b>dialogue</b> 6:16	<b>drive</b> 20:3 23:20	<b>extended</b> 22:1
<b>Commission er's</b> 22:13,14	<b>cracks</b> 24:9	<b>direct</b> 10:5	<b>duties</b> 8:21	<b>extending</b> 21:2
<b>concern</b> 3:12	<b>creek</b> 12:23 17:23	<b>DIRECTOR</b> 16:9	<hr/> <b>E</b> <hr/>	<b>extensive</b> 14:2 15:2
<b>conductive</b> 22:23	<b>cul-de-sac</b> 17:25 18:4,23, 25 20:2	<b>directs</b> 3:7	<b>easement</b> 2:21 14:13	<b>exterior</b> 17:23
<b>confirm</b> 12:14	<b>culvert</b> 20:11	<b>discharge</b> 8:21	<b>easements</b> 2:20 14:14	
<b>confused</b> 5:8	<b>curiosity</b> 17:7	<b>discharging</b> 12:22		
<b>considered</b> 11:4,10 12:10, 18,19	<b>curious</b> 17:24			

<hr/> <b>F</b> <hr/>	<b>future</b> 11:8,14 14:18,25 15:1, 11 24:21	<b>hear</b> 2:6,7 4:19 5:2,22 8:12 10:2	<b>interested</b> 21:2	16,23 10:9,18 13:17 15:17, 19 21:15,20 22:6 23:1,7 25:4,9
<b>faithfully</b> 8:20	<hr/> <b>G</b> <hr/>	<b>heard</b> 17:21, 22	<b>interpretation</b> 7:9	<b>kind</b> 14:11 24:5,24
<b>fault</b> 24:18	<b>Garn</b> 20:16,25	<b>hearing</b> 3:16 4:5	<b>introductions</b> 6:13 7:20	<b>KLOK</b> 9:3,8, 12,14,19,22, 24 10:12,14, 17,19 15:15, 20,22 16:6,14, 22,25 17:3,11, 14,17 18:1,6, 12,16,18 19:1, 17,22 20:8,14, 24 21:4,10,14, 16 22:17 23:2, 6,8 25:1,5,8, 10
<b>favor</b> 9:10,20 10:15 16:4 21:12 22:7,12, 16 23:4 25:6	<b>general</b> 17:20	<b>helpful</b> 7:4	<b>investments</b> 6:2	<b>knew</b> 24:22
<b>feasible</b> 14:6	<b>gentleman</b> 18:20	<b>hey</b> 2:23 4:4	<b>involved</b> 6:7, 8 8:4 11:14	<b>KUIPER</b> 16:9
<b>fell</b> 24:9	<b>gentlemen</b> 3:17 5:2,22 6:14,17 8:17, 19 9:1 17:18	<b>high</b> 12:1	<b>issue</b> 5:21 15:2,6 22:1,8	<hr/> <b>L</b> <hr/>
<b>figure</b> 18:14	<b>Georgetown</b> 8:2,3	<b>hired</b> 11:1	<b>issues</b> 3:1,23 5:11 8:12 13:18,19,22 14:2,3,24,25 16:1 17:21,22, 23 18:4 22:18 23:19 24:21	<b>land</b> 22:10
<b>filed</b> 11:17 15:3	<b>GIS</b> 12:11	<b>history</b> 10:22	<b>item</b> 13:17	<b>large</b> 5:17
<b>FIN</b> 16:9	<b>give</b> 6:13 7:12 8:17 10:23	<b>Holland</b> 2:1,5, 13,23 3:5,25 4:7 5:14,16 7:16 8:25 11:11,17 13:23 14:20 15:3,12 16:8,9 21:1	<hr/> <b>J</b> <hr/>	<b>law</b> 3:18,20 6:20 7:4 8:22
<b>final</b> 14:16 23:10,17	<b>glad</b> 23:18	<b>homeowner's</b> 2:19	<b>Jeff</b> 18:22 19:6,9,14,16	<b>lawns</b> 19:25
<b>find</b> 13:18 14:1 15:6 18:11	<b>good</b> 2:4 7:10 8:9 11:25 18:18 21:4	<b>homes</b> 20:23	<b>Jerry</b> 7:17 15:23,25 16:7	<b>learned</b> 18:13
<b>Fire</b> 2:5 12:21	<b>governmenta</b> l 11:6	<b>house</b> 4:16 20:11	<b>job</b> 8:10	<b>left</b> 7:21
<b>firm</b> 5:10 7:15	<b>grass</b> 20:4	<hr/> <b>I</b> <hr/>	<b>Joe</b> 2:4,10 3:19 10:20 11:3,19 13:23 16:12 23:9,11 25:2	<b>left-hand</b> 20:2
<b>fix</b> 3:9 14:11 15:10 24:24	<b>Gray</b> 12:20 18:22 19:18 20:17	<b>idea</b> 11:25 12:1	<b>Joe's</b> 5:5,23 15:8	<b>legal</b> 24:19
<b>flooding</b> 6:11 14:3 19:23	<b>guess</b> 20:25	<b>importantly</b> 6:10	<b>Johnson</b> 18:8,13,17	<b>legally</b> 3:8
<b>flowchart</b> 14:8	<b>guys</b> 5:25 11:21 13:5,18 14:1 15:1 17:22	<b>imposed</b> 8:21	<b>Josiah</b> 7:18	<b>limbo</b> 22:10
<b>folks</b> 6:17 7:19	<hr/> <b>H</b> <hr/>	<b>improve</b> 14:7 22:4	<b>jurisdiction</b> 5:5,24 11:7 16:11 22:14, 20 24:10	<b>lines</b> 12:24
<b>folks'</b> 22:1	<b>hand</b> 8:19	<b>improvement</b> s 11:9,15	<b>Ken</b> 7:15,21 8:13 9:4,13,	<b>lingering</b> 2:17
<b>forward</b> 5:5	<b>handwriting</b> 7:9	<b>information</b> 12:5 23:9		<b>listen</b> 16:24
<b>Fox</b> 12:3,20, 21 17:6,19 18:8,22 19:19 20:17	<b>happen</b> 13:20	<b>infrastructur</b> e 2:18 3:2 6:12 12:14 13:6	<hr/> <b>K</b> <hr/>	<b>live</b> 13:19 17:22 24:20
<b>Foxwood</b> 2:12 5:11 8:25 11:2,4 22:22 25:12	<b>happy</b> 6:15 7:13 8:13			<b>lives</b> 4:12
<b>function</b> 10:21	<b>health</b> 13:10 22:23			
<b>funding</b> 11:7				

<b>local</b> 11:6	<b>Matt</b> 17:19 18:5	<b>moving</b> 5:5 14:24	10,12 13:13 16:11 17:12 18:14	<b>petitioned</b> 4:4
<b>locate</b> 8:24 12:13	<b>means</b> 3:8	<hr/> <b>N</b> <hr/>	<b>orphans</b> 3:22	<b>petitioning</b> 3:22
<b>located</b> 8:25 12:2	<b>mechanisms</b> 11:8	<b>necessity</b> 8:24 13:10	<b>Ottawa</b> 8:23 12:12 14:18, 19 15:12	<b>petitions</b> 7:2
<b>location</b> 22:21	<b>meeting</b> 5:4 6:14,24 7:13 8:14,18 11:20 18:10 23:13	<b>needed</b> 15:1	<b>overgrown</b> 20:4	<b>pick</b> 6:1
<b>long</b> 24:21	<b>member</b> 8:2 9:2,3,4,7,8,11, 12,13,18,21, 23 10:10,13, 16 15:21 21:9, 13,21,25 22:5 23:5 25:7	<b>neighborhood</b> 12:2,23 14:2 19:8	<b>owner</b> 3:11	<b>picks</b> 5:14,17
<b>lot</b> 3:25 7:24 11:12 17:7 20:22 21:21 24:9	<b>members</b> 4:6 7:6 8:22 21:17	<b>neighbors</b> 4:20	<b>owners</b> 3:10 5:19 14:21 15:3,13	<b>pipe</b> 12:22 19:4,12
<b>low</b> 12:2	<b>mention</b> 23:13	<b>Newhof</b> 7:15 11:1	<b>ownership</b> 2:15,25	<b>planning</b> 4:8 24:14
<b>Lucas</b> 7:15 8:13 10:23,24, 25 15:16 18:3 19:1,3,7,10,15 21:21,24 22:3	<b>mentioned</b> 10:20 11:3,19 13:7,23	<b>nice</b> 7:7	<b>owns</b> 2:18,21	<b>plat</b> 11:23 12:3,4 24:15
<hr/> <b>M</b> <hr/>	<b>met</b> 7:19	<b>nobody's</b> 24:18	<hr/> <b>P</b> <hr/>	<b>point</b> 6:7 15:19 17:10 20:1,18 22:10, 18
<b>made</b> 5:3 14:18,19,20 20:18 22:18	<b>Michigan</b> 2:1	<b>north</b> 8:7 19:20	<b>paper</b> 5:15	<b>points</b> 12:1,2
<b>mail</b> 4:17	<b>middle</b> 17:25 18:24	<b>noted</b> 16:12	<b>part</b> 11:16 12:25 19:11 24:18	<b>policy</b> 3:19
<b>mailing</b> 4:11, 15,16	<b>mile</b> 15:8	<b>noticed</b> 14:3	<b>participates</b> 24:13	<b>pools</b> 20:5
<b>mains</b> 11:25	<b>mind</b> 23:20	<b>number</b> 6:4,6 13:17	<b>past</b> 6:1	<b>Port</b> 7:22
<b>maintenance</b> 11:8,14 15:11	<b>mine</b> 2:6	<hr/> <b>O</b> <hr/>	<b>patterns</b> 12:14	<b>portion</b> 14:22
<b>make</b> 9:5,16 10:4,7 13:1 16:18 19:11, 15 21:6,18 22:21,25 24:4, 20,22	<b>minute</b> 5:8	<b>oath</b> 6:14 7:12 8:17	<b>pay</b> 13:24 14:22	<b>possibility</b> 5:4
<b>makes</b> 14:10	<b>minutes</b> 10:3, 8,10 16:16	<b>obtain</b> 14:14	<b>past</b> 6:1	<b>post</b> 6:23,25
<b>map</b> 13:5	<b>miottawa.org</b> 6:22	<b>occur</b> 13:15	<b>patterns</b> 12:14	<b>potentially</b> 22:1
<b>maps</b> 11:23 12:3	<b>money</b> 5:9	<b>OCWRC</b> 12:25 14:6	<b>people</b> 4:17 5:8 6:1,4 7:5 12:9 14:20 16:24 19:24 23:20 24:1,16, 20	<b>Prein</b> 7:15 10:25
<b>Marge</b> 6:18	<b>morning</b> 2:4	<b>office</b> 15:8 24:3,7	<b>people's</b> 23:21	<b>preliminary</b> 11:1,22
<b>Margie</b> 19:18, 24 20:9	<b>motion</b> 5:3 9:5,14,16 10:7,9 21:6 22:21,25 25:3	<b>official</b> 7:16	<b>perform</b> 8:21	<b>present</b> 16:23
<b>masks</b> 2:6,8	<b>moved</b> 9:8,19 21:10 23:2 25:4	<b>Olive</b> 8:7	<b>person</b> 10:11	<b>presentation</b> 13:8 15:14
		<b>Olman</b> 7:17 15:25	<b>petition</b> 2:12 4:3 6:9,11 11:17,20 13:10 15:1,2,9 16:13 21:19	<b>pretty</b> 5:11 22:6
		<b>opportunity</b> 21:5,17		<b>private</b> 11:11 13:13
		<b>opposed</b> 9:24		<b>proactive</b> 11:11
		<b>orphan</b> 2:14, 22 5:18 11:5,		<b>problem</b> 15:7 18:11 19:20, 21,22 20:7,12,

13	17:20	<b>result</b> 17:8	<b>secretary</b> 9:17 10:9,18 15:19 21:15 22:6 23:1,7 25:4,9	<b>somebody's</b> 7:8
<b>problems</b> 5:20 6:12 22:9	<b>questions</b> 6:15 7:13 15:17 17:7	<b>retired</b> 7:23		<b>someone's</b> 22:7,10
<b>procedural</b> 10:22 11:7	<b>quiet</b> 5:12	<b>review</b> 14:6, 16	<b>seeking</b> 16:10	<b>sort</b> 4:12 14:17
<b>PROCEEDIN</b>	<hr/>	<b>reviewed</b> 11:23,24 12:3 24:6	<b>select</b> 14:9	<b>Souter</b> 7:21 9:4,13,16,23 10:9,18 15:19 21:15 22:6 23:1,7 25:4,9
<b>GS</b> 2:3	<b>R</b> <hr/>	<b>Rich</b> 8:1 9:3,5, 8,9,12,14,19, 22,24 10:12, 14,17,19,24 15:15,20,22 16:6,14,22,25 17:3,11,14,17 18:1,3,6,12, 16,18 19:1,17, 22 20:8,14,24 21:4,10,14,16 22:17 23:2,6,8 25:1,5,8,10	<b>semi-retired</b> 8:2	<b>south</b> 12:23 20:10
<b>process</b> 4:3 6:9,11 7:2 14:8 23:10 24:15,18	<b>Raise</b> 8:19	<b>Riley</b> 23:21	<b>sense</b> 14:10 19:15	<b>speak</b> 21:6
<b>project</b> 5:7,9, 12 8:11 13:25 14:4,5,9,10, 12,14,17,18, 22 17:8,9,10	<b>read</b> 7:8	<b>rise</b> 8:19	<b>serve</b> 9:5,9,16 13:1	<b>SPEAKER</b> 16:21,23 17:2
<b>projects</b> 14:6	<b>reason</b> 16:12	<b>road</b> 2:9,16 3:4 5:21 6:21 7:7,11,17,23 13:1,2 14:19 15:12,23,24, 25 16:3 19:11, 12,21 20:3	<b>service</b> 24:23	<b>spending</b> 5:9
<b>properties</b> 4:9 6:2 20:19	<b>receive</b> 12:12	<b>roads</b> 12:2 16:2 19:4	<b>setup</b> 14:5,8	<b>spur</b> 20:19 21:2,22
<b>property</b> 3:10,11 5:19 14:21 15:3,13	<b>recently</b> 20:22	<b>role</b> 10:21	<b>sewer</b> 4:20 11:24,25 12:18,21	<b>staff</b> 7:18,19
<b>provide</b> 24:22	<b>record</b> 11:24	<b>rules</b> 10:1	<b>share</b> 23:10	<b>stand</b> 10:4 16:17
<b>provided</b> 5:16	<b>recorder</b> 2:8 5:15 6:18	<b>run</b> 6:14 7:12 8:18	<b>Sheldon</b> 7:22	<b>standards</b> 24:5
<b>public</b> 3:15 4:5,18,23 10:1,3,7 11:14 13:8,9,10 16:15 21:6,11 22:23	<b>red</b> 12:16,17 17:6 18:8	<b>runoff</b> 12:8,18	<b>shows</b> 12:15 13:4	<b>standing</b> 20:20,23
<b>publication</b> 5:15	<b>reference</b> 22:18	<b>S</b> <hr/>	<b>side</b> 20:2	<b>Stark</b> 18:22 19:6,9,14,16
<b>purple</b> 12:24	<b>regard</b> 23:10	<b>sand</b> 13:2 19:10,11	<b>sight</b> 23:20	<b>start</b> 2:23 13:16 16:19
<b>purpose</b> 6:5 7:25 19:13	<b>related</b> 6:3	<b>sanitary</b> 11:25	<b>similar</b> 15:4	<b>starting</b> 23:15
<b>put</b> 4:20 5:18 12:1 19:4,10	<b>remove</b> 2:8	<b>Sara</b> 7:18	<b>sinkhole</b> 15:7	<b>state</b> 3:18,20 6:20 10:5 16:17
<b>puts</b> 3:19	<b>report</b> 10:23	<b>Scott</b> 18:8,13, 17	<b>sinkholes</b> 14:3	<b>step</b> 14:16
<hr/>	<b>reported</b> 17:24		<b>sir</b> 16:20,25 17:4 18:7	<b>stick</b> 8:15
<b>Q</b> <hr/>	<b>requires</b> 14:11		<b>site</b> 12:13	<b>stories</b> 4:19
<b>question</b>	<b>resource</b> 16:5		<b>situation</b> 23:24	<b>storm</b> 4:20 11:5,24 12:8, 18,21 13:3,20
	<b>Resources</b> 2:4,10 6:23 8:23 16:11 22:13,20 23:11		<b>six-inch</b> 12:24 19:4	<b>stuff</b> 20:4
	<b>respond</b> 19:2		<b>slide</b> 12:15 13:4,16	<b>subbase</b> 13:2
	<b>responsibilit</b> <b>y</b> 2:25		<b>small</b> 15:7	<b>subdivision</b> 13:18
			<b>Smith</b> 17:19 18:5	
			<b>solemnly</b> 8:20	

<p><b>subdivisions</b> 24:11</p> <p><b>supervisor</b> 8:7</p> <p><b>support</b> 9:7, 18 10:13 21:9</p> <p><b>supported</b> 9:8,19 10:12, 14 21:8,10 22:25 23:3 25:5</p> <p><b>surface</b> 22:8</p> <p><b>survey</b> 14:12 23:24</p> <p><b>swear</b> 8:20</p> <p><b>system</b> 2:24 11:5,13,15 12:8,18,19 13:3,14 16:1,5 17:13 21:1</p> <p><b>systematicall y</b> 16:10</p> <p><b>systems</b> 11:12 12:21 22:7,13 24:6</p> <hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>taking</b> 3:24 11:11</p> <p><b>talk</b> 2:7 7:14 8:14</p> <p><b>talked</b> 10:20</p> <p><b>talking</b> 4:10</p> <p><b>technically</b> 2:15,18 3:5</p> <p><b>ten</b> 23:15</p> <p><b>term</b> 24:4</p> <p><b>terms</b> 24:4</p> <p><b>testimony</b> 4:19,23 5:1,2, 23 13:8,9</p> <p><b>things</b> 22:15 24:19</p>	<p><b>thought</b> 17:8 18:10</p> <p><b>three-panel</b> 4:6</p> <p><b>time</b> 3:24 4:18 13:8 16:15 24:21,25</p> <p><b>Timmer</b> 7:15 10:24,25 18:3 19:3,7,10,15 21:24 22:3</p> <p><b>tip</b> 18:23</p> <p><b>today</b> 3:14 4:22,24 5:19 6:5 7:17,25 8:10,12,15 11:21 13:19 14:1 15:5 16:13 23:15 24:20</p> <p><b>today's</b> 5:1, 14 6:24 23:12, 14</p> <p><b>Todd</b> 8:6 9:2, 7,11,18,21 10:10,13,16 15:17,20,21 21:9,13,20,21, 25 22:5,18 23:5 25:7</p> <p><b>totally</b> 22:12</p> <p><b>touch</b> 3:9</p> <p><b>township</b> 2:5, 13,14,17,23 3:5,19,25 4:7, 8 5:14,16 6:3, 6,8 7:7,16,22 8:2,3,7,25 11:11,17 13:23 14:20 15:3,13 16:8, 9,10 21:1 24:14</p> <p><b>townships</b> 3:21 4:1</p> <p><b>Trail</b> 12:20,21 17:19</p> <p><b>transparent</b> 7:3</p>	<p><b>turn</b> 10:22</p> <p><b>typically</b> 6:24 12:25</p> <p><b>typing</b> 7:10</p> <hr/> <p style="text-align: center;"><b>U</b></p> <hr/> <p><b>ultimately</b> 15:11</p> <p><b>underneath</b> 13:2,3 19:11</p> <p><b>understand</b> 5:10 6:4,6,9, 10,12 8:9 20:10 22:8</p> <p><b>understandin g</b> 13:21</p> <p><b>UNKNOWN</b> 16:21,23 17:2</p> <p><b>upstream</b> 3:12</p> <p><b>utility</b> 11:23</p> <hr/> <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>VANDER</b> 9:3, 8,12,14,19,22, 24 10:12,14, 17,19 15:15, 20,22 16:6,14, 22,25 17:3,11, 14,17 18:1,6, 12,16,18 19:1, 17,22 20:8,14, 24 21:4,10,14, 16 22:17 23:2, 6,8 25:1,5,8, 10</p> <p><b>Vanderklok</b> 8:1 9:9</p> <p><b>Veldheer</b> 19:18,24 20:9</p> <p><b>verify</b> 4:22 5:1</p> <p><b>village</b> 4:2</p> <p><b>visit</b> 12:13</p>	<hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>wait</b> 5:8</p> <p><b>Walker</b> 17:6, 12,15</p> <p><b>water</b> 2:4,10 4:13,21 6:12, 22 8:23 11:5, 25 12:8 16:5, 11 17:21,22, 23 19:23 20:4, 20,21,22,23 22:13,20 23:11</p> <p><b>watershed</b> 4:12,14 12:7, 17</p> <p><b>website</b> 6:22, 25</p> <p><b>weeks</b> 6:24</p> <p><b>welfare</b> 13:10 22:24</p> <p><b>Wolters</b> 8:6 9:2,7,11,18,21 10:10,13,16 15:21 21:9,13, 21,25 22:5 23:5 25:7</p> <p><b>Wood</b> 12:3,20 17:19</p> <p><b>word</b> 7:8</p> <p><b>work</b> 11:2,22</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>yard</b> 20:20</p> <p><b>years</b> 2:13,23 3:21 6:19 7:22 8:4,8 24:17</p> <p><b>Yugo</b> 14:11</p>
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